

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.	DOCKET NO. 20240026-EI
In re: Petition for approval of 2023 depreciation and dismantlement study, by Tampa Electric Company.	DOCKET NO. 20230139-EI
In re: Petition to implement 2024 generation base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company.	DOCKET NO. 20230090-EI ORDER NO. PSC-2024-0124-PCO-EI ISSUED: April 23, 2024

ORDER GRANTING INTERVENTION
OF FLORIDA RETAIL FEDERATION

On April 2, 2024, Tampa Electric Company (“TECO”) filed a petition, minimum filing requirements, and testimony for an increase in base rates effective January 2025.

Petition for Intervention

Florida Retail Federation (“FRF”) filed a Motion to Intervene on April 3, 2024. Petitioner represents that it consulted with the parties and neither TECO nor the Office of Public Counsel object to its intervention.

FRF states it is an association of more than 8,000 members in Florida, many of whom are retail electric customers of TECO. FRF alleges that a substantial number of its members will be substantially affected by rates set in this proceeding. FRF maintains that it exists to represent its members’ interests in a number of venues, including before the Florida Public Service Commission (“Commission”) to address general rate cases. FRF asserts that its participation in this matter is appropriate to ensure the retail rates charged to its affected members are fair, just, reasonable, and the lowest possible, to the extent consistent with governing law. Finally, FRF notes that it was permitted to intervene and litigate in other cases where TECO sought rate changes.¹

¹ *In re: Petition for rate increase by Tampa Elec. Co.*, Docket No. 20210034-EI, Order No. PSC-2021-0195-PCO-EI (Fla. PSC June 3, 2021); *In re: Petition for rate increase by Tampa Elec. Co.*, Docket No. 20130040-EI, Order No. PSC-13-0162-PCO-EI (Fla. PSC Apr. 19, 2013); *In re: Petition for rate increase by Tampa Elec. Co.*, Docket No. 20080317-EI, Order No. PSC-08-0599-PCO-EI (Fla. PSC Sept. 16, 2008).

Standard 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, 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.

The test for associational standing was established in *Florida Home Builders Association v. Department of Labor and Employment Security*² and *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*,³ which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*.⁴ 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.⁵

Analysis & Ruling

Based on a review of the materials provided by FRF, it appears that FRF meets the three-prong associational standing test established in *Florida Home Builders*. With respect to the first prong, FRF demonstrates that a substantial number of its members will be substantially affected by the Commission's determination in this rate proceeding. Its members face the prospect of paying higher electricity base rates going forward. With respect to the second prong, the subject matter of this proceeding appears to be within FRF's general scope of interest and activity. FRF asserts that it exists to represent its members' interests in a number of venues, including before the Commission to address general rate cases. With respect to the third prong, the relief being requested by FRF appears to be of a type appropriate for this association to obtain on behalf of

² *Fla. Home Builders Ass'n v. Dep't of Labor & Emp't Sec.*, 412 So.2d 351 (Fla. 1982).

³ *Farmworker Rights Org., Inc. v. Dep't of Health & Rehab. Servs.*, 417 So.2d 753 (Fla. 1st DCA 1982).

⁴ *Agrico Chem. Co. v. Dep't of Env'tl. Regulation*, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981). Under *Agrico*, the individual intervenor must show that (1) they will suffer injury in fact which is of sufficient immediacy to entitle them to a Section 120.57, Florida Statutes ("F.S."), hearing, and (2) this 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. *Id.* at 482. The "injury in fact" must be both real and immediate and not speculative or conjectural. *Int'l Jai-Alai Players Ass'n v. Fla. Pari-Mutuel Comm'n*, 561 So.2d 1224, 1225-26 (Fla. 3d DCA 1990); *see also Vill. Park Mobile Home Ass'n, Inc. v. State Dep't of Bus. Regulation*, 506 So.2d 426, 434 (Fla. 1st DCA 1987), *rev. den.*, 513 So.2d 1063 (Fla. 1987) (noting speculation on the possible occurrence of injurious events was too remote).

⁵ *Fla. Home Builders Ass'n*, 412 So.2d at 353-54; *Farmworker Rights Org., Inc.*, 417 So.2d at 754.

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its members. FRF seeks to intervene in this docket to represent the interests of its members that the retail rates charged are fair, just, reasonable, and the lowest possible, to the extent consistent with governing law. Therefore, FRF meets the requirements for associational standing and will be permitted to intervene as a party in this proceeding.

Based on the foregoing, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Motion to Intervene by Florida Retail Federation is hereby granted as set forth in the body of this Order. It is further

ORDERED that Florida Retail Federation 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 Gary F. Clark, as Prehearing Officer, this 23rd day of April, 2024.



GARY F. CLARK
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.

CMM

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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. 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.