

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval to)
Include in Base Rates the Revenue) DOCKET NO. 150148-EI
Requirement for the CR3 Regulatory)
Asset, by Duke Energy Florida, Inc.)
)
In Re: Petition for Issuance of)
Nuclear Asset-Recovery Financing) DOCKET NO. 150171-EI
Order, by Duke Energy Florida, Inc.)
d/b/a Duke Energy) FILED: SEPTEMBER 14, 2015
_____)

PETITION TO INTERVENE OF THE FLORIDA RETAIL FEDERATION

The Florida Retail Federation ("FRF"), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code ("F.A.C."), and Commission Order No. PSC-15-0327-PCO-EI, hereby petitions to intervene in the above-styled dockets. In summary, the FRF is an established association with more than 8,000 members in Florida, many of whom are retail customers of Duke Energy Florida, Inc. ("DEF" or "Duke"). The FRF has participated actively in the predecessor dockets relating to Duke Energy's Crystal River 3 nuclear unit, and the FRF is entitled to intervene as prayed herein.

The FRF respectfully petitions for intervention to protect its members' interests in having the Commission take all appropriate actions to protect its members' interests, and the interests of all of DEF's customers, in these dockets. The

¹ All references herein to the Florida Statutes are to the 2014 edition thereof.

Commission's actions herein will determine the substantial interests of the many members of the FRF who are DEF customers by determining their costs for electric service for many years to come, and accordingly, the FRF is entitled to intervene to protect its members' substantial interests. In further support of its Petition to Intervene, the Florida Retail Federation states as follows.

1. The name, address, and telephone number of the Petitioner are as follows:

Florida Retail Federation
227 South Adams Street
Tallahassee, Florida 32301
Telephone (850) 222-4082
Telecopier (850) 226-4082.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Bush, Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
Facsimile (850) 385-5416.

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

Statement of the FRF's and Its Members' Affected Interests

4. The Florida Retail Federation is an association, established in 1937, with more than 8,000 members in Florida.

Many of the FRF's members are retail electric customers of Duke Energy Florida; these members purchase electricity from DEF pursuant to several different DEF rate schedules. The FRF's members require adequate, reasonably priced electricity in order to conduct their businesses consistently with the needs of their customers and ownership.

5. In these dockets, the Commission will review Duke's proposal to recover the value of the Crystal River Unit 3 ("CR3") Regulatory Asset in base rates, as governed by the 2013 Revised and Restated Stipulation and Settlement Agreement ("RRSSA"), to which the FRF is a signatory, and will determine whether Duke has complied with the terms of the 2013 RRSSA and whether to issue a nuclear asset-recovery financing order pursuant to Section 366.95(2)(c)1.b, Florida Statutes. As a participant in the earlier dockets relating to Crystal River 3, the FRF has also been actively involved in the discussions that led to the stipulation regarding the Regulatory Asset issues that was filed on August 31, 2015. The FRF is, in fact, a signatory to the August 31 stipulation.

The Florida Retail Federation's Standing

6. The FRF's substantial interests are of sufficient immediacy to entitle it to participate in the proceedings and are the type of interests that the proceedings are designed to protect. To participate as a party in these proceedings, an

intervenor must demonstrate that its substantial interests will be affected by the proceedings. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceedings are designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the FRF is the representative of a large number of its more than 8,000 members who are retail electric customers of DEF, and these members' substantial interests will be directly affected by the Commission's decisions regarding cost recovery pursuant to the RRSSA and also regarding the rates to be charged if the Commission issues a nuclear asset-recovery financing order. These decisions will affect the rates of DEF's customers, including the FRF's members, for years to come. Thus, the interests that the FRF seeks to protect are of sufficient immediacy to warrant intervention, and its members' interests are exactly the interests that these proceedings are designed to protect.

7. Associational Standing. Under Florida law, to establish standing as an association representing its members' substantial interests, an association such as the Florida Retail Federation must demonstrate three things:

- a. that a substantial number of its members, although not

necessarily a majority, are substantially affected by the agency's decisions;

b. that the intervention by the association is within the association's general scope of interest and activity; and

c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). The FRF satisfies all of these "associational standing" requirements. A substantial number of the FRF's more than 8,000 members are located in DEF's service area and receive their electric service from DEF, for which they are charged DEF's applicable retail rates. The FRF exists to represent its members' interests in a number of venues, including the Florida Public Service Commission. The FRF was a party in the earlier dockets relating to the Crystal River 3 nuclear unit (including Docket No. 100437-EI, Docket No. 120022-EI and Docket No. 130208-EI) and a signatory to the RRSSA. Finally, the relief requested - intervention and the approval of fair, just, and reasonable rates - is across-the-board relief that will apply to all of the FRF's members in the same way. Therefore, the requested relief is of the type that is appropriate for the FRF to obtain on behalf of its members.

Issues of Material Fact

8. The issues of material fact to be decided in Docket No. 150148-EI are those set forth in the proposed stipulation filed by Duke on August 31, 2015 and signed by all parties, including the FRF. The issues to be decided in Docket No. 150171-EI are still in the process of being developed by the parties.

Ultimate Facts Alleged and Basis for Relief

9. With respect to the FRF's standing to intervene in these dockets, the relevant ultimate fact is that a substantial number of the FRF's more than 8,000 members are DEF's retail customers, and accordingly, their substantial interests will be determined by the Commission's decisions in these proceedings. Accordingly, as the representative association of its members who are DEF customers, the FRF is entitled to intervene herein.

Statutes and Rules That Entitle the Florida Retail Federation to the Relief Requested

10. The applicable statutes and rules that entitle the FRF to relief include, but are not limited to, Sections 120.569, 120.57(2)&(4), 366.04(1), 366.05(1), 366.06(1)&(2), 366.07, and 366.076, Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

CONCLUSION

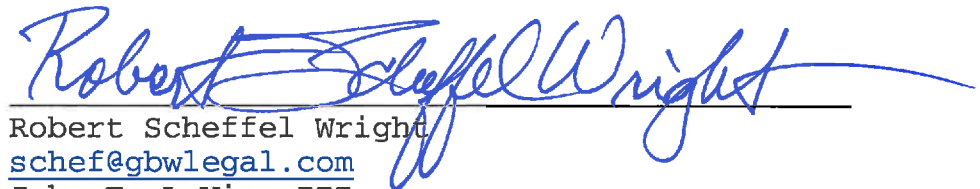
The FRF is an established association that, consistent with its purposes and history of intervening in Commission proceedings to protect its members' interests, seeks to intervene in these

dockets to protect its members' substantial interests under the RRSSA and in connection with the Commission's consideration of Duke's petition for a nuclear asset-recovery financing order. The interests of the FRF's members that the FRF seeks to protect via its intervention and participation in these proceedings are immediate and of the type to be protected by the proceedings, and accordingly, the FRF is entitled to intervene.

RELIEF REQUESTED

WHEREFORE, the Florida Retail Federation respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene and requiring that all parties to these proceedings serve copies of all pleadings, notices, and other documents on the FRF's representatives indicated in paragraph 2 above.

Respectfully submitted this 14th day of September 2015.



Robert Scheffel Wright
schef@gbwlegal.com
John T. LaVia, III
jlavia@gbwlegal.com
Gardner, Bist, Bowden, Bush, Dee,
LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
Facsimile (850) 385-5416

Attorneys for the Florida Retail Federation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery this 14th day of September, 2015, to the following:

Kelley Corbari/Keino Young
Michael Lawson/Lee Eng Tan
Fla. Public Service Commission
Office of the General Counsel
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

J.R. Kelly & Charles Rehwinkel
Erik Sayler
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399

Matthew Bernier
Duke Energy Florida, Inc.
106 East College Avenue
Suite 800
Tallahassee, FL 32301

Dianne M. Triplett
John Burnett
Duke Energy Florida, LLC
P.O. Box 14042
St. Petersburg, Florida 33733

James Brew
Stone Matheis Xenopoulos & Brew
1025 Thomas Jefferson St, NW
West Tower, Eighth Floor
Washington DC 20007

Vicki Gordon Kaufman
Jon C. Moyle, Jr.
Keefe, Anchors, Gordon & Moyle
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

Jon C. Moyle, Jr.
Moyle Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
jmoyle@moylelaw.com


Attorney