

Kimberley Pena

From: John W McWhirter [jmcwhirter@mac-law.com]
Sent: Monday, August 25, 2008 7:47 AM
To: Filings@psc.state.fl.us
Subject: FIPUG revised statement of position
Attachments: 08825 revised FIPUG statement of position.doc

1. John W. McWhirter, Jr., PO Box 3350 ,FI 33601-3350, jmcwhirter@mac-law.com is the person responsible for this electronic filing;
2. The filing is to be made in Docket 080009-EI, In re: Nuclear Plant Cost Recovery
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 2; and
5. The attached document is The Florida Industrial Power User Group's Revised statement of position

8/26/2008

DOCUMENT NUMBER-DATE

07716 AUG 25 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 080009-EI

FILED August 25, 2008

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
AMENDED STATEMENT OF BASIC POSITION**

The Florida Industrial Power Users Group (FIPUG) through its undersigned attorney hereby files an amendment to its Prehearing Statement.

D. STATEMENT OF BASIC POSITION:

FUPUG does not oppose the construction of nuclear plants. It is never the less perplexed by a legislative policy that requires the Public Service Commission to use a guaranteed cost recovery mechanism to set rates that will cover the carrying costs on nuclear plants long before the plants are built. The long standing common law regulatory concept memorialized in §366.06(1) *Florida Statutes* that prohibits charging customers for utility plant until it is in use and useful service has been overturned by a new legislative fiat. The legislation locks in dated cost of capital that may be excessive. The utilities have compounded the legislation's negative impact on customers by seeking rate increases for proposed plants that will have far greater capacity than is needed to meet the demands of current customers. The legislative policy places the entire risk of undertaking these plants on retail customers even though it recognizes that the plants may never be built and even though base rates may be sufficient to cover significant portions of the cost without raising rates. FIPUG concludes that at the time the legislation was enacted the members did not have a full understanding of the adverse economic impact the legislatively mandated nuclear policy would impose on Florida citizens.

FIPUG respectfully suggests that because the change is so dramatic and potentially so costly to the "energy poor" that the Commission will: (1) exercise restraint in approving cost expenditures; (2) allocate the costs of improving and replacing components of existing nuclear plants to base rates rather than the nuclear cost recovery clause; (3) recognize that significant portions of the plants will be sold to other utilities obviating the need for current customers to pay the costs attributable to joint users; (4) during periods when utilities are earning in excess of the mid point of their last authorized rate of return allocate the excess revenue from base rates to the nuclear plant cost recovery clause. This will enable the utilities to share some of the risk with their retail customers.

Once the plants are built they will have a competitive advantage in the wholesale market. Send a message to future Commissions in the initial order that it sets no precedent with respect to future wholesale sales.

DOCUMENT NUMBER-DATE

07716 AUG 25 8

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing the Florida Industrial Power Users Group's Prehearing Statement has been furnished by e-mail and U.S. Mail the 25th day of August 2008, to the following:

Lisa Bennett
Jennifer Brubaker
Keino Young
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

R. Wade Litchfield
John Butler
Natalie Smith
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

Michael Twomey
Post Office Box 5256
Tallahassee, FL 32314-5256

Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 E. College Ave., Ste. 800
Tallahassee FL 32301

James W. Brew, Esq.
K Taylor
Brickfield, Burchette, Ritts & Stone
1025 West Thomas Jefferson Street NW
Washington DC 20007-5201

Charles Beck
Joseph A. McGlothlin
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, Florida 32399

Alex Glenn
John Burnett
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, Florida 33733-4042

Carlton Fields Law Firm (08)
J. Michael Walls/Diane M. Tripplett
Post Office Box 3239
Tampa, FL 33601-3239
Phone: 813-223-7000
FAX: 813-229-4133

Office of Public Counsel
J R Kelly / Stephen Burgess
111 W Madison St.
Tallahassee, FL 32399-1400

s/JohnW. McWhirter, Jr.
John W. McWhirter, Jr.
PO Box 3350
Tampa, Florida 33601-3350
Telephone: (813) 224-0866
Fax: (813) 221-1854
Attorneys for the Florida
Industrial Power Users Group
jmcwhirter@mac-law.com