

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of optional non-standard meter rider, by Florida Power & Light Company.

DOCKET NO. 130223-EI
ORDER NO. PSC-14-0177-PCO-EI
ISSUED: April 18, 2014

ORDER GRANTING INTERVENTION

On August 21, 2013, Florida Power & Light Company (FPL) filed a Petition for Approval of Optional Non-Standard Meter Rider. On January 14, 2014, the Commission issued Order No. PSC-14-0036-TRF-EI (Tariff Order), denying FPL's tariff request. However, the order provided an option for FPL to file a revised non-standard meter rider tariff, so long as the revised tariff contained three Commission recommended adjustments. FPL filed a revised non-standard meter rider tariff on January 17, 2014.

On February 4, 2014, two separate groups of FPL customers (Protestors) timely filed protests through their respective representatives citing concerns over a wide range of issues, including the basis for the tariff as well as the costs, terms, and conditions outlined in the proposed tariff. On February 21, 2014, FPL filed two motions to dismiss substantial portions of each protest, generally based upon the position that many of the proposed issues are either outside the jurisdiction of the Commission or are outside the scope of the present docket. On April 1, 2014, the Prehearing Officer issued Order Nos. PSC-14-0146-FOF-EI and PSC-14-0145-FOF-EI, granting in part and denying in part FPL's motion to dismiss the Protestor's petitions.

Petition for Intervention

By petition dated March 31, 2014, Mr. Daniel R. Larson and Mrs. Alexandria Larson (Larsons) requested permission to intervene in this proceeding. The Larsons state that they are residential customers of FPL and do not have a smart meter currently installed at their address, nor do they wish for one to be installed in the future. The Larsons contend that their substantial interests are adversely affected by the Commission's approval of the Non-Standard Meter Rider Tariff because it will increase their electric rates. There has been no response filed in opposition to this request, and the time for doing so has expired.

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 the presiding officer for leave to intervene. Petitions for leave to intervene must be filed at least five (5) days before the final hearing, must conform with Uniform subsection 28-106.201(2), 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 or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding....

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) the substantial injury is of a type or nature which the proceeding is designed to protect. The first prong of the test addresses the degree of injury. The second addresses 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

The Larsons are residential customers of FPL and do not have a smart meter currently installed at their address, nor do they wish for one to be installed in the future. Thus, the Larsons’ interests will be substantially affected by this proceeding since they will be subject to the optional non-standard meter rider which is the subject of this proceeding. As such, the Larsons have demonstrated that they meet the two-prong standing test of Agrico, and accordingly, the Larsons’ petition for intervention shall be granted as set forth herein. Pursuant to Rule 25-22.039, F.A.C., the Larsons take the case as they find it.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the Petition to Intervene filed by Mr. Daniel R. Larson and Mrs. Alexandria Larson is hereby granted as set forth in the body of this Order. It is further

ORDERED that the Larsons take this case as they find 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:

Nathan A. Skop, Esq.
420 NW 50th Blvd
Gainesville, FL 32607
N_skop@hotmail.com
Phone: (561) 222-7455

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 18th day of April, 2014.



LISA POLAK EDGAR
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.

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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, 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.