

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.

DOCKET NO. 20210034-EI

In re: Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company.

DOCKET NO. 20200264-EI
ORDER NO. PSC-2021-0225-PCO-EI
ISSUED: June 21, 2021

ORDER GRANTING
FEDERAL EXECUTIVE AGENCIES' PETITION TO INTERVENE

BY THE COMMISSION:

On April 9, 2021, Tampa Electric Company (TECO) filed a petition, minimum filing requirements, and testimony for a base rate increase. By Order No 2021-0147-PCO-EI, issued on April 22, 2021, Docket No. 20200264-EI, Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company was consolidated with Docket No. 20210034-EI, Petition for rate increase by Tampa Electric Company. Pursuant to Order No. PSC-2021-0172-PCO-EI, issued May 14, 2021, the consolidated dockets are scheduled for hearing on October 18 through October 22, 2021.

Petition for Intervention

By motion dated April 27, 2021, the Federal Executive Agencies (FEA) requested permission to intervene in this proceeding. The FEA asserts that it consists of certain agencies of the United States Government which have offices, facilities, and/or installations in the service area of TECO and purchase electric utility service from TECO. FEA states that the Department of Defense has been delegated authority by the General Services Administration to represent, through Department of the Air Force counsel, the consumer interest of the FEA in this proceeding under 40 U.S.C. §§ 481(a)(4) and 486(d). FEA asserts that in this proceeding, the Florida Public Service Commission ("Commission") will consider a request for authority to raise rates for TECO's customers. The FEA avers that utility costs represent one of the largest variable expenses of operating federal offices, facilities, and installations on whose behalf FEA seeks to intervene and that all such entities will be significantly affected by any action this Commission takes in this docket. No party objects to the FEA's intervention in this docket and the time for doing so has run.

Standards for Intervention

Pursuant to Rule 28-106.205, F.A.C., persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding and who desire to become parties may move for leave to intervene. Motions for leave to intervene must be filed at least twenty

(20) days before the final hearing, must comply with Rule 28-106.204(3), F.A.C., and must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. Intervenors take the case as they find it.

To have standing, the intervenor must meet the three-prong standing test set forth in Florida Home Builders Association v. Department of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982), and Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services, 417 So. 2d 753, 754 (Fla. 1st DCA 1982), which is based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981).¹ Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (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 a type appropriate for the association to receive on behalf of its members. Fla. Home Builders, 412 So. 2d at 353-54; Farmworker Rights Org., 417 So. 2d at 754.

Analysis and Ruling

The FEA has sufficiently alleged standing in this proceeding under the three-prong test set forth in Florida Home Builders: (1) The FEA asserts that its agencies are located in TECO's service area, receive electric service from TECO, for which they are charged TECO's applicable service rates and therefore, will be substantially affected by the Commission's determinations in this proceeding; (2) ensuring that federal tax dollars spent by federal offices, facilities, and installations are spent on fair, just, and reasonable electricity rates falls within the purview of the FEA's general scope of interest; and (3) the FEA represents the interests of its agencies, as TECO customers, in seeking reliable service and fair, just, and reasonable rates. Therefore, the FEA meets the requirements for standing in this docket.

Based on the above representations, it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that the Motion to Intervene filed by Federal Executive Agencies is hereby granted as set forth in the body of this Order. It is further

¹ Under Agrico, the intervenor must show that (1) he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) the substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury. 406 So. 2d 478 at 482. The "injury in fact" must be both real and immediate and not speculative or conjectural. International Jai-Alai Players Assn. v. Florida Pari-Mutuel Commission, 561 So. 2d 1224, 1225-26 (Fla. 3d DCA 1990). See also: Village Park Mobile Home Assn., Inc. v. State Dept. of Business Regulation, 506 So. 2d 426, 434 (Fla. 1st DCA 1987), rev. den., 513 So. 2d 1063 (Fla. 1987) (speculation on the possible occurrence of injurious events is too remote).

ORDERED that Federal Executive Agencies takes the case as it finds it. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings, and other documents which may hereinafter be filed in this proceeding to:

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By ORDER of Commissioner Art Graham, as Prehearing Officer, this 21st day of June, 2021.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

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; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.