

**Ruth Nettles**

**From:** John W. McWhirter [jmcwhirter@mac-law.com]  
**Sent:** Friday, September 28, 2007 5:34 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Lee Willis; Jim Beasley; George Cavros, Esq  
**Subject:** FIPUG Petition to Intervene Dkt 070467-EI  
**Attachments:** fipug petition to intervene.doc

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CORRECTLY*

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<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Parties	<input type="checkbox"/> Consumer
DOCUMENT NO. <u>10028-07</u>		
DISTRIBUTION:		

1. John W. McWhirter, Jr., 400 N. Tampa St. Tampa, FL 33602, [jmcwhirter@mac-law.com](mailto:jmcwhirter@mac-law.com) is the person responsible for this electronic filing;
2. The filing is to be made in Docket 070467-EI, TECo Determination of Need
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 3; and
5. The attached document is the FIPUG's Petition to Intervene

John W. McWhirter, Jr.  
 McWhirter & Davidson, PA.  
 400 N. Tampa St  
 Suite 2450  
 Tampa, FL 33602  
 813.224.0866  
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10/1/2007

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Polk Unit  
6 electrical power plant, by Tampa Electric  
Company.

DOCKET NO. 070467-EI

Submitted for filing October 1, 2007

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

Pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039 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. The name and address of the affected agency is:

The Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850.

2. The name and address of the Petitioner is:

Florida Industrial Power Users Group  
c/o McWhirter & Davidson, P.A.

3. Copies of all pleadings, notices, and orders in this docket should be provided to:

John W. McWhirter, Jr.  
McWhirter & Davidson, P.A.  
400 North Tampa Street, Suite 2450  
Tampa, Florida 33602  
Telephone: (813) 224-0866  
Fax: (813) 221-1854  
E-mail: [jmcwhirter@mac-law.com](mailto:jmcwhirter@mac-law.com)

4. FIPUG is an ad hoc association consisting of industrial users of electricity in TECO's service territory. The cost of electricity constitutes a significant portion of these customers overall costs of production. FIPUG participants require an adequate, reasonably priced and reliable supply of electricity in order to compete in their respective markets.

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5. Statement of Affected Interests. FIPUG's interests are of the type that this proceeding is designed to protect. The Commission will decide in this docket whether it should approve TECO's request for an exemption from the bid rule and the least cost method for meeting an expressed need for electric generation.

6. Disputed Issues of Material Fact. The Commission will decide whether there is a need for the proposed generating station and the probable cost of that generation to be borne by retail consumers.

8. Statement of Ultimate Facts Alleged. FIPUG accepts ultimate facts in dispute as they are memorialized in the Prehearing Order.

9. Statutes and Rules that Require the Relief Requested by FIPUG. Statutes and rules that require the relief requested by FIPUG include, but are not limited to, Chapter 120, Florida Statutes, and Rules 25-22.039, 28-106.205 and 25-22.082, Florida Administrative Code.

10. Statement Explaining How the Facts Alleged By FIPUG Relate to the Above-Cited Rules and Statutes In Compliance With Section 120.54(5)(b)4.f, Florida Statutes. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. FIPUG participants are TECO retail customers, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission's decision whether to grant TECO an exemption from Rule 25-22.082, Florida Administrative Code in this docket and concurrently deal with electric rates. Accordingly, FIPUG is entitled to intervene herein.

**WHEREFORE**, FIPUG requests that the Commission enter an order granting its petition to intervene and further requests parties to provide the undersigned with all discovery filed in this docket.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing The Florida Industrial Power Users Group's Petition to Intervene has been furnished by electronic mail and U.S. Mail the 29th day of September 2007 to the following:

Ausley and McMullen  
Lee L. Willis, Esq.  
James D. Beasley, Esq.  
P.O. Box 391  
Tallahassee, FL 32302

Florida Public Service Commission  
Jennifer Brubaker, Esq.  
2540 Shumard Oak Blvd.  
Tallahassee, FL 3299-0850

George Cavros, Esq.  
Florida Bar No. 0022405  
Counsel for Southern Alliance for Clean  
Energy  
120 E. Oakland Park Blvd, Ste. 105  
Fort Lauderdale, FL 33334

s/  
John W. McWhirter, Jr  
John W. McWhirter, Jr.  
McWhirter, Reeves, & Davidson, P.A.  
400 North Tampa Street, Suite 2450  
Tampa, Florida 33602  
Telephone: (813) 224-0866  
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jmcwhirter@mac-law.com  
Attorneys for Florida Industrial Power Users  
Group

/

4. FIPUG is an ad hoc association consisting of industrial users of Florida. The cost of electricity constitutes a significant portion of FIPUG members of production. FIPUG members require adequate, reasonably priced electricity to compete in their respective markets.

5. Statement of Affected Interests. The Commission will decide whether Progress Energy Florida, Inc's (PEF) request for a rate increase should be approved. The amount of the rate increase, if any, approved for recovery will affect FIPUG's substantial interests by increasing their costs of electricity, thus affecting their production and their competitive posture, and their levels of employment.

6. 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 100 (Fla. DCA 1981). The purpose of the proceeding is to evaluate PEF's request for a rate increase. Thus, the purpose of the proceeding coincides with FIPUG's substantial interest in ensuring that costs passed on to members by PEF are reasonable.

**WHEREFORE**, FIPUG requests that the Commission enter an order allowing FIPUG to intervene as a full party in this docket.

John W. McWhirter  
McWhirter, Reeves, Davidson,  
Kaufman, & Arnold, P.A.  
400 North ... Street, Suite 2450

s/ Timothy J. Perry  
Timothy J. Perry  
McWhirter, Reeves, Davidson,  
Kaufman, & Arnold, P.A.  
117 South ... Street

**Matilda Sanders**

**PARTIES**

**From:** Alliance4CleanFl@aol.com  
**Sent:** Tuesday, September 25, 2007 3:48 PM  
**To:** Records Clerk  
**Subject:** Request to be added toInterested persons

Sept. 25, 2007

Dear Florida Public Service Commission Office Clerk,

With this e-mail I request that I, Bob Krasowski, with The Florida Alliance for a Clean Environment, 1086 Michigan Ave. Naples Fl. 34103 - Phone 239-963-6285, E-mail Alliance4Cleanfl@aol.com be registered in the interested persons category regarding Docket # 070467, Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company.

Thank You,  
Bob Krasowski  
The Florida Alliance for a Clean Environment  
1086 Michigan Ave.  
Naples, FL. 34103  
Alliance4Cleanfl@aol.com  
239-963-6285

RECEIVED - FPSO  
07 SEP 25 PM 4:05  
COMMISSION  
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See what's new at AOL.com and Make AOL Your Homepage.

*Added 9/26/07  
max*

**Kimberley Pena**

**PARTIES**

**From:** Kimberley Pena  
**Sent:** Monday, July 23, 2007 3:20 PM  
**To:** 'Michael Gross'  
**Subject:** RE: Docket No. 070467,TECO Petition for determination of need for Polk Unit 6 electrical power plant.

Per this e-mail, we will add you to the mailing list.

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**From:** Michael Gross [mailto:mgross@earthjustice.org]  
**Sent:** Monday, July 23, 2007 3:09 PM  
**To:** Kimberley Pena  
**Subject:** Docket No. 070467,TECO Petition for determination of need for Polk Unit 6 electrical power plant.

Kim:

Please put me on the mailing list for the above referenced docket. Also, I will be coming by tomorrow with a check to pick up the documents in response to our public records request.

Thank you for your help.

Michael

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Michael Gross  
Project Attorney  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, FL 32301  
T: 850-681-0031  
F: 850-681-0020  
[www.earthjustice.org](http://www.earthjustice.org)

*Because the earth needs a good lawyer*

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*Done  
07/23/07  
KMP*

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