

**Steel Hector & Davis**  
Tallahassee, Florida

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**ORIGINAL  
FILE COPY**

June 19, 1989

Mr. Steve Tribble, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32301

RE: Docket No. 890148-EI

Dear Mr. Tribble:

Enclosed please find the original and fifteen copies of Florida Power & Light Company's Answer and Affirmative Defenses in the above docket.

Very truly yours,



Matthew M. Childs, P.A.

ACK \_\_\_\_\_  
 AM \_\_\_\_\_  
 AF \_\_\_\_\_  
 CAF \_\_\_\_\_ MMC:do  
 CMU \_\_\_\_\_ Enclosures  
 CTR \_\_\_\_\_ cc: All Parties of Record  
 EAG \_\_\_\_\_  
 LEG 1 \_\_\_\_\_  
 LIN 6 \_\_\_\_\_  
 OPC \_\_\_\_\_  
 RCH \_\_\_\_\_  
 SEC 1 \_\_\_\_\_  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of the Florida )  
Industrial Power Users Group to )  
Discontinue Florida Power and Light )  
Company's Oil Backout Cost Recovery )  
Factor. )

Docket No. 890148-EI

Filed: June 19, 1989

**ANSWER AND AFFIRMATIVE DEFENSES**

Florida Power & Light Company, pursuant to Rule 25-22.037, Fla. Admin. Code, hereby files this its Answer and Affirmative Defenses to the Petition of FIPUG dated January 27, 1989 and states:

**ANSWER**

1. The allegations of paragraph 1 are admitted.
2. The allegations of paragraph 2 are admitted.
3. The allegations as to the use of substantial quantity of electricity and high load factor users are admitted. FPL is without knowledge as to the remaining allegations of paragraph 3.
4. The allegations of paragraph 4 are admitted in part in that Order No. 11217 authorized cost recovery but Order No. 11217 went beyond the allegations of paragraph 4.
5. The allegation as to the recovery of costs on a cents per kilowatt hour basis is admitted. The allegation in the second sentence of paragraph 5 is denied. The allegation of the third sentence of paragraph 5 is admitted if the word "demands" means peak demands. The allegation of the last sentence of paragraph 5 is admitted if "demand" means peak demand.

6. The allegations of paragraph 6 are admitted.
7. The allegation of paragraph 7 is denied.
8. The quotations from Rule 25-17.016(3)(a) 1-3 in paragraph 8 are incomplete and are denied.
9. The first sentence of paragraph 9 is denied for the reasons stated in answer to paragraph 8. The last sentence of paragraph 9 is denied.
10. All but the last three sentences of paragraph 10 are admitted. That last sentence is denied.
11. The allegations of paragraph 11 are denied.
12. The allegations of paragraph 12 are denied.
13. The third sentence of paragraph 13 is admitted. The third from the last sentence in paragraph 13 is admitted. All other allegations of paragraph 13 are denied.
14. FPL admits that the failure to produce expected (that is, projected) savings has not been due to any significant differences between actual and projected load growth or any significant differences between actual and projected amounts of purchased power. All other allegations of paragraph 14 are denied.
15. The second and third sentence of paragraph 15 are admitted. All other allegations of paragraph 15 are denied.
16. The first sentence of paragraph 16 is admitted. The second sentence is speculative; FPL is without knowledge of what would have occurred. The last sentence of paragraph 16 is denied.
17. The first sentence of paragraph 17 is denied. With the changing of the words "have provided" and the insertion of the word

provide in place thereof, the second sentence of paragraph 17 is admitted. The third and fourth sentences of paragraph 17 are admitted. The remainder of paragraph 17 is denied.

18. The second, third, fifth, seventh, eighth and ninth sentences of paragraph 18 are admitted. The remainder of paragraph 18 is denied.

19. FPL is without knowledge as to the sixth sentence of paragraph 19. The last sentence of paragraph 19 is denied. The remainder of paragraph 19 is admitted.

20. The allegations of the first, second, sixth and seventh sentences of paragraph 20 are admitted. The remaining allegations of paragraph 20 are denied.

21. The allegations of paragraph 21 are denied.

22. The allegations of the fourth sentence of paragraph are admitted with the understanding that the cost figures are not future costs. The remaining allegations of paragraph 22 are denied.

23. The second and third sentences of paragraph 23 are admitted. The first sentence of paragraph 23 is denied.

24. All but the second sentence of paragraph 24, which is admitted, are denied.

25. The first, second, third, and fourth sentences of paragraph 25 are admitted. The fifth sentence of paragraph 25 is denied.

26. The first and third sentences of paragraph 26 are admitted. All other allegations of paragraph 26 are denied.

27. All allegations not specifically admitted are denied.

**AFFIRMATIVE DEFENSES**

1. There has not been a change in circumstances either of the kind or to the extent required to permit termination of oil backout cost recovery prospectively or retroactively.

2. A termination of oil backout cost recovery either prospectively or retroactively is contrary to Rule 25-17.016, Fla. Admin. Code and is prohibited by Section 120.68(12), Fla. Statutes (1987).

3. Rule 25-17.016 does not permit or require that there be savings after a project qualified under that Rule.

4. Rule 25-17.016 does not contemplate the savings analysis proposed by FIPUG.

5. Rule 25-17.016 does not contemplate or permit periodic application of the qualification criteria.

6. FIPUG is estopped to assert the absence of deferral benefits.

Respectfully submitted,

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(904)222-4192

Attorneys for Florida Power  
& Light Company

By:   
Matthew M. Childs, P.A.

**CERTIFICATE OF SERVICE**  
Docket No. 890148-EI

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Answer and Affirmative Defenses in Docket No. 890148-EI has been furnished by Hand Delivery and U. S. Mail to the following individuals on this 19th day of June, 1989:

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By: 