

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company.

DOCKET NO. 20200067-EI

In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Duke Energy Florida, LLC.

DOCKET NO. 20200069-EI

In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Gulf Power Company.

DOCKET NO. 20200070-EI

In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company.

DOCKET NO. 20200071-EI  
ORDER NO. PSC-2020-0233-PCO-EI  
ISSUED: July 14, 2020

ORDER GRANTING INTERVENTION TO  
FLORIDA INDUSTRIAL POWER USERS GROUP

Section 366.96(3), F.S., requires each public utility to file a transmission and distribution storm protection plan (SPP) that covers the immediate 10-year planning period, and explains the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. Pursuant to Sections 366.96(5) and 366.96(6), F.S., every three years the Florida Public Service Commission (Commission) is required to determine whether it is in the public interest to approve, approve with modification, or deny each utility's transmission and distribution storm protection plan filed in accordance with Rule 25-6.030, Florida Administrative Code (F.A.C.).

By petition dated June 23, 2020, the Florida Industrial Power Users Group (FIPUG) requested permission to intervene in Docket Nos. 20200067-EI, 20200069-EI, 20200070-EI, and 20200071-EI. These dockets have been consolidated for the purpose of hearing by Order No. PSC-2020-0073-PCO-EI, issued March 11, 2020, as modified by Order No. PSC-2020-0122-PCO-EI, issued on April 22, 2020.<sup>1</sup> These dockets are currently scheduled for hearing on August 10 to 13, 2020.

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<sup>1</sup>Order No. PSC-2020-0209-PCO-EI, issued on June 25, 2020, modified the due date to file rebuttal testimony in Docket No. 20200067-EI only.

Petition for Intervention

FIPUG states that it is an association of businesses consisting of large users of electricity in Florida, a substantial number of whom receive electricity from Tampa Electric Company (TECO), Duke Energy Florida, LLC (DEF), Gulf Power Company (Gulf), and Florida Power & Light Company (FPL).

FIPUG alleges that the cost of electricity constitutes a significant portion of FIPUG members' overall costs of production and/or operations, and that its members require adequate, reasonably-priced electricity in order to compete in their respective markets and to conduct business effectively and efficiently. Thus, FIPUG argues that the outcome of this case will have a direct and substantial impact on its members. FIPUG further states that the subject matter of this docket is within FIPUG's general scope of interest and activity. FIPUG states that it routinely appears on behalf of its members in cases concerning utility regulation, as the cost of electricity represents a significant portion of its members' production and/or operational costs. As such, FIPUG argues that the subject matter of the instant docket, the evaluation of TECO's, DEF's, Gulf's, and FPL's request for Commission review and approval of activities related to its 2020-2029 SPP, is well within FIPUG's scope of interest and activity. Finally, FIPUG states that the relief it is seeking is of the type appropriate for it to receive on behalf of its members pursuant to Rule 28-106.205(1), F.A.C.

In accordance with Rule 28-106.204(3), F.A.C., FIPUG represents that it has conferred with the parties to this proceeding regarding its petition, and that all parties take no position on FIPUG's intervention.

Standards for Intervention

Pursuant to Rule 28-106.205, 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 move for leave to intervene. Motions for leave to intervene must be filed at least twenty (20) days before the final hearing, must comply with Rule 28-106.204(3), 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 three-prong standing test set forth in Florida Home Builders Association v. Department of Labor and Employment Security (Florida Home Builders), 412 So. 2d 351, 353-54 (Fla. 1982), and Farmworker Rights Org., Inc. v. Department of Health and Rehabilitative Services (Farmworker Rights Org.), 417 So. 2d 753, 754 (Fla. 1st DCA 1982), which is based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 481-82 (Fla.

2d DCA 1981).<sup>2</sup> 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. Florida Home Builders, 412 So. 2d at 353-54; Farmworker Rights Org., 417 So. 2d at 754.

### Decision

FIPUG has standing in this proceeding as it meets the three-prong standing test set forth for associations in Florida Home Builders: 1) FIPUG asserts that it has a substantial number of members that are ratepayers of TECO, DEF, Gulf, and FPL, and, as a result, those members are directly and substantially affected by the decision in this case; 2) FIPUG's general scope of interest and activity is to make sure that electric utilities' rates charged to its members are fair, just, and reasonable; and 3) because FIPUG's members are large consumers of electricity, whose customers will be affected by the outcome of this case, FIPUG's participation in this docket is appropriate.

Based on the above representations, it is

ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that the Motion to Intervene filed by Florida Industrial Power Users Group is hereby granted as set forth in the body of this Order. It is further

ORDERED that Florida Industrial Power Users Group takes the case as it finds it. 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:


Jon C. Moyle, Jr.  
Karen A. Putnal  
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<sup>2</sup>Under Agrico, the intervenor must show that (1) he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) the 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. 406 So. 2d 478 at 482. 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. 3d 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).

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By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 14th day of July, 2020.



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DONALD J. POLMANN, Ph.D., P.E.  
Commissioner and Prehearing Officer  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

IDA/RAD

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

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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.