

Ruth Nettles

090002-EG

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Subject: Docket 090002-EG Filing: PEF's Response in Opposition to FIPUG's Motion for Extension of Time to File Intervenor Testimony
Attachments: PEF Response to FIPUG Motion.pdf

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Docket: 090002-EG

In re: Energy conservation cost recovery clause

On behalf of Progress Energy Florida

Consisting of 4 pages

The attached document for filing is PEF's Response in Opposition to FIPUG's Motion for Extension of Time to File Intervenor Testimony

DOCUMENT NUMBER-DATE

09805 SEP 23 09

FPSC-COMMISSION CLEAR

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost
recovery clause.

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Docket No. 090002-EG

Filed: September 23, 2009

**PEF'S RESPONSE IN OPPOSITION TO
FLORIDA INDUSTRIAL POWER USER GROUP'S
MOTION FOR EXTENSION OF TIME TO FILE INTERVENOR TESTIMONY**

Progress Energy Florida, Inc. ("PEF") through undersigned counsel, files this response in opposition to the Motion for Extension of Time to File Intervenor Testimony (the "Motion") filed by the Florida Industrial Power Users Group ("FIPUG") on September 16, 2009, and in support thereof states:

1. On March 27, 2009, the prehearing officer issued an Order Establishing Procedure. *See*, Order No. PSC-09-0814-PCO-EG. That order established a schedule for this docket which included, among other items, deadlines for the utilities' direct testimony, intervenor testimony, and utility rebuttal testimony. That order contemplated twelve days between the filing of utility testimony and the filing of intervenor testimony.

2. On September 11, 2009, PEF filed a Motion requesting a brief 3-day extension of time to finalize and file its projection testimony and exhibits. The requested extension moved the deadline from Friday, September 11, 2009 to Monday, September 14, 2009. Consequently, PEF does not oppose a 3-day extension of time as it relates to all deadlines in this docket.

3. On September 16, 2009, FIPUG filed their Motion seeking to substantially deviate from the terms of the Order Establishing Procedure by requesting a 13-day

extension of the deadline to file intervenor testimony and exhibits. The requested extension would move the deadline from September 23, 2009 to October 6, 2009.

4. As described above, the current schedule for filing testimony has been in place since March. Therefore, there was no surprise to FIPUG as to the due date for filing testimony and exhibits in this docket. The Order Establishing Procedure (Order No. PSC-09-0184-PCO-EG) issued as early as March 27, 2009, ¶(IX)(3), indicates that Intervenor Testimony and Exhibits are due on September 23, 2009.

5. There also was no surprise when PEF's testimony and exhibits were due in this docket. The Order Establishing Procedure (Order No. PSC-09-0184-PCO-EG) issued on March 27, 2009, ¶(IX)(2), indicates that Utility Testimony and Exhibits were due on September 11, 2009.

6. FIPUG reaffirmed their party status on February 13, 2009 and was a party to this docket at the time the March 27, 2009 schedule was developed. They had the opportunity to seek reconsideration of Order No. PSC-09-0184-PCO-EG if they felt the time provided for filing intervenor testimony was inadequate. For approximately six months, since the Order Establishing Procedure was issued, FIPUG has not raised any issue concerning the due dates to file testimony and exhibits.

7. FIPUG could have served discovery on the first day the Order of Procedure was put into effect and could have filed discovery anytime since that date, March 27, 2009. Despite this fact, however, FIPUG complains that they were unable to analyze the utilities' proposals or conduct discovery prior to receiving PEF's testimony because they did not know what values PEF would propose until the testimony was filed. However, the Order Establishing Procedure (Order No. PSC-09-0184-PCO-EG) issued

on March 27, 2009, ¶(V)(A)(5), clearly sets forth discovery procedures prior to the filing of a utility's projection testimony and exhibits. FIPUG could have asked for information through discovery, but simply failed to do so.

WHEREFORE, PEF objects to FIPUG's Motion for Extension of Time. FIPUG has failed to present any compelling reason to justify their motion. For the above and foregoing reasons, PEF respectfully requests that the FIPUG Motion be denied.

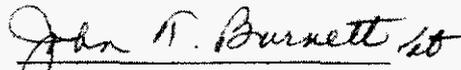
Respectfully submitted this 23rd day of September, 2009.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic and U.S. Mail this 23rd day of September, 2009 to all parties of record as indicated below.



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