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January 8, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
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COMMISSION
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Re: Docket No.: 000824-EI

Dear Ms. Bayo:

On behalf of the Florida Industrial Power Users Group (FIPUG), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Florida Industrial Power Users Group's Motion to Compel Florida Power Corporation to Respond to Discovery.

Please acknowledge receipt of the above on the extra copy and return the stamped copies to me. Thank you for your assistance.

Sincerely,

Timothy J. Perry

TJP/bae
Enclosure

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DOCUMENT NUMBER- DATE
00265 JAN-88
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power Corporation by Carolina Power & Light

Docket No.: 000824-EI
Filed: January 8, 2002

**FLORIDA INDUSTRIAL POWER USERS GROUP'S MOTION TO COMPEL
FLORIDA POWER CORPORATION TO RESPOND TO DISCOVERY**

The Florida Industrial Power Users Group (FIPUG), pursuant to rule 28-106.206, Florida Administrative Code, files this motion to compel Florida Power Corporation (FPC) to fully respond to FIPUG'S Third Set of Interrogatories (Nos. 34-39) and Third Set of Requests for Production (Nos. 36-40). As grounds therefor, FIPUG states:

Introduction

1. On December 20, 2001, FIPUG served its Third Set of Interrogatories and Third Set of Requests for Production on FPC.
2. On December 31, 2001, FPC filed its Objections to certain interrogatories and production requests. Such objections should be rejected and FPC should be required to fully respond to FIPUG's discovery requests. Each FPC objection is discussed below.

Interrogatory No. 35

3. Interrogatory No. 35 requests FPC to provide the delivered fuel cost for each FPC generating unit used to supply retail customer's energy requirements broken out by various categories. FPC objected to this interrogatory on the basis that it was irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence.

4. The rules of civil procedure broadly allow parties to obtain discovery. *See Allstate v. Boecher*, 733 So.2d 993 (Fla. 1999). FIPUG asserts that this request is relevant and material to this case. FPC apparently has removed fuel revenues and some expenses from its filing that are not recovered through base rates. However, FPC's adjustments appear to have resulted in an unexplained reduction to projected Net Operating Income. The requested information is needed to analyze whether FPC has properly removed fuel expenses and revenues and made appropriate adjustments to its projected Net Operating Income. Further, Commission Staff has identified an issue related to fuel revenues and expenses as has FIPUG¹.

5. Sub-part (d) of FIPUG's Interrogatory No. 35 asks FPC to list whether or not the fuel supplier and transporter of fuel is an affiliate of FPC. This Interrogatory seeks information which is relevant to addressing Staff's Preliminary Issues 132, 133 and 134 and FIPUG's Preliminary Issues 28, 29, and 30.² regarding whether adjustments should be made to base rates to account for FPC's

¹Staff's Preliminary Issue 43 and FIPUG's Preliminary Issue 9 both read as follows: Has FPC made the appropriate adjustments to remove fuel revenues and fuel expenses recoverable in the fuel adjustment clause?

²Staff's Preliminary Issues 132, 133 and 134 and FIPUG's Issues 28, 29 and 30 respectively both read as follows:

- 1) 132: Should adjustments be made for the rate base effects of transactions with affiliated companies for FPC?
- 2) 28: Should adjustments be made for the rate base effects of transactions with affiliated companies?
- 2) 133: Should adjustments be made for the capital structure effects of transactions with affiliated companies for FPC?
- 2) 29: Should adjustments be made for the capital structure effects of transactions with affiliated companies?
- 3) 134: Should adjustments be made for the net operating income effects of transactions with affiliated companies for FPC?
- 3) 30: Should adjustments be made for the net operating effects of transactions with affiliated companies?

affiliate transactions. Therefore, the Commission should grant FIPUG's Motion to Compel to allow for a meaningful and thorough analysis of the issues.

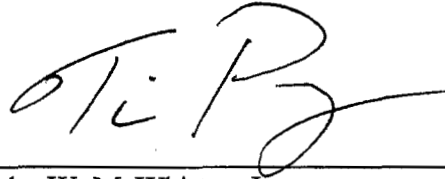
Interrogatory No. 37 and Request for Production No. 38

6. This Interrogatory and its related Request for Production seek information regarding the decommissioning expense and depreciation expense for Crystal River 3. FPC objects to this request as irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence because it alleges that the matter has already been determined by the Commission in Docket No. 001835-EI. FIPUG seeks the information requested to analyze FPC's compliance with the Commission's decision in that docket. In addition, Staff's Preliminary Issue 15 addresses what adjustment, if any, should be made to the test year rate base to reflect the Commission's decision in Docket No. 001835-EI.

Request for Production No. 36

7. FIPUG's Request for Production No. 36 seeks documentation from FPC to show that the price paid to its affiliates for fuel commodities or fuel transportation was priced at or below market. Also requested are all analyses or summaries of requests for proposals undertaken to establish the commodity and transportation market price. FPC objects on the same basis as it objected to FIPUG's Interrogatory No. 35. In support of its Motion to Compel FPC to respond to this Request, FIPUG hereby adopts the argument set forth for Interrogatory No. 35.

WHEREFORE, FIPUG requests that its Motion to Compel Florida Power Corporation to Respond to Discovery be granted and that FPC be ordered to immediately respond to FIPUG's discovery requests as delineated above.



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Users Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group's Motion to Compel Florida Power Corporation to Respond to Discovery has been furnished by (*) hand delivery, (**) Facsimile, or U.S. Mail to the following this 8th day of January, 2002:

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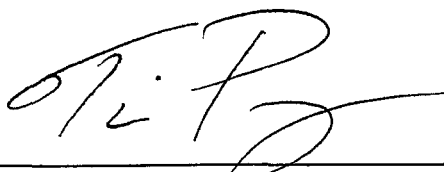
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