

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for  
Citrus County combined cycle power plant, by  
Duke Energy Florida, Inc.

DOCKET NO. 140110-EI  
ORDER NO. PSC-14-0435-PCO-EI  
ISSUED: August 20, 2014

ORDER GRANTING INTERVENTION

On May 27, 2014, Duke Energy Florida, Inc. (DEF or Company) filed a Petition and supporting testimony to determine the need for a Citrus County combined cycle power plant (Docket No. 140110) and another Petition for determination of cost effective generation alternatives to meet need prior to 2018 (Docket No. 140111), pursuant to Sections 366.04 and 403.519, Florida Statutes (F.S.), and Rules 25-22.080, 25-22.081, 25-22.082 and 28-106.201, Florida Administrative Code (F.A.C.). On May 29, 2014, the Commission issued a Notice of Commencement of Proceedings pursuant to Rule 25-22.080(3), F.A.C.

The Office of Public Counsel, the Florida Industrial Power Users Group, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate, Calpine Construction Finance Company, L.P., and NRG Florida, LP, have each been granted intervention in both dockets. EFS Shady Hills LLC., has been granted intervention in Docket No. 140110-EI.

A Prehearing Conference was held on August 13, 2014. Both matters are scheduled for a formal administrative hearing beginning on August 26, 2014. The hearings will be conducted simultaneously.

Petition for Intervention

By petition, dated August 13, 2014, the Southern Alliance for Clean Energy (SACE) has requested permission to intervene in this proceeding. SACE states that it has staff in Florida working to advance energy plans and policies that best serve the environmental, public health and economic interests of communities in Florida. In addition, there are 235 SACE members residing in Florida and dedicated to promoting responsible energy choices that achieve clean, safe and healthy communities. A substantial number of SACE's Florida members (38 members) reside in the service territory of Duke Energy Florida, Inc.

SACE is a non-profit corporation organized under the laws of the state of Tennessee and authorized to conduct operations in the State of Florida. The mission of SACE, as reflected in its bylaws, is to advocate for energy plans, policies and systems that best serve the environmental, public health and economic interest of communities in the Southeast, including Florida. SACE's stated mission is to promote responsible energy choices that create climate change solutions and ensure clean, safe and healthy communities throughout the Southeast.

SACE and its members advocate for low cost, low risk resources to meet electricity demand, which includes increased energy efficiency implementation and meaningful solar development. This advocacy ensures that, pursuant to SACE's bylaws, resource decisions will be realized that best serve the environmental, public health and economic interest of SACE members. According to SACE, the Commission will issue an order that sets forth approval, in whole or in part, or denial, of DEF's petition regarding the need for the proposed new 1,640 MW natural gas combined cycle plant, expected to cost over \$1.5 billion, to meet DEF's projected customer electricity demand. SACE contends that the burden of proof rests with DEF to show that it has met its statutory obligation to appropriately analyze and value roles that energy efficiency and renewable energy technologies can play in deferring or displacing the need for the proposed power plant. SACE members, who are DEF customers, will bear the cost of the Commission's decision in this docket. Moreover, the Commission's decisions will necessarily affect resource decisions now and in the future for SACE members in DEF's service territory.

No party has filed a response in opposition to this request.

#### Standard for Intervention as an Association

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, must conform with Rule 28-106.201(2), 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 by the proceeding. Intervenors take the case as they find it.

To have associational standing, the intervenor must satisfy the test for associational standing set forth in Florida Home Builders v. Dept. of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982), and extended to Section 120.57(1), F.S., hearings by Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1st DCA 1982). 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. Florida Home Builders at 353.

#### Analysis & Ruling

It appears that SACE satisfies the three-prong associational standing test established in Florida Home Builders. With respect to the first prong of the Florida Home Builders associational standing test, SACE, on behalf of its affected members, asserts that many of its members will be directly affected by the Commission's decisions concerning DEF's petition. SACE contends that its members will be directly affected by the Commission's decisions in this

proceeding due to the pecuniary impact on its Florida members. With respect to the second prong of the associational standing test, the subject matter of the proceeding is clearly within the SACE's general scope of interest and activity because SACE represents its members and their environmental and conservation concerns particularly with regard to the type of fuels and processes used to generate electricity. As for the third prong of the associational standing test, SACE is seeking intervention in this docket in order to represent the interests of its members in this proceeding. Based on the foregoing analysis, SACE's standing in this proceeding has been established. Pursuant to Rule 25-22.039, F.A.C., SACE takes the case as it finds it.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition to Intervene filed by SACE is hereby granted. 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:

George Cavros, Esq.  
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(954) 295-5714 (tel)  
(866) 924-2824 (fax)

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 20th day of August, 2014.



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RONALD A. BRISÉ  
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.

MTL

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.