

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.

DOCKET NO. 20210034-EI

Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company.

DOCKET NO. 20200264-EI
ORDER NO. PSC-2021-0218-PCO-EI
ISSUED: June 11, 2021

ORDER GRANTING
WEST CENTRAL FLORIDA HOSPITAL UTILITY ALLIANCE'S
PETITION TO INTERVENE

BY THE COMMISSION:

On April 9, 2021, Tampa Electric Company (TECO) filed a petition, minimum filing requirements, and testimony for a base rate increase. By Order No 2021-0147-PCO-EI, issued on April 22, 2021, Docket No. 20200264-EI, Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company was consolidated with Docket No. 20210034-EI, Petition for rate increase by Tampa Electric Company. Pursuant to Order No. PSC-2021-0172-PCO-EI, issued May 14, 2021, the consolidated dockets are scheduled for hearing on October 18 through October 22, 2021.

Petition for Intervention

By motion dated June 3, 2021, the West Central Florida Hospital Utility Alliance (HUA) requested permission to intervene in this proceeding. HUA represents that it is an ad hoc group consisting of regional healthcare providers in west central Florida that receive power from, and pay the rates of, TECO. These individual healthcare providers are engaged in providing acute healthcare services. Because of the services they render, their load profile, their concern with service reliability and the cost of electric service, the HUA regional healthcare providers have concerns regarding TECO's services and rates. HUA asserts that it has been recognized to have standing and been granted intervenor status in a prior TECO rate proceeding and satisfies all standing requirements as follows. (1) All of the entities that comprise HUA are located in TECO's service area and receive their electric service from TECO, for which they are charged TECO's applicable service rates. Thus, they will be substantially affected by the Commission's determination of TECO's rates. (2) HUA was created to act as an advocate for its members with respect to the electric services provided and rates charged by TECO. Therefore, intervention is within the group's general scope of interest and activity. (3) Seeking the lowest reasonable rates consistent with the Commission's governing law and policy is the type of relief the Commission can grant. Therefore, the requested relief is of a type appropriate for a group such as HUA to obtain on behalf of its members. HUA represents that TECO, Florida Industrial Power Users Group, Florida Retail Federation, Federal Executive Agencies, and Walmart do not object to

HUA's intervention and that the Office of Public Counsel takes no position regarding HUA's intervention.

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

Analysis and Ruling

HUA has sufficiently alleged standing in this proceeding under the three-prong test set forth in Florida Home Builders. HUA asserts that: (1) all of the entities that comprise HUA will be substantially affected by the Commission's determination of TECO's rates; (2) HUA was created to advocate for its members with respect to the electric services provided and rates charged by TECO; and (3) seeking the lowest reasonable rates consistent with the Commission's governing law and policy is relief that is appropriate for HUA to receive on behalf of its members. Therefore, HUA's participation in this docket is appropriate.

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).

Based on the above representations, it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that the Motion to Intervene filed by West Central Florida Hospital Utility Alliance is hereby granted as set forth in the body of this Order. It is further

ORDERED that West Central Florida Hospital Utility Alliance 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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By ORDER of Commissioner Art Graham, as Prehearing Officer, this 11th day of June, 2021.



ART GRAHAM
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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.

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.