

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida
Power & Light Company.

DOCKET NO. 120015-EI
ORDER NO. PSC-12-0399-PCO-EI
ISSUED: August 3, 2012

ORDER GRANTING PETITION TO INTERVENE

Background

On January 17, 2012, Florida Power & Light Company (FPL) filed a test year letter, as required by Rule 25-6.140, Florida Administrative Code (F.A.C.), notifying this Commission of its intent to file a petition in the Spring of 2012 for an increase in rates effective January, 2013. Pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), and Rules 25-6.0425 and 25-6.043, F.A.C., FPL filed the petition for an increase in rates on March 19, 2012. The hearing is scheduled to commence on August 20, 2012.

Petition to Intervene

On July 30, 2012, Mr. Glen Gibellina filed a Petition to Intervene (Petition) in this docket in his individual capacity as a customer of FPL. Mr. Gibellina asserts that he is a residential customer of FPL, and he also operates a residential condominium as a seasonal rental property which is in FPL's territory. He states that the FPL electric bill at the condominium property has a direct effect on the rental rate he can charge at the property and when the property is vacant he pays the FPL bill. Mr. Gibellina asserts that the cost of electricity is a significant expense for him, and therefore his interests are directly affected by FPL's rates. No party has filed an objection to the Petition, and the time for doing so has expired.

Standard for Intervention

Pursuant to Rule 25-22.039, 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 petition for leave to intervene. Petitions for leave to intervene must be filed at least five days before the evidentiary hearing, conform with Rule 28-106.201(2), F.A.C., and 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 by 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 which is of sufficient immediacy to entitle him to a Section 120.57 hearing, and (2) this substantial injury is

DOCUMENT NUMBER-DATE

05292 AUG-3 12

FPSC-COMMISSION CLERK

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. 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).

Analysis & Ruling

It appears that Mr. Gibellina meets the two-prong standing test set forth in Agrico, in that he is a customer of FPL whose interests may be substantially affected by this proceeding. Therefore, the Petition shall be granted. Pursuant to Rule 25-22.039, F.A.C., Mr. Gibellina takes the case as he finds it.

Based on the foregoing, it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that the Petition to Intervene filed by Mr. Glen Gibellina is hereby granted as set forth in the body of this Order. It is further

ORDERED that Mr. Gibellina takes the case as he 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:

Mr. Glen Gibellina
7106 28th Street East
Sarasota, Florida 34243
Telephone: (941) 296-5489
Email: glenfede@yahoo.com

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 3rd day of August, 2012.



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.

KY

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.