

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080317-EI
ORDER NO. PSC-08-0705-PCO-EI
ISSUED: October 23, 2008

ORDER GRANTING AARP'S PETITION TO INTERVENE

By petition dated October 8, 2008, AARP requested permission to intervene in this proceeding pursuant to Chapter 120, Florida Statutes (F.S.), and Rules 25-22.039 and 28-106.205, Florida Administrative Code (F.A.C.). In its petition, AARP states that it is a nonprofit membership organization dedicated to addressing the needs and interests of persons aged 50 and older. AARP states that it has more than 3 million members in Florida and that a substantial number of its Florida members are retail residential customers of Tampa Electric Company (TECO). AARP alleges that because many of its members are TECO's retail customers, their substantial interests will be affected by the Commission's decisions in this docket.

AARP asserts that approval of all, or even a portion, of the \$228.2 million annual rate base increase being sought by TECO will necessarily result in a significant increase in residential electric rates and in the monthly bills of AARP members who are served by TECO. Additionally, AARP argues that these increased electric bills will very likely result in reduced amounts of money for many of these residential customers for the purchase of housing, food, medicines, insurance and other necessities, especially for those TECO customers living on fixed or low incomes. AARP therefore contends that its members taking retail electric service from TECO have interests of the type this proceeding is designed to protect. TECO has indicated that it takes no position on AARP's petition to intervene.

Standards for Intervention

Pursuant to Rule 25-22.039, 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 petition for leave to intervene. Petitions for leave to intervene must be filed at least five (5) days before the final hearing, must conform with Rule 28-106.201(2), 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 two prong standing test set forth 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

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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).

The test for associational standing, established in Florida Home Builders v. Dept. of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982), and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1st DCA 1982), is based on the basic standing principles established in Agrico. 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.

Decision

AARP meets the standing test established in Agrico, as well as the associational standing test established in Florida Home Builders. AARP asserts that it is a nonprofit membership organization with more than 3 million members in Florida, many of whom are retail customers of TECO whose substantial interests will be directly affected by the Commission's decision in this proceeding. AARP further states that this is the type of proceeding designed to protect its members' interests, and the subject matter of the proceeding is within AARP's general scope of interest and activity. AARP is seeking intervention in this docket to represent the interests of its members in reviewing the prudence of the proposed rate increase and to ensure that the rates its members pay to TECO are fair, just and reasonable.

Because AARP meets the standing test established in Agrico, as well as the associational standing test established in Florida Home Builders, AARP's petition for intervention shall be granted. Pursuant to Rule 25-22.039, F.A.C., AARP takes the case as it finds it. The issues AARP raised in its petition can be raised during the normal course of this proceeding.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that the Petition to Intervene filed by AARP is hereby granted as set forth in the body of this Order. 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:

Michael B. Twomey, Esquire
Attorney for AARP
P.O. Box 5256
Tallahassee, Florida 32314-5256
Telephone: (850) 421-9530
Email: miketwomey@talstar.com

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 23rd day of October, 2008.



NATHAN A. SKOP

Commissioner and Prehearing Officer

(S E A L)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), F.S., to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, F.S., 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 25-22.060, 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.