

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of FPL
SolarTogether program and tariff, by Florida
Power & Light Company.

DOCKET NO. 20190061-EI
ORDER NO. PSC-2019-0316-PCO-EI
ISSUED: July 31, 2019

ORDER GRANTING INTERVENTION

On March 13, 2019, Florida Power & Light Company (FPL) filed a petition for a new voluntary community solar program, called FPL SolarTogether, which will allow FPL customers to subscribe to a portion of new solar capacity built through the program and to receive a credit for a portion of the system savings produced by that solar capacity. Phase 1 of the program consists of five FPL SolarTogether projects that comprise a total of 20 solar power plants that are 74.5 megawatts each. This docket is currently scheduled for hearing on October 15-16, 2019.

Petition for Intervention

By petition dated July 12, 2019, the Southern Alliance for Clean Energy (SACE) requested permission to intervene in this proceeding. SACE is a non-profit clean energy corporation organized under the laws of Tennessee and authorized to conduct operations in the State of Florida. SACE states that its mission is to advocate for energy plans, policies, and systems that best serve the environmental, public health, and economic interest of communities in the Southeast, including Florida. As part of that mission, SACE states that it strongly supports and advocates for the development of low cost, clean solar power, including community solar programs. SACE has presented experts and provided technical and policy testimony in numerous forums throughout Florida, including this Commission.

SACE states that a successfully designed community solar program, one which maximizes economic benefit to customers, will advance the adoption of low-cost, clean solar power and is consistent with the mission of SACE and its members. SACE states that a substantial number of its members are FPL customers that will be directly affected by the decision in this case. SACE further states that its members, whether participants or not of the SolarTogether program, have a substantial economic interest in ensuring a well-designed program that is consistent with best practices in program design. SACE contends that the type of relief requested is appropriate on behalf of SACE members because intervention will allow SACE a meaningful opportunity to review, examine aspects of the program, and raise issues of material fact as appropriate. No party has filed an objection to SACE's petition, and the time for doing so has expired.

Standards for Intervention

Pursuant to Rule 28-106.205, 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 move for leave to intervene. Motions for leave to intervene must be filed at least twenty

(20) days before the final hearing, must comply with Rule 28-106.204(3), 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. Intervenors take the case as they find it.

To have standing, the intervenor must meet the three-prong standing test set forth in *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351, 353-54 (Fla. 1982), and *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*, 417 So. 2d 753, 754 (Fla. 1st DCA 1982), which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981).¹ Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members. *Fla. Home Builders*, 412 So. 2d at 353-54; *Farmworker Rights Org.*, 417 So. 2d at 754.

Based on the above representations, it appears SACE has met the associational standing requirements of *Florida Home Builders* as stated above. SACE asserts that it has a substantial number of its members that are FPL customers and, as a result, those members are directly and substantially affected by the decision in this case. Additionally, the development of community solar programs falls within the purview of SACE's general scope of interest. Further, the type of relief requested is appropriate on behalf of SACE members.

Therefore, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Motion to Intervene filed by Southern Alliance For Clean Energy is hereby granted as set forth in the body of this Order. It is further

ORDERED that Southern Alliance For Clean Energy takes the case as it finds 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:

¹ Under *Agrico*, 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 aspect of the test deals with the degree of injury. The second deals with the nature of the injury. 406 So. 2d 478 at 482. 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. 3d 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).

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By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 31st day
of July, 2019.



GARY F. CLARK
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.

KBS

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

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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.