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090368-EI

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Sent: Wednesday, August 19, 2009 2:52 PM
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Subject: Docket No. 090368-EI
Attachments: FIPUG Petition to Intervene 08.19.09.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. 090368-EI, In re: Review of the continuing need and cost associated with Tampa Electric Company's 5 Combustion Turbines and Big Bend Rail Facility.
- c. The document is filed on behalf of Florida Industrial Power Users Group.
- d. The total pages in the document are 5 pages.
- e. The attached document is FIPUG's Petition to Intervene.

Lynette Tenace

NOTE: New E-Mail Address
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DOCUMENT NUMBER-DATE

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8/19/2009

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of the continuing need and
Cost associated with Tampa Electric)
Company's 5 Combustion Turbines and)
Big Bend Rail Facility)

Docket No. 090368-EI

Filed: August 19, 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 review the need and costs associated with Tampa Electric Company's (TECO) combustion turbines and Big Bend Rail Facility which were considered in Docket No. 080317-EI¹. These costs 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 TECO, 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 TECO's costs and determine if they are appropriate. Thus, the purpose of the proceeding coincides with FIPUG's substantial interests, which is to ensure that the rates it pays to TECO are just and reasonable.

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

¹ FIPUG was an intervenor in that docket.

- a. Are the costs for TECO's combustion turbines reasonable?
 - b. Are the additional combustion turbines needed?
 - c. Are the costs for TECO's Big Bend Rail Facility reasonable?
 - d. How should any approved costs be allocated?
9. Disputed Legal Issues. Disputed legal issues include, but are not limited to, the following:
- a. Has TECO carried its burden to prove that it is entitled recover costs for the additional combustion turbines?
 - b. Has TECO carried its burden to prove it is entitled to reopen additional costs for the Big Bend Rail Facility?
10. Statement of Ultimate Facts Alleged. Ultimate facts include, but are not limited to, the following:
- a. Whether additional costs for TECO should be approved, and if so, how should they be allocated.
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;
 - 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 Petition to Intervene was served by Electronic Mail and United States Mail this 19th day of August, 2009, to the following:

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