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July 26, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket No.: 011605-EI

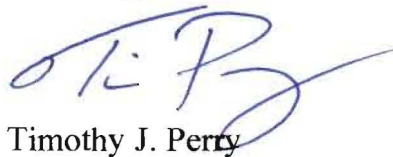
Dear Ms. Bayo:

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

- ▶ Prehearing Statement of the Florida Industrial Power Users Group.

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

Sincerely,



Timothy J. Perry

TJP/bae
Enclosure

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DOCUMENT NUMBER DATE

MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN & ARNOLD P.A. 07872 JUL 26 08

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Review of investor-owned electric utilities' risk management policies and procedures.

Docket No.: 011605-EI
Filed: July 26, 2002

**PREHEARING STATEMENT OF THE
FLORIDA INDUSTRIAL POWER USERS GROUP**

Pursuant to Order No. PSC-02-0192-PCO-EI, the Florida Industrial Power Users Group files its Prehearing Statement.

A. APPEARANCES:

JOHN W. MCWHIRTER, JR., McWhirter Reeves McGlothlin Davidson Decker Kaufman & Arnold, P.A., 400 North Tampa Street, Suite 2450, Tampa, Florida 33601-3350

VICKI GORDON KAUFMAN and TIMOTHY J. PERRY, McWhirter Reeves McGlothlin Davidson Decker Kaufman & Arnold, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301

On Behalf of the Florida Industrial Power Users Group.

B. WITNESSES:

Direct

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Lee W. Gooch ¹	The investor-owned utilities' proposed plans.	1A , 2, 3, 4, 7A & 7B

¹Lee W. Gooch will adopt the testimony and exhibits of Bryan Stone, filed on July 10, 2002. Mr. Gooch must testify on August 12, 2002.

DOCUMENT NUMBER-DATE
07872 JUL 26 02
FPSC-COMMISSION CLERK

C. **EXHIBITS:**

Direct

<u>Number</u>	<u>Witness</u>	<u>Description</u>
<u> </u> (BS-1)	Lee W. Gooch	<i>New York Times</i> Article titled “Contracts So Complex they Imperil the System”
<u> </u> (BS-2)	Lee W. Gooch	Derivative trading chart labeled “The Money Merry-Go- Round”

D. **STATEMENT OF BASIC POSITION:**

The unregulated financial derivatives market for energy products is presently in great turmoil. State regulatory action giving utilities unbridled discretion to move forward with undisclosed derivative transactions at the customers expense would be premature at best. Therefore, the Commission should reject the proposed risk management plans proffered by the investor owned utilities (IOUs). The IOU plans, if adopted, would substitute estimated costs for actual fuel costs; would relieve the utilities from any obligation to publicly disclose the information now required on fuel cost schedules A3 through A5; would be very costly to implement – requiring expensive start-up costs, risk premiums and O&M costs; and would offer the customer almost no appreciable benefits.

The IOUs candidly admit that their plans are not designed to lower the customers’ rates **at all**. In fact, the utilities have presented no evidence to show that the consumers will save money in the short-term or the long-term if the IOU plans are approved. The only conceivable benefit of the proposed plans – price stability – would actually result in harm to the ratepayers if the price of fuel declines. Moreover, Florida’s ratepayers already receive the benefits of price stability through levelized fuel factors. At this time, the only parties that are clearly in a position to benefit from the plans are the IOUs themselves.

In addition, utilities currently engage in long-term fuel purchase contracts, physical forwards contracts, and financial option contracts to manage fuel costs. The costs of these transactions can and have been approved by the Commission after the fact. Currently, there is no compelling reason to authorize an unlimited expansion of the risk management programs without careful study of the utilities’ plans, and the result of the pilot programs.

If the Commission approves the IOUs' proposed plans, it should limit approval to certain specific mechanisms its staff recommends after reviewing the utilities' proposals. Specifically, the Commission should approve the following: First, a Commission employed expert should independently evaluate the plans. Second, the utilities actual cost of fuel should be disclosed as it is now, so that it can be compared to the price charged to customers. Third, the Commission should impose limitations on the types of instruments and transactions that the utilities use to hedge. Fourth, at a minimum, the results of the derivative transactions should be filed with the Commission, and the derivative transactions should be independently stated on financial statements in accordance with FAS 133. Fifth, customers should be given the option to pay spot market or independently hedged fuel costs, rather than accept the utility estimated fuel cost. Sixth, the Commission should prohibit the IOUs from engaging in transactions with affiliates. Finally, the Commission should also require that any items for which the utilities seek recovery from ratepayers be separately delineated so that a meaningful prudence review can be conducted.

E. STATEMENT OF ISSUES AND POSITIONS:

ISSUE 1A: What role should the Commission take concerning the manner in which each investor-owned electric utility manages risks associated with fuel procurement?

FIPUG: The Commission should reject the IOUs' proposed plans and maintain the status quo.

ISSUE 1B: Is each investor-owned electric utility taking reasonable steps to manage the price risk associated with its natural gas and residual oil transactions, as well as purchased power transactions based on natural gas prices, through the use of physical, operational, or financial hedging practices, or a combination of those practices?

FIPUG: FIPUG can take no position. The information is not available for customer review.

ISSUE 1C: For what purposes does each investor-owned electric utility engage in physical, operational, or financial fuel price hedging practices, or a combination of those practices, and to what extent do such purposes involve reductions in fuel price volatility versus reductions in fuel costs?

FIPUG: As much of this activity is conducted secretly, FIPUG cannot respond to this issue. The Commission should require the utilities to fully disclose what types of activities the utilities engage in and for what purpose. The utilities should be required to explicitly document any fuel cost reductions.

ISSUE 2: What is the appropriate regulatory treatment for gains and losses an investor-owned electric utility incurs from hedging fuel and purchased power transactions through futures contracts?

FIPUG: Losses and gains from specified, pre-approved hedging activities that the utility discloses after-the fact, and which the utility demonstrates was prudently undertaken, should be credited to the fuel adjustment clause.

ISSUE 3: What is the appropriate regulatory treatment for the premiums an investor-owned electric utility receives and pays for hedging fuel and purchased power transactions through options contracts?

FIPUG: Net gains and losses associated with prudent hedging activities may be charged or credited to customers. Or, a pre-approved cost-benefit sharing plan can be incorporated into a utilities risk management plan. It is not in the public interest for customers to pay all hedging costs while the utilities keep all of the profits.

ISSUE 4: What is the appropriate regulatory treatment for the transaction costs an investor-owned electric utility incurs from hedging its fuel and purchased power transactions through futures and options contracts?

FIPUG: Net gains and losses associated with prudent hedging activities may be charged or credited to customers. Or, a pre-approved cost-benefit sharing plan can be incorporated into a utilities risk management plan. It is not in the public interest for customers to pay all hedging costs while the utilities keep all of the profits.

ISSUE 5: For the period March 1999, to March 2001, did FPL take reasonable steps to manage the risk associated with changes in natural gas prices?

FIPUG: This issue has been resolved by Order No. PSC-02-0793-PAA-EI.

ISSUE 6: For the period March 1999, to March 2001, did Florida Power take reasonable steps to manage the risk associated with changes in natural gas prices?

FIPUG: This issue has been resolved by Order No. PSC-02-0919-PAA-EI.

ISSUE 7A: What incentive(s), if any, should the Commission establish to encourage investor-owned electric utilities to optimally manage the risks to ratepayers associated with fuel and purchased power price volatility?

FIPUG: FIPUG agrees with Staff that consideration of incentives should be postponed until pilot programs have proven their worth.

ISSUE 7B: If the Commission were to approve any utility's incentive plan for optimally managing fuel price risk which includes a change in the method for calculating shareholder gains on wholesale sales as specified in Order Nos. PSC-00-1744-PAA-EI and PSC-01-

2371-FOF-EI, what changes, if any, should be made to the requirements of these orders?

FIPUG: The only change which should be made to the incentive plan in the current orders should be to eliminate such incentives; they certainly should not be increased or applied to purchases as well as sales. Until there is open access, an independent system operator for the Florida transmission grid, and a viable wholesale market in Florida, such incentive plans would merely allow one utility to increase its revenues at the expense of another. The Commission should mandate the return of the Florida broker system in which power is transferred at cost, and utilities share the savings of using the most efficient generation.

F. STIPULATED ISSUES:

None at this time.

G. PENDING MOTIONS:

FIPUG has no pending motions.

H. OTHER MATTERS:

Due to scheduling conflicts, Mr. Gooch must testify on the first day of the hearing, August 12, 2002.



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Attorneys for the Florida Industrial Power
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Prehearing Statement of the Florida Industrial Power Users Group has been furnished by hand delivery(*) or U.S. Mail on this 26th day of July 2002.

(*) Wm. Cochran Keating
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

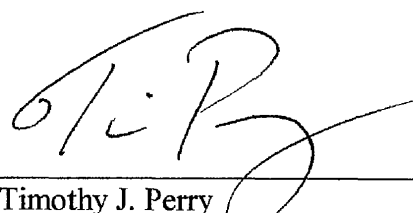
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