

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Environmental Cost Recovery Clause.

Docket No. 20180007

Filed: June 14, 2018

SIERRA CLUB'S
PETITION TO INTERVENE

Pursuant to sections 120.569, 120.57, Florida Statutes (F.S.); Rules 28-106.201 and 28-106.205, Florida Administrative Code (F.A.C.); and Order No. PSC-2018-0090-PCO-EI (February 19, 2018) ("Order Establishing Procedure"), Sierra Club hereby petitions for leave to intervene in the above captioned docket and states:

1. Agency's name and address. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.
2. Petitioner's name and addresses. Petitioner is Sierra Club with the following headquarters and local addresses:

Sierra Club, National Headquarters
2101 Webster Street, Suite 1300
Oakland, CA 94612
415-977-5500

Sierra Club, Florida Chapter
1990 Central Avenue
St. Petersburg, FL 33712
727-824-8813

3. Petitioner's representatives. Copies of all notices, pleadings, orders and other communications in this docket should be directed to:

Dori Jaffe
50 F Street NW, Suite 800
Washington, D.C. 20001
202-675-6275 (direct)
202-547-6009 (fax)
dori.jaffe@sierraclub.org

4. Notice of docket. Sierra Club monitors major and recurring Florida Public Service Commission energy dockets on behalf of its members and is familiar with the Environmental Cost Recovery Clause proceeding.

Statement of Substantial Interest

5. This Petition is on behalf of Sierra Club and its approximately 38,000 members who live and purchase electric utility service in Florida—more than 1,100 of whom live in counties served by Gulf Power Company (Gulf). Ex. A at 1 (Declaration of Susannah Randolph ¶ 4) (hereinafter Randolph Decl.); Ex. A at 5 (Declaration of Huda Fashho ¶ 6) (hereinafter Fashho Decl.).
6. Sierra Club is a national non-profit organization. Randolph Decl. ¶ 3; Fashho Decl. ¶ 2.
7. Sierra Club and its Florida members are dedicated to reducing pollution through public health and environmental safeguards, and through the rapid transition away from fossil fuel burning electricity generation. Randolph Decl. ¶ 5. To achieve this transition, Sierra Club has championed policies to remove barriers to energy efficiency, solar power, wind power, and storage. Randolph Decl. ¶ 5. These are low-cost low-risk alternatives to generating electricity from fossil fuels. Sierra Club advocates for such policies and regulations nationwide, including in Florida, by intervening, submitting comments, providing testimony, and presenting experts in state and federal energy-related proceedings; participating in public hearings and workshops; speaking to students, civic organizations, and other stakeholders; and holding seminars and symposia—all to ensure that low cost clean energy solutions reach every community. Randolph Decl. ¶ 5.
8. This docket will approve environmental compliance costs as recoverable from ratepayers, including the vast majority of Sierra Club’s approximately 38,000 Florida members and 1,100 members living in Florida Counties served by Gulf. See § 366.8255, Fla. Stat.; Order Establishing Procedure at 13, Attachment A; Randolph Decl. ¶ 4; Fashho Decl. ¶ 6.

9. If the Commission approves inappropriate costs, including costs incurred in violation of environmental statutes, this will substantially and directly impact Sierra Club members by inflating their utility bills.
10. Alternately, if the Commission does not approve necessary costs, environmental programs suffer, leading to adverse environmental consequences in the vicinity of the electric generating units (EGU) and beyond—with substantial impacts on Sierra Club members living and recreating nearby.
11. The Commission has jurisdiction to address the concerns of Sierra Club and its members in this docket. The Commission’s role in this docket includes approving “environmental compliance activities and projected environmental compliance costs” submitted by a utility and allowing “recovery of the utility’s prudently incurred environmental compliance costs.” § 366.8255, Fla. Stat.
12. Sierra Club is specifically interested in Gulf Power Company’s Environmental Compliance Filing and Gulf’s Crist Retirement Study in this docket. On behalf of our 1,100 members who live in counties serviced by Gulf, and consistent with our long-standing organizational objectives, Sierra Club is interested in ensuring that Gulf accurately identifies “reasonable, cost-effective compliance strategies that will minimize the impact on Gulf Power’s customers while achieving environmental objectives and assuring compliance with all environmental requirements.” Gulf Power Company Environmental Compliance Program Update at 1, Docket No. 20180007 (April 2, 2018).
13. On these facts, Sierra Club meets the administrative and associational standing requirements to intervene in this docket.
14. First, Sierra Club meets the three-prong associational standing test established in Florida Home Builders v. Department of Labor and Employment Security, 412 So.2d 351 (Fla. 1982), which was later extended to hearings involving disputed issues of material fact under

Section 120.57(1), F.S. in Farmworker Rights Organization, Inc. v. Department of health and Rehabilitation Services, 417 So.2d 753 (Fla. Dist. Ct. App. 1982). Under this test, an association has standing to litigate on its members' behalf when: (a) the association demonstrates that the Commission's decision may substantially affect a substantial number of its members; (b) the subject matter of the proceeding is within the association's general scope of interest and activity; and (c) the relief requested is of a type appropriate for the association to receive on its members' behalf. Florida Home Builders, 412 So.2d at 353.

15. Sierra Club meets the associational standing test's first prong because more than 1,100 members live in counties served by Gulf, Fashho Decl. ¶ 6, and their rates are substantially and directly impacted by the outcome of this proceeding.
16. Similarly, Sierra Club members live and recreate in the vicinity of Gulf EGUs described in Gulf's filing in this docket. See Gulf Power Company Environmental Compliance Program Update at 7-21; Fashho Decl. ¶ 6. Their health and enjoyment of those settings will be impacted by the Commission's approval of (or failure to approve) needed compliance activities.
17. Sierra Club meets the associational standing test's second prong as well: Sierra Club has been actively engaged with public service commissions and utilities nationwide for many years, seeking to ensure member access to low-cost, clean energy and environmentally responsible energy policy. See Randolph Decl. ¶¶ 5-9. The Sierra Club therefore has a longstanding interest in the "environmental compliance activities and projected environmental compliance costs" that utilities submit to the Commission in this docket and the costs passed to its members when the Commission allows "recovery of the utility[s'] prudently incurred environmental compliance costs." § 366.8255(2), Fla. Stat.

18. Sierra Club meets the associational standing test's third prong because it is not seeking money damages or otherwise inappropriate relief. See Fla. Home Builders, 412 So. 2d at 354 (Fla. 1982).
19. Additionally, Sierra Club meets the two-prong test for administrative standing established in Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. Dist. Ct. App. 1981) *rehearing denied*, 415 So.2d 1359 (Fla. 1982). This test requires (a) an injury in fact of sufficient immediacy to entitle the petitioner to a hearing under Section 120.57 F.S.; and (b) substantial injury of a type or nature that the proceeding is designed to protect.
20. Sierra Club meets the Agrico test's first prong because environmental compliance costs approved in this docket will be paid by Sierra Club's members who purchase power from Gulf Power. Randolph Decl. ¶ 4. Because the outcome of this docket directly affects rates charged to those members, a substantial interest of Sierra Club members (their pocket books) is "affected by the proposed agency action." See § 120.52, Fla. Stat.
21. Sierra Club meets the second Agrico prong because this proceeding is designed to protect ratepayers, including Sierra Club members, from imprudent costs. In this docket, the Commission considers "petition[s] describing the utility's proposed environmental compliance activities and projected environmental compliance costs . . . [and] allow recovery of the utility's prudently incurred environmental compliance costs. . . ." § 366.8255(2), Fla. Stat. In line with the Commission's general duty to limit recovery to prudent expenditures, this proceeding ensures ratepayers are not overcharged by utilities.
22. Sierra Club's intervention will not unnecessarily broaden the issues or unduly delay this proceeding because Sierra Club's interest is directly related to the subjects addressed in the proceedings, and because Sierra Club and its members will "take the case as they find it."

23. Statement of disputed facts. Sierra Club reserves the right to identify disputed facts after completing discovery in this proceeding.
24. Statement of ultimate facts. Sierra Club reserves the right to identify ultimate facts after completing discovery in this proceeding.
25. Statement required by Rule 28-106.204(3), F.A.C. Sierra Club conferred with all parties of record and its undersigned representative is authorized to represent that OPC and SACE have no objection to Sierra Club's intervention. All remaining parties stated they take no position on this motion: PCS Phosphate White Springs, FIPUG, Tampa Electric Company, Duke Energy Florida and Gulf Power Company, Florida Power & Light, and Florida Public Service Commission Office of the General Counsel.
26. WHEREFORE, Sierra Club respectfully requests that the Commission enter an order granting it leave to intervene in the above captioned docket, and further requests parties to provide the undersigned with all notices, pleadings, testimony, discovery, and other communications filed in the docket.

RESPECTFULLY SUBMITTED this 14th day of June, 2018,

/s/ Dori Jaffe

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Senior Attorney
50 F Street, NW, Eighth Floor
Washington, DC 20001
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202-547-6009 (fax)
dori.jaffe@sierraclub.org
Qualified Representative for Sierra Club

Exhibit A

**ORGANIZATIONAL DECLARATION
SUSANNAH RANDOLPH**

I, Susannah Randolph, declare as follows:

1. My name is Susannah Randolph, and I am of legal age and competent to give this declaration. All information herein is based on my own personal knowledge unless otherwise indicated.
2. I am a Sierra Club employee. I serve as the Florida Senior Campaign Representative for Sierra Club's Beyond Coal Campaign. I am responsible for ensuring that all of Sierra Club's work in Florida successfully executes the campaign's goals. I regularly interact with dozens of employees and volunteers as part of my job responsibilities throughout multiple states.
3. Sierra Club is a national non-profit membership organization.
4. Sierra Club has approximately 38,000 members in Florida, including more than 1,100 who live in Gulf Power Company's service area.
5. Sierra Club and its Florida members are dedicated to reducing pollution through equitable public health and environmental safeguards, and through the rapid transition away from fossil fuel-burning generation. To achieve this transition, Sierra Club has championed policies and regulations to remove barriers to energy efficiency, solar power, wind power, storage and batteries as low cost, low risk alternatives to fossil fuel burning generation. Sierra Club advocates for such policies and regulations nationwide, including in Florida, by intervening, submitting comments, providing testimony, and presenting

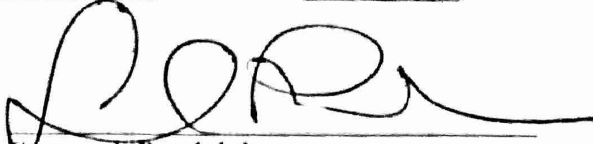
experts in state and federal energy-related proceedings; participating in public hearings and workshops; speaking to students, civic organizations, and other stakeholders; and holding seminars and symposia—all to ensure that clean energy solutions reach all communities.

6. Consistent with the goals and work described above, Sierra Club represents its members' interest in ensuring that the environmental costs incurred by Gulf Power's generation fleet are accurately assessed and prudently incurred—protecting members' access to low electric rates. At the same time, Sierra Club represents its members' interest that those costs and expenditures are adequate to protect public health and the environments. Moreover, Sierra Club and its members have an interest in informed, transparent and fair decision-making on their behalf. These interests extend to understanding the full cost of operating Gulf's generation fleet, costs borne by Sierra Club members in Gulf's service area.
7. Sierra Club represents its and its members' interests in promoting the transition from fossil fuels to clean energy sources, believing that a full accounting of environmental and public health costs of burning fossil fuels would demonstrate that there is no justification for their continued use. It is well documented, for example, that long term exposure to smog pollution—formed by burning fossil fuels—is linked to chronic asthma and other respiratory and lung diseases, reproductive and developmental harm, negative cardiac impacts, and even premature death. Acid rain, visibility impairment, and climate change are among the other costly problems exacerbated by burning fossil fuels. Indeed, Sierra Club has produced information regarding those public health and environmental costs to both the Florida Public Service Commission and in venues nationwide, thus

substantiating its significant interest in minimizing those costs, which impose a burden above and beyond the immediate rate impact of fossil fuel-burning generation.

8. Therefore, Sierra Club represents its and its members' interest in this docket that environmental costs are fully and accurately assessed where prudent in order to protect rates, public health, and the environment.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Orlando, Florida on June 13, 2018.

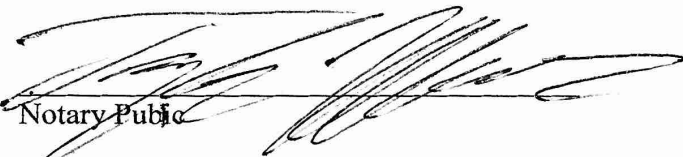


Susannah Randolph

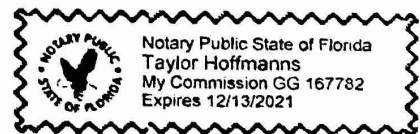
STATE OF FLORIDA
COUNTY OF Orange _____

BEFORE ME, the undersigned authority, personally appeared
Susannah Randolph who is personally known or produced
Drivers license as identification, and who was sworn and says that
the foregoing averments are true.

Sworn to and subscribed before this 13 day of June, 2018.



Notary Public



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DECLARATION OF HUDA FASHHO

I, Huda Fashho, declare as follows:

1. My name is Huda Fashho and I am over the age of 18 and competent to give this declaration. I attest that the following statements are true and correct to the best of my knowledge.
2. The Sierra Club is a non-profit membership organization incorporated under the laws of the State of California.
3. I have headed the Member Care Department at the Sierra Club for 7 years.
4. In this role, I manage the Sierra Club's customer service functions related to members, including maintaining an accurate list of members and managing the organization's member databases.
5. When an individual becomes a member of the Sierra Club, his or her current residential address is recorded in our membership database. The database entry reflecting the member's residential address is verified or updated as needed.
6. The Sierra Club currently has approximately 38,000 members in Florida, including over 1,100 members in counties (Jackson, Calhoun, Holmes, Washington, Bay, Walton, Okaloosa, Santa Rosa, and Escambia) which are served by Gulf Power Company and over 500 in Escambia and Santa Rosa counties, which surround Pensacola, FL.
7. These members have a strong interest in protecting their health and the environment, promoting energy efficiency, and reducing electricity demand in order to keep their electricity bills from escalating in the future.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Oakland, California on the 11 day of June, 2018.


Huda Fashho

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], not Notary)

See Attached

 Signature of Document Signer No. 1 Signature of Document Signer No. 2 (if any)

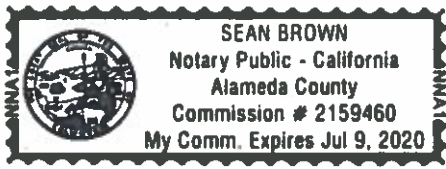
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
 County of Alameda

Subscribed and sworn to (or affirmed) before me
 on this 11 day of June, 2018
 by Date Month Year
 (1) Huda Fasho

(and (2) _____),
 Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence
 to be the person(s) who appeared before me.



Place Notary Seal Above

Signature *Sean Brown*
 Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: F/ Public Service Commission Document Date: 6-11-18

Number of Pages: 2 Signer(s) Other Than Named Above: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically on this 14th day of June, 2018, on:

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