

Ruth Nettles

From: John W. McWhirter [johnmac@tampabay.rr.com]
Sent: Tuesday, March 03, 2009 10:32 PM
To: Filings@psc.state.fl.us
Subject: RE: Petition to Intervene
Attachments: FIPUG Petition to Intervene 03-2-09.doc

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 070703-EI, In re: Review of Coal Costs PEF
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 3 and
5. The attached document is The Florida Industrial Power User Group's Petition to Intervene

John W. McWhirter, Jr.

From: Filings@psc.state.fl.us [mailto:Filings@PSC.STATE.FL.US]
Sent: Monday, March 02, 2009 3:57 PM
To: johnmac@tampabay.rr.com
Cc: Ruth Nettles; Kimberley Pena
Subject: FW: Petition to Intervene

Mr. McWhirter:

We are in receipt of your attached e-filing. Please note that, per the Commission's e-filing requirements, documents are to include an official signature. Your document will need to be revised and resubmitted to be considered an official filing.

Manner of Electronic Transmission:

- Documents shall be signed by typing "s/" followed by the signatory:

s/ First M. Last
- The acknowledgment indicates the document has been received, but does not confirm the document meets the requirements for electronic filing.

A link to the Commission's e-filing requirements is included for your convenience:
<http://www.psc.state.fl.us/dockets/e-filings/>

Please call our office if you have any questions.

Dorothy Menasco
FPSC
Office of Commission Clerk
850-413-6770

*Done
03/04/09
Kmp*

From: John W. McWhirter [mailto:johnmac@tampabay.rr.com]
Sent: Monday, March 02, 2009 3:20 PM

DOCUMENT NUMBER-DATE

01758 MAR-4 8

3/4/2009

FPSC-COMMISSION CLERK

To: Filings@psc.state.fl.us

Subject: FW: Petition to Intervene

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John W. McWhirter, Jr.

PO Box 3350

Tampa, FL 33601-3350

813.505.8055

813.221.1854 FAX

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Review of coal costs for Progress Energy Florida's
Crystal River Units 4 and 5 for 2006 and 2007 /**

Docket 070703-EI

Filed: March 2, 2009

**THE FLORIDA INDUSTRIAL POWER USERS GROUP
PETITION TO INTERVENE**

Under the provisions of Chapter 120, Florida Statutes, Section 366.06, *Florida Statutes*, and Rules 25-22.039, 28-106.205, Florida Administrative Code, the Florida Industrial Power Users Group (FIPUG), through its undersigned counsel, submits its Petition to Intervene and in support thereof states:

1. 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 Law Firm,
PO Box 3350
Tampa, Florida 33601
Telephone: (813) 505-8055
Telecopier: (813) 221-1854

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

John W. McWhirter
jmcwhirter@mac-law.com
electronic mail preferred
paper mail address
PO Box 3350
Tampa, Florida 33601

4. FIPUG is an ad hoc association consisting of industrial users of electricity in Florida. The cost of electricity constitutes a significant portion of FIPUG participants' overall costs of production. FIPUG participants require adequate, reasonably priced electricity in order to compete in their respective markets.

5. Statement of Affected Interests. FIPUG was a party in the related case dealing with alleged overpriced coal for the period 1995-2005 and respectfully requests that it be allowed to continue as a party in this follow up docket opened to deal with later years.

6. FIPUG's interests are of the type that this proceeding is designed to protect. Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981); Royal Palm Square Associates v. Servco, 623 So.2d 533 (Fla. 2d DCA 1993). See Florida Optometric Association v. Department of Professional Regulation, 567 So.2d 928 (Fla. 1st DCA 1990); Florida Medical Association v. Department of Professional Regulation, 426 So.2d 1112 (Fla. 1st DCA 1983). The purpose of the proceeding is to ensure that the rates Peoples charges are fair, just and reasonable pursuant to Chapter 366, Florida Statutes. The purpose of the proceeding thus coincides with FIPUG's interest, which is to ensure that participants' electricity bills reflect prudent, economical choices. Further, the issues to be addressed and the interests to be protected by FIPUG in this case are appropriately undertaken by a group of aligned large customers, such as, FIPUG.

7. Disputed Issues of Material Fact. FIPUG anticipates that the issues of disputed fact in this case will include, but are not limited to whether the refund demanded by OPC is fair, just and reasonable;

8. Statement of Ultimate Facts Alleged. FIPUG alleges that the Commission should grant the Public Counsel's demand for a refund..

WHEREFORE, FIPUG requests the Commission to enter an order allowing it to intervene as a fully party in this docket.

/s/ John W. McWhirter, Jr.
John W. McWhirter, Jr
Florida Bar# 53905

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FIPUG Petition to Intervene was served by electronic mail to the following parties of record March 2, 2009:

<p>Lisa Bennett/ Keino Young Florida Public Service Commission Office of the Public Counsel Division of Legal Services 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850</p>	<p>Carlton Fields Law Firm J. Michael Walls/Diane M. Triplett Post Office Box 3239 Tampa, FL 33601-3239 Phone: 813-223-7000 FAX: 813-229-4133 Email: mwalls@carltonfields.com</p>
<p>Office of Public Counsel J.R. Kelly/ Joseph A McGlothlin c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 Phone: 850-488-9330</p>	<p>Progress Energy Service Company, LLC R. Alexander Glenn/John T. Burnett Post Office Box 14042 St. Petersburg, FL 33733-4042 Phone: 727-820-5184 FAX: 727-820-5249 Email: john.burnett@pgnmail.com</p>
<p>Progress Energy Florida, Inc. Mr. Paul Lewis, Jr. 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740 Phone: (850) 222-8738 FAX: 222-9768 Email: paul.lewisjr@pgnmail.com</p>	<p><u>/s/ John W. McWhirter, Jr.</u> John W. McWhirter, Jr Florida Bar# 53905 McWhirter Law Firm. 400 North Tampa Street, Suite 3350 Tampa, Florida 33602 (813) 505-8055(telephone) (813) 221-1854 (fax) jmcwhirter@mac-law.com Attorney for the FIPUG</p>