



July 18, 2016

Via electronic filing and email

Carlotta Stauffer
Director, Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 160021

Dear Ms. Stauffer:

Enclosed for filing on Sierra Club's behalf is the Petition to Intervene in the above referenced docket. Should you have any questions regarding the Petition, please contact me.

Sincerely,

/s/

Diana A. Csank
Staff Attorney
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
202-548-4595 (direct)
Diana.Csank@SierraClub.org

Enc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida
Power & Light Company

Docket No. 160021

Filed: July 18, 2016

SIERRA CLUB'S
PETITION TO INTERVENE

Pursuant to Sections 120.569, 120.57, Florida Statutes (F.S.), and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code (F.A.C.), Sierra Club hereby petitions for leave to intervene in the above-captioned docket and states:

1. Agency's name and address. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.

2. Petitioner's name and addresses. Petitioner is Sierra Club with the following headquarters and local addresses:

Sierra Club, National Headquarters
2101 Webster St., Suite 1300
Oakland, CA 94612
415-977-5500

Sierra Club, Florida Chapter
1990 Central Avenue
St. Petersburg, FL 33712
727-824-8813

3. Petitioner's representative. Copies of all notices, pleadings, orders, and other communications in this docket should be directed to:

Diana Csank
Staff Attorney
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
202-548-4595 (direct)
diana.csank@sierraclub.org

4. Notice of docket. Petitioner received notice of this docket by reading about it in newspapers and then reviewing the docket on the Commission’s website.

5. Statement of substantial interest. This Petition is on behalf of Sierra Club and its more than 30,000 members who live and purchase electric utility service in Florida, many from Florida Power & Light Company (FPL).

6. Sierra Club is a national non-profit organization.

7. Sierra Club and its Florida members are dedicated to reducing pollution through equitable public health and environmental safeguards, and through the rapid transition away from fossil fuel burning generation. To achieve this transition, Sierra Club has championed policies and regulations, including rate designs, to remove barriers to energy efficiency, solar power, wind power, storage and batteries as low cost, low risk alternatives to fossil fuel burning generation. See Sierra Club et al. letter to NARUC President Kavulla (June 23, 2016) available at <http://goo.gl/go5DY7>. Sierra Club advocates for such policies and regulations nationwide, including Florida, by intervening, submitting comments, providing testimony, and presenting experts in state and federal energy-related proceedings; participating in public hearings and workshops; speaking to students, civic organizations, and other stakeholders; and holding seminars and symposia—all to ensure that clean energy solutions reach all communities.

8. Here, FPL seeks Commission approval of a general rate increase including “nearly \$1.65 billion in three generation upgrades.” FPL Petition at 13.

9. The Commission’s review will include—but is not limited to—FPL’s cost of service: To fix “fair, just, and reasonable rates,” Florida Statutes expressly authorize the Commission to consider other factors (that may influence cost) such as: (a) the “value of [FPL’s]

service to the public”; (b) FPL’s use of “alternative energy resources,” “conservation,” and “efficiency;” and (c) FPL’s “ability to improve its services and facilities.” Section 366.041, F.S.

10. Sierra Club meets the standing requirements to intervene in this docket.

11. First, Sierra Club meets the three-prong associational standing test established by Florida Home Builders v. Dep’t. of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982), and extended to Section 120.57(1), F.S., hearings involving disputed issues of material fact by Farmworker Rights Organization, Inc. v. Dep’t of Health and Rehab. Services, 417 So. 2d 753 (Fla. Dist. Ct. App. 1982). Under this test, an association has standing to litigate on its members’ behalf when: (a) the association demonstrates that a substantial number of an association’s members may be substantially affected by the Commission’s decision in a docket; (b) the subject matter of the proceeding is within the association’s general scope of interest and activity; and (c) the relief requested is of a type appropriate for the association to receive on its members’ behalf. Florida Home Builders, 412 So. 2d at 353.

12. Sierra Club meets the associational standing test’s first prong because for a substantial number of its members—those with FPL accounts—any approved amount of rate increase, and other issues the Commission will decide here may substantially affect their electric bills. The Commission’s decisions may also substantially affect the value of FPL’s service to these members as the decisions will guide if not bind FPL’s selection of service offerings going forward, including whether to pursue, improve, or abandon certain activities and certain generation.

13. Sierra Club meets the associational standing test’s second prong because, as shown in its filings and oral presentations to the Commission, Sierra Club is interested and active in advocating for a rapid transition away from fossil fuel burning generation, toward low cost,

low risk clean energy alternatives. Such generation and such alternatives are squarely before the Commission in this docket.

14. Sierra Club meets the associational standing test's third prong because it seeks intervention to represent its members' interest in this docket; no more is needed. See PSC-14-0097-PCO-EU (granting Sierra Club intervention and finding Sierra Club meets associational standing requirements).

15. Additionally, Sierra Club meets the two-prong test for standing established in Agrico Chem. Co. v. Dep't of Env'tl. Regulation, 406 So. 2d 478 (Fla. Dist. Ct. App. 1981), reh. denied, 415 So. 2d 1359 (Fla. 1982). This test requires (a) injury in fact of sufficient immediacy to entitle the petitioner to a hearing under Section 120.57, F.S., and (b) substantial injury of a type or nature that the proceeding is designed to protect.

16. Sierra Club meets the Agrico test's first prong because any approved amount of rate increase may immediately affect the electric bills of its members, especially as FPL proposes that such increase go into effect on January 1, 2017. Other Commission decisions here may also immediately injure Sierra Club and its members, for instance, by increasing the cost and/or reducing the value of FPL's service to the many members with FPL accounts.

17. Sierra Club meets the Agrico test's second prong because this proceeding is designed to protect all FPL customers, including many Sierra Club members, from rates that are "unjust, unreasonable, unjustly discriminatory, or in violation of law." Section 366.06, F.S.

18. Sierra Club's intervention will not unduly broaden the issues or delay this proceeding because Sierra Club's interest is directly related to the subjects addressed in the proceedings, and because Sierra Club and its members will "take the case as they find it." Rule 25-22.039, F.A.C.

19. Sierra Club anticipates that disputed issues of material fact include but are not limited to whether FPL's requested rate increase, including the nearly \$1.65 billion in generation-related expenditures, is fair, just, and reasonable.

20. Statement of ultimate facts. Sierra Club reserves the right to identify ultimate facts after completing discovery in this proceeding.

21. Statement required by Rule 28-106.204(3), F.A.C. Sierra Club conferred with all parties of record and its undersigned representative¹ is authorized to represent that none oppose this Petition.

22. WHEREFORE, Sierra Club respectfully requests that the Commission enter an order granting it leave to intervene in the above-captioned docket, and further requests parties to provide the undersigned with all notices, pleadings, testimony, discovery and other communications filed in the docket.

RESPECTFULLY SUBMITTED this 18th day of July, 2016.

/s/
Diana A. Csank
Staff Attorney
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
(202) 548-4595 (direct)
Diana.Csank@sierraclub.org

¹ Sierra Club is simultaneously filing a Request to Name Diana A. Csank as Qualified Representative in Docket No. 18000.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served electronically on this 18th day of July, 2016 on:

<p>Suzanne Brownless Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-1400 sbrownle@psc.state.fl.us</p>	<p>J.R. Kelly/Patricia Christensen/ Charles J. Rehwinkel/Erik Sayler/ Stephanie Morse Office of Public Counsel 111 W. Madison Street, Room 812 Tallahassee, Florida 32311 kelly.jr@leg.state.fl.us christensen.patty@leg.state.fl.us rehwinkel.charles@leg.state.fl.us sayler.eric@leg.state.fl.us morse.stephanie@leg.state.fl.us</p>
<p>Wade Litchfield, Esq. Florida Power & Light Company 215 S. Monroe Street, Suite 810 Tallahassee, Florida 32301-1859 wade.litchfield@fpl.com</p>	<p>Kenneth A. Hoffman Florida Power & Light Company 215 South Monroe Street, Suite 810 Tallahassee, Florida 32301 ken.hoffman@fpl.com</p>
<p>John T. Butler Florida Power & Light Company 700 Universe Blvd. Juno Beach, FL 33408-0420 john.butler@fpl.com</p>	<p>Derrick Price Williamson Spilman Thomas & Battle, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, Pennsylvania 17050 dwilliamson@spilmanlaw.com <i>Attorney for Walmart Stores East, LP</i></p>
<p>Jon C. Moyle, Jr./Karen A. Putnal Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, Florida 32301 jmoyle@moylelaw.com kputnal@moylelaw.com <i>Attorneys for FIPUG</i></p>	<p>Stephanie U. Roberts Walmart Stores East, LP Spilman Thomas & Battle, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, North Carolina 27103 sroberts@spilmanlaw.com <i>Attorney for Walmart Stores East, LP</i></p>
<p>Federal Executive Agencies Thomas A. Jernigan c/o AFCEC/JA-ULFSC 139 Barnes Drive, Suite 1 Tyndall AFB FL32403 Thomas.Jernigan.3@us.af.mil</p>	<p>Gardner Law Firm Robert Scheffel Wright/John T. La Via, 1300 Thomaswood Drive Tallahassee FL32308 schef@gbwlegal.com <i>Attorneys for Florida Retail Federation</i></p>

<p>S. Florida Hospital and Healthcare Ass'n Jaime Caldwell, Interim President 1855 Griffin Road Dania Beach FL33004 jcaldwell@sfhha.com.</p>	<p>K. Wiseman/M. Sundback/W. Rappolt/K. S 1350 I Street NW, Suite 1100 Washington DC20005 kwiseman@andrewskurth.com <i>Attorneys for S. Florida Hospital and Healthcare Ass'n</i></p>
<p>Jack McRay AARP Florida 200 West College Avenue, # 304 Tallahassee, Florida 32301 jmcray@aarp.org</p>	<p>John B. Coffman John B. Coffman, LLC 871 Tuxedo Blvd. St. Louis, MO 63119-2044 john@johncoffman.net <i>Attorney for AARP</i></p>

This 18th day of July, 2016.