

**Dorothy Menasco**

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**Sent:** Friday, March 13, 2009 5:34 AM  
**To:** Filings@psc.state.fl.us  
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**Subject:** FW:FIPUG Prehearing Statement Dkt 070703-EI  
**Attachments:** FIPUG prehearing statment.doc

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 070703-EI, In re: Review of Coal Costs PEF
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 4 and
5. The attached document is The Florida Industrial Power User Group's Prehearing Statement

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DOCUMENT NUMBER - DATE  
02183 MAR 13 08  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Review of coal costs for Progress )  
Energy Florida's Crystal River Units 4 )  
and 5 for 2006 and 2007 )  
\_\_\_\_\_ ) Docket No. 070703-EI  
Filed March 13, 2009

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S  
PREHEARING STATEMENT**

The Florida Industrial Power Users Group (FIPUG) hereby files its Prehearing Statement, in compliance with Order PSC-08-0710-PCO-EI establishing procedure rendered October 29, 2008, establishing the prehearing procedure in this docket.

**A. APPEARANCES:**

JOHN W. MCWHIRTER, JR., PO Box 3350, Tampa, Florida 33601-3350,  
on Behalf of the Florida Industrial Power Users Group.

**B. WITNESSES:**

FIPUG will rely upon the prefiled testimony of witnesses in this docket and their responses to discovery and cross examination.

**C. EXHIBITS:**

None at this time. FIPUG reserves the right to utilize appropriate exhibits during cross-examination.

**D. STATEMENT OF BASIC POSITION:**

FIPUG supports the positions of the Office of Public Counsel in this docket.

**E. STATEMENT OF ISSUES AND POSITIONS**

**Issue 1** Did the imprudence in PEF's fuel procurement activities determined in Order PSC-07-0816-FOF-EI result in the costs of coal actually delivered to Crystal River Units 4 and 5 during 2006 and 2007 being unreasonably high?

**FIPUG:** Yes

- a. How should the reasonableness of the costs of coal delivered to Crystal River Units 4 and 5 during 2006 and 2007 be measured?

**FIPUG:** Use the evaluation guidelines established by PSC Order No. 07-0816-FOF-EI. To compare PEF's delivered coal costs to the costs it would have incurred if it had purchased the lowest cost coal available during the period.

- b. What candidates for alternative coal purchases should the Commission consider in evaluating whether more economical coal was available for delivery to Crystal River Units 4 and 5 during 2006?

**FIPUG:** Agree with OPC

- c. By what amount, if any, were the costs of coal actually delivered to Crystal River Units 4 and 5 unreasonably high in 2006?

**FIPUG:** \$25,149,462

- d. What candidates for alternative coal purchases should the Commission consider in evaluating whether more economical coal was available for delivery to Crystal River Units 4 and 5 during 2007?

**FIPUG:** Agree with OPC

- e. By what amount, if any, were the costs of coal actually delivered to Crystal River Units 4 and 5 unreasonably high in 2007?

**FIPUG:** \$25,866,364

**Issue 2** If the Commission determines that the costs of coal delivered to Crystal River Units 4 and 5 during 2006 and 2007 were unreasonably high, should it require PEF to issue a refund to its customers? If so, in what amount?

**FIPUG:** Yes it should order a \$61,279,193 refund to include the cost of emission allowances required to offset higher sulfur coal plus interest on the sum to be refunded using the average commercial paper rate for the years 2006 and 2007 for ease of calculation.

**Issue 3** Based on the evidence of PEF's fuel procurement approach and activities as they relate to Crystal River 4 and 5, what additional action, if any, should the Commission take in this docket?

**FIPUG:** Customers have been adversely impacted in three ways by PEF's imprudence. They have been required to pay higher fuel costs from 2002 through the present day, higher carrying costs on two power plants, CR 4 & 5 since the plants became

commercially operable in December 1982 and October 1984 respectively. In addition to the coal cost overcharges and carrying cost overcharges customers have tolerated over the years; customers have paid an annual depreciation charge to enable PEF to recover a major portion, if not all of its investment in the excess and unused portion of the generating plant upgrades to enable the utility to burn Powder River basin coal. PEF continues to collect a return on its investment in CR 1, 2, 4 & 5 plus an annual depreciation charge.

To avoid a multiplicity of annual actions to calculate and litigate fuel cost refunds justified as a result of PEF imprudence FIPUG recommends that PEF be required to continue to operate CR 1, 2, 4 & 5 at its cost and at no expense to consumers for a return on investment, depreciation charge or cost of capital improvement until the proposed Levy County Nuclear plant becomes operational.

#### **STIPULATED ISSUES**

**FIPUG:** None

#### **PENDING MOTIONS OF INTEREST TO FIPUG**

**FIPUG:** None

#### **CLAIMS FOR CONFIDENTIALITY**

**FIPUG:** None

#### **EXPERT QUALITIFCATIONS**

**FIPUG:** No objections to expert qualifications

#### **COMPLIANCE RESTRICTIONS AFFECTING FIPUG**

**FIPUG:** None

Respectfully submitted  
/s/ John W. McWhirter, Jr.  
McWhirter Law Firm  
Florida Bar # 53905  
Attorneys for FIPUG

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing The Florida Industrial Power Users' Prehearing Statement has been furnished by electronic mail the 13th day of March 2009 to the following:

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