

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by  
Duke Energy Florida, LLC

DOCKET NO.: 20240025  
FILED: March 15, 2024

---

**FLORIDA INDUSTRIAL POWER USERS GROUP'S  
PETITION TO INTERVENE**

Petitioner Florida Industrial Power Users Group ("FIPUG"), pursuant to sections 120.569 and 120.57(1), Florida Statutes, and Rule 28-106.205, Florida Administrative Code, hereby files its Petition to Intervene, and in support thereof states as follows:

**The Parties**

1. Petitioner / Intervenor is:

Florida Industrial Power Users Group  
c/o Moyle Law Firm, P.A.  
118 North Gadsden Street  
Tallahassee, Florida 32301  
Telephone: (850) 681-3828  
Facsimile: (850) 681-8788

For purposes of service of all pleadings, notices, and orders in this docket, Intervenor's mailing and e-service addresses are as follows:

Jon C. Moyle, Jr.  
Karen A. Putnal  
Moyle Law Firm, P.A.  
118 North Gadsden Street  
Tallahassee, Florida 32301  
Telephone: (850) 681-3828  
Facsimile: (850) 681-8788  
jmoyle@moylelaw.com  
kputnal@moylelaw.com

2. The affected agency is the Florida Public Service Commission ("PSC" or "Commission"), with a principal place of business at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

3. The affected utility in this docket is Duke Energy Florida, LLC. ("DEF").

**FIPUG's Substantial Interests**

4. FIPUG is an ad hoc association consisting of industrial users of electricity, and in many cases, natural gas, in Florida. The cost of electricity to those FIPUG members using it is material and contributes to FIPUG members' overall costs of production and/or business operation. FIPUG members require adequate, reasonably priced electricity to compete effectively in their respective markets.

5. In this case, the Commission will consider DEF's request to increase rates paid by DEF's customers, including FIPUG members receiving electricity from DEF. Specifically, in its January 31, 2024 Test Year Notification letter to the Commission, DEF states that it expects its projected rate base to increase by \$596 million in 2025, \$95 million in 2026, and \$127 million in 2027. These proposed DEF rate increases to rate base will have a direct and substantial impact on DEF's customers, including many FIPUG members.

6. As discussed below, FIPUG has standing to intervene in this matter on behalf of its members. In *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351 (Fla. 1982), the Florida Supreme Court set forth the requirements for an organization to demonstrate associational standing on behalf of its members in administrative proceedings.<sup>1</sup> An organization must demonstrate that 1) a substantial number of its members,

---

<sup>1</sup> Although *Florida Home Builders Association* concerned standing in actions brought pursuant to section 120.56(1), Florida Statutes, its rationale has been extended to actions brought pursuant to 120.57, Florida Statutes, by the First District Court of Appeal's decision in *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*, 417 So. 2d 753, 754 (Fla. 1st DCA 1982).

although not necessarily a majority, are "substantially affected" by the agency action; 2) the subject matter of the case is within the association's general scope of interest and activity; and 3) the relief requested is of the type appropriate for the association to receive on behalf of its members. *Id.* at 353-54.

7. A substantial number of FIPUG members will be affected by the Commission's action taken on DEF's Petition in this case. As such, each FIPUG member that is an electric customer of DEF will be affected by the outcome of this case. *See Agrico Chem. Co. v. Dep't of Env't Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981).

8. Moreover, the subject matter of this docket is within FIPUG's general scope of interest and activity. FIPUG routinely appears on behalf of its members in cases concerning utility regulation, as the cost of electricity represents a significant portion of its members' production costs. As such, the subject matter of the instant docket, i.e. evaluation of DEF's request for Commission review and approval of significantly increased base rates, is well within FIPUG's scope of interest and activity.

9. Additionally, the relief sought by FIPUG by way of the instant petition is of the type appropriate for it to receive on behalf of its members and pursuant to rule 28-106.205(1), Florida Administrative Code. FIPUG seeks, by way of the instant petition, leave to intervene as a party with full rights to participate in this docket. Because its members are industrial electric customers who will be affected by the outcome of this case, FIPUG's participation in this docket is appropriate to ensure that the rates charged to its members who received electric service from DEF are fair, just, and reasonable. Additionally, FIPUG seeks to conduct discovery in this docket as warranted in its judgment and raise issues of material fact as warranted.

10. Further, FIPUG's interests are of the type that this proceeding is designed to protect. *See, Agrico Chem. Co.*, 406 So.2d at 482. The purpose of the proceeding is for the Commission to consider, among other things, DEF's proposed base rate increases to its customers, including FIPUG members. The outcome of the proceeding will thus have significant implications for FIPUG members that are customers of DEF. Accordingly, FIPUG's interest in ensuring that its members are charged fair, just, and reasonable rates for the electricity and electrical services provided by DEF are the type of matters that this proceeding is designed to protect.

#### **Notice of Proceeding**

11. DEF counsel sent counsel for FIPUG an e-mail on or about January 31, 2024 which, as an appreciated courtesy, attached DEF's test year letter dated January 31, 2024.

#### **Statement of Position**

12. DEF must meet its burden of proof in this matter. FIPUG seeks to conduct discovery and reserves the right to modify its position based on information obtained during discovery or otherwise.

#### **Disputed Issues of Material Fact**

13. Disputed issues of material fact include, but are not limited to, the following:
- a. Whether the increased base rates for which DEF seeks cost recovery are reasonable;
  - b. Whether the proposed changes in DEF's rate base are fair, just and reasonable;
  - c. Whether the proposed return on equity and capitalization structure of DEF are fair, just and reasonable;

- d. Whether DEF's request for the Commission to award new rates based on three separate test years, 2025, 2026, and 2027, is fair, just, and reasonable.

14. FIPUG reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure to be issued in this docket.

**Statement of Ultimate Facts Alleged and at Issue**

- 15. Ultimate facts alleged and at issue include, but are not limited to, the following:
  - a. The base rates DEF seeks to recover from its customers, including FIPUG members, must be fair, just, and reasonable.

**Rules and Statutes Justifying Relief**

16. The rules and statutes that entitle FIPUG to intervene and participate in this case include, but are not limited to:

- a. Section 120.569, Florida Statutes;
- b. Section 120.57, Florida Statutes;
- c. Section 366.04, Florida Statutes;
- d. Section 366.06, Florida Statutes;
- e. Rule 28-106.201, Florida Administrative Code; and
- f. Rule 28-106.205, Florida Administrative Code.

**Relief Requested**

- 17. FIPUG requests that it be permitted to intervene as a full party in this docket.

**Statement Required by Rule 28-106.204(3), Florida Administrative Code**

18. Counsel for FIPUG has conferred with counsel for DEF and is authorized to represent that DEF takes no position FIPUG's Petition to Intervene.

**WHEREFORE**, FIPUG requests that the Commission enter an order allowing it to intervene and participate as a full party in docket number 20240025.

/s/ Jon C. Moyle  
Jon C. Moyle, Jr.  
Karen A. Putnal  
Moyle Law Firm, P.A.  
118 North Gadsden Street  
Tallahassee, Florida 32301  
Telephone: (850)681-3828  
Facsimile: (850)681-8788  
[jmoyle@moylelaw.com](mailto:jmoyle@moylelaw.com)  
[kputnal@moylelaw.com](mailto:kputnal@moylelaw.com)

Attorneys for Florida Industrial Power Users Group

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Florida Industrial Power Users Group's Petition to Intervene has been furnished by electronic mail this 15<sup>th</sup> day of March 2024 to the following:

Jennifer Crawford  
Major Thompson  
Shaw Stiller  
Special Counsel  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[jcrawford@psc.state.fl.us](mailto:jcrawford@psc.state.fl.us)  
[mthompson@psc.state.fl.us](mailto:mthompson@psc.state.fl.us)  
[sstiller@psc.state.fl.us](mailto:sstiller@psc.state.fl.us)

Dianne M. Triplett  
Associate General Counsel  
Duke Energy Florida, LLC  
299 First Avenue North  
St. Petersburg, FL 33701  
[Dianne.triplett@duke-energy.com](mailto:Dianne.triplett@duke-energy.com)  
[FLRegulatoryLegal@duke-energy.com](mailto:FLRegulatoryLegal@duke-energy.com)

Matthew R. Bernier  
Stephanie Cuello  
Robert Pickles  
106 East College Avenue, Suite 800  
Tallahassee, Florida 32301  
[robert.pickles@duke-energy.com](mailto:robert.pickles@duke-energy.com)  
[matthew.bernier@duke-energy.com](mailto:matthew.bernier@duke-energy.com)  
[stephanie.cuello@duke-energy.com](mailto:stephanie.cuello@duke-energy.com)

Walt Trierweiler  
Charles J. Rehwinkel  
Mary Wessling  
Austin Watrous  
Office of Public Counsel  
111 West Madison Street – Room 812  
Tallahassee, FL 32399-1400  
[rehwinkel.charles@leg.state.fl.us](mailto:rehwinkel.charles@leg.state.fl.us)  
[Trierweiler.walt@leg.state.fl.us](mailto:Trierweiler.walt@leg.state.fl.us)  
[watrous.austin@leg.state.fl.us](mailto:watrous.austin@leg.state.fl.us)  
[wessling.mary@leg.state.fl.us](mailto:wessling.mary@leg.state.fl.us)

J. Jeffrey Wahlen  
Malcolm Means  
V. Ponder  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
jwahlen@ausley.com  
mmeans@ausley.com  
vponder@ausley.com

Bradley Marshall  
Jordan Luebke  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee FL 32301  
bmarshall@earthjustice.org  
jluebke@earthjustice.org

/s/ Jon C. Moyle, Jr.  
Jon C. Moyle, Jr.