

Ruth Nettles

From: John W. McWhirter [jmcwhirter@mac-law.com]
Sent: Monday, December 03, 2007 3:32 PM
To: Filings@psc.state.fl.us
Cc: Alex. Glenn; Bill Levens; Cecilia Bradley; Charles Beck; D Triplett; J Michael Walls; James W. Brew; Joe McGlothlin; John Office McWhirter ; Lisa Bennett; Mike Twomey; Patty Christensen, Esq.; Schef Wright
Subject: FIPUG Petition to intervene Docket 070698-EI
Attachments: 071130 FIPUG PETITION TO INTERVENE.doc

070698-EI

Here is the corrected copy of FIPUG's petition to intervene in the above styled cause.

1. John W. McWhirter, Jr., 400 N. Tampa St. Tampa, FL 33602, jmcwhirter@mac-law.com is the person responsible for this electronic filing;
2. The filing is to be made in Docket 070698-EI, PEF Nuclear update
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 4; and
5. The attached document is the FIPUG's Petition to Intervene

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DOCUMENT NUMBER DATE

10649 DEC-3 5

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition by Progress Energy Florida, Inc.)
to recover costs of Crystal River Unit 3)
update as provided in Section 366.93, F.S)
and Rule 25-6.0423, F.A.C.)
_____)

Docket 070698-EI

Submitted for filing December 3, 2007

THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
PETITION TO INTERVENE

Pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, the Florida Industrial Power Users Group ("FIPUG"), through its undersigned counsel, files its Petition to Intervene. In support thereof, FIPUG states:

1. The name and address of the affected agency is:

The Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

2. The name and address of the Petitioner is:

Florida Industrial Power Users Group
c/o McWhirter, Reeves, & Davidson, P.A.

3. Copies of all pleadings, notices, and orders in this docket should be provided to:

John W. McWhirter, Jr.
McWhirter, Reeves, & Davidson, P.A.
400 North Tampa Street, Suite 2450
Tampa, Florida 33602
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4. FIPUG is an ad hoc association consisting of industrial users of electricity in PEF's service territory. The cost of electricity constitutes a significant portion of these customers overall costs of production. FIPUG participants require an adequate, reasonably priced and reliable supply of electricity in order to compete in their respective markets.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

5. Statement of Affected Interests. FIPUG's interests are of the type that this proceeding is designed to protect. The Commission will decide preconstruction costs, carrying costs on construction and the proper method for cost recovery in this docket. These decisions will impact the cost of electricity to FIPUG and other retail customers.

6. Disputed Issues of Material Fact.¹ FIPUG supports the proposed nuclear uprate as a worthwhile project in the public interest to achieve fuel diversity. Never the less, FIPUG has identified the following issues that may need to be addressed by the Commission:

- a. Are the MUR costs properly allocable to the existing 900MW nuclear plant in the process of recertification or the 140MW of additional capacity?
- b. The petition and testimony identify total costs. Insufficient information has been provided to determine the amount and prudence of preconstruction costs and the carrying costs which will be the subject of capacity cost recovery. When identified these costs may be the subject of dispute.
- c. Is any portion of the proposed cost recovery prohibited by the current rate freeze stipulation?
- d. Is it premature to determine the cost of capital when there is the possibility of a base rate proceeding between the expiration of the current rate freeze stipulation and the projected 2011 in service date for the 140 MW uprate portion of the nuclear plant.

7. Statement of Ultimate Facts Alleged. FIPUG alleges that the uprate is prudent. PEF has the burden to demonstrate the costs and methods of recovery are likewise prudent.

8. Statutes and Rules that Require the Relief Requested by FIPUG. Statutes and rules that require the relief requested by FIPUG include, but are not limited to, Chapter 120, Florida Statutes, and Rules 25-22.039, 28-106.205 and 25-22.082, Florida Administrative Code.

¹ FIPUG reserves its right to restate or rephrase the above issues, as well as raise additional issues pursuant to Commission rule, procedural order or CASR.

10. Statement Explaining How the Facts Alleged By FIPUG Relate to the Above-Cited Rules and Statutes In Compliance With Section 120.54(5)(b)4.f, Florida Statutes. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. FIPUG participants are PEF retail customers, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission's decision whether to grant PEF an exemption from Rule 25-22.082, Florida Administrative Code in this docket and concurrently deal with electric rates. Accordingly, FIPUG is entitled to intervene herein.

WHEREFORE, FIPUG requests that the Commission enter an order granting its petition to intervene.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing The Florida Industrial Power Users Group's Petition to Intervene has been furnished by electronic mail and U.S. Mail the 3rd day of December 2007, to the following:

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