



Dianne M. Triplett  
Deputy General Counsel  
Duke Energy Florida, LLC

October 19, 2017

**VIA ELECTRONIC FILING**

Ms. Carlotta Stauffer, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: *Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC; Docket No. 20170183-EI*

Dear Ms. Stauffer:

On behalf of Duke Energy Florida, LLC ("DEF"), please find enclosed for electronic filing in the above referenced docket, DEF's Response in Opposition to the Petition to Intervene of ChargePoint, Inc.

Thank you for your assistance in this matter. Please feel free to call me at (727) 820-4692 should you have any questions concerning this filing.

Respectfully,

*s/Dianne M. Triplett*

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Dianne M. Triplett

DMT/mw  
Enclosure

**Duke Energy Florida, LLC**  
Docket No.: 20170183-EI  
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail to the following this 19<sup>th</sup> day of October, 2017.

*s/Dianne M. Triplett*

Attorney

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for limited proceeding to approve  
2017 Second Revised and Restated Settlement  
Agreement, including certain Rate Adjustments, by  
Duke Energy Florida, LLC

Docket No. 20170183-EI

Filed: October 19, 2017

**DUKE ENERGY FLORIDA'S RESPONSE IN OPPOSITION TO  
THE PETITION TO INTERVENE OF CHARGEPOINT, INC.**

Duke Energy Florida, LLC ("DEF"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby files its response in opposition to the Petition to Intervene of ChargePoint, Inc. (the "Petition"). ChargePoint does not have standing to intervene in this proceeding because economic interests of the sort asserted in its Petition are not the type of injury recognized as providing a basis for standing under this Commission's precedent. In support, DEF states as follows:

1. On October 18, 2017, ChargePoint filed its Petition to Intervene in Docket No. 20170183-EI, which was opened on August 29, 2017, to address the 2017 Second Revised and Restated Stipulation and Settlement Agreement ("2017 Settlement") between DEF, the Office of Public Counsel ("OPC"), the Florida Industrial Power Users Group ("FIPUG"), the Florida Retail Federation ("FRF"), White Springs Agriculture Chemicals, Inc. d/b/a PCS Phosphate ("White Springs"), and the Southern Alliance for Clean Energy ("SACE") (hereinafter collectively the "Parties").

2. In Paragraph 4 of the Petition, ChargePoint alleges that it is the nation's largest electric vehicle charging network with more than 41,000 independently-owned and operated

charging spots, 1,021 of which are located in Florida, including an unspecified number in DEF's service territory.

3. The Petition alleges that ChargePoint has a "direct and substantial interest in the manner in which the market for electric vehicle charging infrastructure develops in Florida." Petition at ¶ 9. Further, the Petition asserts that the Electric Vehicle Charging Station Pilot Program ("EV Pilot") created by paragraph 17 of the 2017 Settlement "poses direct harm to the value of ChargePoint's services and network if it is implemented in a way that supplants the fundamental characteristic of the free market[.]" *See id.* at ¶ 10.

4. The Petition does not satisfy either prong of the two-pronged test for standing to intervene set forth in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981) ("Before one can be considered to have a substantial interest in the outcome of the proceeding [a potential intervenor] must show 1) that he will suffer injury in fact of sufficient immediacy to entitle him to a section 120.57 hearing, and 2) that his injury is of a type or nature which the proceeding is designed to protect."). Accordingly, the Petition must be denied.

5. To satisfy the "Injury in Fact" requirement, the asserted injury cannot be remote, speculative, abstract or indirect. *See Int'l Jai-Alai Players Ass'n v. Fla. Pari-Mutuel Comm'n*, 561 So. 2d 1224 (Fla. 3d DCA 1990); *Village Park Mobile Home Ass'n v. State, Dep't of Bus. Regulation*, 506 So. 2d 426 (Fla. 1st DCA 1987). "Further, an indirect effect on economic competition does not meet the 'immediacy' test." Order No. PSC-02-0324-PCO-EI (citing *Fla. Soc. of Ophthalmology v. State, Bd. of Optometry*, 532 So. 2d 1279, 1285 (Fla. 1st DCA 1988)).

6. ChargePoint's asserted interests in the development of the EV charging market in Florida and the value of its facilities are economic interests that are too remote and speculative to

confer standing to participate in this proceeding. *See* Order No. PSC-14-0329-PCO-EU (finding a solar trade association’s alleged impact to its commercial and economic interests too speculative and indirect to confer standing); *see also Fla. Soc. of Ophthalmology; Int’l Jai-Alai Players Ass’n; Village Park*. For this reason alone, the Petition should be denied.

7. The Petition also fails to satisfy the second prong of the *Agrico* test. This limited proceeding to consider the 2017 Settlement is not a proceeding designed to protect ChargePoint’s economic interests in the development of the EV charging market or the value of its facilities. Indeed, the Petition only gives passing mention to the second prong, asserting “this type of proceeding . . . is precisely the type of proceeding that provides a procedural failsafe to give interested persons one last opportunity to be heard.” Petition at ¶ 14. DEF agrees that interested persons should have an opportunity to be heard at the hearing in this docket and notes that the Commission has provided notice that public comments will be allowed. However, the mere desire to be heard on an issue that interests a putative intervener does not confer standing to intervene and “exercise all other rights afforded to parties in this proceeding” as claimed by ChargePoint. DEF’s petition for review and approval of the 2017 Settlement was filed under Section 366.076, Fla. Stat., and nothing in that statute evidences a legislative intent to protect the type of interests asserted in the Petition. *See* Order No. PSC-99-0535-FOF-EM (“Although one need not have his rights determined to become a party to a licensing proceeding, party status will be accorded only to those persons who will suffer an injury to their substantial interests in a manner sought to be prevented by the statutory scheme.”) (quoting *Fla. Soc. of Ophthalmology*, 532 So. 2d at 1284). Therefore, the Petition should be denied.

**WHEREFORE**, DEF respectfully requests that the Commission deny ChargePoint's petition to intervene for lack of standing. ChargePoint fails, on the face of its petition, to meet either prong of the *Agrico* standing test.

Respectfully submitted,

*s/Dianne M. Triplett*

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**Duke Energy Florida, LLC**  
Docket No.: 20170183-EI  
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail to the following this 19<sup>th</sup> day of October, 2017.

*s/Dianne M. Triplett*

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Attorney

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