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100009-EI

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Sent: Friday, August 06, 2010 12:19 PM
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Subject: Docket No. 100009-EI; The Florida Power Industrial Users Group's Amended Prehearing Statement
Attachments: FIPUG Amended PHS 8.6.10.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:

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- b. This filing is made in Docket No. 100009-EI.
- c. The document is filed on behalf of Florida Industrial Power Users Group.
- d. The total pages in the document are 7 pages.
- e. The attached document is The Florida Industrial Power Users Group's *Amended* Prehearing Statement.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Power Plant
Cost Recovery Clause

Docket No. 100009-EI

Filed: August 6, 2010

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
AMENDED PREHEARING STATEMENT**

The Florida Industrial Power Users Group (FIPUG), pursuant to Order No. PSC-10-0115-PCO-EI, files its Amended Prehearing Statement.

A. APPEARANCES:

JON C. MOYLE, JR.
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Attorneys for the Florida Industrial Power Users Group

B. WITNESSES AND EXHIBITS:

All witnesses and exhibits listed by other parties in this proceeding.

C. STATEMENT OF BASIC POSITION:

FIPUG supports the development of cost effective, reasonable and prudent energy sources to serve Florida consumers. However, the development of such energy resources, particularly nuclear power plants, must be accomplished in a reasonable, cost-effective and prudent fashion. Efforts to develop nuclear power plants must be reasonable and prudently take into account changed circumstances and project delays. The utilities should be held to strict proof that activities relating to nuclear power generation are the most reasonable and cost-effective way to serve ratepayer needs.

As to FPL, FIPUG suggests that a separate docket should be opened to review the costs related to FPL's nuclear uprate project. Further, the Commission should require the inclusion of any costs incurred to date as part of the economic feasibility analysis required by the Commission so as to judge the true feasibility of the nuclear project with complete information.

Regarding PEF, PEF's Levy Nuclear Project (LNP) has experienced significant delays. This may well indicate that the project is not currently feasible, especially in light of the many

risks and uncertainties it faces in permitting and other processes. The Commission should consider deferring cost recovery until it is determined if the LNP will go forward to completion. As to the CR3 extended uprate (EPU), PEF's decision-making has foisted an unacceptable burden on ratepayers and there is a significant degree of risk as to whether the EPU will be accomplished.

D. STATEMENT OF ISSUES AND POSITIONS:

Legal Issues

ISSUE 1: Do FPL's activities related to Turkey Point Units 6 & 7 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

FIPUG: FIPUG has not had adequate opportunity to formulate a legal opinion on this issue and will brief it in its post-hearing brief.

ISSUE 2: Do PEF's activities related to Levy Units 1 & 2 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

FIPUG: FIPUG has not had adequate opportunity to formulate a legal opinion on this issue and will brief it in its post-hearing brief.

ISSUE 3: Does the Commission have the authority to require a "risk sharing" mechanism that would provide an incentive for a utility to complete a project within an appropriate, established cost threshold? If so, what action, if any, should the Commission take?

FIPUG: FIPUG has not had adequate opportunity to formulate a legal opinion on this issue and will brief it in its post-hearing brief.

Progress Energy Florida, Inc.

ISSUE 4: Should the Commission find that for the year 2009, PEF's accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

FIPUG: Agree with OPC.

ISSUE 5: Should the Commission find that for the year 2009, PEF's project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

FIPUG: Agree with OPC.

ISSUE 6: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

FIPUG: No. Agree with OPC.

ISSUE 7: Is PEF's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Levy Units 1 & 2 reasonable? If not, what action, if any, should the Commission take?

FIPUG: No. The Commission should require PEF to evaluate all reasonable scenarios and select the most cost-effective and prudent course of action. PEF has not met its burden to demonstrate that its current course of action is reasonable. The Commission should consider deferring cost recovery until it is determined if the LNP will go forward to completion.

ISSUE 8: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Crystal River Unit 3 Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

FIPUG: No. Agree with OPC.

ISSUE 9: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

FIPUG: No position at this time.

ISSUE 10: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2010 costs and estimated true-up amounts for the Crystal River Unit 3 Uprate project?

FIPUG: No position at this time.

ISSUE 11: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2011 costs for the Crystal River Unit 3 Uprate project?

FIPUG: No position at this time.

ISSUE 12: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

FIPUG: Agree with OPC.

ISSUE 13: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

FIPUG: Agree with OPC.

ISSUE 14: What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for PEF's Levy Units 1 & 2 project?

FIPUG: Agree with OPC.

ISSUE 15: What is the total jurisdictional amount to be included in establishing PEF's 2011 Capacity Cost Recovery Clause factor?

FIPUG: No position at this time.

Company Specific Issues

Florida Power & Light Company

ISSUE 16: Should the Commission find that for the year 2009, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

FIPUG: Agree with OPC.

ISSUE 17: Should the Commission find that for the year 2009, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

FIPUG: Agree with OPC.

ISSUE 18: Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Turkey Point 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

FIPUG: No.

ISSUE 19: Is FPL's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Turkey Point Units 6 & 7 reasonable? If not, what action, if any, should the Commission take?

FIPUG: No position at this time.

ISSUE 20: Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Extended Power Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

FIPUG: Agree with OPC.

ISSUE 21: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

FIPUG: Agree with OPC.

ISSUE 22: What system and jurisdictional amounts should the Commission approve as FPL's reasonable actual/estimated 2010 costs and estimated true-up amounts for the Extended Power Uprate project?

FIPUG: Agree with OPC.

ISSUE 23: What system and jurisdictional amounts should the Commission approve as FPL's reasonably projected 2011 costs for the Extended Power Uprate project?

FIPUG: This issue is dependent upon the outcome of Issues 17 and 18.

ISSUE 24: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

FIPUG: This issue is dependent upon the outcome of Issues 17 and 18.

ISSUE 25: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

FIPUG: This issue is dependent upon the outcome of Issues 17 and 18.

ISSUE 26: What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for FPL's Turkey Point Units 6 & 7 project?

FIPUG: This issue is dependent upon the outcome of Issues 17 and 18.

ISSUE 27: What is the total jurisdictional amount to be included in establishing FPL's 2011 Capacity Cost Recovery Clause factor?

FIPUG: Agree with OPC.

E. STIPULATED ISSUES:

None at this time.

F. PENDING MOTIONS:

None at this time.

G. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

None.

H. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

I. OTHER MATTERS:

FIPUG would propose as a stipulated procedural matter that as a convenience to the parties and witnesses, and to make travel and other accommodations less taxing and uncertain, that the FPL case not begin prior to Thursday, August 26, 2010.

J. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Florida Industrial Power Users Group cannot comply at this time.

s/ Vicki Gordon Kaufman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FIPUG's Amended Prehearing Statement was served by Electronic Mail and United States Mail this 6th day of August, 2010, to the following:

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