

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 20180007-EI
ORDER NO. PSC-2018-0344-PCO-EI
ISSUED: July 10, 2018

ORDER GRANTING INTERVENTION

By petition dated June 14, 2018, the Sierra Club requested permission to intervene in this proceeding. Sierra Club states that it is a national non-profit organization with approximately 38,000 members who live in Florida and approximately 1,100 members in counties served by Gulf Power Company (Gulf). Sierra Club asserts that it is dedicated to reducing pollution through public health and environmental safeguards, and through rapid transition away from fossil fuel burning electricity generation thereby ensuring that low cost clean energy solutions reach every community. Sierra Club avers that its members will be substantially affected by the Florida Public Service Commission's (Commission) decisions in this docket regarding environmental costs. Sierra Club is specifically interested in Gulf's Environmental Compliance Filing and Crist Retirement Study and ensuring that Gulf accurately identifies reasonable, cost-effective compliance strategies that will minimize impacts on Gulf's customers while achieving environmental objectives and assuring compliance with all environmental requirements. Sierra Club asserts that the purpose of this proceeding coincides with Sierra Club's substantial interests to ensure that its members have access to low cost, clean energy and environmentally responsible policies. The time for filing objections to Sierra Club's motion to intervene has expired with no objections having been filed.

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 three-prong test set forth 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 based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478 (Fla. 2d DCA 1981).¹ Associational standing may be found where: (1) the association demonstrates that a

¹ Under *Agrico*, 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

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. Although more general assertions are made, Sierra Club demonstrates its standing in this docket only with respect to Gulf and has clarified that it only intends to take positions in this docket regarding Gulf.

Based on its representations above, it appears that Sierra Club has met the associational standing requirements of *Florida Home Builders* with respect to Gulf. Sierra Club asserts that a substantial number of its members are ratepayers who will be directly and substantially affected by this Commission's decisions in this case regarding environmental compliance costs. Further, seeking to ensure member access to low-cost, clean energy falls within the Sierra Club's scope of interest, and is the type of relief appropriate for Sierra Club to receive in this docket. Therefore, it is

ORDERED by Commissioner Gary F. Clark as Prehearing Officer, that the Petition to Intervene filed by the Sierra Club is hereby granted for issues related to Gulf Power Company as set forth in the body of this Order. It is further

ORDERED that Sierra Club 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:

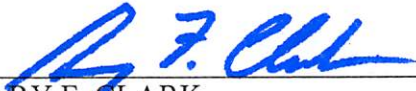
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proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury. 406 So. 2d 478 at 482. The "injury in fact" must be both real and immediate and not speculative or conjectural. *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 Department 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).

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 10th day of July, 2018.



GARY F. CLARK
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.

CWM

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.