

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida transco"), and their effect on FPL's retail rates.

DOCKET NO. 001148-EI  
ORDER NO. PSC-01-0099-PCO-EI  
ISSUED: January 12, 2001

ORDER DENYING PETITION TO INTERVENE

By petition filed November 20, 2000, Colonial Pipeline Company (Colonial) requested permission to intervene in this docket. Florida Power & Light Company (FPL) filed a response in opposition on December 1, 2000.

Colonial states that the proposed merger will have major ramifications on electric and gas markets in Florida and throughout the southeast, and that this merger is under review in a number of southeastern states. Colonial states that it is a common carrier pipeline regulated by the Federal Energy Regulatory Commission and is a large consumer of electricity. Colonial states that it purchases approximately ½ billion kilowatt-hours annually from Entergy Corporation and that electricity is one of Colonial's largest operating expenses.

Colonial filed comments concerning FPL's response on December 8, 2000. Rule 28-106.204, Florida Administrative Code, does not contemplate a reply to, or comments concerning an answer to a motion. For this reason, Colonial's comments were not considered.

FPL states that Colonial lacks standing to intervene because Colonial did not demonstrate that: 1) it will suffer immediate and actual injury from the contemplated agency action; and, 2) that the injury is a type against which this proceeding is designed to protect. See Ameristeel Corp. V. Clark, 691 So. 2d 473, 477 (Fla. 1997). FPL states that economic losses due to increased competition do not satisfy the immediacy requirement for standing, see Florida Soc'y of Ophthalmology v. State Board of Optometry, 532 So. 2d 1279, 1285 (Fla. 1st DCA 1988), and that speculation on a potential injury does not satisfy the requirement for actual injury.

This docket was opened to evaluate the effects of the proposed merger and the formation of a regional transmission organization on FPL's retail rates. The specific issues to be addressed have not

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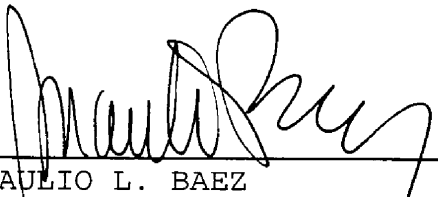
yet been identified. Colonial admits that it is not a retail customer of FPL. Given this fact, any actual or potential injury to Colonial would not be addressed through this docket. In other words, Colonial's substantial interests are not affected by the evaluation currently being conducted in this docket. For this reason, Colonial's petition is denied.

The denial of Colonial's Petition to Intervene is without prejudice. Should issues subsequently be identified that affect Colonial's substantial interests, then Colonial may petition for leave to intervene again.

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the Petition to Intervene filed by Colonial Pipeline Company is denied.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 12th day of January, 2001.

  
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BRAULIO L. BAEZ  
Commissioner and Prehearing Officer

( S E A L )

MKS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice

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should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.