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Subject: Docket No. 110009-EI; Nuclear Power Plant Cost Recovery Clause
Attachments: FIPUG response to bifurcation 2.28.11.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:

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b. This filing is made in Docket No. 110009-EI.

c. The document is filed on behalf of The Florida Industrial Power Users Group.

d. The total pages in the document are 5 pages.

e. The attached document is FIPUG Response in Opposition to Florida Power & Light Company's Motion to Bifurcate.

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FPSC-COMMISSION CLERK

2/28/2011

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant
Cost Recovery Clause

Docket No. 110009-EI
Filed: February 28, 2011

**FIPUG RESPONSE IN OPPOSITION TO FLORIDA POWER & LIGHT COMPANY'S
MOTION TO BIFURCATE**

The Florida Industrial Power Users Group (FIPUG), pursuant to rule 28-106.204, Florida Administrative Code, files this response in opposition to Florida Power & Light Company's (FPL) Motion to Bifurcate. As grounds therefor, FIPUG states:

1. In its Motion to Bifurcate, FPL asks the Commission to remove certain FPL items from the normal 2011 nuclear cost recovery hearing and hold a hearing on those issues in mid-June rather than in August or September. FPL's motion should be denied because it contradicts the parties' stipulation and because it truncates the appropriate preparation time on which the parties have relied.

2. The 2010 nuclear cost recovery proceedings went to hearing at the end of August 2010. During that proceeding, FIPUG and other parties joined with FPL and asked the Commission to defer the FPL issues until the 2011 nuclear cost recovery proceedings. These proceedings are typically held in August or September. Though the language in the Stipulation refers to deferral of the FPL issues to the "2011 nuclear cost recovery cycle," it was certainly FIPUG's understanding that this meant that the FPL issues would be taken up in the normal course of the 2011 nuclear recovery hearings.

3. This appears to be the Commission's understanding of the stipulation as well. The title of Order No. PSC-11-0095-FOF-EI, in which the FPL items were deferred, is: "Final Order

Deferring Florida Power & Light Company Specific Issues *to the 2011 NCRC Hearing...*”¹

Further, in describing the action it took in approving the deferral, the Commission said:

During the FPL portion of the hearing FPL, OPC, and FIPUG filed a joint motion to defer the resolution of all FPL-specific issues *until the 2011 NCRC, . . .*²

4. It appears clear that it was the Commission’s understanding, as well as the parties,’ that the FPL 2010 issues were deferred until the next regularly scheduled NCRC proceeding.³ In its Motion to Bifurcate, FPL attempts to use the parties’ short hand description of the deferral (NCR cycle) to change the meaning of the stipulation.⁴ FPL blithely ignores the parties’ intent and comments that “[t]he 2011 NCR cycle is currently underway.”⁵

5. FPL further argues that no party will be prejudiced because the parties have known about the FPL issues and have had ample time to conduct discovery.⁶ This is simply not the case. Preparation time has been based on the regular NCRC schedule, in which hearings are held in August or September, not FPL’s proposed accelerated schedule which attempts to truncate parties’ preparation time by over two (2) months. FIPUG is certainly not prepared to eliminate months from its preparation time via FPL’s request to change the rules of the game mid-stream. It would certainly be unfair to make such a change to the normal schedule without agreement of the parties to the stipulation.

WHEREFORE, FIPUG requests that FPL’s motion be denied.

¹ Emphasis supplied.

² Order No. PSC-11-0095-FOF-EI at 4-5, emphasis supplied.

³ At no time, during discussion of the Stipulation did FPL disclose to FIPUG that it intended to attempt to move the 2011 NCRC hearing to an earlier than normal date.

⁴ FPL states that if bifurcation is not granted, there will be more issues than normally considered. Motion at 1. Of course, all parties and the Commission knew that when the Stipulation was presented and approved.

⁵ Motion at 1.

⁶ Motion at 2.

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of FIPUG Response in Opposition to Florida Power & Light Company's Motion to Bifurcate, was served by Electronic Mail and United States Mail this 28th day of February, 2011, to the following:

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