

**ORIGINAL
FILE COPY**

In re: Petition of the Florida
Industrial Power Users Group to
Discontinue Florida Power and Light
Company's Oil Backout Cost Recovery
Factor.

) DOCKET NO. 890148-EI
)
) Filed: August 21, 1989
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**FIPUG'S RESPONSE TO FPL'S
REQUEST FOR OFFICIAL NOTICE**

The Florida Industrial Power Users Group ("FIPUG"), through its undersigned counsel, responds to the motion of Florida Power and Light Company ("FPL") to take official notice of orders and transcript passages from the implementation proceedings of the oil backout charge as follows:

1. Except as noted below, FIPUG does not object to the request for official notice, because it exemplifies more graphically than FIPUG could ever describe FPL's backward-looking approach to this case. FPL hopes to convince the Commission either that matters decided in 1982 cannot be modified for any reason, or that the matters presented for decision in 1989 are identical to those the Commission considered in 1982. FIPUG freely acknowledges that its positions on the original proposal were not accepted when the oil backout charge was first implemented; and freely acknowledges that in 1982, based on projections made at the time, the Commission decided to qualify the oil backout project under the rule.

However, FIPUG is not asking the Commission merely to reconsider its past action. FIPUG represents that significant

DOCUMENT NUMBER-DATE

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changes in circumstances affecting the current reasonableness of the charge compel a new look and a different result. To illustrate that, FIPUG is serving herewith its own request for official notice. The matters for which FIPUG requests official notice illustrate that (1) FPL has recognized the ability of the Commission to address past decisions based on changed circumstances; and (2) FPL has itself recognized that, independent of the Southern contract, decreases in projected load growth have affected the ability of FPL to defer the construction of its next capacity.

2. FIPUG notes that FPL's approach to the request for official notice is selective; in some instances, the excerpts are insufficient to provide the benefit of context; in others, the excerpt is insufficient to even identify clearly who is speaking. FIPUG submits that if the Commission entertains FPL's request, it should take notice of the entire record of the excerpted proceedings to overcome these difficulties and objections.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FIPUG's Response to FPL's Request for Official Notice has been furnished by U.S. Mail or by hand delivery* to the following parties of record, this 21st day of August, 1989.

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