

Diamond Williams

From: Kim Hancock [khancock@kagmlaw.com]
Sent: Thursday, August 11, 2011 4:29 PM
To: Filings@psc.state.fl.us
Cc: Caroline Klancke; Keino Young; Martha Barrera; kelly.jr@leg.state.fl.us; sayler.erik@leg.state.fl.us; mcglothlin.joseph@leg.state.fl.us; JAS@beggslane.com; RAB@beggslane.com; Vicki Gordon Kaufman; Jon Moyle
Subject: Docket 110138
Attachments: FIPUG Petition to Intervene 8.11.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:

Jon C. Moyle, Jr.
 Keefe Anchors Gordon & Moyle
 118 North Gadsden Street
 Tallahassee, FL 32301
 (850) 681-3828
jmoyle@kagmlaw.com

b. This filing is made in Docket No. 110138.

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.

Kim Hancock
khancock@kagmlaw.com



Keefe, Anchors, Gordon and Moyle, P.A.
 The Perkins House
 118 North Gadsden Street
 Tallahassee, Florida 32301
 (850) 681-3828 (Voice)
 (850) 681-8788 (Fax)
www.kagmlaw.com

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DOCUMENT NUMBER - DATE

05692 AUG 11 =

FPSC-COMMISSION CLERK

8/11/2011

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in Rates by
Gulf Power Company

DOCKET NO.: 110138-EI
FILED: August 11, 2011

**FLORIDA INDUSTRIAL POWER USERS GROUP'S
PETITION TO INTERVENE**

Pursuant to sections 120.569, 120.57, 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 the following:

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.
Vicki Gordon Kaufman
Keefe Anchors Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone: (850) 681-3828
Facsimile: (850) 681-8788
jmoyle@kagmlaw.com
vkaufman@kagmlaw.com

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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 consider Gulf Power Company's (Gulf) request for a general rate increase in the amount of \$93.5 million per year. The amount of the increase approved, if any, as well as other rate case issues the Commission will consider, 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 Gulf, FIPUG 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 Gulf's requests and determine if any of the requests have merit. Thus, the purpose of the proceeding coincides with FIPUG members' substantial interests, which is to ensure that the rates they pay to Gulf 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 Gulf's requested rate increase just and reasonable?
- b. Is Gulf's proposed return on equity reasonable, particularly in light of current economic conditions?
- c. What is the appropriate return on equity for Gulf?
- d. Should rates be increased so that additional monies can be placed in Gulf's storm reserve fund?

- e. Should Gulf be allowed to recover additional operating and maintenance expense in excess of the PSC's benchmark for such expenses?
- f. Should Gulf be permitted to increase rates for a power plant site that will not be used in the test year or the foreseeable future?
- g. Are Gulf's business transactions with affiliate companies fair, just and reasonable?

FIPUG reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure which will be issued in this case.

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

- a. Has Gulf carried its burden to prove that it is entitled to rate relief?
- b. Has Gulf carried its burden of proof as to the return on equity it has requested?

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

- a. The rate increase Gulf seeks, including, but not limited to the requested return on equity, is unreasonable and should not be approved.

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/ Jon C. Moyle, Jr.

Jon C. Moyle, Jr.

Vicki Gordon Kaufman

Keefe Anchors Gordon & Moyle, PA

118 North Gadsden Street

Tallahassee, Florida 32301

Telephone: (850)681-3828

Facsimile: (850)681-8788

vkaufman@kagmlaw.com

jmoyle@kagmlaw.com

Attorneys for Florida Industrial Power Users Group

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Florida Industrial Power Users Group's Petition to Intervene has been furnished by electronic mail and U.S. Mail this 11th day of August, 2011, to the following:

Caroline Klancke
Keino Young
Martha Barrera
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

J. R. Kelly
Joseph McGlothlin
Erik L. Saylor
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399

Jeffrey A. Stone
Russell A. Badders
Beggs & Lane Law Firm
P.O. Box 12950
Pensacola, FL 32591-2950

s/ Jon C. Moyle, Jr.
Jon C. Moyle, Jr.