

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida City
Gas.

DOCKET NO. 20220069-GU
ORDER NO. PSC-2022-0262-PCO-GU
ISSUED: July 6, 2022

ORDER GRANTING FEDERAL EXECUTIVE AGENCIES' PETITION TO INTERVENE

Florida City Gas (FCG) filed its Minimum Filing Requirements (MFRs) on May 31, 2022, based on a historic test year that ended December 31, 2021, seeking a permanent rate increase proceeding. By the Order Establishing Procedure, Order No. PSC- 2022-0224-PCO-GU, issued on June 2, 2022, discovery guidelines, hearing procedures, and controlling dates were established. This docket is currently scheduled for hearing on December 12-16, 2022.

Petition for Intervention

By petition dated June 17, 2022, the Federal Executive Agencies (FEA) requested permission to intervene in this proceeding. FEA represents that it consists of certain federal agencies which have offices, facilities, and/or installations within the FCG service area that purchase natural gas from FCG. FEA asserts that it is authorized to represent the consumer interests of these federal agencies, and that utility costs represent one of the largest variable expenses of operating federal offices, facilities, and installations. FEA concludes that a significant number of its members will be affected by any action the Commission takes in this docket that impacts FCG's rates. In accordance with Rules 28-106.204(3) and 28-106.205(2)(e), Florida Administrative Code (F.A.C.), counsel for the FEA has conferred with the parties of record, and is authorized to represent that none of the parties object to the FEA's intervention. Consistent with its representations, no objections have been filed to its request for intervention and the time for doing so has run.

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).¹ 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.

Analysis & Ruling

Having reviewed FEA's petition, it appears FEA has met the three-prong associational standing requirements of *Florida Home Builders*. As to the first prong, a substantial number of FEA's members in certain federal agencies have offices, facilities, and/or installations within the FCG service area, and purchase natural gas from FCG. The substantial interests of FEA's members will be affected by the Commission's decision, as it will affect the costs that its members will pay for natural gas. As to the second prong of the associational standing test, the subject matter of the proceeding appears to be within FEA's general scope of interest and activity. Ensuring that federal tax dollars spent by its members located within FCG's territory on natural gas are based upon fair, just, and reasonable utility rates falls within the purview of the FEA's general scope of interest and authorized activities. As for the third prong of the associational standing test, FEA seeks intervention in this docket to represent the interests of its agencies, as FCG's customers, in seeking reliable service and the lowest rates possible. The relief requested by FEA is of a type appropriate for an association to obtain on behalf of its members.

Based on the foregoing, FEA meets all three prongs of *Florida Home Builders* and has standing to intervene. Pursuant to Rule 28-106.205, F.A.C., FEA takes the case as it finds it.

Based on the above representations, it is

ORDERED by Chairman Andrew Giles Fay, as Prehearing Officer, that the Petition to Intervene filed by the Federal Executive Agencies is hereby granted as set forth in the body of this Order. It is further

ORDERED that the Federal Executive Agencies takes the case as it finds it. It is further

¹ 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 Chairman Andrew Giles Fay, as Prehearing Officer, this 6th day of July,
2022.



ANDREW GILES FAY
Chairman 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.

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.