

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-01-1783-PCO-EI  
ISSUED: August 31, 2001

ORDER GRANTING PETITION TO INTERVENE

This docket was opened on August 15, 2000, to review Florida Power & Light Company's ("FPL") proposed merger with Entergy Corporation ("Entergy"), the formation of a regional transmission organization ("RTO"), and their effects on FPL's rates and earnings. On April 2, 2001, FPL Group, Inc. announced that the agreement to merge with Entergy had been terminated.

On May 2, 2001, the South Florida Hospital and Healthcare Association ("SFHHA") on behalf of 39 individual healthcare institutions in FPL's service territory filed a petition to intervene in this docket. FPL filed a response to SFHHA's petition to intervene on May 10, 2001.

In its petition, SFHHA states that it is a "regional healthcare provider association acting as an advocate, facilitator and educator for its members." SFHHA further states that it "advocates the interests, and encourages involvement, of its member organizations in communications with the public, to elected and government officials, and to the business community and engages in cost-effective projects and programs that benefit, or add value to the services offered by, its member organizations."

SFHHA also states that the 39 individual healthcare institutions listed in its petition "are engaged in providing, among other things, acute healthcare services and receive electric power from and pay the rates of FPL." SFHHA asserts that these "facilities, because of the services they render, their load profile, and their concern for reliable, consistent levels of service, have important concerns regarding the services and rates of FPL."

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FPSC-COMMISSION CLERK

SFHHA asserts that because this docket may affect FPL's rates and terms of service for the individual healthcare facilities in FPL's service territory, its members have an interest that will be directly and substantially affected by whatever action the Commission takes in this docket.

In its response, FPL states that it does not oppose the SFHHA's petition to intervene, to the extent that the SFHHA has accurately asserted that its member companies are retail electric customers of FPL. FPL does indicate concern with the appropriateness of certain issues raised as "disputed issues of material fact" in the Hospital's petition. FPL indicates that certain of the issues raised in the petition may extend beyond the scope of the docket.

For an association to have standing to intervene in an administrative proceeding, it must demonstrate that: (1) a substantial number of its members have substantial interests which are affected by our proposed action; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of the type appropriate for an association to receive on behalf of its members. See Florida Home Builders Association v. Dept. of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982); Friends of the Everglades v. Board of Trustees of the Internal Improvement Trust Fund, 595 So. 2d 186 (Fla. 1st DCA 1992); Order No. PSC-98-0374-FOF-EG, issued March 9, 1998.

Based on the allegations in its petition, SFHHA has demonstrated standing in this proceeding pursuant to the standard set forth above. Accordingly, SFHHA's petition to intervene is granted. Pursuant to Rule 25-22.039, SFHHA takes the case as it finds it.

Since the time of SFHHA's petition and FPL's response, the Commission has more clearly defined the scope of this docket. By Order No. PSC-01-1346-PCO-EI, issued June 19, 2001, the Commission ordered FPL to file Minimum Filing Requirements in this docket based on a 2002 test year, to address potential over earnings and the effect of the formation of and participation in the GridFlorida

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RTO. By Order No. PSC-01-1372-PCO-EI, issued June 27, 2001, the Commission decided to conduct this docket in two phases. Generally, Phase 1 concerns the prudence of FPL's participation in GridFlorida, and Phase 2 concerns the reasonableness of FPL's rates.

As to FPL's concern over the scope of certain issues raised as "disputed issues of material fact" in SFHHA's petition, the Commission has established the specific issues to be addressed in Phase 1. Those issues are set forth in Order No. PSC-01-1485-PCO-EI, issued July 16, 2001, as modified by Order No. PSC-01-1641-PCO-EI, issued August 10, 2001. SFHHA may pursue those issues in Phase 1. The specific issues to be addressed in Phase 2 have not been established. SFHHA, like any other intervenor, may raise and pursue issues relevant to the subject matter of Phase 2, subject to the Commission's ultimate determination as to the specific issues to be addressed.

Based on the foregoing, it is

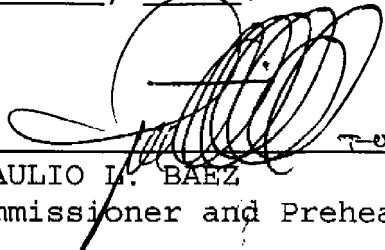
ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the petition to intervene by the South Florida Hospital and Healthcare Association and individual healthcare institutions listed in the petition is granted. It is further

ORDERED that all pleadings, testimony, exhibits, correspondence, and other documents in this docket shall be furnished to the following:

Mark F. Sundback, Esquire  
Kenneth L. Wiseman, Esquire  
Andrews & Kurth, L.L.P.  
1701 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 31st Day of August, 2001.

  
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BRAULIO L. BAEZ  
Commissioner and Prehearing Officer

( S E A L )

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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 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 the

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Commission Clerk and Administrative Services, 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.