

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light
Company for Approval of FPL SolarTogether
Program and Tariff

Docket No. 20190061-EI

Filed: June 14, 2019

**VOTE SOLAR'S
MOTION TO INTERVENE**

Vote Solar, pursuant to sections 120.569, 120.57(1), Florida Statutes and Rule 28-106.205, Florida Administrative Code, hereby moves to intervene in the above-styled proceeding. In support thereof, Vote Solar respectfully states as follows:

The Parties

1. Intervenor is:

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The name and address of counsel for Intervenor, authorized to receive all notices, pleadings, orders and other communications in this docket are:

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2. Petitioner is Florida Power and Light Company (hereinafter "FPL" or "Petitioner"), having a principal place of business at 700 Universe Boulevard, Juno Beach, Florida, 33408.

3. The affected agency is the Florida Public Service Commission, with a principal place of business at 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850.

Receipt of Notice of Proposed Action

4. Vote Solar received notice of the Petitioner's proposed action by reviewing the Commission's open dockets on March 13, 2019.

Vote Solar's Substantial Interests

5. Vote Solar is an independent 501(c)3 non-profit working to repower the United States with clean energy by making solar power more accessible and affordable through effective policy advocacy. Vote Solar seeks to promote the development of solar at every scale, from distributed rooftop solar to large utility-scale plants.

6. Established in 2002, Vote Solar has over 80,000 members nationally, including over 30,000 members in Florida, a substantial number of whom reside within FPL's service territory.

7. Vote Solar is not a trade group, nor does it have corporate members.

8. Vote Solar has a substantial interest in the subject matter of this proceeding. Vote Solar oversees the development and implementation of community and shared solar policy initiatives across the country. Vote Solar believes that community solar is a key driver facilitating expanded access to solar power for all consumers, including Vote Solar's members. For this reason, our policy experts review regulatory filings, perform technical analyses, and participate in legislative and regulatory proceedings across the country related to community solar, including in California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Nevada, New Mexico, Pennsylvania and Virginia.

9. Vote Solar has significant expertise in community solar program design. In November 2018, Vote Solar partnered with the Interstate Renewable Energy Council to create a *Checklist for Voluntary Utility-Led Community Solar Programs*¹ to provide guidance around voluntary community solar program best practices. The Checklist is intended to help evaluate and create consumer-centric programs to ensure more customers can access and benefit from community solar, including those that are not able to take advantage of installing solar panels at their residence due to living in rental housing or not having appropriate roof space.

10. Vote Solar and its members support well-designed community solar offerings that foster the growth and accessibility of solar generation in Florida. The outcome of this proceeding will significantly impact these objectives.

11. The Commission has authority to permit Vote Solar's intervention at this time. First, the Commission is not required by rule or statute to process FPL's tariff filing using the PAA procedure; its election to use – or not use – the PAA procedure is discretionary. As set forth more fully herein and in Vote Solar's Motion for Administrative Hearing, the Commission should not process FPL's proposed SolarTogether Program and Tariff using the PAA process but should instead schedule an evidentiary hearing without delay. Second, the Commission has already rejected the argument that its PAA intervention rule only allows intervention into PAA proceedings after issuance of a Notice of Proposed Agency Action: "We do not accept the interpretation that intervention can only be granted after we issue a notice of proposed agency action. When a showing of substantial interest is made, intervention is granted up to five days prior to the date of any hearing."²

¹ Checklist for Voluntary Utility-Led Community Solar Programs available online: <http://www.votesolar.org/cschecklist>.

² Order Granting Intervention, Order No. 12736, December 6, 1983, Docket No. 830489-TI, *In Re: Application of ATT Communications of the Southern States, Inc. for Certificate of Public Convenience and Necessity*. The rule

Statement of Affected Interests

12. In the above-captioned proceeding, the Commission will consider whether to approve FPL's SolarTogether Program and its attendant SolarTogether Rider tariff. The Commission's decision will affect FPL and its customers, including Vote Solar members.

13. FPL is proposing to build twenty 74.5 megawatt ("MW") solar farms, totaling 1,490 MW -- significantly larger than any such voluntary solar programs approved by this Commission to date.³ SolarTogether, once fully subscribed, will be the largest utility-sponsored community solar offering in the country. In fact, according to FPL, it will more than double the amount of dedicated community solar capacity in the United States.⁴ Its residential customer allocation – estimated at 74,500 customers – will dwarf the 11,000 customers in FPL's service territory with rooftop solar installations.⁵ A program of this size significantly impacts the clean energy options available to customers, including those who are members of Vote Solar.

14. Moreover, it is likely based on stated customer demand that this will be the first phase of a broader program.⁶ During the pre-registration phase, more than 200 commercial and industrial customers reserved 1,100 MW of program capacity, with many customers reserving 75 to 100 percent of their annual energy demand.⁷ If all of these pre-registered customers remain in the program, it will fill up the entire large customer allotment, meaning that no other

has since been amended and re-numbered from 25-22.039 to 25-22.029, but the applicable language remains the same.

³ See Petition by Florida Power & Light Company for Approval of FPL SolarTogether Program and Tariff, FPSC Docket No. 20190061-EI, March 13, 2019 (hereinafter "Petition") at 3.

⁴ See FPL Press Release, "FPL announces plans for the largest community solar program in the U.S.," dated March 13, 2019, available at <http://newsroom.fpl.com/2019-03-13-FPL-announces-plans-for-the-largest-community-solar-program-in-the-U-S>.

⁵ See Petition at 2, 6.

⁶ See Petition at 3 (referring to the initial 1,490 MW as "Phase 1").

⁷ See *id.*

large customers may be able to opt into the tariff once it becomes available under the current proposed size.

15. Vote Solar and its members advocate for increased reliance on solar power, and strongly support voluntary programs that expand customers' options for relying on solar to meet their electricity needs. Vote Solar's members have an interest in ensuring that the community solar program proposed by Petitioner is designed to fully and fairly value solar resources, maximize opportunities for participation, and bring the lowest cost solar resources to customers. Vote Solar therefore has an interest in ensuring that Petitioner's program is designed to meet customer demand; is correctly sized; and strikes the right balance between large and smaller customers (currently allocated 75% for large customers and 25% for residential and small commercial customers).⁸

16. Vote Solar also has an interest in how customers will benefit (including analysis of the "benefit rate" that constitutes the financial benefit for participants and the benefit sharing arrangement between participants and non-participants); how the timing of when customers sign up will impact the benefits they receive; how the program will be marketed; and whether there are adequate measures in place to ensure customer satisfaction, protection and retention.

17. An offering of this scale raises important questions about how Petitioner plans to engage with the state's growing solar industry to ensure that the most cost-effective solar resources are being captured for customers' benefit, to maximize cost savings for all by using competitively priced solar facilities and solar energy procurement processes.

18. Vote Solar also has an interest in assuring that community solar programs are designed in a way that allows all Floridians to participate in clean energy – especially those most in need of bill savings. Low-income Floridians face high energy burdens, meaning that an outsized

⁸ See *id.* at 6.

portion of their income goes towards home energy bills, including electricity, natural gas, and other heating fuels. For example, studies indicate that on average, half of the low-income households in Miami have an energy burden greater than 7.2 percent of household income, and a quarter of them, over 12 percent. The national average is 3.5 percent.⁹ FPL anticipates that participating customers will begin to save money under this program, compared to their traditional energy rate, after five to seven years of participation.¹⁰ Beyond that point, customers could see net savings for the remaining term of their participation. Any resulting financial benefits may not be available to low-income customers – those most in need of bill relief – due to the current structure of the proposed program. Vote Solar has considerable experience across the country working with utilities and regulators to design clean energy programs that maximize participation for low income customers. Vote Solar believes that the Commission would benefit from a discussion of how the program can be improved upon in order to better serve the public interest by ensuring that all Floridians – especially those struggling with high electric bills – are able to benefit from clean energy.

19. For the above-stated reasons, Vote Solar has standing to intervene in this matter on behalf of its members. *See Florida Home Builders Ass 'n v. Department of Labor and Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982); *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*, 417 So. 2d 753 (Fla. 1st DCA 1982); *Friends of the Everglades, Inc. v. Board of Trustees, Internal Improvement Trust Fund*, 595 So.2d 186, 188-189 (Fla. 1st DCA 1992). Moreover, the interests of Vote Solar's members are

⁹ <https://aceee.org/sites/default/files/pdf/fact-sheet/ses-florida-100917.pdf>.

¹⁰ Florida Power & Light Company, Docket No. 20190061-EI, Response to Staff's First Data Request, Request No. 54, Attachment No. 1, Page 5 (stating that the program is designed to allow participants to achieve simple payback between years 5-7).

of the type that this proceeding is designed to protect. *Ameristeel Corp. v. Clark*, 691 So.2d 473 (Fla. 1997); *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), *reh'g. denied*, 415 So.2d 1359 (Fla. 1982). The purpose of this proceeding is to consider whether to approve or deny FPL's program and accompanying tariff, which will be available to a substantial number of Vote Solar members. The outcome will significantly impact these members' clean energy options and the rates at which such options are available. Accordingly, Vote Solar has an interest in ensuring that the program as approved is fair, just and reasonable.

Statement of Position

20. Petitioner must meet its burden of proof in this matter. Vote Solar seeks to conduct discovery and reserves the right to modify its position based on information obtained during the discovery process.

Disputed Issues of Material Fact

21. Vote Solar reserves the right to identify additional disputed issues of material fact and law based on additional information submitted by Petitioner in this proceeding.

22. Vote Solar anticipates that the disputed issues of material fact in this proceeding include, but are not limited to, the following:

- a. Whether the Petitioner's program appropriately reflects the costs and benefits to customers participating in the program?
- b. Whether the Petitioner's program appropriately reflects the costs and benefits to the general body of ratepayers as a whole?
- c. Whether the Petitioner's program utilizes the most cost-effective and competitively priced solar energy resources available?
- d. Whether the Petitioner's program properly values solar energy resources?

Disputed Legal Issues

23. Disputed legal issues include, but are not limited to, the following:
- a. Whether Petitioner has met its burden of proof in this matter;
 - b. Whether and to what extent FPL's proposed program and tariff are in the public interest;
 - c. Whether it is appropriate and lawful for FPL to seek approval of construction of new solar facilities via a request for tariff approval;
 - d. Whether FPL's request for tariff approval and for approval to construct new generation should be addressed by separate, independent proceedings; and,
 - e. Whether FPL's request for approval to construct 1,490 megawatts of new generation capacity meets the intent and requirement of applicable law.

Statement of Ultimate Facts Alleged and at Issue

24. Ultimate facts alleged and at issue include, but are not limited to, the following:
- a. FPL is required to meet its burden of proof in this matter;
 - b. Approval of FPL's petition may materially adversely affect FPL's customers, including Vote Solar members; and
 - c. Approval of FPL's program and tariff as proposed may not be in the public interest.

Rules and Statutes Justifying Relief

25. The rules and statutes that entitle Vote Solar to intervene and participate in this proceeding include, but are not limited to:
- a. Section 120.569, Florida Statutes;
 - b. Section 120.57, Florida Statutes;
 - c. Section 366.04(1), Florida Statutes;

- d. Section 366.05(1)(e), Florida Statutes;
- e. Section 366.06, Florida Statutes;
- f. Section 403, Florida Statutes;
- g. Rule 28-106.201, Florida Administrative Code;
- h. Rule 28-106.205, Florida Administrative Code.

Relief Requested

26. Vote Solar requests that it be permitted to intervene as a full party in this docket.

Statement Required by Rule 28-106.204(3), Florida Administrative Code

27. Vote Solar has contacted counsel for FPL and the Office of Public Counsel and represents that FPL advised that it objects to this Motion and reserves the right to file a response; and OPC advised that it takes no position.

WHEREFORE, Vote Solar respectfully requests that the Commission enter an order granting it leave to intervene and participate as a full party in this docket.

RESPECTFULLY SUBMITTED this 14th day of June, 2019.

/s/ Rich Zambo

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above motion has been furnished to the following by electronic mail on the 14th day of June, 2019:

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