

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida
Power & Light Company.

DOCKET NO. 20210015-EI
ORDER NO. PSC-2021-0179-PCO-EI
ISSUED: May 19, 2021

ORDER GRANTING VOTE SOLAR'S
PETITION TO INTERVENE

On March 12, 2021, Florida Power & Light Company (FPL) filed its petition, minimum filing requirements, and testimony for a base rate increase effective January 2022. Pursuant to Order No. PSC-2021-0116-PCO-EI, issued March 24, 2021, the hearing for the FPL rate case is scheduled on August 16 through August 27, 2021.

Petition for Intervention

On April 22, 2021, Vote Solar and The CLEO Institute Inc. filed a joint Petition to Intervene (Petition) in this docket. The CLEO Institute Inc.'s petition to intervene will be taken up by separate order. On April 27, 2021, FPL filed a Response to the Petition (Response) stating it objects to The CLEO Institute's intervention, but does not object to Vote Solar's Petition. Vote Solar represents that the Office of Public Counsel, Florida Industrial Power Users Group, Florida Retail Federation, the League of United Latin American Citizens of Florida, the Environmental Confederation of Southwest Florida, Inc., Florida Rising, Federal Executive Agencies, and Southern Alliance for Clean Energy take no position, and D. Larson and A. Larson state that their position is "not opposed." No written objections to Vote Solar's Petition have been filed and the time for doing so has expired.

Vote Solar states that it is an association with "over 120,000 members nationally, including over 39,000 members in Florida, a substantial number of whom reside within FPL's service territory." Vote Solar asserts that its interests are of the type that this proceeding is designed to protect since this proceeding is to evaluate FPL's request for a rate increase. Vote Solar states that FPL's proposed investments in solar power are critically important to Vote Solar and its members' interests, which are to address the environmental interests of its members in advancing more clean energy, and the economic opportunities that are afforded or hindered by FPL's petition. Vote Solar claims it and its members support well-designed clean energy programs and investments that foster the growth and accessibility of solar generation in Florida, which may be significantly impacted by the outcome of this proceeding.

Vote Solar alleges that it and its members have an interest in the proposed cost, timing, and scale of FPL's clean energy investments and how customers will benefit from these clean energy investments. Vote Solar's Articles of Incorporation state that Vote Solar works to foster economic opportunity, promote energy security, and fight climate change by making solar a mainstream energy resource. Vote Solar asserts that its dual purpose in its Articles of Incorporation of fighting climate change and fostering economic opportunity through solar

power allows it to address both the environmental interests of its members in advancing more clean energy, and the economic opportunities that are afforded or hindered by FPL's petition. Vote Solar claims that the economics around FPL's rate filing, specifically FPL's proposed investments in solar power, are important to Vote Solar and its members because they have an interest in: (a) the proposed cost, timing, and scale of FPL's clean energy investments; (b) how customers will benefit from these clean energy investments; (c) how FPL is investing in fossil fuel infrastructure; (d) whether FPL is adequately addressing climate impacts, costs, and risks that will affect customers, including Vote solar members; and (e) whether FPL sufficiently considered clean energy market alternatives that could lower costs for its customers. Therefore, Vote Solar claims that the purpose of the hearing coincides with Vote Solar's substantial interests, which are to ensure that its members receive reliable electric service from FPL and Gulf Power and that the rates they pay are just and reasonable.

In FPL's Response dated April 27, 2021, FPL did not object to Vote Solar's Petition to Intervene.

Standards for Intervention

Pursuant to Rule 28-106.205, 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. Motions 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 standing test set forth in Florida Home Builders Association v. Department of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982), and Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services, 417 So. 2d 753, 754 (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, 481-82 (Fla. 2d DCA 1981).¹ 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

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 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 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).

behalf of its members. Fla. Home Builders, 412 So. 2d at 353-54; Farmworker Rights Org., 417 So. 2d at 754.

Analysis & Ruling

Based upon a review of the materials provided by Vote Solar, it appears that Vote Solar meets the associational standing test established in Florida Home Builders. With respect to the first prong of the associational standing test, Vote Solar asserts that a substantial number of its members are located in FPL's service area. Accordingly, Vote Solar states that its members will be substantially affected by this Commission's determination in this rate proceeding. With respect to the second prong of the associational standing test, the subject matter of the proceeding appears to be within Vote Solar's general scope of interest and activity. Vote Solar is an association that acts as an advocate on behalf of its members on several economic issues, including accessibility of solar generation, and fostering economic opportunity through solar power. As for the third prong of the associational standing test, Vote Solar seeks intervention in this docket to represent the interests of its members, as FPL customers, in seeking reliable service and the lowest rates possible. The relief requested by Vote Solar is of a type appropriate for an association to obtain on behalf of its members.

Because Vote Solar meets the three-prong associational standing test established in Florida Home Builders, Vote Solar's petition for intervention shall be granted. Pursuant to Rule 28-106.205, F.A.C., Vote Solar takes the case as it finds it.

Based on the foregoing, it is

ORDERED by Chairman Gary F. Clark, as Prehearing Officer, that the Petition to Intervene filed by Vote Solar is hereby granted as set forth in the body of this Order. It is further

ORDERED that Vote Solar 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:

Vote Solar
Katie Chiles Ottenweller
Southeast Director
838 Barton Woods Road NE
Atlanta, GA 30307
Email: katie@votesolar.org

By ORDER of Chairman Gary F. Clark, as Presiding Officer, this 19th day of May, 2021.



GARY F. CLARK
Chairman and Presiding Officer
Florida Public Service Commission
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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.

BYL

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.