

EXHIBIT NO. 103

DOCKET NO: 170001-EI

WITNESS:

PARTY:

BRIEF TITLE OR DESCRIPTION OF THE DOCUMENT:

**Innovative Solar Systems, LLC's Petition to Intervene and Motion For Reconsideration of Order Denying Sierra Club's Petition to Intervene and Protest Proposed Agency Action**

PROFFERED BY: FIPUG

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption under Rule 25-22.082(18), F.A.C., from issuing a request for proposals (RFPs) for modernization of the Lauderdale Plant, by Florida Power & Light Company.

DOCKET NO. 20170122-EI

DATE: October 2, 2017

INNOVATIVE SOLAR SYSTEMS, LLC'S PETITION TO INTERVENE AND MOTION FOR RECONSIDERATION OF ORDER DENYING SIERRA CLUB'S PETITION TO INTERVENE AND PROTEST PROPOSED AGENCY ACTION

Pursuant to Section 120.569, Florida Statutes ("F.S."), and Rules 25-22.029, 25-22.0376, 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code ("F.A.C."), Innovative Solar Systems, LLC ("ISS") hereby petitions to intervene in Docket No. 20170122-EI and seeks reconsideration of Order No. PSC-2017-0358-PCO-EI, issued on September 20, 2017 (the "PCO Order"), denying Sierra Club's Petition to Intervene and Protest Proposed Agency Action Order No. PSC-2017-0287-PAA-EI (the "PAA Order"). In the PAA Order, the Florida Public Service Commission (the "Commission") proposed granting Florida Power & Light Company ("FPL") an exemption from the commonsense competitive bidding requirements under Rule 25-22.082, F.A.C., (the "Bid Rule"), with which FPL otherwise must comply before proceeding with its proposed gas-burning generation project in Dania Beach, Florida (the "Project"). Sierra Club's Petition was denied, in part, based on a failure to demonstrate that their interests would be substantially affected by the Commission's decision, as they are not a potential generation supplier or potential Request for Proposal ("RFP") participant. ISS is in fact, a generation supplier and a potential RFP participant, and its interests would be substantially affected by the Commission's decision. In support of this Petition and Motion, ISS states as follows:

Affected Agency

1. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399.

Petitioner's Information

2. Petitioner is Innovative Solar Systems, LLC with the following headquarters:

Candice N. Carr  
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[Candice.Carr@innovativesolarsystemsllc.com](mailto:Candice.Carr@innovativesolarsystemsllc.com)

3. Copies of all notice, pleadings, orders, and other communications in this docket should be provided to:

Candice N. Carr, Esq.  
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1095 Hendersonville Road  
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Phone: 828-424-7884  
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Notice of Receipt of Action

4. Petitioner obtained a copy of the PCO Order from the Commission's website on September 20, 2017.

Background

5. Rule 25-22.082, F.A.C. (the "Bid Rule"), requires a public utility to "evaluate supply-side alternatives to its next planned generating unit by issuing a Request for Proposals (RFP)." The Commission can waive this requirement only where a utility carries the burden

of showing that its proposal will: (1) “likely result in a lower cost supply of electricity”; (2) “increase the reliable supply of electricity”; (3) “or otherwise serve the public welfare.” R. 25-22.082(18), F.A.C.

6. On May 22, 2017, FPL petitioned the Commission for an exemption from issuing an RFP for the Project.

7. On July 11, 2017, Sierra Club filed comments urging the Commission to deny FPL’s petition because the Project does not meet any of the exemption criteria under the Bid Rule, and because granting the petition would contravene the Commission’s statutory duties under Section 403.519, F.S.

8. The Commission issued the PAA Order on July 24, 2017, thereby proposing to exempt the Project from the Bid Rule’s requirements.

9. On August 14, 2017, Sierra Club filed a Petition to Intervene and Protest Proposed Agency Action Order No. PSC-2017-0287-PAA-EI, asserting that the proposed exemption would not comport with applicable legal requirements and would impede the Commission’s ability to evaluate potential money-saving alternatives to the Project.

10. On September 29, 2017, the Commission issued the PCO Order denying Sierra Club’s Petition.

#### Discussion and Argument

11. ISS is a nationwide utility-scale solar farm developer having designed, developed, and sold 2.7GW of solar projects to date, with an additional 14GW currently under development.

12. In the PCO Order, the Commission stated that part of Sierra Club’s argument was based on the assumption that a potential generation supplier would respond to an RFP. ISS is a potential generation supplier who currently has three utility-scale solar farms under development

in Florida and would submit these three projects in an RFP issued by FPL. This fact alone satisfies the requirements for standing as outlined in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981) *rehearing denied*, 415 So.2d 1359 (Fla. 1982).

13. As stated in Sierra Club's Petition, FPL has not conducted any RFP for renewables since 2008. In order for a solar farm to be fully developed and inject clean, renewable energy into the grid, there needs to be an offtaker to purchase the energy produced via a power purchase agreement ("PPA"). Any efforts by ISS to discuss a direct PPA with FPL have been unsuccessful and in fact, FPL has indicated that they have no interest in signing a solar PPA with ISS. ISS meets the *Agrico* test because a mandatory RFP is the only avenue by which FPL would be required to consider more cost-effective, clean alternatives to the Project and ISS would suffer injury if it was prevented from offering these projects to FPL for consideration, which is the type of injury this Docket is designed to prevent.

14. By allowing FPL to escape the requirements of the Bid Rule, the Commission is effectively giving FPL permission to continue to ignore clean, renewable, more cost-effective alternatives. Further, the Commission is thwarting the development of renewables in Florida by eliminating the opportunity for renewable energy developers, such as ISS, to enter the market and propose viable projects through an RFP.

15. FPL is attempting to offer the Project under the guise of a "modernization" of an existing plant when, in fact, FPL is seeking to completely replace an existing natural gas-fueled plant with a new, larger natural gas-fueled plant. In their original Petition, FPL alleges that the "modernization" will result in cleaner, more reliable energy, customer savings of approximately \$356-400 million, provide public welfare benefits by improving air quality, and that conducting

an RFP would not result in the identification of any more economical and reliable alternatives. Simply put, this is false statement. If given the opportunity, ISS can provide evidence that solar is cleaner than natural-gas, that it produces zero greenhouse gases, which drastically improves air quality, and that the development and maintenance of solar plants is significantly less costly than that of non-renewable, dirty resources, resulting in a huge savings and other important benefits to FPL and its customers. Further, solar is more reliable and stable than natural gas because the energy from the sun is free and not dependent on volatile market prices. ISS' interests are substantially affected, and it will suffer an injury in fact as a result of the Commission granting FPL the exemption from the Bid Rule.

#### Notice of Conferral

16. Pursuant to Rule 28-106.204(c) F.A.C., on September 29, 2017 at 12:40pm EST via email, ISS requested that Sierra Club, FPL, and the Office of Public Counsel (OPC) indicate whether or not they oppose this Petition and Motion. Sierra Club responded by email that they had no opposition. OPC responded by email that is taking no position. FPL responded by email that it objects to the filing.

#### Relief Requested

17. WHEREFORE, ISS requests that the Commission:
- a. Enter an order allowing Innovative Solar Systems, LLC to intervene as a full party in this docket;
  - b. Vacate the Order Denying Sierra Club's Petition to Intervene and Protest Proposed Agency Action;

c. Reverse the PAA Order and deny FPL's petition for exemption from the RFP requirement and direct FPL to issue an RFP that permits meaningful participation by a variety of supply-side alternatives, including clean, renewable, cost-effective solar.

Respectfully submitted,

/s/ Candice N. Carr

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically on this 2<sup>nd</sup> day of October, 2017 on:

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