

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor.

DOCKET NO. 20210001-EI  
ORDER NO. PSC-2021-0246-PCO-EI  
ISSUED: July 8, 2021

ORDER GRANTING NUCOR STEEL FLORIDA,  
INC.'S PETITION TO INTERVENE

As part of the Florida Public Service Commission's continuing fuel and purchased power cost recovery clause and generating performance incentive factor proceedings, a hearing has been set in this docket for November 2, 3, and 4, 2021.

Petition for Intervention

By petition dated May 17, 2021, Nucor Steel Florida, Inc. (Nucor) requested permission to intervene in this proceeding. Nucor states that it owns a steel production plant located within Duke Energy Florida, LLC's (DEF) service territory and purchases large amounts of electricity from DEF to power its steel making operations. As a customer of DEF, Nucor asserts that it will be directly and substantially affected by the fuel and capacity cost recovery factors established in this proceeding. Nucor states that it has contacted the parties regarding its intervention as required by Rule 28-106.204(3), Florida Statutes (F.S.). Nucor has been authorized to represent that the Office of Public Counsel and the Florida Industrial Users Group do not object; PCS Phosphate-White Springs, Tampa Electric Company, and Florida Public Utilities Company take no position; and Florida Power & Light Company and Gulf Power Company take no position based on Nucor's representation that its interest is limited to DEF. No written objections have been filed as of this date and the time for doing so has expired.

Standard 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 two-prong standing test set forth in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 482 (Fla. 2d DCA 1981). 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 prong of the test addresses the degree of injury. The second addresses the nature of the injury. 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. 3rd 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).

### Analysis & Ruling

It appears that Nucor has met the two-prong standing test in Agrico. Nucor is a commercial customer of DEF and, thus, will be substantially and immediately affected by the rates that are set in this proceeding. Therefore, DEF has demonstrated that it meets the two-prong standing test of Agrico, and accordingly, DEF's petition for intervention shall be granted as a customer of DEF as set forth herein. Pursuant to Rule 28-106.205, F.A.C., Nucor takes the case as it finds it.

Based on the foregoing, it is

ORDERED by Commissioner Andrew Giles Fay, as Prehearing Officer, that the Petition to Intervene filed by Nucor Steel Florida, Inc., is hereby granted as set forth in the body of this Order. It is further

ORDERED that Nucor Steel Florida, Inc. takes this 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:

Peter J. Mattheis  
Michael K. Lavanga  
Stone Mattheis Xenopoulos & Brew, PC  
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[mkl@smxblaw.com](mailto:mkl@smxblaw.com)

By ORDER of Commissioner Andrew Giles Fay, as Prehearing Officer, this 8th day of July, 2021.



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ANDREW GILES FAY  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
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Tallahassee, Florida 32399  
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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.

SBr

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Subsection 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.