

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 110009-EI
ORDER NO. PSC-11-0399-PCO-EI
ISSUED: September 21, 2011

ORDER DENYING ROBERT H. SMITH'S MOTION TO PUBLISH EMAIL
CORRESPONDENCE IN DOCKET NOS. 110009-EI, 100009-EI, 100410-EI AND 080677-EI

On September 19, 2011, Robert H. Smith filed a "Motion to the Florida Public Service Commission to make all of my current/future email correspondence part of the web public docket(s)/disclosure of the details of the current/future email correspondence in order for all parties with a legal interest to inspect and examine the current/future email correspondence / Dockets 110009-EI, 100009-EI, 100410-EI and 080677-EI." Attached to his motion are 87 pages of emails dating back to May 14, 2010.¹ Most of the emails contain the same request: that his email correspondence be filed in the electronic version of the docket of several open and closed cases.

Mr. Smith asserts that he has filed his motion on the following grounds:

[To ensure that] my full legal interests in these proceedings are fully protected, there is an impartial proceeding, and that I am fully afforded based upon Federal and State law to the "full right to be heard according to law". [Sic] Since the details of my current/future email correspondence has [sic] not been made part of the web public docket and/or the specific details of my email correspondence has [sic] not been made part of the web public docket, the ability for any party with a legal interest to be able to Sunshine request/Freedom of information request my information when they do not know it exists has created a "Ex Parte" or "One Sided" communication issue at the Florida Public Service Commission.

Mr. Smith did not file a motion to intervene in any of the above-numbered dockets. As a reason for not moving to intervene, Mr. Smith's Motion states:

Based upon my rights as a shareholder and a ratepayer, I would reserve the same/more rights than an intervenor in these proceedings therefore the Florida Public Service Commission's position(s) is not a valid position(s).

¹ It should be noted that every one of Mr. Smith's emails contains a statement that his transmissions "contain information which is confidential and/or legally privileged." However, no request for confidential treatment has ever been filed pursuant to Section 366.093, or any other provision of the Florida Statutes.

DOCUMENT NUMBER DATE

06835 SEP 21 =

FPSC-COMMISSION CLERK

Analysis and ruling

Upon review, Mr. Smith's Motion is denied on procedural grounds. Mr. Smith is not an original party to any of the aforementioned dockets, nor has he requested or been granted party status to participate in this or any of the proceedings. In order to request the type of relief sought, Mr. Smith must properly intervene under Rule 25-22.039, F.A.C., which states that "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 the presiding officer for leave to intervene." The rule also provides that petitions for leave to intervene must be filed at least five (5) days before the final hearing. The hearing in Docket No. 110009 was concluded in August 2011. I further note that Docket Nos. 080677-EI, 100410 and 100009-EI are closed, and there is no provision for leave to intervene in closed dockets.

Based upon the foregoing it is

ORDERED by Commissioner Ronald A. Brisé, that the Motion of Robert H. Smith is denied.

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 21st day of September, 2011.



RONALD A. BRISE
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

MFB

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.