

Ruth Nettles

100136-ET

From: Lynette Tenace [ltenace@kagmlaw.com]
Sent: Thursday, April 01, 2010 3:24 PM
To: Filings@psc.state.fl.us
Cc: Katherine Fleming; john.burnett@pgnmail.com; Charles Rehwinkel; jmcwhirter@mac-law.com
Subject: Docket No. 100136
Attachments: FIPUG Petition to Intervene 04.01.10.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
 Jon C. Moyle, Jr.
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- b. This filing is made in re: Petition for Approval of an accounting order to record a depreciation expense credit, by Progress Energy Florida, Inc., Docket No. 100136.
- 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

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02413 APR-10

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of an accounting order to record a depreciation expense credit, by Progress Energy Florida, Inc.

DOCKET NO.: 100136

FILED: April 1, 2010

**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:

Jon C. Moyle, Jr.
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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 companies' 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 Progress Energy Florida's (PEF) request for an accounting adjustment to record a reduction in depreciation expense. This request is related to the Commission's decision in PEF's rate case in Docket No. 090079-EI, in which FIPUG was an intervenor. FIPUG companies will be directly affected by the Commission's decision in this docket due to the impact it may have on electric rates. Thus, FIPUG's companies' 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 determine appropriate conservation goals and programs. Thus, the purpose of the proceeding coincides with FIPUG companies' substantial interests, which is to ensure that the rates they pay are just and reasonable.

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

- a. Is PEF's request appropriate?
- b. Has PEF met its burden of proof?
- c. Are PEF's current revenues sufficient to recover its operating expenses?

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

- a. The requested accounting adjustment should be denied.

10. 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. Sections 366.80-.85(1), Florida Statutes;
- d. Rule 25-22.039, Florida Administrative Code;
- e. Rule 28-106.201, Florida Administrative Code.

11. 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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Attorneys for Florida Industrial
Power Users Group

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 1st day of April, 2010, to the following:

Katherine Fleming, Esquire
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