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Sent: Monday, April 20, 2009 4:13 PM
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Subject: Docket No. 080677-EI
Attachments: FIPUG's Petition to Intervene 04.20.09.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

- a. The name, address, telephone number and email for the person responsible for the filing is:

 Vicki Gordon Kaufman
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- b. This filing is made in Docket No. 080677-EI, In re: Petition for increase in rates by Florida Power & Light Company.
- c. The document is filed on behalf of Florida Industrial Power Users Group.
- d. The total pages in the document are 2 pages.
- e. The attached document is FIPUG's Petition to Intervene.

Lynette Tenace

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DOCUMENT NUMBER-DATE

03664 APR 20 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Increase in Rates by
Florida Power & Light Company.

DOCKET NO. 080677-EI

FILED: April 20, 2009

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

Pursuant to sections 120.569, .57, Florida Statutes, and rules 25-22.039, 28-106.201 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. Name and address of agency. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. Name and address of Petitioner. The name and address of the Petitioner is:

Florida Industrial Power Users Group
c/o Keefe Anchors Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone; (850) 681-3828
Facsimile: (850) 681-8788

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

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4. Notice of docket. Petitioner received notice of this docket by a review of the Commission's website.

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

6. In this case, the Commission will consider Florida Power & Light Company's (FPL) request for a general rate increase in an amount exceeding \$1 billion. The amount of the increase approved, if any, as well as other rate case issues the Commission will consider, will affect FIPUG members' substantial interests by increasing their costs of electricity, thus affecting their production costs, their competitive posture, and their levels of employment. Thus, as customers of FPL, FIPUG's members' substantial interests will be affected in this docket.

7. FIPUG's interests are of the type that this proceeding is designed to protect. *See, Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2nd DCA 1981). The purpose of the proceeding is to evaluate FPL's requests and determine if any of the requests have merit. Thus, the purpose of the proceeding coincides with FIPUG's substantial interests, which is to ensure that the rates it pays to FPL are just and reasonable.

8. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to,¹ the following:

- a. Is FPL's requested rate increase just and reasonable?
- b. Is FPL's proposed return on equity reasonable, particularly in light of current economic conditions?
- c. What is the appropriate return on equity for FPL?
- d. What is the appropriate capital structure for FPL?
- e. What is the appropriate test year for FPL for the purpose of setting rates?
- f. What are the appropriate depreciation rates for FPL?

FIPUG reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure which will be issued in this case.

9. Disputed Legal Issues. Disputed legal issues include, but are not limited to, the following:

- a. Has FPL carried its burden to prove that it is entitled to rate relief?
- b. Has FPL carried its burden of proof as to the return on equity it has requested?

10. Statement of Ultimate Facts Alleged. Ultimate facts include, but are not limited to, the following:

- a. The rate increase FPL seeks is unreasonable and should not be approved.

11. Rules and statutes justifying relief. The rules and statutes that entitle FIPUG to intervene and participate in this case include, but are not limited to:

- a. Section 120.569, Florida Statutes;
- b. Section 120.57, Florida Statutes;

¹ In a rate case, issues are generally delineated and refined in a number of issue identification meetings. Further, FIPUG anticipates that there will be additional numerous disputed issues of material fact which the Commission will be required to resolve.

- c. Section 366.04(1), Florida Statutes;
- d. Section 366.06, Florida Statutes;
- e. Rule 25-22.039, Florida Administrative Code;
- f. Rule 28-106.201, Florida Administrative Code;
- g. Rule 28-106.205, Florida Administrative Code.

12. Relief. FIPUG requests that it be permitted to intervene as a full party in this docket.

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

s/ Vicki Gordon Kaufman
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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 this 20th day of April, 2009, to the following:

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