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January 22, 1990

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

Re: **Docket No. 900004-EU**

Dear Mr. Tribble:

Enclosed for filing on behalf of the Florida Electric Power Coordinating Group, Inc. are the original and fifteen copies of FCG's Response in Opposition to FICA's Motion for Reconsideration.

By copy of this letter, this document has been furnished to the parties on the attached service list.

Very truly yours,

Richard D. Melson

Richard D. Melson

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cc: Parties of Record

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DOCUMENT NUMBER-DATE

00658 JAN 22 1990

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

in Re: 1989 Planning hearings) Docket No. 900004-EU
on load forecasts, generation)
expansion plans and cogeneration) Filed: January 22, 1990
prices for Peninsular Florida's)
electric utilities.)
_____)

**FLORIDA ELECTRIC POWER COORDINATING GROUP, INC.'s
RESPONSE IN OPPOSITION TO FICA'S MOTION FOR RECONSIDERATION**

Florida Electric Power Coordinating Group, Inc. (FCG) hereby files its Response In Opposition to that portion of the Florida Industrial Cogeneration Association's (FICA) Motion for Reconsideration of Order No. 22341 (Motion) that asks the Commission to reconsider its decision to designate combined cycle units as the avoided units.^{1/} As set forth below, the Motion should be denied on both procedural and substantive grounds. FCG also opposes FICA's request for oral argument on the Motion.

^{1/} The FCG is not responding to the two other points raised by the Motion, since it believes that those points are better addressed by the other parties to this docket. The FCG's decision to defer to the other parties is not intended to imply that FCG agrees with any portion of the Motion. To the contrary, the procedural grounds urged by the FCG for denying the Motion as it relates to the designation of the avoided unit are equally applicable to the other two points on which FICA has requested reconsideration.

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Procedural Grounds

1. The Commission's policy is well established that motions for reconsideration should be denied if they do nothing more than reargue matters that the moving party has previously argued, or had an opportunity to argue.

2. As set forth in more detail below, each of the arguments in FICA's Motion regarding the designation of combined cycle units as the avoided units was either actually made in FICA's Post-Hearing Brief dated April 7, 1989 (FICA Brief), or was clearly within the scope of an issue in the docket and could have been made in that brief. FICA's Motion should therefore be denied on procedural grounds alone.

Substantive Grounds

3. Even if the Commission does not deny FICA's Motion solely on procedural grounds, it should refuse to reconsider its designation of combined cycle units as the avoided units. That decision is amply supported by the record of the proceeding, and no valid grounds have been put forward by FICA to warrant a change in that decision. Each of FICA's major arguments regarding the avoided unit designation is briefly addressed below.

4. The primary argument in Paragraphs 1 to 5 of FICA's Motion is nothing more than a blatant request for the Commission to designate an avoided unit that would maximize

the amount paid to qualifying facilities (QFs) without regard to the utilities' avoided costs.^{2/} The so-called "incentive" demanded by FICA is inconsistent with state and federal policy. Those policies call for a QF to receive the utilities' avoided cost; they do not call for utility ratepayers to bear the burden of paying some amount greater than avoided cost in order to give QFs an "incentive" to build facilities.

5. Paragraph 2 of the Motion also makes the assertion that the FCG (and hence the Commission) chose combined cycle capacity even when a plan beginning with coal capacity has a lower cost on a present worth of revenue requirements (PWRR) basis.^{3/} As discussed in more detail in the FCG's Motion for Leave to Make Limited Reply to FICA's Brief (filed April 29, 1989), FICA's assertion is incorrect. If 30-year PWRR is the sole criterion for selection of a least-cost plan, the record shows that a plan with only combined cycle units in 1992, and no coal units until 1995, is \$48 million better than a plan that adds a coal unit in 1992. (Ex. 102, p. 72) It was on this basis that the Commission found that the FCG's study, which begins with the addition of combined

^{2/} FICA's argument that prices should be set to provide incentives to QFs is essentially the same as that previously made in Sections II.B.7 and III.B.4 of the FICA Brief.

^{3/} This same argument was previously made in Section III.A.4 of FICA's Brief.

cycle units, is "a least-cost generation expansion plan for the peninsular Florida utilities and provides an adequate basis on which to set cogeneration prices." (Order, p. 11)

6. The primary argument in Paragraphs 6 to 9 of the Motion is that by designating combined cycle units as the avoided units, the Commission has somehow approved the use of strategic factors that will always favor gas-fired capacity over coal-fired capacity whenever the economic results are similar. That is not the case. The Commission found that "the fundamental decision criteria throughout the planning studies is the minimization of PWRR" and that combined cycle units were the first unit additions in a least-cost expansion plan. (Order, pp. 4, 11) The FCG did use strategic factors in its study process. However, the units selected in the early years of the 1989 Avoided Unit Study were the same ones that would have been selected solely on the basis of best PWRR over the study period.

7. FICA also argues in Paragraph 9 that the Commission should adopt a "general policy favoring coal-fired units, except when the relative economics of gas-fired units are demonstrated to be far greater than those of coal." (emphasis added) This is not only contrary to the policy goal of identifying a least-cost expansion plan, it is also inconsistent with the position taken in the FICA Brief, in which FICA advocated a test that would base the selection of a coal unit on an asserted PWRR differential of

less than 2/10 of one percent. (FICA Brief, pp. 17-19)^{4/}

8. The first argument in Paragraphs 10 to 12 of the Motion is that the Commission should designate a pulverized coal unit as the avoided unit for 1993. In so arguing, FICA cites as support the "substantial justification" it supposedly presented for designating a pulverized coal unit in 1992. In fact, FICA's Brief never attempted to justify a 1992 coal unit, instead it staunchly asserted that the Commission should designate a 1989-1990 coal unit rather than any type of unit in 1992. (FICA Brief, Sections II.C, III.C, III.E)

9. The second argument in this section of the Motion is that, in order to "protect" ratepayers from the risk of fuel price escalation, the Commission should base its designation of an avoided unit on the high fuel price scenario, rather than on the base fuel price scenario.^{5/} What FICA fails to point out is that designating a coal unit as the avoided unit "protects" the ratepayers if, and only if, fuel prices are higher than the best projections in the record. The base case fuel price projections are

^{4/} As discussed in Paragraph 5 above, FICA's assertion that a plan beginning with a 1992 coal unit is less costly than the FCG's plan is erroneous.

^{5/} This argument figured prominently in FICA's Brief (see Section III.C.2) and its inclusion in the Motion is another example of FICA's improper attempt to reargue the fundamental basis of the Commission's decision.

reasonable, and there is no basis in the record to conclude that they are not. Therefore it is fully appropriate to base the selection of the avoided unit on those base case fuel price assumptions.

10. The argument in Paragraphs 13 and 14 of FICA's Motion that the Commission should at least designate a 1995 coal unit as the avoided unit is nothing more than FICA's attempt to put forward a "compromise" position between what it advocated throughout the hearing and briefing process (a 1989/90 coal unit), what it now advocates (a 1993 coal unit), and what the Commission decided (a 1993 combined cycle unit). FICA is seeking an unpermitted second bite at the apple. It cannot be allowed to maintain one position throughout the hearing process and, when that position is rejected in a final order, suddenly come forward with a new rationale for a different position that it believes might be more palatable to the Commission. If the record supported the designation of a 1995 coal unit, FICA's time to explain that to the Commission was in its Post-Hearing Brief, not in a motion for reconsideration that comes over eight months after the briefing process was concluded.

11. The argument in Paragraphs 15 to 24 of FICA's Motion is based on a mischaracterization of the Commission's order. The Commission did not rule -- as FICA asserts -- that any generation expansion plan would be accepted so long as it does not exceed the 1989 oil backout goal and the new

units can be made to burn coal. Instead, the Commission ruled that the fuel use provisions of FEECA and the Fuel Use Act did not preclude the Commission from adopting a least-cost expansion plan that efficiently uses natural gas in a situation in which these two conditions are met. (Order, pp. 14-17) In addition to this mischaracterization, in this portion of its Motion FICA continues to confuse the FEECA requirement that the Commission conserve "petroleum fuels" when it is cost-effective to do so with a so-called requirement, which appears nowhere in the statute, that the Commission reject the use of "natural gas" even when the use of that fuel is both efficient and cost-effective.^{6/}

12. The argument in Paragraphs 25 and 26 of FICA's Motion that combined cycle units do not comply with the Fuel Use Act (FUA) is wrong as a matter of law, and untimely as a matter of procedure. The requirements of the FUA are satisfied by the use of combined cycle technology so long as the units have the capability to use coal (or another alternate fuel) as the primary energy source. The capability to use coal is satisfied if the plant design allows the addition of equipment necessary to burn coal, and the plant is not physically, structurally or technologically

^{6/} Again FICA is simply repeating or expanding on arguments made in its Post-Hearing Brief. Sections III.D and IV.A of that brief were devoted exclusively to arguing the role that FEECA should play in the Commission's decision making process.

precluded from burning coal. The FUA does not require that conversion to burn coal be economical now, nor projected to become economical in the future. The designation of combined cycle units as avoided units is thus fully consistent with the requirements of the FUA.

13. Moreover, FICA's FUA argument is too late. Issue 37 asked the parties to brief the legal question of whether there were any legal impediments to the the acceptance of a generation expansion plan that would increase the consumption of natural gas or oil. While FICA briefed this issue in terms of FEECA requirements, it made no reference whatsoever to the FUA. (FICA Brief, Section IV.A and page 83) To allow FICA to come in eight months later and raise for the first time a legal argument that could and should have been covered in its Post-Hearing Brief would make a mockery of the Commission's procedural rules.

Oral Argument Should be Denied

14. The FCG does not believe that oral argument is necessary to aid the Commission in the disposition of FICA's Motion for Reconsideration. This is particularly true since the Motion should be denied on procedural grounds alone. However, if FICA's request for oral argument is granted, FCG intends to participate fully in such argument.

WHEREFORE, for the reasons stated above, FCG urges that FICA's Motion for Reconsideration of Order No. 22341 be

denied insofar as it requests the Commission to change the designation of combined cycle units as the avoided units.

RESPECTFULLY SUBMITTED this 22nd day of January, 1990.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail this 22nd day of January, 1990, to the following:

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