

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Rate Increase by)
Duke Energy Florida, LLC) DOCKET NO. 20240025-EI
_____) FILED: APRIL 3, 2024

MOTION TO INTERVENE OF THE FLORIDA RETAIL FEDERATION

The Florida Retail Federation (“FRF”), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.036, 25-22.039 and 28-106.201, Florida Administrative Code (“F.A.C.”), hereby moves to intervene in the above-styled docket addressing Duke Energy Florida, LLC’s (“Duke,” “Company,” or “DEF”) request for a general increase in its base rates.

In summary, the FRF is an established association with more than 8,000 members in Florida, many of whom are retail customers of Duke Energy Florida. The FRF respectfully moves for leave to intervene in order to protect its members’ interests in having the Commission determine the fair, just, and reasonable rates to be charged by DEF upon the conclusion of the case, and in having the Commission take such other action to protect the interests of the FRF’s members and of all of DEF’s customers as the Commission may deem appropriate. The interests of the many members of the FRF who are DEF customers will be determined by the Commission’s decisions in this case, and accordingly, the FRF is entitled to

¹ All references herein to the Florida Statutes are to the 2023 edition thereof.

intervene to protect its members' substantial interests. In further support of its Motion to Intervene, the Florida Retail Federation states as follows.

1. The name, address, and telephone number of the FRF are as follows:

Florida Retail Federation
227 South Adams Street
Tallahassee, Florida 32301
Telephone (850) 222-4082
Telecopier (850) 226-4082.

2. All pleadings, orders and correspondence should be directed to FRF's representatives as follows:

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Telephone (850) 385-0070
Facsimile (850) 385-5416

3. The agency affected by this Motion to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

4. The Florida Retail Federation is an established association of more than 8,000 members in Florida. Many of the FRF's members are retail electric customers of DEF; these members purchase electricity from DEF pursuant to several different DEF rate schedules. The FRF's members require safe, adequate, reasonably-priced electricity in order to conduct their businesses consistently with

the needs of their customers and ownership.

5. Statement of Affected Interests. In this docket, the Commission will decide whether to approve DEF's request for a substantial rate increase, such that, if DEF's request were approved, its customers would pay an additional \$593,000,000 per year in additional base rates and charges in 2025, with additional increases in 2026 and 2027; together, the increases sought by DEF total approximately \$2.1 Billion over the period 2025-2027 and would have DEF's customers paying base rates in 2027 approximately \$820 million per year higher than DEF's present rates. The Commission will ultimately determine whether any changes – increases or decreases – in DEF's rates are appropriate. DEF initiated this docket by filing a Test Year Notification on January 31, 2024, and DEF filed its Petition, Minimum Filing Requirements, and supporting testimony and exhibits on April 2, 2024. The Commission will necessarily have to decide whether any rate increases (or decreases) are justified, and if so, the Commission will also have to approve the rates and charges that would enable DEF to recover any authorized increase in DEF's base rate revenues. As the representative of its many members who are retail customers of DEF, the Florida Retail Federation's and its members' substantial interests will be affected by any action that the Commission takes in this docket.

6. The FRF's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the FRF is the representative of a substantial number of its members who are retail electric customers of DEF, and these members' substantial interests will be directly affected by the Commission's decisions regarding DEF's retail electric rates. Thus, the interests that the FRF seeks to protect are of sufficient immediacy to warrant intervention, and the nature of its members' interests in having the Commission set rates for DEF that are fair, just, reasonable, and not unduly discriminatory is exactly the type of interest that this proceeding is designed to protect. This is a general rate case, and the FRF seeks to protect its members' substantial interests as they will be affected by the Commission's decisions determining DEF's rates.

7. Associational Standing. Under Florida law, to establish standing as an association representing its members' substantial interests, an association such as the Florida Retail Federation must demonstrate three things:

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;
- b. that the intervention by the association is within the association's general scope of interest and activity; and
- c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). The FRF satisfies all of these "associational standing" requirements. A substantial number of the FRF's more than 8,000 members are located in DEF's service area and receive their electric service from DEF, for which they are charged DEF's applicable retail rates. The FRF exists to represent its members' interests in a number of venues, including the Florida Public Service Commission: indeed, the FRF was an intervenor in the 2009 general rate case of Progress Energy Florida, DEF's predecessor, Docket No. 20090079-EI, and the FRF has also participated over the past twenty years in many rate cases involving Florida Power & Light Company, Tampa Electric Company, and Gulf Power Company, as well as numerous other dockets in which customers' rates have been

determined. Finally, the relief requested -- intervention and the lowest rates consistent with the Commission's governing law -- is across-the-board relief that will apply to all of the FRF's members in the same way, according to the retail rate schedules under which they receive service; therefore, the requested relief is of the type that is appropriate for an association to obtain on behalf of its members.

8. Disputed Issues of Material Fact. The FRF believes that the disputed issues of material fact in this proceeding will include, but will not be limited to, the issues listed below. Naturally, at this early point in this docket, the issues stated below are broad, general issues, and the FRF expects that many additional, specific issues will be identified and developed as this docket progresses.

ISSUE: Are the increased base rates for which Duke Energy Florida seeks the Commission's approval fair, just, and reasonable?

ISSUE: Are the proposed rate base amounts upon which DEF's rate requests are based reasonable and prudent?

ISSUE: Are the proposed operating and maintenance expenses upon which DEF's rate requests are based reasonable and prudent?

ISSUE: Are DEF's proposed rate of return on equity and capital structure (equity ratio) fair, just, and reasonable?

The FRF anticipates that, as is standard practice in rate cases before the Commission, many parties, including the Commission Staff, will raise many issues

as the case progresses, and the FRF reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this case.

9. Statement of Ultimate Facts Alleged. It is DEF's burden to prove that it is entitled to any rate relief, and to meet that burden, DEF must prove that its existing rates and charges are not fair, just, and reasonable. The FRF does not believe that DEF has met or that DEF can meet the requisite burden to justify its requested rate increases. A substantial number of the FRF's more than 8,000 members are DEF's retail customers, and accordingly, their substantial interests are subject to determination and will be affected by the Commission's decisions in this docket. Accordingly, as the representative association of its members who are DEF customers, the FRF is entitled to intervene herein.

10. Statutes and Rules That Entitle the Florida Retail Federation to Relief. The applicable statutes and rules that entitle the FRF to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.05(1), 366.06(1)&(2), and 366.07, Florida Statutes, and Chapter 28-106, Florida Administrative Code. Rule 28-106.205, F.A.C., provides that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. A substantial number of the FRF's more than 8,000 members are DEF's retail customers, and accordingly, their substantial interests are

subject to determination in and will be affected by the Commission's decisions in this docket. Accordingly, as the representative association of its members who are customers of DEF, the FRF is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over DEF's rates and the Commission's statutory mandate to ensure that DEF's rates are fair, just, and reasonable. The facts alleged here by the FRF demonstrate (a) that the Commission's decisions herein will have a significant impact on DEF's rates and charges, (b) that a substantial number of the FRF's members will be directly impacted by the Commission's decisions regarding DEF's rates and charges, and (c) accordingly, that these statutes provide the basis for the relief requested by the FRF in this Motion to Intervene. Additionally, the facts alleged herein demonstrate that the FRF is entitled to a hearing on DEF's rates and charges.

11. Statement of Conferral. Pursuant to Rules 28-106.204(3) and 28-106.205(2)(e), F.A.C., counsel for the FRF has conferred with the other parties in this case regarding this Motion to Intervene. The FRF can represent that DEF, the Florida Industrial Power Users Group, White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs, LULAC and Florida Rising take no position on the FRF's Motion. The FRF can also represent that the Office of Public Counsel supports the FRF's Motion. The FRF has attempted to confer with the Commission Staff concerning FRF's Motion, but has not yet received a response.

CONCLUSION AND RELIEF REQUESTED

The Florida Retail Federation is an established association that, consistent with its purposes and history of intervening in Commission proceedings to protect its members' interests under the Commission's statutes, rules, and orders, seeks to intervene in this general rate case docket to protect its members' substantial interests in having the Commission set rates for Duke Energy Florida that are fair, just, reasonable, and not unduly discriminatory. The interests of the FRF's members that the FRF seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by this proceeding.

WHEREFORE, the Florida Retail Federation respectfully requests the Florida Public Service Commission to enter its order GRANTING this Motion to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the FRF's representatives indicated in paragraphs 1 and 2 above.

Respectfully submitted this 3rd day of April, 2024.

/s/ Robert Scheffel Wright

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 3rd day of April, 2024, to the following:

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