

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20240025-EI
ORDER NO. PSC-2024-0185-PCO-EI
ISSUED: June 4, 2024

ORDER GRANTING PETITION TO INTERVENE
BY EVGO SERVICES, LLC

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

By Petition dated May 14, 2024, EVgo Services, LLC (EVgo) requested permission to intervene in this proceeding. EVgo states that it is a leading public fast charger provider across the country. EVgo represents that over 70 of its approximately 1,000 fast charging stations are in Florida. EVgo states that it is an electric customer of Duke, taking service under the Utility's General Service Rates. EVgo further avers that it may participate or seek to participate in several of Duke's proposed electric vehicle (EV) programs.

No responses in support of or opposition to the Petition have been filed, 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 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, F.S., 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).

EVgo asserts that its substantial interests “include its interests [1] as a commercial customer of DEF, its interest [2] as an electric vehicle service provider (EVSP) operating and expanding its charging network in DEF’s service territory, and its interests [3] as a potential participant in DEF’s EV charging programs.”

Analysis & Ruling

EVgo alleges that it is an energy customer of the Utility, and that its substantial interests as a ratepayer will or may be affected by Duke’s request for a rate increase. Duke raised no objection to the Petition. Accordingly, the Petition shall be granted.

EVgo forwards additional arguments in support of its request to intervene. However, the determination in this Order that the Petition shall be granted is based solely upon the allegations that EVgo is a Duke ratepayer. Intervention is not being granted based upon the allegations that EVgo may expand its charging network and is a “potential participant” in Duke’s EV charging programs. These claims do not meet the second prong of *Agrico*, as they are based on speculation regarding possible future actions. Additionally, these arguments raised issues that are beyond the scope of a base rate proceeding.¹ The impact of EV charger programs on base rates and Duke ratepayers may or may not present appropriate issues for consideration in this docket. If necessary, this determination will be made by the Prehearing Officer in the Prehearing Order.

Based on the above representations, it is

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

ORDERED that EVgo Services, LLC, takes the case as it finds it. It is further

¹ Order No. PSC-2021-01510PCO-EI, issued April 22, 2021, in Docket No. 20210016-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general based rate increases, by Duke Energy Florida, LLC*. (“broad economic competition-based arguments for standing also do not satisfy the second prong of the *Agrico* test, because the injury . . . is not of a type or nature that this proceeding is designed to protect”).

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 4th day
of June, 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.