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**ORIGINAL
FILE COPY**

January 9, 1990

Steve Tribble, Director
Records and Reporting
Florida Public Service Commission
Fletcher Building
101 E. Gaines Street
Tallahassee, FL 32399-0850

RE: Docket No. 890148-EI

ACK Dear Mr. Tribble:

AFA _____ Enclosed for filing in the above-captioned proceeding on
APP _____ behalf of the Citizens of the State of Florida is the original
CAF _____ and twelve copies of Citizens' Response to FIPUG's Cross-Motion
_____ for Reconsideration of Order No. 22268.

CMU _____ Please indicate the time and date of receipt on the enclosed
CTR _____ duplicate of this letter and return it to our office.

EAG _____

LEG 1 _____

LIN 6 _____

OPC _____

RCH _____

SEC 1 _____

WAS _____

OTH _____

Sincerely,

Janice Johnson

RECEIVED & FILED

IB
FPSO BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
00248 JAN-9 1990
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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: January 9, 1990

CITIZENS' RESPONSE TO FIPUG'S CROSS-MOTION
FOR RECONSIDERATION OF ORDER NO. 22268

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Rule 25-22.060(1)(b) and (3)(c), Florida Administrative Code, respond to the Florida Industrial Power Users Group's (FIPUG's) Cross-Motion for Reconsideration of Order No. 22268. The Citizens support FIPUG's position that past amounts collected by Florida Power & Light Company (FPL) as accelerated depreciation have never been substantiated by the utility and oppose FIPUG's assertion that capacity payments to the Southern Company should be incorporated within FPL's base rates at this time.

Accelerated Depreciation:

FIPUG's position on FPL's failure to establish the cost estimates to support its claims for accelerated depreciation is consistent with the Citizens' position expressed in their brief at pages 1-6 and 11-18. The Citizens, therefore, support FIPUG on this issue and would rely on those arguments contained in the Citizens brief at any oral argument held by the Commission. It is

the Citizens' position that, in rejecting those arguments, Order No. 22268, at page 3, is inconsistent with policy established for the cost recovery dockets in other orders affirmed by the Florida Supreme Court and in other portions of Order No. 22268 itself.

Southern Company Capacity Charges:

The Citizens support FIPUG's challenge to Order No. 22268 on the subject of accelerated depreciation because it demonstrates a mistake of law in departing from established policy. The Citizens oppose FIPUG's challenge to the treatment of Southern Company capacity charges in Order No. 22268 because the Commission's action in this regard was consistent with its previous decision which was, in turn, dictated by rule.


FIPUG makes much of the fact that capacity costs are not specifically delineated as a component of the revenue requirement in Rule 25-17.016(4)(a). This same argument, if accepted at the time the oil backout project was first approved for cost recovery, would mean either that capacity costs were not a legitimate cost for oil backout cost recovery or that capacity costs had to be incorporated into base rates immediately even though all other costs could await the next rate case. FIPUG's prayer to now incorporate capacity charges in base rates, however, is a concession that those costs are properly associated with the oil backout project. The Commission's treatment in Order No. 22268, being consistent with previous decisions based on the Rule, has not been shown, therefore, to be either a mistake of fact or law. Accordingly, FIPUG's cross-motion for reconsideration on the issue

of Southern Company capacity charges should be denied.

WHEREFORE the Citizens of the State of Florida, through the Office of Public Counsel, move the Florida Public Service Commission to grant the Florida Industrial Power Users Group's cross-motion for reconsideration on the issue of accelerated depreciation and deny it on the issue of Southern Company capacity charges.

Respectfully submitted,

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Assistant Public Counsel

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Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Citizens' Response in Opposition to FIPUG's Cross-Motion for Reconsideration of Order No. 22268 has been furnished by U.S. Mail to the following parties of record on this 9th day of January, 1990.

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