

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.

DOCKET NO. 20220067-GU  
ORDER NO. PSC-2022-0320-PCO-GU  
ISSUED: September 8, 2022

ORDER GRANTING INTERVENTION TO  
FLORIDA INDUSTRIAL POWER USERS GROUP

On May 24, 2022, Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company-Fort Meade, and Florida Public Utilities Company-Indiantown Division (collectively FPUC or Company) filed a petition seeking approval to increase rates and charges and to consolidate the four natural gas utilities into one utility operating under the name Florida Public Utilities Company. The four natural gas utilities provide sales and transportation of natural gas and are public utilities subject to the Commission's regulatory jurisdiction under Chapter 366, Florida Statutes (F.S.). This docket is currently scheduled for hearing on October 25-28, 2022.

Petition for Intervention

By petition dated August 24, 2022, the Florida Industrial Power Users Group (FIPUG) requested permission to intervene in this proceeding. FIPUG is an ad hoc association consisting of industrial users of electricity, and in many cases, natural gas, in Florida. FIPUG states that the cost of natural gas to those FIPUG members receiving service from FPUC is material and contributes to FIPUG members' overall costs of production and/or business operations. These FIPUG members require adequate, reasonably-priced, and reliable natural gas in order to compete effectively in their respective markets. FIPUG contends that decisions in this docket will have a direct and substantial impact on FPUC's customers, including FIPUG members that receive natural gas and natural gas services from FPUC, as the cost of electricity and natural gas represents a significant portion of its members' production costs. Further, FIPUG routinely appears on behalf of its members in cases concerning utility regulation, as the cost of electricity and natural gas represents a significant portion of its members' production costs. In its petition, FIPUG states that it conferred with counsel for FPUC, who stated that FPUC wishes to reserve its rights to review FIPUG's petition.

Standards for Intervention

Pursuant to Rule 28-106.205, Florida Administrative Code (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.

#### Analysis and Ruling

Pursuant to Rule 28-106.205(1), F.A.C., parties may file a response in opposition to intervention within 7 days of service. No response in opposition has been filed to FIPUG's petition, and the time for doing so has expired.

FIPUG has sufficiently alleged standing in this proceeding under the three-prong test set forth in Florida Home Builders: 1) FIPUG asserts that a substantial number of its members will be affected by the Commission's action taken on FPUC's petition for rate increase and utility consolidation, and as such, each FIPUG member that receives natural gas from FPUC will be affected by the outcome of this case; 2) the subject matter of this proceeding includes evaluation of FPUC's request for Commission review and approval of increased rates, which is within FIPUG's general scope of interest and activity on behalf of its members; further, FIPUG routinely appears on behalf of its members in cases concerning utility regulation, as the cost of electricity and natural gas represents a significant portion of its members' production costs; and 3) FIPUG's members are large industrial consumers of electricity and natural gas who will be affected by the outcome of this case. FIPUG seeks intervention in this docket to represent the

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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).

interests of its members in seeking fair, just, and reasonable rates. FIPUG's participation in this docket is therefore appropriate, and its petition for intervention is granted.

Based on the above representations, it is hereby

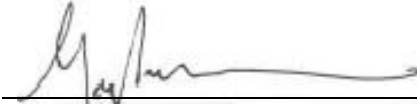
ORDERED by Commissioner Gabriella Passidomo, as Prehearing Officer, that the Petition to Intervene filed by Florida Industrial Power Users Group is hereby granted as set forth in the body of this Order. It is further

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:

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By ORDER of Commissioner Gabriella Passidomo, as Prehearing Officer, this 8th day of September, 2022.



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Gabriella Passidomo  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
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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.

RPS

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.