



December 16, 2016

Via electronic filing and email

Carlotta Stauffer
Director, Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket Nos. 160186-EI

Dear Ms. Stauffer:

Enclosed for filing in the above-referenced docket, please find Sierra Club's Petition to Intervene. Should you have any questions regarding this filing, please contact me.

Sincerely,

/s/ Diana A. Csank

Diana A. Csank
Staff Attorney
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
(202) 548-4595 (direct)
Diana.Csank@sierraclub.org

Qualified Representative for Sierra Club

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Gulf
Power Company

Docket No. 160186

Filed: December 16, 2016

SIERRA CLUB'S
PETITION TO INTERVENE

Pursuant to Sections 120.569, 120.57, Florida Statutes (F.S.), and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code (F.A.C.), Sierra Club hereby petitions for leave to intervene in the above-captioned docket and states:

1. Agency's name and address. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.

2. Petitioner's name and addresses. Petitioner is Sierra Club, with the following headquarters and local addresses:

Sierra Club, National Headquarters
2101 Webster St., Suite 1300
Oakland, CA 94612
415-977-5500

Sierra Club, Florida Chapter
1990 Central Avenue
St. Petersburg, FL 33712
727-824-8813

3. Petitioner's representative. Copies of all notices, pleadings, orders, and other communications in this docket should be directed to:

Diana Csank
Staff Attorney
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
202-548-4595 (direct)
diana.csank@sierraclub.org

4. Notice of docket. Petitioner received notice of this docket through its periodic review of docketed matters on the Commission’s website.

5. Statement of substantial interest. This Petition is on behalf of Sierra Club and its more than 30,000 members who live and purchase electric utility service in Florida, many from Gulf Power Company (Gulf).

6. Sierra Club is a national non-profit organization.

7. Sierra Club and its Florida members are dedicated to reducing pollution through equitable public health and environmental safeguards, and through the rapid transition away from fossil fuel-burning generation. To achieve this transition, Sierra Club has championed policies and regulations, including rate designs, to remove barriers to energy efficiency, solar power, wind power, and energy storage as low cost, low risk alternatives to burning fossil fuels to generate power. *See, e.g.* Sierra Club et al. letter to NARUC President Kavulla (June 23, 2016) *available at* <http://goo.gl/go5DY7>. Sierra Club advocates for such policies and regulations nationwide, including Florida, by intervening, submitting comments, providing testimony, and presenting experts in state and federal energy-related proceedings; participating in public hearings and workshops; speaking to students, civic organizations, and other stakeholders; and holding seminars and symposia—all to ensure that clean energy solutions reach all communities.

8. Here, the Commission will consider Gulf’s request for a base rate increase to cover, among other things, the purchase of Georgia coal-burning generation and related environmental compliance expenses. Gulf Notice, at 3, Burleson Testimony, at 3.

9. In rate cases, the Commission is to fix “fair, just, and reasonable rates.” Section 366.041(4), F.S. To do so, the Commission must first determine whether the expenses that the utility seeks to include in rates are “prudently invested.” Section 366.06(1), F.S. Beyond the

bedrock prudence review, Florida Statutes specify other factors that inform the Commission's rate setting, including: (a) the utility's use of "alternative energy resources," "conservation," and "efficiency;" (b) the utility's "ability to improve its services and facilities;" and (c) the "value of [the utility's] service to the public." Section 366.041, F.S.

10. Sierra Club meets the standing requirements to intervene in this docket.

11. First, Sierra Club meets the three-prong associational standing test established by *Florida Home Builders v. Dept. of Labor and Employment Security*, 412 So. 2d 351 (Fla. 1982), and extended to Section 120.57(1), F.S., hearings involving disputed issues of material fact by *Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services*, 417 So. 2d 753 (Fla. 1st DCA 1982). Under this test, an association has standing to litigate on its members' behalf when: (a) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (b) the subject matter of the proceeding is within the association's general scope of interest and activity; and (c) the relief requested is of a type appropriate for the association to receive on behalf of its members. *Florida Home Builders*, 412 So. 2d at 353.

12. Sierra Club meets the associational standing test's first prong because, for a substantial number of its members—those with Gulf accounts—any approved amount of rate increase, and other issues the Commission will decide here may substantially affect their electric bills. The Commission's decisions may also substantially affect the value of Gulf's service to these members as the decisions will guide if not bind Gulf's selection of service offerings going forward, including whether to pursue, improve, or abandon certain activities and certain generation.

13. Sierra Club meets the associational standing test's second prong because, as shown in its past filings and oral presentations to the Commission, Sierra Club is interested and active in advocating for a rapid transition away from fossil fuel-burning generation, toward low cost, low risk clean energy alternatives. Such generation and such alternatives are squarely before the Commission in this docket.

14. Sierra Club meets the associational standing test's third prong because it seeks intervention to represent its members' interest in this docket; no more is needed. *See* Order PSC-14-0097-PCO-EU (granting Sierra Club intervention and finding Sierra Club meets associational standing requirements); *see also* Order PSC-16-0299-PCO-EI (granting Sierra Club intervention in electric utility rate case).

15. Additionally, Sierra Club meets the two-prong test for standing established in *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), *reh. denied*, 415 So.2d 1359 (Fla. 1982). This test requires (a) injury in fact which is of sufficient immediacy to entitle the petitioner to a hearing under Section 120.57, F.S., and (b) substantial injury of a type or nature, which the proceeding is designed to protect.

16. Sierra Club meets the *Agrico* test's first prong because any approved amount of rate increase may immediately affect the electric bills of its members, especially as Gulf proposes that such increase go into effect on July 1, 2017. Gulf Petition, at 8. Other Commission decisions here may also immediately affect the cost and value of Gulf's service to the members.

17. Sierra Club meets the *Agrico* test's second prong because this proceeding is designed to protect *all* Gulf customers, including those who are Sierra Club members, from rates that are "unjust, unreasonable, unjustly discriminatory, or in violation of law." Section

366.06, F.S.

18. Sierra Club's intervention will not unduly broaden the issues or delay this proceeding because Sierra Club's interest is directly related to the subjects addressed here, and Sierra Club will abide by Rule 25-22.039, F.A.C., that "[i]ntervenors take the case as they find it."

19. Sierra Club anticipates that disputed issues of material fact include but are not limited to whether Gulf's proposed purchase of Georgia coal-burning generation and related expenses are in fact prudent, and whether the various parts of Gulf's proposed rate increase, individually and collectively, would achieve fair, just, and reasonable rates.

20. Statement of ultimate facts. Sierra Club reserves the right to identify ultimate facts after completing discovery in this proceeding

21. Statement required by Rule 28-106.204(3), F.A.C. Gulf conveyed to Sierra Club that it reserves its rights to review the filed petition and then make its decision regarding a possible response. The Southern Alliance for Clean Energy supports this petition. The other parties take no position.

22. WHEREFORE, Sierra Club respectfully requests that the Commission enter an order granting it leave to intervene in the above-captioned docket, and further requests parties to provide the undersigned with all pleadings, testimony, evidence and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 16th day of December, 2016.

/s/ Diana A. Csank

Diana A. Csank
Qualified Representative for Sierra Club

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served electronically on this 16th day of December, 2016 on:

<p>Lee Eng Tan/Bianca Lherisson/Kelley Corbari /Stephanie Cuello Office of the General Counsel Florida Public Service Commission ltan@psc.state.fl.us kcorbari@psc.state.fl.us blheriss@psc.state.fl.us scuello@psc.state.fl.us</p>	<p>J.R. Kelly/Charles J. Rehwinkel/ Stephanie Morse Office of Public Counsel kelly.jr@leg.state.fl.us rehwinkel.charles@leg.state.fl.us morse.stephanie@leg.state.fl.us</p>
<p>Bradley Marshall; Alisa Coe Earthjustice bmarshall@earthjustice.org acoe@earthjustice.org ruhland@earthjustice.org <i>Attorneys for Southern Alliance for Clean Energy and League of Women Voters of Florida</i></p>	<p>T. Jernigan/A. Unsicker/L. Zieman/N. C Federal Executive Agencies c/o AFCEC/JA-ULFSC Thomas.Jernigan.3@us.af.mil Andrew.Unsicker@us.af.mil Lanny.Zieman.1@us.af.mil Natalie.Cepak.2@us.af.mil Ebony.Payton.ctr@us.af.mil</p>
<p>Jon C. Moyle, Jr./Karen A. Putnal Moyle Law Firm, P.A. jmoyle@moylelaw.com kputnal@moylelaw.com <i>Attorneys for FIPUG</i></p>	<p>Mr. Robert L. McGee , Jr. Gulf Power Company rlmcgee@southernco.com</p>
<p>J. Stone/R. Badders/S. Griffin Beggs Law Firm jas@beggsllane.com <i>Attorneys for Gulf Power Company</i></p>	

This 16th day of December 2016.

/s/ Diana A. Csank

Diana A. Csank
Qualified Representative for Sierra Club