

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20220069-GU
ORDER NO. PSC-2022-0376-PCO-GU
ISSUED: November 7, 2022

ORDER GRANTING INTERVENTION OF
SUGAR CANE GROWERS COOPERATIVE OF FLORIDA

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. Discovery guidelines, hearing procedures, and controlling dates were established by the Order Establishing Procedure, Order No. PSC-2022-0224-PCO-GU, issued on June 22, 2022, as amended by Order No. PSC-2022-0275-PCO-GU, issued on July 15, 2022. This docket is currently scheduled for hearing on December 12-16, 2022.

Petition for Intervention

On October 19, 2022, the Sugar Cane Growers Cooperative of Florida (SCGC) filed its Petition for Intervention. In its Petition, SCGC states it is a direct retail customer of FCG. SCGC explains that it requires safe, adequate, and reasonably priced natural gas service to conduct its business. SCGC continues that the outcome of this proceeding can affect the rates it pays to FCG and will necessarily affect its substantial interests in having safe and adequate natural gas services provided at fair, just, and reasonable rates. SCGC therefore argues that because its substantial interests may be affected by this proceeding, it should be granted intervention. SCGC's petition is unopposed. No written responses were filed regarding the petition, and the time for doing so has expired.

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 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, Florida Statutes, 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).

Analysis and Ruling

Based on the above representations, it appears that SCGC has met the standing requirements of *Agrico* as stated above. As to the first prong, SCGC is subject to FCG's gas rates, and the amount it pays in gas rates may be affected by this proceeding. SCGC meets the second prong of *Agrico* because the proceeding will address FCG's gas rates, which can affect SCGC's interests as a customer. Because SCGC has made allegations sufficient to meet the two-prong standing test established in *Agrico* for individual standing, and FCG does not object to the validity of its allegations, SGGC's petition for intervention on an individual standing basis shall be granted.

Therefore, SCGC's Petition shall be granted with respect to its intervention in this proceeding as a customer of FCG. Pursuant to Rule 28-106.205, F.A.C., SCGC 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 Motion to Intervene filed by Sugar Cane Growers Cooperative of Florida is hereby granted as set forth in the body of this Order. It is further

ORDERED that Sugar Cane Growers Cooperative of Florida 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:

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Bowden, Dee, La Via, Wright, Perry & Harper, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
Facsimile (850) 385-5416
schef@gbwlegal.com
jlavia@gbwlegal.com

By ORDER of Chairman Andrew Giles Fay, as Prehearing Officer, this ___7th___
day of _____November_____ . ____2022_____



ANDREW GILES FAY
Chairman and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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.

WLT/MJJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Subsection 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.