

LAW OFFICES

McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, RIEF & BAKAS, P.A.

LYNWOOD F. ARNOLD, JR.  
JOHN W. BAKAS, JR.  
LINDA C. DARSEY  
C. THOMAS DAVIDSON  
STEPHEN O. DECKER  
VICKI GORDON KAUFMAN  
JOSEPH A. MCGLOTHLIN  
JOHN W. McWHIRTER, JR.  
RICHARD W. REEVES  
FRANK J. RIEF, III  
PAUL A. STRASKE

190 NORTH TAMPA STREET, SUITE 2800  
TAMPA, FLORIDA 33602-5126

MAILING ADDRESS: TAMPA

P.O. Box 3350, TAMPA, FLORIDA 33601-3350

TELEPHONE (813) 224-0866

FAX (813) 221-1854

CABLE GRANDLAW

PLEASE REPLY TO:  
TALLAHASSEE

TALLAHASSEE OFFICE  
117 S. GARDEN  
TALLAHASSEE, FLORIDA 32301  
TELEPHONE (904) 222-2525  
FAX (904) 222-5006

March 26, 1996

ORIGINAL  
FILE COPY

HAND-DELIVERED

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

- ACK
- AFA
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- ENC Dudley
- LEG 1
- LIR 3
- OPC \_\_\_\_\_
- RIR \_\_\_\_\_
- SEL 1
- WIS \_\_\_\_\_
- OTH \_\_\_\_\_

Re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor - Docket No. 960001-EI

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and sixteen copies of The Florida Industrial Power Users Group's Response to FPL's Request for Confidential Classification 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,

*Vicki Gordon Kaufman*  
Vicki Gordon Kaufman

VGK/jei

Enclosures

RECEIVED & FILED  
*J.S.*  
DIVISION OF RECORDS

DOCUMENT NUMBER-DATE  
03579 MAR 26 96  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased )  
Power Cost Recovery Clause )  
and Generating Performance )  
Incentive Factor )  
\_\_\_\_\_ )

Docket No. 960001-EI

Filed: March 26, 1996

ORIGINAL  
FILE COPY

The Florida Industrial Power Users Group's Response  
to FPL's Request for Confidential Classification

The Florida Industrial Power Users Group (FIPUG), pursuant to rule 25-22.006(3)(b), Florida Administrative Code, files its response to Florida Power and Light Company's (FPL) request for confidential classification for certain information contained in its February, 1996 A Schedules. FPL's request for confidential treatment of this information should be denied.

1. FIPUG is a group of large industrial consumers, some of whom are FPL customers. The price of electricity represents one of the largest variable costs incurred by FIPUG's members. Therefore, FIPUG closely monitors the prices FPL pays for wholesale power and for fuel to ensure that FPL gets the lowest possible prices.

2. FPL makes essentially the same request for confidentiality for portions of its February A Schedules that it made in regard to its November A Schedules. FIPUG filed a detailed response to FPL's request for confidentiality of its November A Schedules and therefore attaches as Attachment A, and incorporates herein, that response in regard to FPL's current request.

DOCUMENT NUMBER-DATE

03579 MAR 26 96

FPSC-RECORDS/REPORTING

WHEREFORE, FIPUG requests that FPL's request for confidential classification  
be denied.

*Vicki Gordon Kaufman*

Joseph A. McGlothlin  
Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas, P.A.  
117 South Gadsden Street  
Tallahassee, FL 32301

John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas, P.A.  
P. O. Box 3350  
Tampa, Fl 33601-3350

Attorneys for the Florida  
Industrial Power Users Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Industrial Power Users Group's Response to FPL's Request for Confidential Classification has been furnished by hand delivery\* or by U.S. Mail to the following parties of record this 26th day of March, 1996:

Martha Carter Brown\*  
Division of Legal Services  
Fla. Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Robert S. Goldman  
Messer, Vickers, Caparello,  
Madsen, Lewis and Metz  
Post Office Drawer 1876  
Tallahassee, FL 32302-1876

Matthew M. Childs  
Steel, Hector and Davis  
First Florida Bank Building  
Suite 601  
215 South Monroe Street  
Tallahassee, FL 32301-1804

Suzanne Brownless  
1311-B Paul Russell Road  
Suite 202  
Tallahassee, FL 32301

Richard Zambo  
598 SW Hidden River Avenue  
Palm City, FL 34990

G. Edison Holland  
Jeffrey A. Stone  
Beggs and Lane  
Post Office Box 12950  
Pensacola, FL 32576

Mark K. Logan  
Bryant, Miller & Olive  
201 South Monroe Street  
Suite 500  
Tallahassee, FL 32301

Eugene M. Trisko  
P.O. Box 596  
Berkeley Springs, WV 25411

James A. McGee  
Florida Power Corporation  
Post Office Box 14042  
St. Petersburg, FL 33733

Stephen Feldman  
P.O. Box 0291000  
Miami, FL 33102-9100

Jack Shreve, Public Counsel  
John Roger Howe  
Office of the Public Counsel  
The Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32301

Lee L. Willis  
James D. Beasley  
MacFarlane Ausley Ferguson  
& McMullen  
Post Office Box 391  
Tallahassee, FL 32302

*Vicki Gordon Kaufman*  
Vicki Gordon Kaufman

RECEIVED

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION JAN - 2 1996

In re: Fuel and Purchased )  
Power Cost Recovery Clause )  
and Generating Performance )  
Incentive Factor )

Docket No. 960001-21 <sup>FPSR RECORDS/REPORTING</sup>

Filed: January 2, 1996

The Florida Industrial Power Users Group's Response  
to FPL's Request for Confidential Classification

The Florida Industrial Power Users Group (FIPUG), pursuant to Rule 25-22.006(3)(b), Florida Administrative Code, files its response to Florida Power and Light Company's (FPL) request for confidential classification for certain information contained in its November, 1995 A Schedules. FPL's request for confidential treatment of this information should be denied.

1. FIPUG is a group of large industrial consumers, some of whom are FPL customers. The price of electricity represents one of the largest variable costs incurred by FIPUG's members. Therefore, FIPUG closely monitors the prices FPL pays for wholesale power and for fuel to ensure that FPL gets the lowest possible price.

2. In its proceeding FPL proposes to conceal from the public the following information:

- a) Schedule A4. The actual historic fuel cost per KWH generated for each of its generating units;
- b) Schedule 5. The actual historic price it charged Florida cities for the fuel;
- c) Schedule 5A. The money it receives from economy energy sales which it is required to share with retail customers; and

RECEIVED & FILED 1  
JAN 2 1996  
MOS  
FLORIDA PUBLIC SERVICE COMMISSION

d) Schedule A9. The price FPL pays for the economy power it purchases.

3. The thrust of the petition is that the two-month old historic information FPL is required to furnish to its retail customers will place it at a competitive disadvantage in the instantaneous dispatch wholesale market. Ironically, the wholesale customers listed in the schedules are each Florida municipalities, subject to the provisions of Section 119.07, Florida Statutes. This law requires custodians of municipal records to disclose the information FPL's seeks to conceal from its retail customers. FPL has failed to demonstrate that it has sought and received a trade secret exemption from each of the municipalities. It is further ironic that FPL is required to provide the same cost information to the Federal Energy Regulatory Commission in its Form 1 filings with that Commission.

4. A decade ago when FPL had periodic general rate cases, it performed a separation study to divide its retail rate base from the wholesale rate base to avoid discrimination in circumstances where portions of the operation were subject to regulation by two bodies. Today there is no separation of the retail plant from the wholesale plant. Retail customers are entitled to know if the retail utility plant and the fuel utilized to operate that plant is being priced in a non-discriminatory fashion vis-a-vis wholesale customers. The subject fuel cost schedules provide the information retail consumers need to make this determination.

- d) The retail rate base is being used to engage in the competitive wholesale market. Retail customers are entitled to proof that the costs charged to wholesale customers are comparable to retail prices;
- e) FPL has failed to demonstrate how two-month old information on monthly average fuel costs can give competitors in the instantaneous dispatch market a competitive advantage;
- f) Retail customers, who are allegedly the primary beneficiaries of wholesale sales, are entitled to information pertaining to the gain on such sales;
- g) FIPUG Exhibit I shows that FPL's current average fuel cost is \$14.58 per megawatt hour. The retail customers are charged \$17.50 and up for this power. Part of the difference is due to taxes and regulatory charges, but price discrimination between wholesale and retail customers could exist. Giving FPL the opportunity to conceal the price differentials will deny adversely affected customers basic information needed to intelligently understand the justification for changes in the fuel surcharge.
- h) FPL has failed to address the retail consumers' entitlement to participate in the profits derived from wholesale Schedules AF, BF, and DF and other full and partial requirement wholesale sales. On information and belief, the historic average cost information FPL seeks



5. FPL spends more than \$1 billion a year for the purchase of fuel to operate its generating plants. Customers who are required to buy their power only from FPL are entitled to know whether FPL is exercising prudence in purchasing power or fuel in the most economic fashion for the benefit of its consumers. Without the information contained in the schedules, the customers have no such information. FIPUG Exhibit 1 is a rough compilation FIPUG prepares periodically from the schedules FPL seeks to keep confidential. In the current period 23% of FPL's purchases are off-system from unknown and perhaps related sellers. Retail customers are entitled to know that the price being paid to these suppliers is the correct "avoided cost" for this power and is not more than it would cost FPL to generate the power from its own plants.

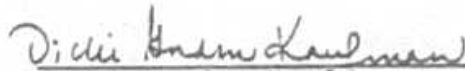
6. FIPUG specifically protests FPL's request for confidential treatment on the following grounds:

- a) FPL's request is averse to Florida's Public Records Laws.
- b) FPL has failed to demonstrate that the information to be concealed is not readily available from other sources;
- c) The customers are entitled to basic information concerning the operating cost of FPL generating plants in the event they wish to question the prudence of these operations in semi-annual fuel adjustment proceedings, which account for approximately 40% of the total costs customers are required to pay;

to conceal from public disclosure might be of value to competitors with respect to these sales.

- i) FIPUG has not been given the opportunity to fully explore the hearsay comment from the City of New Smyrna Beach which appears to be foundation for FPL's secrecy request.
- j) This case will set a precedent for Florida's other investor-owned utilities who are net sellers of power and impact information available to the retail customers of these power companies.
- k) It is adverse to public policy to deprive the retail consumers of Florida's municipalities of the opportunity to benefit from the lowest available price.
- l) Competition in wholesale sales has resulted in lower fuel costs to all retail customers. FPL's request to restrain competition by concealing information is adverse to the public interest.

WHEREFORE, FIPUG requests that FPL's request for confidential classification be denied.

  
Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas, P.A.  
117 S. Gadsden Street  
Tallahassee, FL 32301

John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas, P.A.  
P.O. Box 3350  
Tampa, Florida 33601-3350

# OPERATING STATISTICS AND FUEL COSTS OF FLORIDA I O U'S

OCTOBER 1995 - MARCH 1996

GROSS SALES				III FUEL MIX					GENERATION COST
1995 SYSTEM CAPACITY / 94 PEAK DEMAND	OCT / MAR MMI GEN & BOT	ANNUAL PROJECTED RETAIL MMI	: NUCLEA	COAL	OIL	GAS	\$ PER MMI		
FP&L 10140 / 15663	20,242,382	77,090,000	% OF GEN	36.40%	11.49%	11.07%	40.44%	\$14.575	
3RD PARTY PURCHASES	8,702,111		COST/ KWH	\$0.0043	\$0.0171	\$0.0230	\$0.0204		
PURCHASE POWER %	23.55%								
FPC 7205 / 6985	10,617,595	28,160,164	% OF GEN	24.09%	59.81%	13.99%	1.20%	\$15.906	
3RD PARTY PURCHASES	4,074,402		COST/ KWH	\$0.0004	\$0.0183	\$0.0237	\$0.0242		
EST %	27.73%								
TECO 3408 / 2754	8,276,713	13,931,059	% OF GEN	0.00%	99.26%	0.74%	0.00%	\$31.500	
3RD PARTY PURCHASES %	(1,300,191)		COST/ KWH		\$0.0205	\$0.0410			
-- = NET SALES	-15.81%								
GEIF 2183.8 / 1901	4,980,040	8,521,114	% OF GEN	0.00%	99.96%	0.00%	0.04%	\$19.100	
3RD PARTY PURCHASES %	(805,468)				\$0.0198		\$0.0300		
-- = NET SALES	-19.23%								

FPSC DKT 95001-EI  
FPUG EXHIBIT I

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the The Florida Industrial Power Users Group's Response to FPL's Request for Confidential Classification has been furnished by hand delivery\* or by U.S. Mail to the following parties of record this 2nd day of January, 1996:

Vicki D. Johnson\*  
Division of Legal Services  
FL Public Service Commission  
2540 Shumard Oak Blvd., Rm 370  
Tallahassee, FL 32399-0850

John Roger Howe  
Office of Public Counsel  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399

Matthew Childs  
Steel Hector & Davis  
First Florida Bank Building  
Suite 601  
215 South Monroe Street  
Tallahassee, FL 32301-1804

Lee Willis  
James Beasley  
Macfarlane Ausley Ferguson &  
McMullen  
Post Office Box 391  
Tallahassee, FL 32302

G. Edison Holland  
Jeffrey Stone  
Beggs & Lane  
Post Office Box 12950  
Pensacola, FL 32576

James McGee  
Florida Power Corporation  
Post Office Box 14042  
St. Petersburg, FL 33733

Floyd Self  
Messer Vickers Caparello  
Madsen Lewis Goldman & Metz  
Post Office Box 1876  
Tallahassee, FL 32302-1876

Richard Zambo  
598 S.W. Hidden River Avenue  
Palm City, FL 34990

Richard Salem  
Marian Rush  
Salem Saxon & Nielsen  
101 East Kennedy Blvd.  
Suite 3200  
One Barnett Plaza  
Post Office Box 3399  
Tampa, FL 33601

Peter Brickfield  
James Brew  
Brickfield Burchette & Riccus  
1025 Thomas Jefferson St., N.W.  
Eighth Floor, West Tower  
Washington, D.C. 20007

Stephen Yurek  
Dahlen Berg & Co.  
2150 Dain Bosworth Plaza  
60 South Sixth Street, #2150  
Minneapolis, MN 55402

Eugene Trisko  
Post Office Box 596  
Berkely Spring, WV 25411

Stephen Feldman  
Post Office Box 0291000  
Miami, FL 33102-9100

Mark Logan  
Bryant Miller & Olive  
201 South Monroe Street  
Suite 500  
Tallahassee, FL 32301

Suzanne Brownless  
1311-B Paul Russell Road  
Suite 202  
Tallahassee, FL 32301

Vicki Gordon Kaufman  
Vicki Gordon Kaufman