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September 11, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
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Tallahassee, Florida 32399-0870

REC'D - MCWHIRTER REEVES
22 SEP 11 PM 3:49
COMMISSION
CLERK

Re: Docket No.: Docket Nos. 020262-EI and 020263-EI

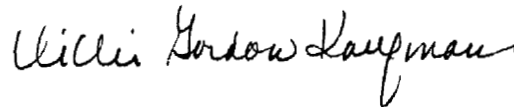
Dear Ms. Bayo:

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

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

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

Sincerely,



Vicki Gordon Kaufman

VGK/bae
Enclosure

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER - DATE
09643 SEP 11 2002
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine Need for an
electrical power Plant in Martin County by
Florida Power & Light Company.

Docket No. 020262-EI

In re: Petition to determine Need for an
electrical power Plant in Manatee County by
Florida Power & Light Company

Docket No. 020263-EI

Filed: September 11, 2002

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

Pursuant to Order No. PSC-02-0992-PCO-EI, the Florida Industrial Power Users Group (FIPUG) 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:

None.

C. EXHIBITS:

None; however, FIPUG reserves the right to utilize cross-examination exhibits.

D. STATEMENT OF BASIC POSITION:

FIPUG's interest in this proceeding is to ensure that when capacity is required to meet the needs of retail consumers, the capacity that is secured is the most cost-effective available--whether the capacity is the self-build project of an investor-owned utility or the project of a competitive power producer. It appears that in this case, due to the skewed capacity selection process FPL employed, FPL may not have chosen the most cost-effective project available. FIPUG is further concerned over FPL's selection of its own project due to FPL's unwillingness to commit to be bound by its bid. If the bid process FPL conducted was truly competitive and FPL

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FPSC-COMMISSION CLERK

participated on the same footing as other bidders, it should have no hesitancy in agreeing to collect no more from ratepayers than it bid. Finally, it appears that the capacity represented by the conversion of Martin 8 is not actually needed by FPL until the year following the year in which FPL proposes to build it (2006, rather than 2005).

E. STATEMENT OF ISSUES AND POSITIONS:

ISSUE 1: Is the output of Florida Power & Light Company's Martin Unit 8 fully committed for use by Florida retail electric customers?

FIPUG: It is unknown at this time whether retail electric customers will have full use of the Martin 8 plant or whether some of it will be sold into the wholesale market.

ISSUE 2: Is the output of Florida Power & Light Company's Manatee Unit 3 fully committed for use by Florida retail electric customers?

FIPUG: It is unknown at this time whether retail electric customers will have full use of the Martin 8 plant or whether some of it will be sold into the wholesale market.

NEED FOR ADDITIONAL GENERATING CAPACITY

ISSUE 3: Does Florida Power & Light Company have a need for Martin Unit 8, taking into account the need for electric system reliability and integrity?

FIPUG: It appears that FPL has a need for the capacity represented by Martin 8 in 2006, not 2005. However, such capacity may be able to be provided more cost-effectively by a competitive provider.

ISSUE 4: Does Florida Power & Light Company have a need for Manatee Unit 3, taking into account the need for electric system reliability and integrity?

FIPUG: It appears that FPL has a need for the capacity represented by Manatee 3. However, such capacity may be able to be provided more cost-effectively by a competitive provider

ISSUE 5: Does Florida Power & Light Company have a need for Martin Unit 8, taking into account the need for adequate electricity at a reasonable cost?

FIPUG: It appears that FPL has a need for the capacity represented by Martin 8 in 2006, not 2005. However, such capacity may be able to be provided more cost-effectively by a competitive provider.

ISSUE 6: Does Florida Power & Light Company have a need for Manatee Unit 3, taking into account the need for adequate electricity at a reasonable cost?

FIPUG: It appears that FPL has a need for the capacity represented by Manatee 3. However, such capacity may be able to be provided more cost-effectively by a competitive provider.

CONSERVATION

ISSUE 7: Are there any conservation measures taken by or reasonably available to Florida Power & Light Company that might mitigate the need for Martin Unit 8?

FIPUG: No position.

ISSUE 8: Are there any conservation measures taken by or reasonably available to Florida Power & Light Company that might mitigate the need for Manatee Unit 3?

FIPUG: No position.

FUEL AVAILABILITY

ISSUE 9: Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Martin Unit 8?

FIPUG: No position at this time.

ISSUE 10: Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Manatee Unit 3?

FIPUG: No position at this time.

COST-EFFECTIVENESS

ISSUE 11: Did Florida Power & Light Company properly and accurately value the use of existing infrastructure at the Martin plant site in determining the construction cost of Martin Unit 8?

FIPUG: No position at this time.

ISSUE 12: Did Florida Power & Light Company properly and accurately value the use of existing infrastructure at the Manatee plant site in determining the construction cost of Manatee Unit 3?

FIPUG: No position at this time.

ISSUE 13: Did Florida Power & Light Company's Supplemental Request for Proposals, issued on April 26, 2002, satisfy the requirements of Rule 25-22.082, Florida Administrative Code?

FIPUG: No, it does not appear that the requirements of the bid rule were applied so as to ensure the selection of the most cost-effective proposal. The comparison of proposals appears to be skewed in favor of FPL's self-build option.

ISSUE 14: Was Florida Power & Light Company's decision not to consider proposals to construct generating capacity on property owned by Florida Power & Light Company appropriate?

FIPUG: No position at this time.

ISSUE 15¹: Was the process used by Florida Power & Light Company to evaluate Martin Unit 8, Manatee Unit 3, and projects submitted in response to its Supplemental Request for Proposals, issued on April 26, 2002, fair, reasonable, and appropriate?

FIPUG: No, it appears that the comparison of proposals was skewed in favor of FPL's self-build option.

(a)² Did FPL administer the evaluation process so as to provide to non-FPL participants a fair opportunity to win the RFP?

FIPUG: No, it appears that FPL skewed the evaluation process in favor of its own self-build option.

(b) Did FPL apply to its self-build options the standards and criteria that it applied to respondents?

FIPUG: No, it appears that FPL skewed the standards and criteria in favor of its own project.

(c) Were the evaluation criteria used by FPL in evaluating the bids disclosed to the bidders prior to the submission of bids?

FIPUG: No.

ISSUE 16: In its evaluation of Martin Unit 8, Manatee Unit 3, and projects filed in response to its Supplemental Request for Proposals, issued on April 26, 2002, did Florida Power & Light Company employ fair and reasonable assumptions and methodologies?

(a) Were the assumptions regarding operating parameters that FPL assigned to its own proposed units reasonable and appropriate?

(b) When modeling and quantifying the costs of all options, did FPL appropriately and consistently quantify and take into account the impact of variable O&M costs associated with bidders' proposals and variable O&M costs associated with its own self-build options, so as to result in a fair comparison of purchased and self-built alternatives?

¹ PACE, CPV Cana, CPV Gulfcoast, South Pond, FACT and FIPUG suggest a slight rewording of this issue.

² The wording of Subissues 15 (a)(b)(c) and Issues 16, 18 – 23 have been agreed to by PACE, CPV Cana, CPV Gulfcoast, South Pond, FACT and FIPUG.

(c) When modeling and quantifying the costs of all options, did FPL fairly and appropriately compare the costs of projects having different durations?

(d) When modeling and quantifying the costs of all options, did FPL employ assumptions regarding the gas transportation costs for the proposals that were fair, reasonable, and appropriate?

(e) When modeling and quantifying the costs of all options, including its own, did FPL appropriately and adequately take cycling and start-up costs into account?

(f) When modeling and quantifying the costs of all options, did FPL appropriately and adequately take into account the impact of seasonal variations on heat rate and unit output?

(g) Did FPL act in a fair, reasonable and appropriate manner in not considering further a proposal from TECo on the basis that TECo's reserve margin requirements might be impaired?

FIPUG: No position at this time.

ISSUE 17: Was Florida Power & Light Company's decision to apply an equity penalty cost to projects filed in response to its Supplemental Request for Proposals appropriate? If so, was the amount properly calculated?

FIPUG: No; it appears that use of an "equity penalty" unfairly penalizes competitive projects and skewed FPL's choice in favor of its self-build option, for the reasons set forth in the testimony of Staff witness, Andrew Maurey.

ISSUE 18: Did FPL negotiate with short-listed bidders in good faith?

FIPUG: No position at this time.

ISSUE 19: If the Commission grants FPL's petition for determination of need authorizing it to construct its proposed Manatee 3 and Martin 8 units, should FPL be required to limit any requested rate base increase to the amount bid?

FIPUG: Yes.

ISSUE 20: If the answer to the above issue is no, is each of FPL's proposals based on sound and reasonable assumptions and estimates, such that the Commission may conclude that the Commission and FPL's ratepayers may realistically expect FPL to implement the non-binding proposal at the stated cost?

FIPUG: No position at this time.

ISSUE 21: If the Commission grants FPL's proposal to construct Manatee 3 and/or Martin 8, are consumers estopped from challenging the prudence of the investment in any subsequent rate case?

FIPUG: No, consumers are not estopped from challenging FPL's decision when it seeks to include the plant in rate base.

ISSUE 22: Has FPL met its burden of proof to demonstrate that it has fairly chosen the most cost-effective alternatives available?

FIPUG: No.

ISSUE 23: What would be the impact on ratepayers if the Commission were to deny either or both of FPL's petitions?

FIPUG: No position at this time.

ISSUE 24³: Is Florida Power & Light Company's Martin Unit 8 the most cost-effective alternative available?

FIPUG: Because the bidding process was unfairly skewed in favor of FPL's own proposal, the Commission cannot reach this conclusion at this time

ISSUE 25: Is Florida Power & Light Company's Manatee Unit 3 the most cost-effective alternative available?

FIPUG: Because the bidding process was unfairly skewed in favor of FPL's own proposal, the Commission cannot reach this conclusion at this time.

ISSUE 26: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Martin Unit 8?

FIPUG: No position at this time.

ISSUE 27: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Manatee Unit 3?

FIPUG: No position at this time.

F. STIPULATED ISSUES:

None at this time.

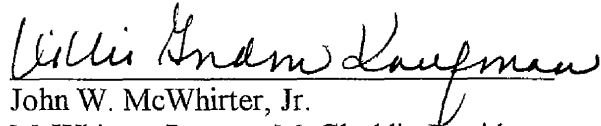
G. PENDING MOTIONS:

FIPUG has no pending motions.

³ Issues 24-27 are Staff issues that have been renumbered.

H. OTHER MATTERS:

None at this time.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Prehearing Statement of the Florida Industrial Power Users Group was served via (*) hand delivery or U.S. Mail this 11th day of September 2002, to the following:

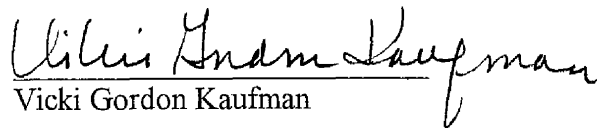
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