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January 28, 1999

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

Re: Docket No. 981390-EI

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of FIPUG's and Tropicana's Motion to File Response One Day Out of Time and Response to Florida Power & Light Company's Motion to Dismiss with Amended Certificate of Service in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

Sincerely,

RECEIVED & FILED

ACK
AFA *Victoria Gordon Kaufman*

[Signature]
FPSR-BUREAU OF RECORDS

APP — Vicki Gordon Kaufman

CAF —

CMU — VGK/pw

CTR — Encls.

EAG — 2

LEG — 2

LIN — 5

OPC —

RCH —

SEC — 1

WAS —

OTH —

Motion
DOCUMENT NUMBER-DATE
01132 JAN 28 99

Response
DOCUMENT NUMBER-DATE
01133 JAN 28 99

RECEIVED
JAN 28 AM 7:46
FPSR-BUREAU OF RECORDS

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into the Equity)
Ratio and Return on Equity of Florida)
Power & Light Company.)
_____)

Docket No. 981390-EI

Filed: January 28, 1999

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
AND TROPICANA PRODUCT, INC.'S MOTION TO FILE
RESPONSE ONE DAY OUT OF TIME**

The Florida Industrial Power Users Group (FIPUG) and Tropicana Products, Inc. (Tropicana) hereby file this motion seeking leave to file their Response to Florida Power and Light Company's (FPL) motion to dismiss one day out of time. As grounds therefor, FIPUG and Tropicana state:

1. On January 12, 1999, FIPUG and Tropicana filed a protest of Order No. PSC-98-1748-FOF-EI.
2. On January 15, 1999, FPL filed a motion to dismiss FIPUG's and Tropicana's protest.
3. Under the applicable rules, FIPUG's and Tropicana's Response to FPL's motion was due yesterday, January 27, 1999.
4. On January 27, 1999, well in advance of the 5 p.m. filing deadline, the original and 15 copies of the Response were given to TalRun Services for filing at the Commission and a copy was provided to TalRun for hand delivery to Staff counsel. TalRun Services is the courier service generally used by the undersigned's firm for Tallahassee deliveries.
5. En route to the Commission, the runner locked his keys and the Response in his car. By the time the runner was able to get into his car to get his keys and the Response, he was unable to get to the Commission in time to make the filing by 5 p.m. The runner so notified

DOCUMENT NUMBER - DATE

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FPSC-RECORDS/REPORTING

Records and Reporting.

6. The runner notified the undersigned's office at 5:30 p.m. of his failure to timely make the filing, too late for another copy to be delivered to the Commission for filing.

7. The Response was filed with Records and Reporting when it opened at 8 a.m. the following day, January 28, 1999. The Response was not altered in any way from the January 27 Response, with the exception of an amended certificate of service and filing date reflecting filing on January 28.

8. Copies of the Response were hand delivered to counsel for FPL and all other parties at the opening of business on January 28. Further, the undersigned left a voice mail message for Staff counsel on January 27 and attempted to contact counsel for FPL when his office opened on January 28 to advise them of the situation.

9. FIPUG and Tropicana submit that the filing of their Response one day out of time was due to circumstances beyond their control and that the Response should be accepted and considered by the Commission.

10. FIPUG and Tropicana further submit that no party will be prejudiced if the Commission accepts the Response one day out of time, as all parties received the Response at the opening of business on January 28, perhaps earlier than they would have received the Response by mail.

WHEREFORE, FIPUG and Tropicana request the Commission to accept their Response to FPL's motion to dismiss one day out of time.

Vicki Gordon Kaufman

John W. McWhirter, Jr.

Joseph A. McGlothlin

Vicki Gordon Kaufman

McWhirter, Reeves, McGlothlin,

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Tampa, Florida 33601-3350

Attorneys for the Florida Industrial

Power Users Group and

Tropicana Products, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FIPUG's and Tropicana's foregoing Motion to File Response One Day Out of Time has been furnished by hand delivery to the following parties of record this 28th day of January, 1999:

Robert V. Elias
Florida Public Service Commission
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Vicki Gordon Kaufman