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Subject: Electronic Filing - Docket 120015-EI
Attachments: 120015.FRF.Pet2Intervene.2-1-12.pdf

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b. 120015-EI

In Re: Petition for Increase in Rates by Florida Power & Light Company.

c. Document being filed on behalf of the Florida Retail Federation.

d. There are a total of 11 pages.

e. The document attached for electronic filing is Petition to Intervene of the Florida Retail Federation.

(see attached file: 120015.FRF.Pet2Intervene.2-1-12.pdf)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar

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*2-1-12
 Party of Interest
 Rhonda Dulgar*

DOCUMENT NUMBER-DATE
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 FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Increase In Rates)
By Florida Power & Light Company) DOCKET NO. 120015-EI
_____) FILED: FEBRUARY 1, 2012

PETITION TO INTERVENE OF THE FLORIDA RETAIL FEDERATION

The Florida Retail Federation ("FRF"), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code ("F.A.C."), hereby petitions to intervene in the above-styled docket.

In summary, the FRF is an established association with more than 9,000 members in Florida, many of whom are retail customers of FPL. The FRF respectfully petitions for intervention to protect its members' interests in having the Commission determine the fair, just, and reasonable rates to be charged by FPL beginning in January 2013, upon the expiration of the current Stipulation and Settlement, which was approved by the Commission's Order No. PSC-11-0089-S-EI, issued in Docket No. 080677-EI, In Re: Petition for Rate Increase by Florida Power & Light Company, and in having the Commission take such other action to protect the interests of the FRF's members and of all of FPL's customers as the Commission may deem appropriate. The interests of the many members of the FRF who are FPL customers will be directly affected by the Commission's decisions in this

¹ All references herein to the Florida Statutes are to the 2011 edition thereof.

case, and accordingly, the FRF is entitled to intervene to protect its members' substantial interests in receiving safe, adequate, and reliable electric service at the lowest possible cost, i.e., at fair, just, and reasonable rates. In further support of its Petition to Intervene, the Florida Retail Federation states as follows.

1. The name, address, and telephone number of the Petitioner are as follows:

Florida Retail Federation
227 South Adams Street
Tallahassee, Florida 32301
Telephone (850) 222-4082
Telecopier (850) 226-4082.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Wiener, Wadsworth, Bowden, Bush,
Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
Facsimile (850) 385-5416.

3. The agency affected by this Petition to Intervene is:

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

4. The Florida Retail Federation is an established association of more than 9,000 members in Florida. Many of the FRF's members are retail electric customers of FPL; these members purchase electricity from FPL pursuant to several different FPL

rate schedules. The FRF's members require adequate, reasonably priced electricity in order to conduct their businesses consistently with the needs of their customers and ownership.

5. Statement of Affected Interests. In this docket, the Commission will decide whether to approve FPL's request for a general rate increase. FPL initiated this docket by filing a Test Year Notification on January 17, 2012. According to the case schedule on the Commission's website, FPL is scheduled to file its petition and Minimum Filing Requirements on March 30, 2012. FPL's Test Year Notification indicates that the final amount of the requested increases has not been determined, but states, as a preliminary estimate, that the Company expects to request a base rate increase of approximately \$525 million per year effective in January 2013 and an additional base rate increase of approximately \$170 million per year when its new Cape Canaveral Clean Energy Center power plant comes into service in mid-2013. In this case, the Commission will necessarily have to decide whether any rate increases are justified, and if so, the Commission will also have to approve the rates and charges that would enable FPL to recover any authorized increase in FPL's base rate revenues. As the representative of its many members who are FPL retail customers, the Florida Retail Federation's and its members' substantial interests will be affected by any action that the Commission takes in this docket.

6. The FRF's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the FRF is the representative of a large number of its more than 9,000 members who are retail electric customers of FPL, and these members' substantial interests will be directly affected by the Commission's decisions regarding FPL's retail electric rates. Thus, the interests that the FRF seeks to protect are of sufficient immediacy to warrant intervention, and its members' interests in having the Commission set rates for FPL that are fair, just, reasonable, and not unduly discriminatory are exactly the interests that this proceeding is designed to protect. This is a general rate case, and the FRF seeks to protect its members' substantial interests as they will be affected by the Commission's decisions determining FPL's rates.

7. Associational Standing. Under Florida law, to

establish standing as an association representing its members' substantial interests, an association such as the Florida Retail Federation must demonstrate three things:

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;
- b. that the intervention by the association is within the association's general scope of interest and activity;
and
- c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). The FRF satisfies all of these "associational standing" requirements. A substantial number of the FRF's more than 9,000 members are located in FPL's service area and receive their electric service from FPL, for which they are charged FPL's applicable retail rates. The FRF exists to represent its members' interests in a number of venues, including the Florida Public Service Commission: indeed, the FRF was an intervenor in FPL's general rate case in 2005 and a signatory to the Stipulation and Settlement that resolved the issues in that docket, as well as a party to Docket No. 080677-EI and to the Stipulation and Settlement that the Commission approved in 2011 after the

Commission had earlier (by Order No. PSC-10-0153-FOF-EI, issued on March 17, 2010) decided the revenue requirements and rate issues in the case. Finally, the relief requested -- intervention and the lowest rates consistent with applicable laws and rules -- is across-the-board relief that will apply to all of the FRF's members in the same way, according to the retail rate schedules under which they receive service; therefore, the requested relief is of the type that is appropriate for an association to obtain on behalf of its members.

8. Disputed Issues of Material Fact. The FRF believes that the disputed issues of material fact in this proceeding will include the issues listed below, as well as many more specific issues of the type that are normally raised and litigated in general rate cases. Naturally, at this early point in this docket, the issues stated below are broad, general issues, and the FRF expects that, as in past rate cases, numerous additional, specific issues will be identified and developed as this docket progresses. (For example, in Docket No. 080677-EI, the Commission addressed approximately 175 individual issues.)

Issue: What are the appropriate jurisdictional values of FPL's Plant in Service, Accumulated Depreciation, and Rate Base for setting FPL's rates to be effective as of January 1, 2013?

Issue: What are the appropriate jurisdictional values of FPL's

operation and maintenance expenses for setting FPL's rates in this case?

Issue: What is the appropriate capital structure for FPL for the purpose of setting FPL's rates in this case?

Issue: What is the appropriate rate of return on equity for FPL for the purpose of setting FPL's rates in this case?

Issue: What are the appropriate rates to be charged by FPL for its services to each customer class?

The FRF reserves all rights to raise additional issues in accordance with the Commission's rules and the anticipated Order Establishing Procedure in this case.

9. Statement of Ultimate Facts Alleged. It is FPL's burden to prove that it is entitled to any rate increases, and to prove that requirement, FPL must prove that its existing rates and charges are not fair, just, and reasonable. A substantial number of the FRF's more than 9,000 members are FPL's retail customers, and accordingly, their substantial interests are subject to determination in this docket, and any rate increase will adversely affect those customers' interests. As the representative association of its members who are FPL customers, the FRF is entitled to intervene herein and entitled to a hearing as to the fair, just, and reasonable rates to be charged by FPL upon the expiration of the 2011 Stipulation and Settlement.

10. Statutes and Rules That Entitle the Florida Retail Federation to Relief. The applicable statutes and rules that entitle the FRF to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.05(1), 366.06(1)&(2), and 366.07, Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

11. Statement Explaining How the Facts Alleged By the Florida Retail Federation Entitle the FRF to the Relief Requested. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. A substantial number of the FRF's more than 9,000 members are FPL's retail customers, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission's decisions in this docket. Accordingly, as the representative association of its members who are FPL customers, the FRF is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over FPL's rates and the Commission's statutory mandate to ensure that FPL's rates are fair, just, and reasonable. The facts alleged here by the FRF demonstrate (a) that the Commission's decisions herein will have a significant impact on FPL's rates and charges, (b) that a substantial number of the FRF's members will be directly

impacted by the Commission's decisions regarding FPL's rates and charges, and (c) accordingly, that these statutes provide the basis for the relief requested by the FRF in its Petition to Intervene.

CONCLUSION

The Florida Retail Federation is an established association that, consistent with its purposes and history of intervening in Commission proceedings to protect its members' interests, seeks to intervene in this general rate case docket to protect its members' substantial interests in having the Commission set rates for Florida Power & Light Company that are fair, just, reasonable, and not unduly discriminatory. The interests of the FRF's members that the FRF seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by this proceeding.

RELIEF REQUESTED

WHEREFORE, the Florida Retail Federation respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the FRF's representatives indicated in paragraph 1 above.

Respectfully submitted this 1st day of February 2012.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following, by U.S. Mail, on this 1st day of February 2012.

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