

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for emergency variance from or  
waiver of Rule 25-6.049(5)-(6), F.A.C., by  
Casa Devon Venture, LP.

DOCKET NO. 20200175-EU  
ORDER NO. PSC-2020-0346-PCO-EU  
ISSUED: October 7, 2020

ORDER GRANTING INTERVENTION

On September 17, 2020, Casa Devon Venture, LP (Casa Devon) filed a Petition and Corrected Petition for Formal Administrative Hearing (“Petition”). The Petition requests an administrative hearing on the Notice of Proposed Agency Action Order Denying Petition for Emergency Variance from or Waiver of Rule 25-6.049(5)-(6), F.A.C., Order No. PSC-2020-0295-PAA-EU, issued September 2, 2020. This docket is currently scheduled for hearing on November 19-20, 2020.

Motion to Intervene

On October 6, 2020, Florida Power & Light (FPL) filed a corrected motion for leave to intervene in this proceeding. FPL states that as a specifically-named person in the Petition whose substantial interests are being determined in this proceeding, it is entitled to intervenor status under Rule 28-106.205(3), F.A.C. FPL argues that its substantial interests are being affected in this proceeding because Casa Devon and the apartment tenants are its electric customers and FPL is responsible to ensure that its customers continue to receive safe and reliable service consistent with the policies and requirements adopted by the Florida Legislature and the Commission. FPL notes Casa Devon’s Petition makes FPL’s representations material to determining whether the Commission’s decision is supported by substantial evidence, and FPL has a substantial interest in defending itself against allegations made in the Petition. FPL further states that if Casa Devon’s request for a waiver from individual metering is granted, FPL will be directly impacted because FPL will need to take appropriate actions on its electric infrastructure and billing system to implement and accommodate the conversion. FPL states in its motion that it contacted Casa Devon pursuant to Rule 28-106.204(3), F.A.C., and that Casa Devon indicated that it has no objection to FPL’s intervention in this proceeding.

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 two-prong standing test set forth in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 482 (Fla. 2d DCA 1981). The intervenor must show that (1) he will suffer injury in fact that 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 that 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. 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).

### Ruling

As a specifically-named person in the Petition, FPL has demonstrated that it is entitled to intervenor status under Rule 28-106.205(3), F.A.C. Material allegations made by FPL were relied upon by the Commission in denying Casa Devon's petition for emergency variance from or waiver of Rule 25-6.049(5)-(6), F.A.C. Further, it appears that the Commission's decision will impact actions that FPL may need to take as the electric provider for the Casa Devon apartment building and its tenants.

Based on the above representations, it is

ORDERED by Commissioner Donald J. Polmann, Ph.D., P.E., as Prehearing Officer, that the Motion to Intervene filed by Florida Power & Light Company is hereby granted as set forth in the body of this Order. It is further

ORDERED that Florida Power & Light Company 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:

Kenneth A. Hoffman  
Vice President, Regulatory Affairs  
Florida Power & Light Company  
134 W. Jefferson Street  
Tallahassee, FL 32301  
Phone: 850-521-3919  
Fax: 850-521-3939  
Email: ken.hoffman@fpl.com

Kenneth M. Rubin  
Assistant General Counsel  
Christopher T. Wright  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Phone: 561-691-2512  
Fax: 561-691-7135  
Email: ken.rubin@fpl.com  
Email: christopher.wright@fpl.com

By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 7th day of October, 2020.



---

DONALD J. POLMANN, Ph.D., P.E.  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KGWC

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.