

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Duke Energy
Florida, LLC.

DOCKET NO. 20240025-EI
ORDER NO. PSC-2024-0199-PCO-EI
ISSUED: June 19, 2024

ORDER GRANTING UNOPPOSED MOTION TO
ACCEPT TESTIMONY OF DAVID FIALKOV

Background

Pursuant to the Order Establishing Procedure (OEP) in this docket,¹ Intervenor testimony was due to be filed June 11, 2024. Intervenor Americans for Affordable Clean Energy; Circle K Stores, Inc.; RaceTrac Inc.; and Wawa, Inc. (collectively “Fuel Retailers”) filed the testimony of David Fialkov on June 11, 2024, but did so after 5:00 p.m. Therefore, the filing was deemed received by the Public Service Commission Clerk’s Office on June 12, 2024,² one day beyond the deadline established in the OEP.

Unopposed Motion to Accept Testimony

Contemporaneously with filing the testimony, the Fuel Retailers filed an Unopposed Motion to Accept Testimony of David Fialkov. The Fuel Retailers represent in the Motion that they filed the testimony “at 7:02 p.m. due to unforeseen circumstances,” and request that the testimony be accepted as though timely filed. Duke Energy Florida, LLC, has no objection to the Motion. The Florida Retail Federation; White Springs Agricultural Chemicals, Inc.; the Southern Alliance for Clean Energy; and Nucor Steel Florida, Inc., also do not object to the Motion. The Office of Public Counsel; Sierra Club; Florida Rising, Inc.; and the League of United Latin American Citizens of Florida, Inc., take no position. EVgo Services, LLC, supports the Motion.

Decision

While the testimony was not deemed filed until June 12, 2024, the testimony was served on the parties contemporaneously with its after-hours filing on June 11, 2024.³ No party claims to have been prejudiced by this brief delay in accessing the subject testimony. In light of the lack of any prejudice to the other parties to this docket, the Fuel Retailers’ summary assertion of “unforeseen circumstances” as the reason for the late filing is accepted as sufficient cause. For all of these reasons, the Motion shall be granted.

¹ Order No. PSC-2024-0092-PCO-EI, issued April 11, 2024.

² “Any document received by the office of the agency clerk before 5:00 p.m. shall be filed as of that day but any document received after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.” Rule 28-106.204(3), Fla. Admin. Code.

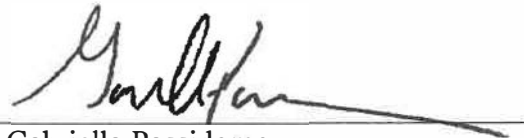
³ Fla. R. Jud. Admin. 2.516(b)(1)D (“Service by e-mail is complete on the date it is sent.”).

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Therefore, it is

ORDERED by Commissioner Gabriella Passidomo, as Prehearing Officer, that the Motion to Accept Testimony of David Fialkov is granted.

By ORDER of Commissioner Gabriella Passidomo, as Prehearing Officer, this 19th day of June, 2024.



Gabriella Passidomo
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.

SPS

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.