

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light
Company for Rate Unification and for Base
Rate Increase

Docket No. 20210015-EI
Date: April 27, 2021

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO THE PETITION
TO INTERVENE OF VOTE SOLAR AND THE CLEO INSTITUTE INC.**

Florida Power & Light Company ("FPL") hereby submits its response to the Petition to Intervene ("Petition to Intervene") filed by Vote Solar and The CLEO Institute Inc. ("The CLEO Institute") (together the "Petitioners"). In support, FPL states:

1. On April 21, 2021, the Petitioners filed a Petition to Intervene, alleging that the interests of the Petitioners and their members are of the type that this proceeding is designed to protect, and otherwise asserting that the Petitioners have standing to intervene in this proceeding. Both Petitioners provided their foundational organizational documents as attachments in support of the Petition to Intervene.

I. Petitioners Must Demonstrate That They Have Associational Standing to Intervene.

2. As organizations that are seeking to represent the interests of their members, Petitioners must demonstrate that they have "associational standing" to intervene in this proceeding. To demonstrate associational standing, Petitioners must meet the following three-prong test established by the Florida Supreme Court: (1) that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) that 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. *See Fla. Home Builders Ass'n v. Dep't of Labor & Employment Sec.*, 412

So. 2d 351, 353-54 (Fla. 1982).¹ If allegations are insufficient to meet the *Florida Home Builders* test, then the petitioning association lacks standing to intervene. *See, e.g.*, Order No. PSC-15-0295-PCO-EI (“the petition does not allege facts to show that [the petitioner’s] substantial interests will be affected by the outcome of this proceeding or that their environmental interests are those that this proceeding is designed to protect.”).

II. The CLEO Institute’s Purposes As an Organization, As Indicated in the Petition to Intervene, Are Not Related to Issues within the Commission’s Jurisdiction and It Therefore Fails the *Florida Home Builders* Test.

3. The allegations presented in support of The CLEO Institute’s intervention and its foundational documents show that the organization’s interests and purposes are unaffected by this proceeding. Petitioners state in the Petition to Intervene that The CLEO Institute is an organization “offering educational programs, advocacy programs and campaigns, and undertaking policy work in order to educate and empower communities across all levels of society to demand climate policies that will ensure a safe, just, and healthy environment for all.” Petition to Intervene at 5, ¶ 14. The Petition to Intervene also states that The CLEO Institute’s work “includes advocacy for low-income Floridians, who are on the front lines of the ongoing climate crisis” *Id.* These organizational aims are well outside of the rate-setting issues that will be decided in this proceeding and, moreover, relate to interests that are beyond the Commission’s jurisdiction.

4. Furthermore, beyond the allegations raised in the Petition to Intervene, The CLEO Institute’s foundational documents, which are provided as attachments to the Petition to Intervene, indicate organizational purposes that are not at all impacted by the issues that will be addressed in

¹ *Florida Home Builders* was a rule challenge proceeding but its holding was subsequently extended to section 120.57(1) hearings. *See Farmworker Rights Org., Inc. v. Dep’t of Health & Rehab. Servs.*, 417 So. 2d 753 (Fla. 1st DCA 1982).

this case. Specifically, The CLEO Institute's bylaws, adopted and certified earlier this year, expressly state the following as the organization's purposes:

The purposes of the [CLEO Institute] shall be to advance environmental literacy and civic engagement by developing transformative initiatives that can be scaled and replicated.

Petition to Intervene at Attachment 4, page 1 (emphasis added). These interests in no way indicate an organizational interest or purpose related to the rate-setting issues that are the subject of this proceeding. Because of this, The CLEO Institute, based on the assertions in the Petition to Intervene and its expressly stated purposes in its own organizational documents, fails the second and third prongs of the *Florida Home Builders* associational standing test.

5. Although the overall organizational aims of The CLEO Institute are beyond the scope of this proceeding, the organization has alleged in the Petition to Intervene that it is an FPL customer. FPL does not dispute the fact that The CLEO Institute is an FPL customer.

CONCLUSION

WHEREFORE, for the reasons expressed herein, FPL respectfully requests that the prehearing officer: (i) explicitly confirm that FPL retains its right, with respect to The CLEO Institute, to conduct discovery and file appropriate motions and testimony addressing the evidentiary basis for its alleged organizational standing under Florida law should the Commission accept The CLEO Institute's allegations of organizational standing; and (ii) limit any intervention on the part of The CLEO Institute to its individual capacity as an FPL customer. The relief requested by FPL herein is consistent with the Prehearing Officer's April 20, 2021 Order (Order No. PSC-2021-0139-PCO-EI) addressing the petition to intervene filed by Florida Rising, Inc.

Respectfully submitted this 27th day of April 2021.

FLORIDA POWER & LIGHT COMPANY

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CERTIFICATE OF SERVICE
20210015-EI

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail this 27th day of April 2021, to the following parties:

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