

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).

DOCKET NO. 20240012-EG

In re: Commission review of numeric conservation goals (Duke Energy Florida, LLC).

DOCKET NO. 20240013-EG

In re: Commission review of numeric conservation goals (Tampa Electric Company).

DOCKET NO. 20240014-EG
ORDER NO. PSC-2024-0132-PCO-EG
ISSUED: April 25, 2024

ORDER GRANTING INTERVENTION
FOR FLORIDA INDUSTRIAL POWER USERS GROUP

On January 5, 2024, Docket Nos. 20240012-EG, 20240013-EG, 20240014-EG, 20240015-EG, 20240016-EG, and 20240017-EG were established to review and adopt the corresponding utility's conservation goals pursuant to Sections 366.80-366.83 and 403.519, Florida Statutes. (F.S.), known collectively as the Florida Energy Efficiency and Conservation Act (FEECA). By the Order Consolidating Dockets and Establishing Procedure, Order No. PSC-2024-0022-PCO-EG, issued January 23, 2024, the dockets were consolidated for purposes of hearing and controlling dates were established. These dockets are currently scheduled for hearing on August 6-9, 2024.

Petition for Intervention

On April 5, 2024, Florida Industrial Power Users Group ("FIPUG") filed a Petition to Intervene in Docket Nos. 20240012-EG, 20240013-EG, and 20240014-EG. FIPUG states it is an ad hoc association of industrial users of electricity and, in many cases, natural gas in Florida. FIPUG has a number of members that receive electric service from Florida Power & Light Company (FPL), Duke Energy Florida (DEF), and Tampa Electric Company (TECO). FIPUG asserts that its members require adequate, reasonably-priced electricity in order to compete in their respective markets. FIPUG argues the Commission's decisions in these dockets will affect the substantial interests of customers of FPL, DEF, and TECO, including those customers that are FIPUG members. FIPUG argues that the subject matter is within FIPUG's general scope of interest and activity. FIPUG argues that the relief sought is appropriate for it to receive on behalf of its members. No party indicated an objection to FIPUG's intervention.

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, pursuant to Florida Public Service Commission (“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*¹ and *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*,² which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*.³ 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.⁴

Analysis and Ruling

Based on the above representations, it appears that FIPUG meets the associational standing requirements of *Florida Home Builders*. FIPUG asserts that a substantial number of its members will be substantially affected by the Commission’s approval, modification, or rejection of FPL’s, DEF’s, and TECO’s conservation goals under FEECA in these dockets. The implementation of the utilities’ conservation goals, as approved or modified by us, could result in future adjustment of rates. The subject matter of these dockets are within the general scope of FIPUG’s interest and activity. The relief sought is of the type that is appropriate for FIPUG to receive on behalf of its members, because the outcome of the proceeding will have implications for FIPUG members that are FPL, DEF, and TECO customers. FIPUG meets the requirements

¹ *Fla. Home Builders Ass’n v. Dep’t of Labor & Emp’t Sec.*, 412 So.2d 351 (Fla. 1982).

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

³ *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).

⁴ *Fla. Home Builders Ass’n*, 412 So.2d at 353–54; *Farmworker Rights Org., Inc.*, 417 So.2d at 754.

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for associational standing and will be permitted to intervene in Docket Nos. 20240012-EG, 20240013-EG, and 20240014-EG as a party in this proceeding. FIPUG takes the case as it finds it.

Based on the above representations, it is

ORDERED by Commissioner Arthur Graham, 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:

Jon C. Moyle, Jr.
Karen A. Putnal
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone: (850) 681-3828
Facsimile: (850) 681-8788
jmoyle@moylelaw.com
kputnal@moylelaw.com

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 25th day of April,
2024.



ART GRAHAM
Commissioner 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.

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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, 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.