

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Gulf
Power Company.

DOCKET NO. 110138-EI
ORDER NO. PSC-11-0392-PCO-EI
ISSUED: September 20, 2011

ORDER GRANTING INTERVENTION

Pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), and Rules 25-6.0425 and 25-6.043, Florida Administrative Code (F.A.C.), Gulf Power Company (GPC or Company) commenced this proceeding on July 8, 2011, with the filing of a petition for a permanent rate increase. The Company is engaged in business as a public utility providing electric service as defined in Section 366.02, F.S., and is subject to the jurisdiction of the Commission. The Company based its request on a projected test year ending December 31, 2012.

Petition for Intervention

By petition dated August 22, 2011, the Federal Executive Agencies (FEA), requested permission to intervene in this proceeding. The FEA consist of certain agencies of the United States Government which have offices, facilities, and/or installations in the service area of GPC and which purchase electric utility service from GPC. 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.A. 481(a)(4) and 486(d). The Federal agencies affected are:

- a. Tyndall Air Force Base, Panama City, FL.
- b. Naval Diving and Salvage Training Center, Panama City Beach, FL.
- c. Pensacola Naval Air Station, Pensacola, FL.
- d. Eglin Air Force Base, Fort Walton, FL.
- e. Hurlburt Air Force Base, Fort Walton, FL.

FEA further asserts that electricity costs represent one of the largest variable expenses of operating the Federal offices, facilities, and installations on whose behalf FEA seeks intervention. FEA asserts that these agencies will be significantly affected by the Commission's action in this proceeding. No party has filed an objection to FEA's Petition, and the time for doing so has expired.

Standard 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 days before the evidentiary 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

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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 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, F.S., 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 FEA meets the two-prong standing test in Agrico, 406 So. 2d at 482. The agencies represented by FEA are customers of GPC having offices, facilities, and/or installations in the GPC service territory and thus, its interests may be substantially affected by this proceeding. Therefore, its Petition shall be granted as set forth herein. Issue development is an ongoing process; while issues should be germane to this proceeding, disagreement as to the particular wording or inclusion of issues will ultimately be resolved at the Prehearing Conference. Pursuant to Rule 25-22.039, F.A.C., the FEA takes the case as it finds it.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the Petition to Intervene filed by the Federal Executive Agencies 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:

Federal Executive Agencies
c/o Major Christopher C. Thompson and Ms.
Karen White
AFLONJACL-ULFSC
139 Barnes Drive, Suite 1
Tyndall Air Force Base, Florida 32403
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By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 20th day of
September, 2011.



LISA POLAK EDGAR
Commissioner and Prehearing Officer
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CMK

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.