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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. 110009
- c. The document is filed on behalf of The Florida Industrial Power Users Group.
- d. The total pages in the document are 10 pages.
- e. The attached document is THE FLORIDA INDUSTRIAL POWER USERS GROUP'S PREHEARING STATEMENT.

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Power Plant
Cost Recovery Clause

Docket No. 110009-EI

Filed: July 25, 2011

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

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

A. APPEARANCES:

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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, given the current state of the nuclear industry, including the recent nuclear disaster in Japan, as well as the high costs and numerous delays experienced by both PEF and FPL in pursuit of projects that may never come to fruition, both utilities must be held to strict proof regarding their activities related to nuclear power generation. FPL and PEF have the burden to demonstrate that the nuclear projects that are the subject of this hearing are the most reasonable and cost-effective way to serve ratepayer needs. The Commission must bear in mind that at the end of the day, it is the consumers who bear the large cost burden of these projects.

As to FPL, FPL failed to advise the Commission of significant changes related its 2009 nuclear cost recovery request. In 2009, FPL permitted its witness to take the stand without updating his testimony to provide the most current information to the Commission, knowing that the testimony the witness presented was inaccurate and out of date. The Commission has the authority to, and should, take action regarding FPL's actions in the 2009 proceeding.

Further, as to FPL's EPU analysis, FPL has failed to provide a break-even analysis of the project. Thus, FPL has not provided an appropriate feasibility analysis as required by Commission rule. In addition, the CPVRR that FPL has provided fails to properly evaluate the cost effectiveness of the EPU project because it removes sunk costs from the analysis and thus greatly overstates the cost-effectiveness of the project. Finally, it was imprudent for FPL to "fast track" the EPU projects as demonstrated by the many costs overruns and uncertainties relating to the project.

As to PEF, no further costs should be collected for the Levy Nuclear Plant (LNP) at this time. PEF has failed to demonstrate that it intends to move forward with the construction of the plant or that this plant will ever come on line.

Regarding PEF's Extended Power Uprate (EPU) at Crystal River 3, no further costs for this project should be borne by ratepayers. CR3, the nuclear unit to which the uprate is applicable, has been out of service since September 2009. It is unclear when, or if, CR3 will ever come back in service. Because the EPU project is an adjunct to CR3, no more costs related to it should be borne by ratepayers as its future is highly uncertain.

D. STATEMENT OF ISSUES AND POSITIONS:

Issue A: Should the Commission defer its decision regarding the long-term feasibility of completing the Crystal River Unit 3 Extended Power Uprate Project and the reasonableness of PEF's 2011 and 2012 ongoing construction expenditures, including associated carrying charges?

FIPUG: It is FIPUG's position that the subject of the uprate at CR3 and the reasonableness of any costs associated with the uprate should not be considered at this time. Not only should they not be considered, but no such costs should be collected from ratepayers, unless and until CR3 comes back on line *and* PEF provides information *at that time* documenting the feasibility and costs and benefits of moving forward with the uprate project, taking into account the extended outage of CR3. Further, since PEF cannot demonstrate feasibility of the project in the 2011 proceeding, any costs relating to the project should be disallowed.

Issue 1: Should any FPL 2010 Nuclear Cost Recovery Clause rate-case type expenses be disallowed from recovery?

FIPUG: Yes. All rate case type expenses should be disallowed.

Issue 2: (***Legal***): Do FPL's activities through 2010 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: No position at this time.

Issue 3: Should the Commission approve what FPL has submitted as its 2010 and 2011 annual detailed analyses 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 position at this time.

Issue 3A: Was FPL's 2010 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 4: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project and is that cost reasonable?

FIPUG: Given the scope and size of this undertaking, this information is critical to provide transparency to those who are paying for this enormous project. Further, the Commission must consider whether such expenditures make sense. This information is in the possession of FPL and should be provided to the Commission and ratepayers without objection.

Issue 5: What is the estimated planned commercial operation date of the planned Turkey Point Units 6 & & nuclear facility and is that date reasonable?

FIPUG: Given the scope and size of this undertaking, this information is critical to provide transparency to those who are paying for this enormous project. Further, the Commission must consider whether the commercial operation date make sense in view of the magnitude of the expenditures. This information is in the possession of FPL and should be provided to the Commission and ratepayers without objection.

Issue 6: Should the Commission find that for years 2009 and 2010 FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

FIPUG: No position at this time.

Issue 7: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 and 2010 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 8: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2011 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 9: What system and jurisdictional amounts should the Commission approve as reasonably projected 2012 costs for FPL's Turkey Point Units 6 & 7 project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 10: Should the Commission approve what FPL has submitted as its 2010 and 2011 annual detailed analyses 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: No. FPL has failed to submit a break-even analysis for the EPU project. Further, FPL's practice of excluding sunk costs from its cost-effectiveness analysis is inappropriate and has the impact of overstating the project's cost-effectiveness.

Issue 10A: Should the Commission accept the quantitative methodology that FPL employed to assess the long-term feasibility of the EPU project?

FIPUG: No. FPL's practice of excluding sunk costs from its cost-effectiveness analysis is inappropriate and has the impact of overstating the project's cost-effectiveness. Further, FPL has failed to perform a break-even analysis to assess the cost-effectiveness of the project.

Issue 10B: Should the Commission require FPL to perform separate long-term feasibility analyses for the Turkey Point and St. Lucie uprate activities?

FIPUG: Yes. Each project should be examined separately. There are many differences between the two projects that must be evaluated separately so as to do a meaningful cost-effectiveness analysis.

Issue 11: Should the Commission find that for the years 2009 and 2010 FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Extended Power Uprate project?

FIPUG: No position at this time.

Issue 12: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 and 2010 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 13: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2011 costs and estimated true-up amounts for FPL's Extended Power Uprate project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 14: What system and jurisdictional amounts should the Commission approve as reasonably projected 2012 costs for FPL's Extended Power Uprate project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 15A: Did FPL willfully withhold information concerning the estimated capital costs of its EPU uprate projects and its related long-term study of the feasibility of the EPU uprates that is required by rule 25-6.0423, F.A.C., and that the Commission needed to make an informed decision at the time of the September 2009 hearing in Docket No. 090009-EI?

FIPUG: Yes. It is clear from the evidence that at the time the FPL witness took the stand at the 2009 nuclear hearing and swore that his testimony was true and correct regarding the EPU project costs, the company knew that the information was inaccurate and willfully did not update its information to provide the Commission and parties with the information needed as to the EPU.

Issue 15B: *(Legal)* [OPC-FPL-1b] If the answer is yes, does the Commission possess statutory and regulatory authority with which to address FPL's withholding of information?

FIPUG: Yes. The Commission has jurisdiction to take action regarding a regulated utility who willfully withholds information. Section 366.095, Florida Statutes, provides the Commission with the power to impose penalties upon a utility which has willfully violated any rule or order of the Commission. Rule 25-6.0423(5)(c)5, Florida Administrative Code, requires FPL to submit a long-term feasibility analysis regarding a nuclear plant. The Commission explained in Order No. PSC-08-0237-FOF-EI that such requirement includes the provision of "capital cost estimates." Clearly, such costs estimates must be the current and most cost-effective information available. Further, when a witness takes the stand, the witness provides testimony under oath. Failure to provide true and correct testimony implicates the Commission's authority to administer oaths. *See*, section 350.123, Florida Statutes.

Issue 15C: In light of the determinations in Issues 15A and 15B, what action, if any, should the Commission take?

FIPUG: No position at this time.

ISSUE 16: Was it prudent for FPL to undertake the EPU projects at Turkey Point and St. Lucie on a “fast track” basis?

FIPUG: No. It was imprudent for FPL to attempt to fast track such a large and complicated action. Such a track has led to highly inaccurate cost and completion estimates. This approach commits FPL to spend large amounts of money before it knows the cost of the project. Such a track has led to highly inaccurate cost and completion estimates.

ISSUE 17: Was it prudent for FPL to undertake the EPU projects at Turkey Point and St. Lucie without performing a break-even analysis?

FIPUG: No. A break-even analysis is necessary to properly assess the cost-effectiveness of a project. FPL’s NPVVR analysis overstates the cost-effectiveness of the project.

ISSUE 18: If the Commission finds FPL was imprudent in Issues 16 or 17, what action can and should the Commission take?

FIPUG: The Commission should disallow all imprudent costs.

Issue 19: What is the total jurisdictional amount to be included in establishing FPL’s 2012 Capacity Cost Recovery Clause factor?

FIPUG: This is a fall out amount from the substantive issues.

Issue 20: Should the Commission approve what PEF has submitted as its 2011 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. PEF has failed to demonstrate the long-term feasibility of completing the Levy Units 1 & 2. Requested costs should be disallowed.

Issue 21: What is the total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Levy Units 1 & 2 nuclear project?

FIPUG: Given the scope and size of this undertaking, this information is critical to provide transparency to those who are paying for this enormous project. Further, the Commission must consider whether such expenditures make sense. This information is in the possession of PEF and should be provided to the Commission and ratepayers without objection.

Issue 22: What is the estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility?

FIPUG: Given the scope and size of this undertaking, this information is critical to provide transparency to those who are paying for this enormous project. Further, the Commission must consider whether the commercial operation date make sense in view of the magnitude of the expenditures. This information is in the possession of PEF and should be provided to the Commission and ratepayers without objection.

Issue 23: Do PEF's activities to date 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: No. PEF has not proven intent to move forward with the project.

Issue 24: Should the Commission find that for the year 2010, PEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project? If not, what action, if any, should the Commission take?

FIPUG: No.

Issue 25: What system and jurisdictional amounts should the Commission approve as PEF's final 2010 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 26: Should the Commission approve for recovery in 2012 any estimated 2011 and 2012 costs necessary for receipt of the Combined License (COL) for Levy Units 1 & 2? If not, what action can and should the Commission take with respect to these costs?

FIPUG: No.

Issue 27: What system and jurisdictional amounts should the Commission approve as reasonable actual/estimated 2011 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 28: What system and jurisdictional amounts should the Commission approve as reasonably projected 2012 costs for PEF's Levy Units 1 & 2 project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 29: Should the Commission approve what PEF has submitted as its 2011 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. The information is inaccurate and not reflective of current circumstances. No costs should be allowed for this project.

Issue 30: Should the Commission approve as prudent any costs incurred between October 2, 2009 and December 31, 2010 for the Crystal River Unit 3 Uprate project?

FIPUG: No such costs should not be approved given the events at CR3 and its extended outage.

Issue 31: For the year 2009 and 2010, should the Commission find PEF prudently managed its Crystal River Unit 3 Uprate license amendment request? If not, what dollar impact did these activities have on 2009 incurred costs?

FIPUG: No position at this time.

Issue 32: Should the Commission find that for 2010, PEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project? If not, what action, if any, should the Commission take?

FIPUG: No.

Issue 33: What system and jurisdictional amounts should the Commission approve as PEF's 2009 and 2010 prudently incurred costs for the Crystal River Unit 3 Uprate project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 34: What system and jurisdictional amounts should the Commission approve as reasonable actual/estimated 2011 costs and estimated true-up amounts for PEF's Crystal River Unit 3 Uprate project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 35: What system and jurisdictional amounts should the Commission approve as reasonably projected 2012 costs for PEF's Crystal River Unit 3 Uprate project?

FIPUG: This is a fall out amount from the substantive issues.

Issue 36: What amount from the deferred balance of the Rate Management Plan approved in Order No. PSC-09-0783-FOF-EI should the Commission approve for recovery in 2012?

FIPUG: No position at this time.

Issue 37: What is the total jurisdictional amount to be included in establishing PEF's 2012 Capacity Cost Recovery Clause factor?

FIPUG: This is a fall out amount from the substantive issues.

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. 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 Florida Industrial Power Users Group's Prehearing Statement has been furnished by Electronic Mail and United States Mail this 25th day of July, 2011, to the following:

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