

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 150009-EI
ORDER NO. PSC-15-0108-PCO-EI
ISSUED: February 17, 2015

ORDER GRANTING INTERVENTION

As part of the Commission's continuing nuclear cost recovery clause proceedings, this docket was opened. A hearing has been set for August 18-20, 2015, in this docket. The Prehearing Conference is set for July 21, 2015, at which time the issues and positions of the parties will be finalized as more specifically set out in the Order Establishing Procedure, Order No. PSC-15-0082-PCO-EI, issued January 30, 2015, in this docket.

Petition for Intervention

By petition dated January 21, 2015, The City of Miami (City) has requested permission to intervene in this proceeding. The City states that it is a municipal government, and both itself and the 400,000 residents that reside within the city are rate-paying customers of electricity within the service territory of Florida Power & Light Company (FPL). The city argues that the Commission's decision whether to approve FPL's cost recovery request will substantially and directly increase the rates charged to the City and its residents. Further, the City raised two issues of disputed fact that it believes are relevant to these proceedings.¹

Florida Power & Light Company's Response to the Petition

On January 28, 2015, FPL filed a response to the City's petition. FPL does not oppose the City's intervention, but believes that the City's participation should be limited to those issues which are within the scope of the Nuclear or Integrated Gasification Combined Cycle Power Plant Recovery Rule, Rule 25-6.0423, Florida Administrative Code (F.A.C.), and Section 366.93, Florida Statutes (F.S.). FPL also argues that the City's participation should be limited to representation of its own interest as an FPL customer, and not those of its residents. FPL argues that the City has not demonstrated any Florida Constitutional, statutory, or other legal authority to represent the interests of its residents in this proceeding.

Standards 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 (5) days before the final 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

¹ The City's issues are whether FPL is entitled to the cost recovery it requests, and whether the Turkey Point Unit 6 & 7 project continues to be feasible or cost effective for ratepayers.

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. 2nd DCA 1981). The intervenor must show (1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) that 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. 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. 3rd 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 the City meets the two-prong test set forth in Agrico, 406 So. 2d at 482. The City of Miami is a rate-paying consumer of FPL, and if approved, FPL's cost recovery costs will directly impact the City. Within its petition, the City raised two issues of disputed fact that it asserts should be considered in this proceeding. Issue development is an ongoing process. While issues should be germane to this proceeding, disagreement as to the particular wording or inclusion of issues will ultimately be resolved at the Prehearing Conference.

Having reviewed the Petition For Leave to Intervene, it appears that the City's substantial interests as a rate-paying customer of FPL may be affected by this proceeding. Therefore, the City of Miami's Petition For Leave to Intervene shall be granted, and the City shall have leave to participate as a customer of FPL. Pursuant to Rule 25-22.039, F.A.C., the City takes the case as it finds it.

Based on the foregoing, it is

ORDERED by Chairman Art Graham, as Prehearing Officer, that the City of Miami's Petition for Leave to Intervene 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:

The City of Miami
444 SW 2nd Ave
Miami, FL 33130
Phone: (305) 416-1800
Primary e-mail: vmendez@miamigov.com
Primary e-mail: mshaber@miamigov.com
Secondary e-mail: yillescas@miamigov.com

By ORDER of Chairman Art Graham, as Prehearing Officer, this 17th day of
February, 2015.



ART GRAHAM
Chairman and Prehearing Officer
Florida Public Service Commission
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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.

KRM

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.