

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Generic Investigation Into The )  
Aggregate Electric Utility Reserve )  
Margins Planned for Peninsular )  
Florida. \_\_\_\_\_ )

Docket No. 981890-EU

Submitted for filing: September 22, 1999

**RESPONSE OF FLORIDA RELIABILITY COORDINATING COUNCIL, INC.,  
TO MOTION TO COMPEL DISCOVERY FILED BY  
FLORIDA INDUSTRIAL POWER USERS GROUP, INC.**

The Florida Reliability Coordinating Council, Inc. (FRCC), files its Response to Motion to Compel Discovery filed by the Florida Industrial Power Users Group, Inc. (FIPUG).

1. The principle basis for the Commission's theory that it may proceed in this case as a "formal proceeding" is its citation to its organic authority under Chapter 366, Florida Statutes. The cited statutes grant the Commission certain powers which may be exercised in accordance with the language of those statutes. However, the fact that the Commission may be exercising its statutory powers under Sections 366.04(5), 366.05(1), 366.05(7) and 366.05(8), Florida Statutes, does not mean that it has, in its actions to date, satisfied the statutory requirements to initiate a formal proceeding pursuant to Sections 120.569 and 120.57, Florida Statutes.

2. Application of Section 120.569(2)(d), Florida Statutes, depends upon compliance with the threshold requirements of Chapter 120, not just the exercise of authority under

Sections 366.04(5), 366.05(1), 366.05(7) and 366.05(8), Florida Statutes. Similarly, Section 366.05(7), Florida Statutes, does not limit the Commission's authority to require the filing of reports to formal proceedings under Sections 120.569 and 120.57, Florida Statutes.

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APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG 1  
LEG 1  
MAS 5  
OPC \_\_\_\_\_  
PAI 21  
SEC 1  
WAW \_\_\_\_\_  
OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

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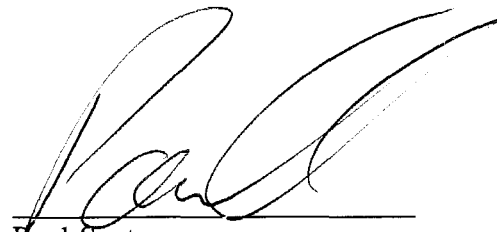
FPSC-RECORDS/REPORTING

3. FIPUG's First Set of Interrogatories requests FRCC respond to discovery, even though the source of information is equally available to FIPUG and FRCC. In its Motion to Compel, FIPUG has made assumptions regarding the nature and scope of the information available to FRCC and, in its discussion, has embellished its interrogatory with additional descriptions of information not actually expressly requested by the interrogatory. Counsel for FIPUG suggests that FRCC could choose to produce its records for inspection as an alternative to providing a calculation in response to FIPUG's interrogatory. However, counsel for FIPUG already has possession of a copy of the documents that FRCC would produce in lieu of providing a calculation in response to FIPUG's interrogatory. Requiring FRCC to produce a document already in the possession of FIPUG is simply inappropriate.

WHEREFORE, FRCC objects to FIPUG's First Set of Interrogatories to FRCC.

Dated: September 22, 1999

Respectfully Submitted,

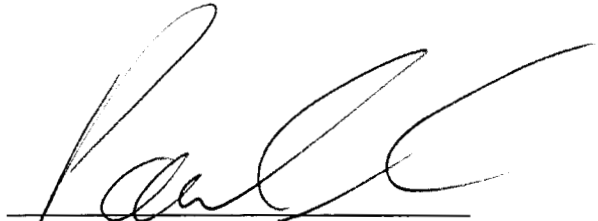


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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been provided by U.S. Mail to the persons shown on the attached Service List this 22th day of September, 1999.

  
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