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Matthew M. Childs, P.A.

November 14, 2000

Ms. Blanca S. Bayó, Director  
Division of Records and Recordings  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

RE: Docket No. 000001-EI

Dear Ms. Bayó:

Enclosed please find the original and ten (10) copies of Florida Power & Light Company's Response to Florida Industrial Power Users Group's Motion to Amend Prehearing Position in the above referenced docket.

Very truly yours,



Matthew M. Childs, P.A.

MMC:acw

CC: Parties of Record

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DOCUMENT NUMBER-DATE

14642 NOV 14 8

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power  
cost recovery clause and  
generating performance incentive  
factor.

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Docket No. 000001-EI

Filed: November 14, 2000

**Response to Florida Industrial Power Users Group's Motion to  
Amend Prehearing Position**

Florida Power and Light (FPL) hereby files this its Response to the Motion to Amend Prehearing Position filed by Florida Industrial Power Users Group (FIPUG) on November 9, 2000 and states:

Issue 11A which is the subject of FIPUG's Motion to Amend reads:

How should the Commission authorize Florida Power & Light to collect its estimated/actual true-up under recovery balance projected for December 31, 2000?

FPL had proposed that the 2000 under-recovery be spread over a two year period (Issue 11A) and that the regulatory treatment for the unrecovered fuel balance addressed by Issue 11A would be to forego recovery of interest to be charged to, customers at the commercial paper rate which interest rate and recovery is prescribe by the fuel adjustment procedure. This regulatory treatment (i.e. foregoing the charging of interest by FPL) is addressed by Issue 11B which reads

What is the appropriate regulatory treatment for Florida Power & Light Company's estimated underrecovery balance projected for December 31, 2000?

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FPSC-RECORDS/REPORTING

FIPUG filed its prehearing statement on October 26, 2000 and set forth the following position(s) for both Issue 11A (the period of recovery) and Issue 11B (the charging of interest by FPL):

FIPUG has no position at this time, but reserves the right to take a position on this issue by the date of the prehearing conference.

Therefore, at the prehearing conference held on November 3, 2000, FIPUG changed its position on both Issues 11A and 11B to "agree with staff" (i.e., recovery over two years) and "no position" and agreed that both issues "could be stipulated."

In its Motion to Amend prehearing position dated November 9, 2000, FIPUG states that it "seeks to amend its position on Issue 11A at this time. In support of its request "to amend it position" FIPUG represents that its agreement to stipulate " was in error" and instead "should have reflected" that " the short fall should be collected over a three-year period." No mention is made of any change to its position on Issue 11B.

However, at the November 3, 2000, Prehearing conference, FIPUG not only stipulated to the question posed by Issue 11A, by agreeing to a stipulation, it also represented that for Issue 11A it would "agree with staff". Moreover, no other party now disagrees with the two year recovery posed by Issue 11A. Thus, Issue 11A was not only stipulated to by FIPUG, it is a "stipulated issue".

Despite Issue 11A having been stipulated to by all parties at the prehearing conference, FIPUG now seeks to amend its position on Issue 11A so as to get it "at issue" in this proceeding. This is improper. Even if good cause were justification for this action, absolutely no allegations of good cause have been made. The "mistake"

asserted but not identified as explained by FIPUG should not support the relief requested. On information and belief, FPL does not believe that the facts constitute mistake in the sense of good cause.

FIPUG has not addressed Issue 11b. That Issue addresses FPL's Proposal to waive interest on the under-recovery addressed by Issue 11A.

The interest FPL agreed to waive as part of its proposal is worth approximately \$33 million over a two year recovery period. FIPUG's approach is to improperly seek to put Issue 11A at issue and yet retain the benefit of the interest waived by FPL.

Wherefore, FPL respectfully requests that the relief requested by FIPUG be denied.

DATED this the 14<sup>th</sup> day of November, 2000.

Respectfully submitted,

STEEL HECTOR & DAVIS LLP  
215 South Monroe Street  
Suite 601  
Tallahassee Florida 32301-1804  
Attorneys for Florida Power &  
Light Company

By: 

Matthew M. Childs, P.A.

**CERTIFICATE OF SERVICE  
DOCKET NO. 000001-EI**

**I HEREBY CERTIFY** that a true and correct copy of Florida Power & Light Company's Response to Florida Industrial Power Users Group's Motion to Amend Prehearing Position has been furnished by Hand Delivery (\*), or U S. Mail this 14<sup>TH</sup> day of November, 2000, to the following:

Wm. Cochran Keating IV, Esq.\*  
Division of Legal Services  
FPSC  
2540 Shumard Oak Blvd., Rm. 370  
Tallahassee, FL 32399

Lee L. Willis, Esq.  
James D. Beasley, Esq.  
Ausley & McMullen  
Attorneys for TECO  
P. O. Box 391  
Tallahassee, FL 32302

Stephen C. Burgess, Esq.  
Office of Public Counsel  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399

James A. McGee, Esq.  
Florida Power Corporation  
P. O. Box 14042  
St. Petersburg, FL 33733

Norman H. Horton, Esq.  
Floyd R. Self, Esq.  
Messer, Caparello & Self  
Attorneys for FPUC  
215 South Monroe St. #701  
Tallahassee, FL 32301

Vicki Gordon Kaufman, Esq.  
Joseph A. McGlothlin, Esq.  
McWhirter, Reeves, McGlothlin,  
Davidson, et al.  
Attorneys for FIPUG  
117 South Gadsden Street  
Tallahassee, FL 32301

Jeffrey A. Stone, Esq.  
Russell A. Badders, Esq  
Beggs and Lane  
P. O. Box 12950  
Pensacola, FL 32576

By:   
Matthew M. Childs, P.A.