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100437 - EJ

From: Bruette Davis [bdavis@kagmlaw.com]
Sent: Tuesday, November 16, 2010 11:18 AM
To: Filings@psc.state.fl.us
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Subject: Docket No. 100437-EI - Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.
Attachments: FIPUG Petition to Intervene 11.16.10.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 Docket No. 100437-EI.

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 Florida Industrial Power Users Group's Petition to Intervene.

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DOCUMENT NUMBER-DATE

9405 NOV 16 2010

FPSC-COMMISSION CLERK

11/16/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Examination of the outage and replacement
fuel/power costs associated with the CR3
steam generator replacement project, by
Progress Energy Florida, Inc.

Docket No. 100437-EI

Filed: November 16, 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 members' overall costs of production. FIPUG members require adequate, reasonably-priced electricity in order to compete in their respective markets.

6. In Order No. PSC-10-0632-PCO-EI, the Commission established a docket separate from the fuel docket to review the actions at Progress Energy Florida, Inc.'s (PEF) Crystal River 3 nuclear plant (CR3) which have resulted in an extended outage and the need for PEF to purchase replacement power due to the outage. The Order states:

... the purpose of the docket will be to enable the Commission and all interested parties to review facts and information related to the Crystal River Unit 3 (CR3) steam generator replacement project and the subsequent delamination that was discovered during CR3's Refueling Outage 16. PEF asserts that in this new docket the Commission will be able to evaluate the prudence and reasonableness of PEF's actions concerning the delamination. The new docket will also provide the Commission with the ability to review the prudence of PEF's resulting fuel and purchase power replacement costs associated with the extended CR3 outage.

7. Thus, in this case, the Commission will review the CR3 outage and PEF's actions taken in regard to such outage. This determination and the costs that may flow from such a determination will affect FIPUG members' substantial interests by affecting their costs of electricity, thus affecting their production costs, their competitive posture, and their levels of employment. Thus, as customers of PEF, FIPUG members' substantial interests will be affected in this docket.

8. 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 PEF's actions and 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 PEF are just and reasonable.

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

- a. Were the actions taken by PEF in regard to its management and oversight of the CR3 steam generator replacement project reasonable and prudent?
- b. Were the actions taken by PEF in regard to the discovery of the delamination project reasonable and prudent?
- c. Were PEF's fuel and purchase power replacement costs resulting from extended CR3 outage reasonable and prudent?

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

- a. Has PEF carried its burden to show that its actions at CR3 and the costs resulting from such actions were reasonable and prudent?

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

- a. Whether PEF's actions in regard to the CR3 outage were reasonable and prudent?
- b. What fuel and replacement power costs, if any, should PEF be permitted to recover?

12. 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.

13. 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 the Florida Industrial Power Users
Group

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 16th day of November, 2010, to the following:

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