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August 10, 1989

Mr. Steve Tribble
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

RE: Docket No. 890148-EI

Dear Mr. Tribble:

Enclosed for filing is Florida Power & Light Company's
Positions of FIPUG Issues in the above docket.

Very truly yours,

Charles A. Guyton

Charles A. Guyton

CAG:do
Enclosures

- ACK cc: Counsel for all parties of record
- AFA _____
- APP _____
- C'F _____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Florida)
Industrial Power Users Group) Docket No. 890148-EI
to Discontinue Florida Power)
& Light Company's Oil Backout) Filed August 10, 1989
Cost Recovery Factor)

**FPL POSITIONS ON FILING ISSUES
IDENTIFIED IN THE AUGUST 3, 1989
DRAFT PREHEARING ORDER**

As requested at the Prehearing Conference, FPL is filing its statement of position on FIPUG's issues as well as a brief summary of Mr. Waters' Direct and Rebuttal Testimony.

Factual Issues

1. **Issue:** Are the 500 kV transmission lines presently being used primarily to displace oil-fired generation?

FPL Position: Yes.

This factual issue is irrelevant to this proceeding. The Commission has previously determined that the primary purpose of FPL's 500 kV Transmission Project over the first ten years of the Project is the economic displacement of oil. The Commission has previously rejected FIPUG's request to reconsider that finding, and the Supreme Court of Florida has affirmed the Commission's decision to qualify the Project. Consequently, the Project's qualification for recovery under

the Oil Backout Cost Recovery Factor ("Factor") is a settled issue, and the current primary use of the Project is irrelevant to continued recovery through the Factor.

Irrelevance aside, under the Commission's prescribed test of determining whether economic displacement of oil-fired generation is the primary purpose of the Project, the "Primary Purpose Test", the primary use of the Project presently is and continues to be oil-fired generation displacement. Under that test net fuel savings continue to exceed Project revenue requirements during the first ten years of the Project, even updating for lower than projected oil prices.

As FPL has always acknowledged, in addition to this primary purpose of economic oil displacement, there are other significant benefits from the Project including capacity deferral benefits and enhanced system reliability. These benefits were anticipated and forecasted at Project qualification. For instance, it was recognized in 1982 that after 1987 the Project would not only economically displace oil but also be used to meet load requirements. The current existence of additional benefits does not change the determination that the primary purpose of the Project is economic oil displacement now any more than it did in the original qualification proceeding when these benefits were merely projected. (Waters)

2. **Issue:** Should FPL be required to refund past collected (oil) backout revenues associated with accelerated depreciation?

FPL Position: No. FIPUG has intentionally misrepresented the nature of the revenues FPL is recovering through the Oil Backout Cost Recovery Factor and taking as accelerated depreciation. The only cost FPL is recovering through accelerated depreciation is FPL's investment in the 500 kV Project. FPL has not and is not "collecting ... costs of the deferred unit" nor is it "collecting for capacity which has not been built" and is "not 'used and useful'".

The Project has produced actual net savings since 1987, so consistent with the Oil Backout Rule and pursuant to Commission approval, FPL has been collecting revenues through the Factor and taking as accelerated depreciation an amount equal to two-thirds of the Project's actual net savings. In calculating actual net savings, FPL has recognized, as one benefit of several, the Project's capacity deferral benefits associated with the Project deferring the construction of Martin Coal Unit Nos. 3 and 4. Without the Project these units would have been in-service in June 1987 and December 1988, respectively. Consequently, it is entirely appropriate to recognize the savings associated with not having to build these units in calculating the Project's actual net savings.

FPL's calculation of the capacity deferral benefits for the Martin units is reasonable. FPL updated its original Martin unit cost projections with lower actual capital costs and lower actual escalation rates. It used the original in-service dates because FPL's 1982 forecasted load for 1987 and 1988 was accurate, and without the coal by wire purchases this capacity would have been needed as projected.

FIPUG's attempt to question FPL's capacity deferral benefits is untimely and wholly speculative. This Commission, in Order 11537, held open the issue of the proper cost parameters. However, the issue was held open until "such time as the deferred units would have come on line, absent the oil backout project, i.e., 1987". FPL addressed the issue in its testimony then as instructed, and the Commission approved FPL's cost parameters. FIPUG chose to waive the issue and should not be allowed to resurrect it.

FPL's recovery of accelerated depreciation on the Project is consistent with the Oil Backout Rule and prior Commission orders. It reflects that the Project has produced substantial actual net savings, all of which will flow to customers once the Project is fully depreciated in August 1989. No refund is warranted. (Waters)

3. Issue: Should FPL be required to terminate the oil backout cost recovery factor?

FPL Position: No. In adopting the Oil Backout Rule and approving FPL's Project for qualification, the Commission had no intention of discontinuing recovery through the Factor if actual experience did not track projections. Thus, even if the Project had not achieved net fuel savings or economic oil displacement, the Commission intended to continue to allow recovery through the Factor because the Commission, in qualifying the Project, had decided the Project was prudent and should be pursued.

However, even with lower than projected oil prices, this Project has economically displaced oil and provided net fuel savings greater than Project revenue requirements. In addition, the capacity and reliability benefits of the Project are not new or unanticipated. FIPUG and Public Counsel argued at the qualification proceeding that these benefits made oil backout recovery of the Project unwarranted or discriminatory, and the Commission rejected their arguments. There is nothing new in this case that warrants revisiting those issues. Therefore, there is no basis to terminate the oil backout cost recovery factor. (Waters)

4. **Issue:** When will investment in transmission lines be fully recovered if FPL is allowed to use two-thirds of the "annual (sic) net savings" as accelerated depreciation?

FPL Position: August 1989. (Waters)

5. **Issue:** Has the time come to require FPL to collect the capacity charges for the Southern System UPS charges through base rate mechanisms?

FPL Position: No. FIPUG has failed to establish why the current treatment of UPS capacity charges is improper. FPL is using the Project and UPS purchases exactly in the fashion originally envisioned. The Commission opted in the original oil backout cost recovery proceeding to recover those charges through the Factor, and FIPUG has provided no basis for the Commission to reconsider that decision. In addition, continued recovery of UPS capacity charges through the Factor assures an accurate cost recovery subject to true-up. (Waters)

6. **Issue:** Is FPL justified in charging a 15.6% return on the equity portion of its capital invested in the 500 kV transmission lines?

FPL Position: Yes. The Commission has the long standing practice of authorizing FPL to earn on its oil backout investment at the rate of return on equity authorized by the Commission in FPL's most recent rate case. This practice was initiated in FPL's first oil backout cost recovery proceeding and continues today. It avoids the Commission having to determine FPL's cost of equity in the limited scope of a Fuel

proceeding. This long standing application of the Oil Backout Rule warrants FPL earning 15.6% on the equity portion of its capital invested in the 500 kV Project since the midpoint of the equity rate of return range authorized in FPL's last rate case was 15.6%.

**Factual Issues Identified In FIPU's Prehearing Statement
Not In The August 3, 1989 Draft Prehearing Order**

(7.) **Issue:** What is the final oil backout true-up amount for the April 1988 through September 1988 period?

FPL Position: As approved by the Commission in Order No. 20966, the final oil backout true-up for the April through September 1988 recovery period was an overrecovery of \$9,609,132.

(8.) **Issue:** What is the estimated oil backout true-up amount for the period October 1988 through March 1989?

FPL Position: The final true-up amount for that period is \$5,649,478 underrecovery.

(9.) **Issue:** What is the total oil backout true-up amount to be collected during the periods April 1989 through September 1989 and October 1989 through March 1990?

FPL Position: The estimated/actual Oil Backout True-up amount for the period April 1, 1989 through September 30, 1989 is a \$5,484,100 overrecovery. The total oil backout true-up amount to be allocated during the period October 1, 1989 through March 31, 1990 is a \$165,378 underrecovery.

(10.) **Issue:** What is the projected oil backout cost recovery factor for the period October 1988 through March 1990?

FPL Position: .661 cent/kWh.

Legal Issues

16. **Issue:** Once the Florida Public Service Commission has approved a project as an oil backout project (sic) is it required to continue to collect all costs associated with the project through an oil backout surcharge if circumstances change and the originally projected savings do not materialize?

FPL Position: Yes. This approach is consistent with the Oil Backout Rule, 25-17.016, F.A.C. The Commission's original intent, articulated throughout FPL's qualification proceeding, the oil backout rule amendment proceeding, and FPL's initial oil backout cost recovery proceeding, was that

once a project was qualified, it would continue to be recovered through the Oil Backout Cost Recovery Factor unless and until the remaining unrecovered cost of the Project was rolled into the utility's base rates in a utility's base rate filing. This is specifically stated in Subsection (4)(d) of the Oil Backout Rule. In addition, under that same subsection, even if the recovery of project costs is rolled into base rates, two-thirds of the Project's actual net savings are to continue to be recovered as revenues through the Factor and taken as additional depreciation until the Project is fully depreciated.

In establishing this policy and codifying it in the Oil Backout Rule, the Commission was aware that the projections on which the qualification decision was made might deviate from actual experience. Nonetheless, even with this knowledge that circumstances might change and savings might not materialize, the Commission adopted the Oil Backout Rule and approved projects. It would be inconsistent with the Oil Backout Rule and prior Commission pronouncements to discontinue recovery through the Factor of Project costs due to changed circumstances.

It would be particularly unfair to FPL for the Commission to make such a policy change now since FPL requested the roll over of Project cost recovery into base rates in its 1984 rate case, and the Commission denied the request, opting for continuing recovery through the Factor.

17. **Issue:** As a matter of law, can the Florida Public Service Commission place an accelerated depreciation surcharge on present customers to require them to pay the full cost of transmission facilities which are being used to provide reliability and capacity in three or four years when the facilities will be in use and useful service for more than 25 years?

FPL Position: This issue is a direct attack on the Oil Backout Rule. FIPUG has waived its right to raise this issue by failing to challenge the Rule or appeal the Commission's adoption of the Rule. This issue should not be addressed in this proceeding. There is nothing unfair, unreasonably discriminatory or unduly preferential regarding the Oil Backout Rule or its application to FPL. The customers paying revenues which have been taken as accelerated depreciation on the Project have enjoyed significant savings as a result of the Project. The Oil Backout Rule simply authorizes the sharing of those savings until the Project is fully depreciated. In fact, even with allowing FPL to recover revenues and take accelerated depreciation equal to two-thirds of the Project's actual savings, current and past customers have benefited from construction of the Project and are better off than they would have been if the Project had not been

built. Now that the Project is fully depreciated, customers will benefit even more.

18. **Issue:** Is there any legal basis for charging customers costs associated with utility generating plants that have not been built, are not under construction and are not presently projected to be built?

FPL Position: This so-called issue is totally irrelevant. The factual premise included in this issue is erroneous and cannot be established. There is no recovery of costs of unbuilt generating plants through the Oil Backout Cost Recovery Factor. FPL does recover and take as accelerated depreciation costs associated with its 500 kV Project. The Project is undeniably used and useful and properly subject to recovery under Section 366.06, Florida Statutes.

19. **Issue:** Does collection of capacity charges in excess of fuel savings through a fuel cost recovery charge comply with the law?

FPL Position: Yes. Recovery of purchased power capacity charges through a fuel cost recovery charge is permissible and within the Commission's regulatory discretion regardless of the level of fuel savings. It is certainly consistent with long standing Commission practice.

20. **Issue:** Does 13 (Sic) Rule 25-17.016(6) F.A.C. require the discontinuance of the OBCRF when the transmission line costs are fully recovered?

FPL Position: Yes. However, the costs of FPL's Project will not be fully recovered when the Project is fully depreciated in August 1989. There will continue to be Project costs such as operating and maintenance expenses, property taxes and a return requirement on nondepreciable land and prepaid Project income taxes.

21. **Issue:** Did FPL consider OBO revenue in calculating income tax refunds to its customers in 1987 and 1988?

FPL Position: This is a factual, not a legal, issue. As the Commission was made aware in the 1987 tax savings refund proceeding, FPL did not consider oil backout revenues in calculating its 1987 and 1988 tax savings refunds to customers. This is consistent with Commission policy and Commission rules. More importantly, because FPL only recovers actual income tax expense reflecting current income tax rates through the Oil Backout Cost Recovery Factor, there are no oil backout tax savings to refund due to the change in the federal corporate income tax rate.

22. **Issue:** Should FPL be required to refund these tax savings to customers?

FPL Position: What tax savings? Since FPL has only recovered through the Oil Backout Cost Recovery Factor actual tax expense reflecting current income tax rates, there are no oil backout tax savings to refund.

It is FPL's understanding that FIPUG has chosen not to raise as issues in this proceeding Issues 16, 17 and 18 it raised in Order No. 20784. It is FPL's understanding that FIPUG believes those deferred issues are addressed by the issues FIPUG has raised through its Prehearing Statement in this proceeding. Since FIPUG chooses not to raise those deferred issues, FPL has stated no position on them.

Brief Summary of Mr. Waters' Testimony

Mr. Waters' Direct Testimony demonstrates that FIPUG's contentions in its Petition and supporting affidavit are wrong. FPL's Oil Backout Project has achieved its primary purpose, and the Project's additional capacity deferral benefits are real, not illusory.

Mr. Waters' Rebuttal Testimony rebuts Mr. Pollock's Direct Testimony. It establishes that there are no circumstances warranting termination of FPL's Oil Backout Cost Recovery Factor and that FPL's recovery of additional depreciation on the Oil Backout Project equivalent to two-thirds of the Project's actual net savings is proper, consistent with the Oil Backout Rule and should not be refunded.

Respectfully submitted,

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Florida)
Industrial Power Users Group)
to Discontinue Florida Power) Docket No. 890148-EI
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Cost Recovery Factor)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of August, 1989,
a true and correct copy of Florida Power & Light Company's
Positions on FIPUG Issues in Docket No. 890148-EI was served by
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