

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Duke Energy
Florida, LLC.

DOCKET NO. 20240025-EI
ORDER NO. PSC-2024-0109-PCO-EI
ISSUED: April 19, 2024

ORDER GRANTING INTERVENTION
FOR SIERRA CLUB

Duke Energy Florida, LLC (Duke or Utility) filed its Petition for Rate Increase, minimum filing requirements (MFRs), and testimony on April 2, 2024. Duke filed its MFRs based on projected test years from January 1 to December 31, 2025; January 1 to December 31, 2026; and January 1 to December 31, 2027. By Order No. PSC-2024-0092-PCO-EI, issued April 11, 2024, an administrative hearing has been scheduled for these matters for August 12 – 16, 2024. August 19 – 23, 2024, have also been reserved for the continuation and conclusion of this hearing, if necessary.

Petition for Intervention

On March 25, 2024, Sierra Club filed a Petition to Intervene (Petition) in this proceeding. According to its Petition, Sierra Club is a national grassroots environmental organization consisting of over 32,000 Floridian members, many of whom are within Duke's service territory. Sierra Club states that its members have an interest in mitigating the harms to public health and the environment caused by Duke's burning of fossil fuels to generate electricity, and the members who are Duke customers have an interest in affordable rates for electric service. Sierra Club regularly intervenes in similar dockets to protect its members from environmental pollution and unduly high and inequitable electricity rates. As such, Sierra Club contends that the substantial interests of its members will be directly affected by the Commission's decisions in this proceeding regarding Duke's retail electric rates. No party has filed an objection to Sierra Club's Petition and the time for doing so 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).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 and Ruling

With respect to the first prong of the associational standing test established in Florida Home Builders, Sierra Club asserts that its members include electric customers of Duke, many of which are low- and moderate-income ratepayers that are sensitive to increased and variable rates. With respect to the second prong, Sierra Club regularly intervenes in public service commission dockets to advocate for its members against unduly high and inequitable electricity rates; routinely advocates for utilities to utilize clean, renewable energy resources; and supports electrification measures such as electric vehicles. Therefore, the subject matter of this proceeding appears to be within Sierra Club's general scope of interest and activity. As for the third prong, Sierra Club is seeking intervention in this docket in order to represent the interests of its members in this rate proceeding. Based on the foregoing analysis, Sierra Club's standing in this docket has been established.

Sierra Club meets the three-prong associational standing test established in Florida Home Builders. Consequently, Sierra Club's petition for intervention shall be granted. Pursuant to Rule 28-106.205, F.A.C., Sierra Club takes the case as it finds it.

Based on the above representations, it is

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

ORDERED that Sierra Club takes the case as it finds it.

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).

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 19th day
of April, 2024.



Gabriella Passidomo
Commissioner 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.