

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by Florida Power & Light  
Company for Approval of FPL SolarTogether  
Program and Tariff

Docket No. 20190061

Filed: July 25, 2019

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO VOTE  
SOLAR'S SUPPLEMENTAL COMMENTS ON MOTION TO INTERVENE**

Florida Power & Light Company ("FPL"), pursuant to Order No. PSC-2019-0285-PCO-EI, hereby files its response to Vote Solar's Supplemental Comments on its Motion To Intervene. As described below, Vote Solar still fails to demonstrate standing to intervene. Its Motion should therefore be denied. In support, FPL states:

1. On March 13, 2019, FPL filed its Petition for Approval of FPL SolarTogether Tariff and Program.
2. On June 13, 2019, Vote Solar filed a Motion To Intervene. On June 21, 2019, FPL objected to the motion on the ground that it was premature because the docket was proceeding on a proposed agency action track. As part of its objection, FPL reserved the right to take a position, at an appropriate time, regarding whether Vote Solar satisfies the requirements for associational standing established in *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351 (Fla. 1982).
3. On July 12, 2019, following the Commission's issuance of an Order Establishing Procedure scheduling a hearing in this Docket, FPL submitted an amended response to Vote Solar's Motion To Intervene. FPL pointed out that, according to Vote Solar's own Motion, the organization is essentially an advocacy group focused on the development of solar energy policy and programs, a pursuit that cannot form the basis for standing because it is the function of the Commission or the Legislature – not an intervenor – to oversee and develop such policy in the State of Florida.

4. FPL further explained that Vote Solar failed to satisfy the test for associational standing. Pursuant to *Home Builders*, a trade or professional association “must demonstrate” that: (i) a substantial number of its members are “substantially affected” by the proceeding, (ii) the subject matter of the proceeding is within the association’s general scope of interest and activity, and (iii) the relief requested is of the type appropriate for the association to receive on behalf of its members. *Home Builders*, 412 So. 2d at 352-43 (emphasis added).

5. The Commission requested that Vote Solar submit additional comments regarding whether it meets the three-prong *Home Builders* test. Even when provided this additional opportunity, Vote Solar failed to make the requisite showing.

6. *Florida Homebuilders* unambiguously requires a demonstration, not merely allegations of a party’s basis for standing. See also *NAACP, Inc. v. Florida Bd. of Regents*, 863 So. 2d 294, 296 (Fla. 2003) (observing that lower tribunal permitted intervention where the association “had presented sufficient evidence to establish . . . associational standing”); *Florida League of Cities, Inc. v. Dep’t of Env’tl. Regulation*, 603 So. 2d 1363, 1367 (Fla. 1st DCA 1992) (party satisfied test for standing based on stipulation of facts).

7. The Commission has likewise recognized the need for evidence to demonstrate standing. See *In re: Petition by Florida Power & Light Company for authority to charge FPL rates to former City of Vero Beach customers, etc.*, Order No. PSC-2018-0370-PCO-EU, at p.2 , issued July 25, 2018 (“As to whether the petitioners alleged sufficient facts to demonstrate their standing, the most efficient process under the circumstances is to take evidence on the issue of standing during the course of the scheduled hearing.”).

8. As first mentioned in FPL’s Amended Response, Vote Solar’s Motion To Intervene offered no evidence to support its allegations. Its Supplemental Comments are

likewise lacking. Specifically, Vote Solar alleges that it has at least 5,000 members who are substantially affected by this docket because they receive electric service from FPL. But that allegation is utterly unsupported. Vote Solar fails to identify with evidence – or even by name – a single FPL customer who is a member of the organization.

9. In fact, FPL has reviewed the docket file and confirmed that there is no correspondence indicating that the author of any letter is a member of Vote Solar. FPL's review did reveal that a substantial number of the authors reside outside FPL's service territory and some even reside outside the State of Florida.

10. Accordingly, both Vote Solar's Motion and its Supplemental Comments are legally insufficient to establish standing. Despite its failure to demonstrate standing to participate as an intervenor, FPL has no objection to Vote Solar appearing as an amicus curiae and filing a post-hearing brief as such in this proceeding.

11. For the reasons stated above, the Commission should deny Vote Solar's Motion To Intervene.

WHEREFORE, FPL respectfully requests that the Commission deny Vote Solar's Motion To Intervene.

Respectfully submitted this 25th day of July 2019.

Maria Jose Moncada  
Senior Attorney  
William P. Cox  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
(561) 304-5795  
(561) 691-7135 (fax)

By: s/ Maria Jose Moncada  
Fla. Bar No. 0773301

**CERTIFICATE OF SERVICE**  
**Docket No. 20190061-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service on this 25th day of July 2019 to the following:

Walter Trierweiler  
Office of the General Counsel  
**Florida Public Service Commission**  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
wtrierwe@psc.state.fl.us

Richard A. Zambo  
**Richard A. Zambo, P.A.**  
Fla. Bar No. 312525  
2336 S.E. Ocean Boulevard, #309  
Stuart, Florida 34966  
richzambo@aol.com  
(772) 225-5400

Marsha E. Rule  
**Rutledge Ecenia, P.A.**  
Fla. Bar No. 0302066  
119 South Monroe Street, Suite 202  
Tallahassee, Florida 32301  
marsha@rutledge-ecenia.com  
(850) 681-6788  
*Attorneys for Vote Solar*

Office of Public Counsel  
J.R. Kelly  
Stephanie Morse  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee FL 32399  
(850) 488-9330  
kelly.jr@leg.state.fl.us  
morse.stephanie@leg.state.fl.us

By: s/ Maria Jose Moncada  
Fla. Bar No. 0773301