

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of 2020-2029 Storm Protection
Plan pursuant to Rule 25-6.030, F.A.C.,
Tampa Electric Company

DOCKET NO.: 20200067-EI
FILED: June 23, 2020

**FLORIDA INDUSTRIAL POWER USERS GROUP'S
PETITION TO INTERVENE**

Petitioner, the Florida Industrial Power Users Group ("FIPUG"), pursuant to sections 120.569 and 120.57(1), Florida Statutes, and Rule 28-106.205, Florida Administrative Code, hereby files its Petition to Intervene, and in support thereof states as follows:

The Parties

1. Petitioner / Intervenor is:

Florida Industrial Power Users Group
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For purposes of service of all pleadings, notices, and orders in this docket, Intervenor's mailing and e-service addresses are as follows:

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2. The affected agency is the Florida Public Service Commission ("Commission"), with a principal place of business at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

3. The affected utility in this docket is Tampa Electric Company ("TECO").

FIPUG's Substantial Interests

4. FIPUG is an association of Florida-based businesses consisting of large users of electricity. The cost of electricity constitutes a significant portion of FIPUG members' overall costs of production and/or operations. FIPUG members require adequate, reasonably-priced electricity in order to compete in their respective markets and conduct business effectively and efficiently.

5. In this case, the Commission will consider TECO's 2020-2029 storm protection plan ("SPP"). TECO filed its SPP pursuant to a recently enacted statute, Section 366.96, Florida Statutes, and recently adopted Commission Rule 25-6.030, Florida Administrative Code. Section 366.96 provides in pertinent part that TECO will strengthen its electric utility infrastructure to protect and strengthen transmission and distribution infrastructure from extreme weather conditions, reduce outage times and restoration costs, and improve overall service reliability to TECO's customers, which include FIPUG members. These activities and the attendant costs of the activities proposed by TECO will have a direct and substantial impact on TECO's customers, including FIPUG members.

6. As discussed below, FIPUG has standing to intervene in this matter on behalf of its members. In *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351 (Fla. 1982), the Florida Supreme Court set forth the requirements for an organization to demonstrate associational standing on behalf of its members in administrative

proceedings.¹ An organization must demonstrate that: 1) a substantial number of its members, although not necessarily a majority, are "substantially affected" by the agency action; 2) the subject matter of the case is within the association's general scope of interest and activity; and 3) the relief requested is of the type appropriate for the association to receive on behalf of its members. *Id.* at 353-54.

7. A substantial number of FIPUG members will be affected by the Commission's action taken on TECO's Petition in this case. *See Agrico Chem. Co. v. Dep't of Env't Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981). The subject matter of this docket is within FIPUG's general scope of interest and activity. FIPUG routinely appears on behalf of its members in cases concerning utility regulation, as the cost of electricity represents a significant portion of its members' production and/or operational costs. As such, the subject matter of the instant docket, i.e. evaluation of TECO's request for Commission review and approval of activities related to its 2020-2029 SPP, is well within FIPUG's scope of interest and activity. Additionally, the relief sought by FIPUG by way of the instant petition is of the type appropriate for FIPUG to receive on behalf of its members and pursuant to rule 28-106.205(1), Florida Administrative Code.

8. FIPUG seeks, by way of the instant petition, leave to intervene as a party with full rights to participate in this docket. Because FIPUG's members are large consumers of electricity, customers who will be affected by the outcome of this case, FIPUG's participation in this docket is appropriate. FIPUG seeks to ensure that storm protection activities for which TECO seeks Commission approval are reasonable and authorized in part because TECO will subsequently

¹ Although *Florida Home Builders Association* concerned standing in actions brought pursuant to section 120.56(1), Florida Statutes, its rationale has been extended to actions brought pursuant to 120.57, Florida Statutes, by the First District Court of Appeal's decision in *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*, 417 So. 2d 753, 754 (Fla. 1st DCA 1982).

seek to increase customers' rates during the annual storm protection plan recovery clause proceeding.

9. FIPUG's interests are of the type that this proceeding is designed to protect. *See, Agrico Chem. Co.*, 406 So.2d at 482. The purpose of the proceeding is for the Commission to consider TECO's expansion or implementation of its storm hardening and preparedness programs to protect and strengthen transmission and distribution infrastructure from extreme weather conditions, reduce outage times and restoration costs and improve overall service reliability to customers. The outcome of the proceeding thus will have significant implications for FIPUG members that are customers of TECO. Accordingly, FIPUG's interests in ensuring that TECO's Storm Protection Plan appropriately strengthens transmission and distribution infrastructure from extreme weather conditions, reduces outage times and restoration costs, and improves overall service reliability to its customers, including FIPUG members, are the issues that this proceeding is designed to protect.

Notice of Proceeding

10. FIPUG received notice of this docket by a review of the Commission's website.

Statement of Position

10. TECO must meet its burden of proof in this matter and establish that its SPP is reasonable, appropriate, and prudent.

Disputed Issues of Material Fact

11. Disputed issues of material fact include, but are not limited to, the following:
- a. Whether TECO's SPP for 2020-2029 is reasonable, appropriate, prudent and practical in certain areas of TECO's service territory, including, but not limited to, flood zones and rural areas.

- b. The extent to which the SPP is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance.
- c. The estimated costs and benefits to the utility and its customers, including FIPUG members, of making the improvements proposed in the SPP.
- d. The estimated annual rate impact resulting from implementation of the SPP during the first 3 years addressed in the SPP.

12. FIPUG reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this docket.

Statement of Ultimate Facts Alleged and at Issue

13. Ultimate facts alleged and at issue include, but are not limited to, the following:
- a. Whether TECO's SPP is reasonable, appropriate and prudent and whether the projected costs of TECO's SPP are reasonable and prudent.

Rules and Statutes Justifying Relief

14. The rules and statutes that entitle FIPUG to intervene and participate in this case include, but are not limited to:

- a. Section 120.569, Florida Statutes;
- b. Section 120.57, Florida Statutes;
- c. Section 366.96, Florida Statutes;
- d. Section 366.04(1), Florida Statutes;
- e. Section 366.06, Florida Statutes;
- f. Rule 25-6.030, Florida Administrative Code
- g. Rule 28-106.201, Florida Administrative Code; and

h. Rule 28-106.205, Florida Administrative Code.

Relief Requested

15. FIPUG requests that it be permitted to intervene as a full party in this docket.

Statement Required by Rule 28-106.204(3), Florida Administrative Code

16. Counsel for FIPUG has conferred with counsel for TECO and is authorized to represent that TECO does not oppose FIPUG's Petition to Intervene.

WHEREFORE, FIPUG requests that the Commission enter an order allowing it to intervene and participate as a full party in docket number 20200067-EI.

/s/ Jon C. Moyle

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Florida Industrial Power Users Group's Petition to Intervene has been furnished by electronic mail this 23rd day of June 2020 to the following:

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