

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.	DOCKET NO. 090172-EI ORDER NO. PSC-09-0308-PCO-EI ISSUED: May 7, 2009
---	---

ORDER GRANTING PETITION TO INTERVENE

On April 7, 2009, Florida Power & Light Company (FPL) filed a petition to determine the need for an intrastate natural gas transmission pipeline pursuant to Florida's Natural Gas Transmission Pipeline Siting Act (Siting Act), Sections 403.9401 to 403.9425, Florida Statutes, (F.S.). FPL's proposed "EnergySecure Pipeline" will comprise approximately 280 miles of mainline pipe and 23 miles of lateral and branch lines with an initial capacity of 600 MMcf/d, to be placed in commercial service in January 2014. Approximately two-thirds of the line will serve the natural gas transportation needs of FPL's Cape Canaveral and Riviera Beach plants when they are converted to 3x1 combined cycle natural gas plants.

Petition for Intervention

On April 23, 2009, Florida Gas Transmission Company, LLC (FGT) requested permission to intervene in this proceeding. FGT states that it is a major interstate natural gas transmission company providing gas transportation to local gas distribution companies, electric utilities, and industrial and commercial customers along the Gulf Coast and in Florida for 50 years. FGT states that its interests will be affected in this need determination because it is an electric customer of FPL, it is identified in FPL's petition as a party that will be affected by the construction of the EnergySecure Pipeline, and its own currently available capacity and planned extensions of its facilities are matters to be taken into consideration by the Commission pursuant to section 403.9422(1)(b), F.S. FPL has not objected to FGT's intervention.

Standards for Intervention

Pursuant to Rule 25-22.039, 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 petition for leave to intervene. Petitions for leave to intervene must be filed at least five (5) days before the final hearing, conform with Rule 28-106.201(2), F.A.C., and 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. 2nd 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) this substantial

DOCUMENT NUMBER-DATE

04369 MAY-7 8

FPSC-COMMISSION CLERK

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. 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 FGT meets the two-prong standing test in Agrico. FGT states that FPL provides electrical service to its offices, compression equipment, meter stations, and other equipment located throughout FPL's service territory. FGT maintains that the rates it pays for electric service may be adversely affected by the outcome of this need determination proceeding. FGT's assertions satisfy the Agrico standard for intervention. Accordingly, FGT's petition for intervention shall be granted. Pursuant to Rule 25-22.039, F.A.C., FGT takes the case as it finds it.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the Petition to Intervene filed by Florida Gas Transmission Company LLC is hereby granted as set forth in the body of this Order. 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:

Floyd R. Self, Esq.
Messer, Caparello & Self, P.A.
Hand: 2618 Centennial Place
Tallahassee, FL 32308
Mail: Post office Box 15579
Tallahassee, FL 32317
Phone: (850) 222-0720
Fax: (850) 558-0656
Email: fself@lawfla.com

Michael T. Langston
Phone: (713) 989-7610
Email: michael.langston@sug.com
Louis P. Soldano, Esq.
Phone: (713) 989-2564
Email: louis.soldano@sug.com
Florida Gas Transmission Company, LLC
5444 Westheimer Road
Houston, TX 77056
Fax: (713) 989-1189

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 7th day of
May, 2009.


LISA POLAK EDGAR
Commissioner and Prehearing Officer

(S E A L)

MCB

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.