

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF FLORIDA**

In re: Petition for rate increase by        )     Docket No. 20240025  
Duke Energy Florida, LLC                    )     Filed: May 14, 2024

**PETITION TO INTERVENE OF EVGO SERVICES LLC**

On April 2, 2024, Duke Energy Florida, LLC (DEF or “the Company”) filed a petition for approval of a permanent increase in base rates and other relief, initiating the above-captioned proceeding (DEF rate case). Pursuant to Florida Statutes Chapters 120 and 366 and Florida Administrative Code Rule 28-106.205, EVgo Services LLC (EVgo or Petitioner) hereby respectfully petitions the Florida Public Service Commission (Commission) for leave to intervene in the DEF rate case. In support of this petition, EVgo states as follows:

**Background on Petitioner and Petition**

1.     Affected Agency: The name and address of the agency affected by this Petition are as follows:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

2.     Petitioner Contact Information: The name, address, telephone number, and email address of Petitioner are as follows:

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11835 W. Olympic Blvd., Ste. 900E  
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Attn: Lindsey Stegall, Senior Manager, Market Development & Public Policy  
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3. Petitioner's Representatives: The name and address of counsel (qualified representative) for Petitioner, as well as other representatives for Petitioner, authorized to receive all notices, pleadings, orders, correspondence and other communications in this docket, are as follows:

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4. Affected Utility: The utility affected in this docket is Duke Energy Florida, LLC (DEF).

5. Notice of Proceeding: EVgo received notice of this proceeding informally through its practice of monitoring Commission proceedings.

### **Statement of Substantial Interests**

6. EVgo is a leader in charging solutions, building and operating the infrastructure and tools needed to expedite the mass adoption of electric vehicles for individual drivers, rideshare and commercial fleets, and businesses. EVgo is one of the nation's largest public fast charging providers, featuring over 1,000 fast charging locations across more than 35 states, including

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<sup>1</sup> Simultaneously with this Petition to Intervene, EVgo will file a request seeking representation by Mr. Nikhil Vijaykar as EVgo's qualified representative.

stations built through EVgo eXtend™, its white label service offering. EVgo is accelerating transportation electrification through partnerships with automakers, fleet and rideshare operators, retail hosts such as grocery stores, shopping centers, and gas stations, policy leaders, and other organizations.

7. EVgo is an active participant in the competitive market for DCFC in Florida, currently owning and operating more than 70 fast-charging stalls with plans for expansion. EVgo is also an electric commercial retail customer of DEF, taking service under the Company's General Service Rates.

8. EVgo may participate or seek to participate in DEF's existing and proposed electric vehicle (EV) charging programs and initiatives, including the C&I Rebate Program and the proposed non-residential Electric Vehicle Make Ready Credit (MRC) Program (collectively, "EV charging programs").

9. EVgo previously was granted intervention, and participated actively, in Florida Public Service Commission Docket Nos. 20190110-EI; 20190222-EI; and 20210016-EI.

10. EVgo regularly participates in utility rate and other proceedings before utility commissions in states across the country.

11. EVgo will bring significant expertise to bear in this proceeding, with respect to rates, investments, and programs that impact EV charging in DEF's service territory.

### **Statement of Affected Interests**

12. In this proceeding, EVgo plans to evaluate DEF's testimony and exhibits, conduct discovery, and then raise issues and take positions that protect its substantial interests. As discussed above, those interests include its interests as a commercial customer of DEF, its interest as an

electric vehicle service provider (EVSP) operating and expanding its charging network in DEF's service territory, and its interests as a potential participant in DEF's EV charging programs.

13. This Commission has held that prospective intervenors must satisfy the two-prong standing test set forth in *Agrico Chemical Company v. Department of Environmental Regulation* (Agrico), 406 So. 2d 478, 482 (Fla. 2d DCA 1981). The Commission has further stated:

The intervenor must show that (1) he will suffer injury in fact that 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 that 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. The "injury in fact" must be both real and immediate and not speculative or conjectural.<sup>2</sup>

14. DEF's proposals in this rate case proceeding could cause EVgo to suffer substantial, real and immediate injuries-in-fact of the nature that this proceeding is designed to protect in at least two ways, each of which is independently sufficient to demonstrate EVgo's standing to participate as a full party in the proceeding.

15. First, in this proceeding, the Commission will consider new and modified commercial rates, new and modified commercial rate designs, and changes to terms and conditions governing the provision of electric service that the Company has proposed, including changes to rate GSD-1 and non-residential TOU rates, as discussed in the testimony of DEF witness Chatelain.

16. As this Petition referenced above, EVgo is a retail electric customer of DEF. EVgo owns and operates DCFC stations in DEF's service territory; those charging stations interconnect to DEF's distribution system; and those charging stations take electric service under DEF's

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<sup>2</sup> ORDER NO. PSC-2021-0151-PCO-EI, DOCKET NOS. 20190110-EI, 20190222-EI, 20210016-EI, p. 3 (citing *International Jai-Alai Players Assn. v. Florida Pari-Mutuel Commission*, 561 So.2d 1224, 1225-25 (Fla. 3d DCA 1990) (internal citations omitted).

commercial retail tariffs. EVgo’s charging stations are also eligible to take electric service under DEF’s non-residential time-of-use (TOU) rates.

17. EVgo may therefore be directly affected by the rates, charges and rate designs the Commission establishes at the conclusion of this proceeding. Those impacts will be real and accrue immediately following the implementation of rates approved in this proceeding.

18. Moreover, as to the second prong of the *Agrico* test, the Commission should find that the injuries EVgo might suffer if the DEF’s proposed rates were approved are of the type and nature that this proceeding is designed to protect. That is because a rate case is designed to establish just, reasonable and non-discriminatory rates and charges and to protect retail customers from rates and charges that do not meet relevant legal standards.<sup>3</sup>

19. Accordingly, EVgo’s substantial interest in DEF’s rates and charges satisfies the *Agrico* two-prong test, and the Commission should find that EVgo has standing to participate in this proceeding as an intervenor with full party status.

20. Second, in this proceeding, the Commission will consider DEF’s proposal to replace its existing Commercial & Industrial (C&I) Rebate Program with a proposed Electric MRC Program. As referenced above, EVgo is eligible to participate in the Company’s existing and proposed EV charging programs, including the C&I Rebate Program and the proposed non-residential Electric Vehicle MRC Program.

21. EVgo may therefore be directly affected by the Commission’s action with respect to DEF’s EV charging programs, including the application requirements; credit amounts; per charger credit limits; and other terms and conditions the Commission ultimately approves for the non-residential MRC Program. More concretely, those terms and conditions may impact both the

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<sup>3</sup> Florida Statutes § 366.06(1).

economic viability of EVgo’s DCFC stations in DEF’s service territory, as well as EVgo’s planned expansion in DEF’s territory. Those impacts will be real and immediate following the implementation of rates approved in this proceeding, not speculative or conjectural, because EVgo would be subject to the program terms and conditions approved in this proceeding to the extent it sought to participate in DEF’s EV charging programs.

22. Again, as to the second prong of the *Agrico* standing test, the Commission should find that the injuries EVgo would suffer if DEF’s proposed changes to its EV charging programs were approved are of the type and nature that this proceeding is designed to protect because the Commission is statutorily obligated to supervise the investments of public utilities, including the investments contemplated by its EV charging programs.<sup>4</sup> Further, this rate case proceeding is designed to establish programs and initiatives that are just, reasonable, non-discriminatory, lawful and competitively neutral, and protect DEF’s customers, like EVgo, from programs and initiatives that do not meet the relevant legal standards.<sup>5</sup>

23. Accordingly, EVgo’s substantial interest in DEF’s proposed modifications to its electric vehicle programs and initiatives satisfies the *Agrico* two-prong test, and the Commission should find that EVgo has standing to participate in this proceeding as an intervenor with full party status.

24. Timeliness: This Petition is timely filed. F.A.C. 28-106.205 requires petitions for leave to intervene be filed at least 20 days before the final hearing. Hearing in this proceeding has been scheduled for August 12-16 and 19-23, 2024, which is more than 20 days after the filing of this Petition.

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<sup>4</sup> Fla. Stat. §§ 366.04, 366.041, 366.05.

<sup>5</sup> Florida Statutes § 366.06.

25. Statement of Position: DEF must meet its burden of proof in this matter. EVgo intends to conduct discovery and reserves the right to formulate its position on DEF's proposals based on information obtained during discovery or otherwise.

26. Disputed Issues of Material Fact: EVgo will evaluate at minimum the following issues of material fact through its participation in this proceeding:

- Are DEF's proposed commercial rates just and reasonable?
- Are the terms and conditions and program design of the proposed Electric Vehicle Make Ready Credit Program reasonable and appropriate?

EVgo anticipates it may identify disputed issues of material fact over the course of the proceeding, and reserves the right to identify such issues.

27. Disputed Issues of Law: EVgo is not aware of any disputed issues of law at this early stage of the proceeding. However, EVgo anticipates it may identify disputes issues of law over the course of this proceeding, and reserves the right to identify such issues.

28. Statement of Ultimate Facts Alleged: EVgo cannot provide a complete statement of ultimate facts to be proven because it has not yet started discovery. EVgo expects alleged ultimate facts include, but are not limited to, whether the proposed rates and other relief requested by DEF are just and reasonable, and whether DEF's proposed Electric Vehicle Make Ready Credit program is just, reasonable, appropriate, non-discriminatory, and lawful. EVgo anticipates additional alleged ultimate facts may be identified over the course of the proceeding.

29. Laws Entitling Petitioner to Relief and Relation to Alleged Facts: The rules and statutes entitling EVgo to relief include but are not necessarily limited to the following:

- Sections 120.569 and 120.57(1), Florida Statutes;
- Sections 366.03 through 366.07, Florida Statutes;
- Rule 28-106.201, Florida Administrative Code, and;

- Rule 28-106.205, Florida Administrative Code.

30. Statement of Conferral: As required by F.A.C. 28-106.204(3), EVgo has conferred with counsel for all other parties of record as of the date of the filing of this Petition, and no such party has stated an objection to this Petition. DEF indicated it takes no position but reserves the right to respond to the Petition if needed. The Office of Public Counsel; Florida Rising, Inc.; the League of United Latin American Citizens of Florida (LULAC); the Florida Retail Federation; White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs; Nucor Steel Florida, Inc.; and Florida Industrial Power Users Group (FIPUG) each indicated they take no position on the Petition. Sierra Club indicated it supports the Petition.

31. Relief Requested: EVgo requests the Commission permit it to intervene as a full party in this proceeding, including the right to conduct discovery, submit testimony, conduct cross examination, and submit briefs on all disputed issues of fact or law raised by the requested rate increase. EVgo further requests parties to provide the undersigned with all pleadings, testimony, evidence, and discovery filed in this proceeding.



## CONCLUSION

WHEREFORE, EVgo respectfully requests that the Commission grant it intervenor status as a full party of record and allow it to participate fully in these proceedings.

Respectfully submitted, this 14th day of May 2024.

*/s/ Nikhil Vijaykar*

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*Counsel to EVgo Services LLC*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the PETITION TO INTERVENE OF EVGO SERVICES LLC has been furnished to each party of record (listed below) by electronic mail this 14<sup>th</sup> day of May 2024.

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