

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-2020-0392-PCO-EI  
ISSUED: October 19, 2020

ORDER GRANTING INTERVENTION TO FLORIDA  
INDUSTRIAL POWER USERS GROUP

BY THE COMMISSION:

On July 1, 2020, Duke Energy Florida, LLC (Duke) filed a Petition for a Limited Proceeding to Approve The Clean Energy Connection Program and Tariff and Stipulation. The Clean Energy Connection Program (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. This proceeding has been scheduled for an administrative hearing on November 17, 2020.

Petition for Intervention

By motion dated September 15, 2020, the Florida Industrial Power Users Group (FIPUG) requested permission to intervene in this proceeding. FIPUG represents that it is an association consisting of large users of electricity in Florida. FIPUG states that its members rely on the availability of adequate, reasonably priced electricity to operate their businesses in an effective, efficient, and competitive manner. FIPUG alleges that the cost of electricity to those users is a significant portion of their overall costs of production and operation. FIPUG states that a large numbers of its members are customers of Duke and that the Clean Energy Program will be available to these customers. FIPUG avers that the substantial interests of its members are directly impacted by this docket because it will establish the costs of the Program and make its members potentially subject to rate impacts if the Program runs at a deficit. FIPUG seeks to intervene in the instant proceeding on behalf of its members to advocate and protect their substantial interests in ensuring that the costs and rates that will ultimately be approved and charged are fair, just, and reasonable.

FIPUG contacted Duke and has represented that Duke does not object to FIPUG's intervention. The time for any party to file a response in opposition to FIPUG's intervention has expired.

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 FIPUG's representations, it appears that FIPUG has met the associational standing requirements of Florida Home Builders. As to the first prong, FIPUG asserts that a substantial number of its members are customers of Duke and will be directly and substantially affected by the decision in this case regarding the Clean Energy Program. As to the second prong, the subject matter of this proceeding includes a determination of whether to approve a new solar power product and its attendant and resulting costs to industrial electricity customers, which is within FIPUG's general scope of interest and activity on behalf of its members. As to the third prong, FIPUG's members are large consumers of electricity who will be affected by the outcome of this case.

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 (FIPUG) takes the case as it finds it. It is further

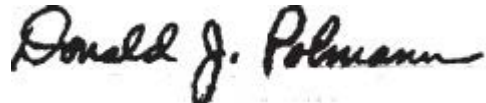
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<sup>1</sup> Under Agrico, the intervenor must show that (1) he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) the substantial injury is of a type or nature which the proceeding 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).

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:

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By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 19th day of October, 2020.



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DONALD J. POLMANN, Ph.D., P.E.  
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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.

SPS

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.