

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to
approve first solar base rate adjustment
(SoBRA), effective September 1, 2018.

DOCKET NO. 20170260-EI
ORDER NO. PSC-2018-0187-PCO-EI
ISSUED: April 19, 2018

ORDER GRANTING INTERVENTION TO
FLORIDA INDUSTRIAL POWER USERS GROUP

On December 14, 2017, this docket was established to approve Tampa Electric Company's (TECO) first Solar Base Rate Adjustment (SoBRA). Consistent with its 2017 Amended and Restated Stipulation and Settlement Agreement and FPSC Order No. PSC-2017-0456-S-EI, issued November 27, 2017, and pursuant to Sections 366.076, 120.57(2) and 366.06(3), Florida Statutes, and Rule 28-106.301, F.A.C., TECO petitioned for a limited proceeding to approve its First SoBRA tranche, effective September 1, 2018. The Office of Public Counsel (OPC) served its Notice of Intervention on January 3, 2018, which was acknowledged by Order No. PSC-2018-0068-PCO-EI issued on January 30, 2018. This docket has been scheduled for hearing on May 8-9, 2018.

Petition for Intervention

By petition, dated February 13, 2018, the Florida Industrial Power Users Group (FIPUG) requested permission to intervene in this proceeding. FIPUG states that it is an ad hoc association consisting of industrial users of electricity in Florida, many of whom receive electricity from TECO. FIPUG asserts that the cost of electricity constitutes a significant portion of its members' overall costs of production and that its members require adequate, reasonably-priced electricity in order to compete in their respective markets. FIPUG, citing AgriCo Chemical Company v. Department of Environmental Regulation (AgriCo), 406 So. 2d 478 (Fla. 2d DCA 1981), contends that its interests are of the type this proceeding is designed to protect, since its purpose is to evaluate TECO's request to recover rates for certain solar power facilities and to ensure that the rates its members who receive electrical service from TECO are charged fair, just and reasonable rates for power that is needed and cost-effective. Therefore, FIPUG concludes that the purpose of this proceeding coincides with FIPUG's substantial interests: to ensure that its members are charged rates by TECO that are fair, just, and reasonable. FIPUG has contacted TECO who does not oppose FIPUG's petition for intervention. Further, the time for filing objections to FIPUG's petition for intervention has expired with no objections having been filed.

Standards for Intervention

Pursuant to Rule 28-106.205, Florida Administrative Code (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 move for leave to intervene. Petitions for leave to intervene must be filed at least twenty (20) days before the final hearing, must comply with Rule 28-106.204(3), 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 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, 406 So. 2d 478 at 482. The intervenor must show that (1) he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) the 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. 3d 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).

The test for associational standing was established in Florida Home Builders v. Dept. of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982), and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1st DCA 1982), which is also based on the basic standing principles established in Agrico. 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.

Based on the above representations, it is

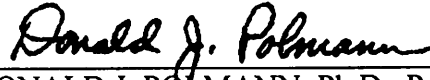
ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that the Petition to Intervene filed by Florida Industrial Power Users Group is hereby granted as set forth in the body of this Order. It is further

ORDERED that FIPUG takes the case as it finds it. 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:

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By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 19th day
of April, 2018.



DONALD J. POLMANN, Ph.D., P.E.
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.

WLT

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.