

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to approve clean energy connection program and tariff and stipulation, by Duke Energy Florida, LLC.

DOCKET NO. 20200176-EI  
ORDER NO. PSC-2020-0365-PCO-EI  
ISSUED: October 14, 2020

ORDER GRANTING INTERVENTION

BY THE COMMISSION:

On July 1, 2020, Duke Energy Florida, LLC (Duke or Company) filed a Petition for a Limited Proceeding to Approve Clean Energy Connection Program (CEC Program) and Tariff and Stipulation. The Clean Energy Connection Program is proposed by Duke as a voluntary community solar program that would allow participating customers to pay a subscription fee in exchange for receiving bill credits related to solar generation produced by solar facilities. The signatories to the stipulation are Duke, Vote Solar, Southern Alliance for Clean Energy, and Walmart Inc. In the Stipulation, Duke commits to certain programs designed to assist low-income customers, to further consider clean energy and net metering options, and to other conditions relating to implementing and monitoring the CEC Program. This docket is currently set for hearing on November 17, 2020.

Petition for Intervention

By motion dated August 21, 2020, Vote Solar requested permission to intervene in this proceeding. Vote Solar is a national organization that advocates for and promotes the development of solar energy. Vote Solar participates in shared solar policy initiatives across the country. The organization and its members support community solar offerings that are consistent with its conservation objectives. Vote Solar represents that it has approximately 30,000 members who reside in Florida, a substantial number of whom are Duke customers. As such, Vote Solar asserts that it maintains an interest in solar programs that affect the economic condition and conservation objectives of its Florida members. Prior to Duke submitting the CEC Program for Commission approval, Vote Solar engaged in numerous conversations with the Company, reached agreement on improvements to the CEC Program, and became a signatory to the Stipulation that is attached to the Petition.

Vote Solar maintains that, in this proceeding, the Commission will determine whether to approve the CEC Program and its members have an interest in ensuring that the CEC Program is designed to properly value solar resources, maximize their benefits, and achieve the lowest cost for all ratepayers. Vote Solar also has an interest in ensuring that the CEC Program allows full ratepayer participation, including specifically low-income ratepayers. Those interests are furthered by the negotiated provisions of the Stipulation. Based on these representations, Vote Solar asserts that the substantial interests of its members will be affected by this proceeding and the Commission's order will affect the mission of the organization.

Pursuant to Rule 28-106.204(3), Florida Administrative Code (F.A.C.), Vote Solar contacted Duke and the League of United Latin American Citizens of Florida, and represented that neither opposes the request for intervention. Vote Solar also contact the Office of Public Counsel, which takes no position on this request.

### 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, 412 So. 2d 351, 353-54 (Fla. 1982), and Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services, 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>1</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. Fla. Home Builders, 412 So. 2d at 353-54; Farmworker Rights Org., 417 So. 2d at 754.

### Decision

Based on Vote Solar's representations, it appears that Vote Solar has met the associational standing requirements of Florida Home Builders. As to the first prong, Vote Solar asserts that a substantial number of its Florida members reside in the service territory of Duke, and that the substantial interests of those members will be affected by the decision in this proceeding. As to the second prong, the subject matter of this proceeding falls within the purview of Vote Solar's general scope of interest and activity related to advocating for the economic condition of its Florida members through its advocacy for equitable solar policies. As to the third prong, the type of relief requested is appropriate for Vote Solar to receive on behalf of its members as Vote Solar is seeking a decision in this proceeding that considers Vote Solar's

---

<sup>1</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, Florida Statutes, 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).

interests and the interests of Vote Solar's members. Additionally, Vote Solar is a signatory to the Stipulation, and the decision in this proceeding directly affects Vote Solar's interests as furthered in that Stipulation and the required components of the CEC Program.

Based on the above representations, it is

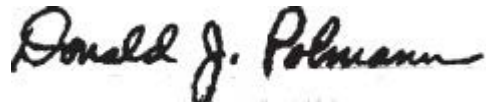
ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that the Motion to Intervene filed by Vote Solar is hereby granted as set forth in the body of this Order. It is further

ORDERED that Vote Solar 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:

Vote Solar  
Katie Chiles Ottenweller  
Southeast Director  
838 Barton Woods Road NE  
Atlanta, GA 30307  
Email: [katie@votesolar.org](mailto:katie@votesolar.org)  
Phone: 706.224.8107

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

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.