

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.	DOCKET NO. 20240026-EI
In re: Petition for approval of 2023 depreciation and dismantlement study, by Tampa Electric Company.	DOCKET NO. 20230139-EI
In re: Petition to implement 2024 generation base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company.	DOCKET NO. 20230090-EI ORDER NO. PSC-2024-0122-PCO-EI ISSUED: April 23, 2024

ORDER GRANTING INTERVENTION
OF SIERRA CLUB

On April 2, 2024, Tampa Electric Company (“TECO”) filed a petition, minimum filing requirements, and testimony for an increase in base rates effective January 2025.

Petition for Intervention

Sierra Club filed a Petition to Intervene on April 1, 2024. Petitioner represents that it consulted with the parties and neither TECO nor the Office of Public Counsel object to its intervention.

Sierra Club states it is a national grassroots environmental organization founded in 1892 with more than 760,000 members nationwide and 32,748 members in Florida, many of whom are TECO ratepayers. Sierra Club describes its purpose as the exploration, enjoyment, and protection of the wild places of the Earth; to practice and promote the responsible use of the Earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments. Sierra Club alleges that it has a substantial number of members in TECO’s service territory who will be substantially affected by rates set in this proceeding. Sierra Club expresses an interest in promoting a cleaner, healthier, and more sustainable natural environment by replacing TECO’s fossil fuel generation with affordable carbon-free renewable generation and energy efficiency. Sierra Club asserts that its participation in this matter is appropriate to ensure just and reasonable electricity rates for its members who live in TECO’s service territory, as well as a cleaner and healthier environment. Finally, Sierra Club notes that it was previously permitted to intervene on behalf of its members in other proceedings before the Florida Public Service Commission (“Commission”).¹

¹ *In re: Env’tl. cost recovery clause*, Docket No. 20190007-EI, Order No. PSC-2019-0409-PCO-EI (Fla. PSC Oct. 8, 2019); *In re: Env’tl. cost recovery clause*, Docket No. 20180007-EI, Order No. PSC-2018-0344-PCO-EI (Fla. PSC

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, 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.

The test for associational standing was established in *Florida Home Builders Association v. Department of Labor and Employment Security*² and *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*,³ which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*.⁴ 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.⁵

Analysis & Ruling

Based on a review of the materials provided by Sierra Club, it appears that Sierra Club meets the three-prong associational standing test established in *Florida Home Builders*. With respect to the first prong, Sierra Club demonstrates that a substantial number of its members will be substantially affected by the Commission's determination in this rate proceeding. Its members face the prospect of paying higher electricity base rates going forward. Furthermore, it is alleged that many of Sierra Club's members served by TECO are low- and moderate-income ratepayers, making them sensitive to increased and variable rates. With respect to the second prong, the

July 10, 2018); *In re: Analysis of IOU's hedging practices*, Docket No. 170057-EI; Order No. PSC-17-0179-PCO-EI (Fla. PSC May 17, 2017).

² *Fla. Home Builders Ass'n v. Dep't of Labor & Emp't Sec.*, 412 So.2d 351 (Fla. 1982).

³ *Farmworker Rights Org., Inc. v. Dep't of Health & Rehab. Servs.*, 417 So.2d 753 (Fla. 1st DCA 1982).

⁴ *Agrico Chem. Co. v. Dep't of Env'tl. Regulation*, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981). Under *Agrico*, the individual intervenor must show that (1) they will suffer injury in fact which is of sufficient immediacy to entitle them to a Section 120.57, Florida Statutes ("F.S."), hearing, and (2) this 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. *Id.* at 482. The "injury in fact" must be both real and immediate and not speculative or conjectural. *Int'l Jai-Alai Players Ass'n v. Fla. Pari-Mutuel Comm'n*, 561 So.2d 1224, 1225-26 (Fla. 3d DCA 1990); *see also Vill. Park Mobile Home Ass'n, Inc. v. State Dep't of Bus. Regulation*, 506 So.2d 426, 434 (Fla. 1st DCA 1987), *rev. den.*, 513 So.2d 1063 (Fla. 1987) (noting speculation on the possible occurrence of injurious events was too remote).

⁵ *Fla. Home Builders Ass'n*, 412 So.2d at 353-54; *Farmworker Rights Org., Inc.*, 417 So.2d at 754.

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subject matter of this proceeding appears to be within Sierra Club's general scope of interest and activity. Sierra Club regularly intervenes in public service commission dockets around the United States in an effort to protect its members from environmental pollution and unduly high and inequitable electricity rates. It routinely advocates for utilities to replace older and dirtier fossil fuel generators with clean, renewable energy resources. With respect to the third prong, the relief being requested by Sierra Club appears to be of a type appropriate for this association to obtain on behalf of its members. Sierra Club seeks to intervene in this docket to advocate for just and reasonable electricity rates for its members who live in TECO's service territory, as well as a cleaner and healthier environment. Therefore, Sierra Club meets the requirements for associational standing and will be permitted to intervene as a party in this proceeding.

Based on the foregoing, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Petition to Intervene by Sierra Club is hereby granted as set forth in the body of this Order. It is further

ORDERED that Sierra Club 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 Gary F. Clark, as Prehearing Officer, this 23rd day of April, 2024.



GARY F. CLARK
Commissioner and Prehearing Officer
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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.

CMM

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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. 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.