

Florida Power
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

May 28, 1999

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Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

990697-5

Re: 1998 Annual Report

Dear Ms. Bayo:

Enclosed for filing pursuant to Commission Rules 25-6.135(1), 25-6.1351(4) and 25-6.0436(9), F.A.C., are three copies of Florida Power Corporation's 1998 Annual Report, consisting of Form PSC/AFA 19, Schedules 1 - 6 of Form PSC/AFA 16, and a depreciation status report. The 1998 Annual Reports contained in this filing have been edited to redact certain confidential information. Florida Power's Request for Confidential Classification, which includes an unredacted copy of the Annual Report, has been submitted for filing this date under separate cover.

Please acknowledge your receipt and filing of the above on the enclosed copy of this letter and return same to me.

Very truly yours,

James A. McGee

JAM:ams
Enclosures

3 parts REDACTED
DOCUMENT NUMBER - DATE
990697-5 JUN -1 99
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Confidential)
Classification of Annual Status Report)
and Related Schedules for Year Ended)
1998, Submitted Pursuant to Rules)
25-6.135, 25-6.1351(4), and)
25-6.0436(9), Florida Administrative)
Code, by Florida Power Corporation.)
_____)

Docket No. 990697-EI
Filed: June 3, 1999

THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
PETITION TO INTERVENE

Pursuant to rule 28-106.205, Florida Administrative Code, the Florida Industrial Power Users Group (FIPUG), through its undersigned counsel, files this petition to intervene in this docket. As grounds therefor, FIPUG states:

1. All notices, orders and correspondence should be sent to the following on behalf of FIPUG:

John W. McWhirter, Jr.
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman,
Arnold & Steen, P.A.
Post Office Box 3350
Tampa, Florida 33601

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman,
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117 South Gadsden Street
Tallahassee, Florida 32301

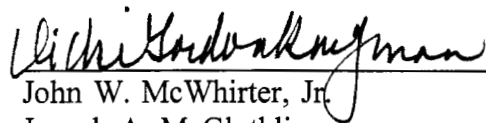
2. In this docket, the Commission will determine whether information on Florida Power Corporation's (FPC) Annual Status Report and related schedules for year ended 1998 should be shielded from the public view.

3. FIPUG is an ad hoc group of industrial users of electricity. FIPUG members use millions of kilowatt hours of electricity per year.

4. As consumers of large amounts of electricity, FIPUG has a substantial interest in this docket as they have a right to review and analyze the information in FPC's Annual Status Report and related schedules.

5. FIPUG's interests will be substantially affected by the Commission's decision in this docket.

WHEREFORE, FIPUG requests that the Commission grant FIPUG's petition to intervene and accord it full party status in this docket.



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Attorneys for The Florida Industrial
Power Users Group

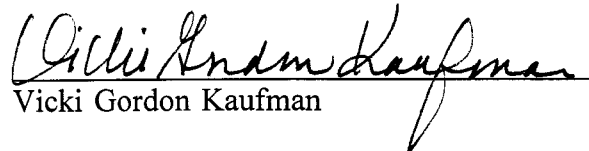
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FIPUG's foregoing **Petition to Intervene** has been furnished by Hand Delivery (*) or by United States Mail to the following this **3rd** day of **June, 1999**:

Mary Anne Helton*
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Gerald L. Gunter Building, Room 301C
Tallahassee, Florida 32399-0850

John Roger Howe
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

James A. McGee
Florida Power Corporation
Post Office Box 14042
St. Petersburg, Florida 33733


Vicki Gordon Kaufman

u. Environmental protection facilities;²²

v. Environmental protection expenses.²³

3. In addition, FPC wants to keep secret the following Commission schedules in their entirety:

a. Changes in corporate structure;²⁴

b. New or amended contracts with affiliates;²⁵

c. Individual affiliate transactions over \$500,000;²⁶

d. Summary of affiliate transfers and allocations;²⁷

e. Assets or rights purchased from or sold to affiliates;²⁸

f. Employee transfers;²⁹

g. Plant in service and depreciation.³⁰

²² FERC Form 1, p. 430.

²³ FERC Form 1, p. 431.

²⁴ PSC/AFA 16, schedule 1.

²⁵ PSC/AFA 16, schedule 2.

²⁶ PSC/AFA 16, schedule 3.

²⁷ PSC/AFA 16, schedule 4.

²⁸ PSC/AFA 16, schedule 4.

²⁹ PSC/AFA 16, schedule 5.

³⁰ Annual depreciation status report.

Burden of Proof

4. As this Commission has recognized many times, Florida law presumes that all documents submitted to governmental agencies are public records. The presumption is that government shall operate in the sunshine. It is FPC's burden to demonstrate that the documents are entitled to confidential classification.³¹ FPC has woefully failed to meet this burden.

FPC's Request Must Be Denied

5. FPC's request to keep the above information secret must be rejected for several reasons. First, the majority of the information FPC seeks to conceal relates to costs and expenses which are borne by the retail ratepayers, such as plant in service, CWIP and O & M. Nonetheless, FPC wants to bar the ratepayers who fund these items from access to this important information.³² Retail ratepayers are entitled to this information in order to ensure that retail utility plant and fuel are appropriately costed and priced.

6. Further, the cost of plant investment composing the retail rate base is clearly in the public domain. Concealing this information from public disclosure will convert the regulatory process into a "Star Chamber" proceeding.

7. Second, all the information FPC seeks to shield is historical information which is many months old. It is difficult to divine of what use such dated information could be to would be competitors.

³¹ Order No. PSC-96-0737-CFO-EI, Docket No. 960001-EI (June 4, 1996).

³² FIPUG would also point out that much of this information is information which would be required in a rate case. Is FPC suggesting that MFR information would be confidential? Hopefully, the Commission will not consider going down such a path.

8. Third, as to competition in the wholesale market necessitating the shielding of massive amounts of information related to FPC, Florida Power and Light Company (FPL) made a similar (though much narrower) request in an attempt to shield from public view certain information on its A schedules. The Commission rejected FPL's request in numerous orders.³³

9. In its orders, the Commission noted that FPL had "not stated any specific set of circumstances that justifies classification of A Schedule information as confidential."³⁴ The same is true in FPC's case. There are nothing but vague conclusory statements in FPC's pleading. FPC has failed to meet the rigorous standards which would allow the Commission to shield FPC's filing from public disclosure.

10. Further, much of FPC's argument is premised on its view that its competitors do not have to disclose similar information. The Commission addressed a similar argument from FPL:

[W]holesale power brokers are required by FERC to file quarterly reports of their interchange transactions. These reports indicate the quantity and price of the transactions for each customer. FPL could use this information much the same as its competitors use the A Schedules to gain a "competitive-edge."³⁵

Thus, information is available to FPC in the public domain. And even if it were not, there is a significant difference between a regulated monopoly which is guaranteed a rate of return, like FPC, and non-monopoly competitors.

³³ Order No. PSC-96-0737-CFO-EI; Order No. PSC-96-0736-CFO-EI; Order No. PSC-96-0738-CFO-EI; Order No. PSC-96-0739-CFO-EI; Order No. PSC-96-074--CFO-EI; Order No. PSC-96-0734-CFO-EI; Order No. 96-0735-CFO-EI.

³⁴ Order No. PSC-96-0737-CFO-EI at 2.

³⁵ *Id.* at 6.

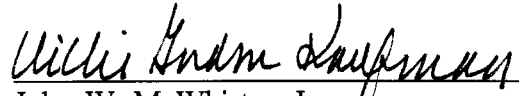
11. FPC's request to shield all information related to affiliate transactions is also highly suspect and should not be permitted. In past proceedings (most notably FPC's cost plus proceeding), this Commission recognized the need to closely scrutinize transactions between affiliates because such related companies have a great incentive to deal at less than arms length. FPC should not be permitted to shield these transactions from the light of day.

Conclusion

12. FIPUG specifically opposes FPC's request for confidential treatment on the following grounds:

- a. FPC's request is in contravention of the Florida Public Records Law, Chapter 119, Florida Statutes;
- b. FPC has failed to carry its burden to demonstrate that the information is entitled to confidential classification;
- c. Customers are entitled to basic information concerning the operating cost of FPC's generating plants to determine the prudence of FPC's operations;
- d. FPC has failed to demonstrate how the information will give competitors a competitive advantage;
- e. This case will set a precedent for Florida's other investor-owned utilities;
- f. Information regarding affiliate transactions must be available to avoid "sweetheart" deals made between related companies at the expense of ratepayers.

WHEREFORE, FPC's request for confidential classification should be denied.



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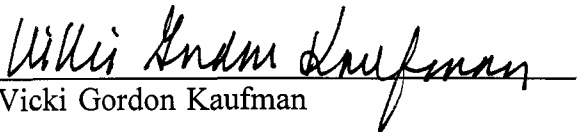
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **FIPUG's** foregoing **Response to FPC's Request for Confidential Classification** has been furnished by Hand Delivery (*) or by United States Mail to the following this **4th** day of **June, 1999**:

Mary Anne Helton*
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Gerald L. Gunter Building, Room 301C
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