

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for
Glades Power Park Units 1 and 2 electrical
power plants in Glades County, by Florida
Power & Light Company.

DOCKET NO. 070098-EI
ORDER NO. PSC-07-0315-PCO-EI
ISSUED: April 13, 2007

ORDER GRANTING INTERVENTION

BY THE COMMISSION:

On February 1, 2007, Florida Power & Light Company (FPL) filed a petition for determination of need for Glades Power Park Units 1 and 2 electrical power plants in Glades County pursuant to Sections 366.04 and 403.519, Florida Statutes, and Rules 25-22.080, 25-22.081, and 28-106.201, Florida Administrative Code. By Order No. PSC-07-0120-PCO-EI, issued February 9, 2007, the matter has been scheduled for a formal administrative hearing on April 16-17, 2007.

Petition for Intervention

By petition dated April 3, 2007, Jan and Bob Krasowski (Krasowskis) filed a Petition to Intervene (Petition) in this docket. According to their Petition, the Krasowskis are customers of FPL and have been actively involved in efforts addressing resource protection, management, and efficiency for the past twenty years. The Krasowskis contend that to the extent that the proposed Florida Glades Power Park affects local, regional, or state energy policy, their interests will be affected.

No party filed a written response to the Krasowskis' Petition. However, at the Prehearing Conference on Thursday, April 5, 2007, counsel for FPL expressed concerns about allowing a customer to represent himself pro se in this proceeding in that it could add undue delay and inconvenience to an otherwise efficient administrative process. Further, counsel for FPL contended that the Krasowskis' interests as customers of FPL would be more than adequately represented by counsel for the other Intervenors in this proceeding, which include the Office of Public Counsel (OPC) and the Sierra Club, et. al.

Mr. Krasowski responded by stating that despite being members of the national organization of the Sierra Club, the Krasowskis are not represented by the positions taken by the Sierra Club, et. al., in this case. Likewise, the Krasowskis contend that they are taking positions that while similar, go beyond the positions taken by OPC. Finally, Mr. Krasowski stated that he would act with decorum in this proceeding.

Standards of Intervention

Pursuant to Rule 25-22.039, Florida Administrative Code, persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding, and who

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desire to become parties may petition for leave to intervene. Petitions for leave to intervene must be filed at least five days before the evidentiary hearing, must conform with Rule 28-106.201(2), Florida Administrative Code, 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 by the proceeding. Intervenors take the case as they find it.

To have standing, the intervenor must meet the two prong standing test in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 482 (Fla. 2nd DCA 1981). The intervenor must show (1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57 hearing, and (2) that this 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. 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. 3rd 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).

Analysis & Ruling

It appears that the Krasowskis meet the two prong standing test in Agrico, in that they are residential customers taking service from FPL whose interests may be substantially affected by this proceeding. Accordingly, the Krasowskis' Petition to Intervene is granted. Pursuant to Rule 25-22.039, Florida Administrative Code, the Krasowskis take the case as they find it. As an intervenor in this proceeding, the Krasowskis are expected to comply with the same standards, rules, statutes, and procedures as all other parties to this proceeding, and shall be required to stay within the scope of this proceeding as it has been established through the issues, rules, and governing statutes.


Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that the Petition to Intervene is granted with respect to Jan and Bob Krasowski as set forth herein. 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:

Jan and Bob Krasowski
1086 Michigan Avenue
Naples, Florida 34103-3857
239-434-0786 H
239-963-6285 C

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 13th
day of April, 2007.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

JSB

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 Commission Clerk, 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.