

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power
cost recovery clause with
generating performance incentive
factor.

DOCKET NO. 030001-EI
ORDER NO. PSC-03-1199-PCO-EI
ISSUED: October 22, 2003

ORDER DENYING INTERVENTION

BY THE COMMISSION:

By Petition filed October 2, 2003, Southern Alliance for Clean Energy (SACE), requests leave to intervene in this proceeding. In support of its Petition, SACE states that it is a nonprofit Tennessee corporation that has members who reside in the State of Florida. SACE further states that its purposes include the performance of educational research and programs concerning the environment, public health, and economic impacts of energy use and policy in the Southeast. SACE asserts that its purposes also include advocacy for energy plans, policies and systems that best serve the environmental, public health and economic interests of the communities in the Southeast. According to SACE, its substantial interests may be affected by the manner in which issues regarding the shutdown of Tampa Electric Company's Gannon Station units are resolved. SACE argues that its intervention as a party to this proceeding will ensure that its due process rights are protected. No response in opposition to the Petition has been filed.

Upon review, I find SACE's Petition does not adequately allege an injury in fact that is of sufficient immediacy to entitle it to a Section 120.57, Florida Statutes, hearing or allege injury to the type of interests that this proceeding is designed to protect, as required by the threshold requirements for standing set by Agrico Chem. Co. v. Dept of Env'tl. Reg., 406 So. 2d 478 (Fla. 2nd DCA 1981). While SACE raises important environmental concerns, the purpose of this proceeding is to determine the amounts to be recovered by utilities for their fuel and purchased power costs rather than to address environmental concerns. Further, SACE would not suffer an injury of sufficient immediacy as the possibility of Tampa Electric's Gannon Station coal units being restarted as a result of our cost recovery decision is speculative. As SACE has

DOCUMENT NUMBER - DATE

10424 OCT 22 8

FPSC-COMMISSION CLERK

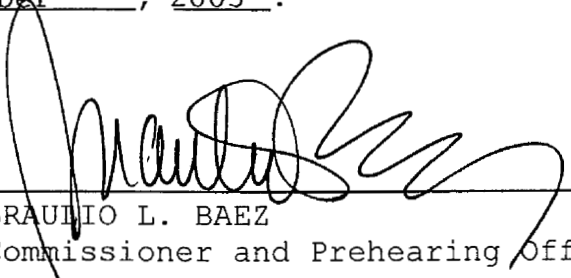
ORDER NO. PSC-03-1199-PCO-EI
DOCKET NO. 030001-EI
PAGE 2

not alleged that a substantial number of its members have suffered an immediate injury in fact which would entitle it to a hearing, SACE's Petition for Intervention is denied.

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as prehearing officer, that the Petition to Intervene, filed by Southern Alliance for Clean Energy, is hereby denied.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 22nd day of October, 2003.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

JAR

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.

ORDER NO. PSC-03-1199-PCO-EI

DOCKET NO. 030001-EI

PAGE 3

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 Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, 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.