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Sent: Tuesday, May 12, 2009 10:44 AM
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Subject: Docket No. 090144-EI
Attachments: FIPUG Petition to Intervene 05.12.09.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:

Vicki Gordon Kaufman
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- b. This filing is made in Docket No. 090144-EI, In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc..
- c. The document is filed on behalf of Florida Industrial Power Users Group.
- d. The total pages in the document are 5 pages.
- e. The attached documents are FIPUG's Petition to Intervene.

Lynette Tenace

NOTE: New E-Mail Address
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*Done
5/12/09
R-V.H.*



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DOCUMENT NUMBER - DATE

04557 MAY 12 08

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc.

DOCKET NO. 090144-EI

FILED: May 12, 2009

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

Pursuant to sections 120.569, .57, Florida Statutes, and rules 25-22.039, 28-106.201 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. Name and address of agency. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. Name and address of Petitioner. The name and address of the Petitioner is:

Florida Industrial Power Users Group
c/o Keefe Anchors Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone: (850) 681-3828
Facsimile: (850) 681-8788

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

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4. Notice of docket. Petitioner received notice of this docket by a review of the Commission's website.

5. Statement of Substantial Interests. FIPUG is an ad hoc association consisting of industrial users of electricity in Florida. The cost of electricity constitutes a significant portion of FIPUG members' overall costs of production. FIPUG members require adequate, reasonably-priced electricity in order to compete in their respective markets.

6. In this case, the Commission will consider Progress Energy Florida's (Progress) request for a limited proceeding to include the Bartow Repowering project in base rates in July 2009, while simultaneously prosecuting a rate increase. The amount of any increase approved as a result of this request, will affect FIPUG members' substantial interests by increasing their costs of electricity, thus affecting their production costs, their competitive posture, and their levels of employment. Thus, as customers of Progress, FIPUG's members' substantial interests will be affected in this docket.

7. 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 478 (Fla. 2nd DCA 1981). The purpose of the proceeding is to evaluate Progress' request and determine if they have merit. Thus, the purpose of the proceeding coincides with FIPUG's substantial interests, which is to ensure that the rates it pays to Progress are just and reasonable.

8. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to, the following:

- a. Is Progress' request to include the Bartow Repowering in base rates in July 2009 just and reasonable?
- b. Does Progress' request violate the rate case stipulation approved by the Commission in Order No. PSC-05-0945-S-EI in Docket No. 050078-EI?
- c. Is Progress' request for a limited proceeding appropriate given the pendency of its rate case in Docket No. 090079-EI?

FIPUG reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure which will be issued in this case.

9. Disputed Legal Issues. Disputed legal issues include, but are not limited to, the following:

- a. Does Progress' request to include the Bartow Repowering in base rates violate the rate case stipulation approved by the Commission in Order No. PSC-05-0945-S-EI, Docket No. 050078-EI?
- b. Does expedited processing of Progress' requests violate the parties' due process rights?

10. Statement of Ultimate Facts Alleged. Ultimate facts include, but are not limited to, the following:

- a. Progress' request to include the Bartow Repowering project in base rates in July 2009 violates the parties' rate case stipulation.
- b. Progress' request should be denied.

11. Rules and statutes justifying relief. The rules and statutes that entitle FIPUG to intervene and participate in this case include, but are not limited to:

- a. Section 120.569, Florida Statutes;
- b. Section 120.57, Florida Statutes;
- c. Section 366.04(1), Florida Statutes;

- d. Section 366.06, Florida Statutes;
- e. Rule 25-22.039, Florida Administrative Code;
- f. Rule 28-106.201, Florida Administrative Code;
- g. Rule 28-106.205, Florida Administrative Code.

12. Relief. FIPUG requests that it be permitted to intervene as a full party in this docket.

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

s/ Vicki Gordon Kaufman
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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 this 12th day of May, 2009, to the following:

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