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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida  
Power & Light Company.

DOCKET NO. 20210015-EI  
ORDER NO. PSC-2021-0184-PCO-EI  
ISSUED: May 20, 2021

ORDER GRANTING IN PART AND PROVISIONALLY GRANTING IN PART  
THE CLEO INSTITUTE INC.'S PETITION TO INTERVENE

On March 12, 2021, Florida Power & Light Company (FPL) filed a petition, minimum filing requirements, and testimony for a base rate increase effective January 2022. Pursuant to Order No. PSC-2021-0116-PCO-EI, issued March 24, 2021, the hearing for the FPL rate case is scheduled on August 16 through August 27, 2021.

Petition for Intervention

On April 22, 2021, The CLEO Institute Inc. (CLEO Institute) and Vote Solar filed a joint Petition to Intervene (Petition). On April 27, 2021, FPL filed a Response to the Petition (Response), stating it objects to CLEO Institute's Petition, but does not object to Vote Solar's Petition. Vote Solar's petition to intervene will be taken up by separate order. CLEO Institute represents that the Office of Public Counsel, Florida Industrial Power Users Group, Florida Retail Federation, the League of United Latin American Citizens of Florida, the Environmental Confederation of Southwest Florida, Inc., Florida Rising, Federal Executive Agencies, and Southern Alliance for Clean Energy take no position, and D. Larson and A. Larson state that their position is "not opposed." No other written objections to CLEO Institute's Petition have been filed and the time for doing so has expired.

CLEO Institute states that it is a "nonprofit public benefit corporation that engages in charitable and educational activities under Section 501(c)(3) of the Internal Revenue Code, specifically to fight climate change and foster economic opportunity by promoting solar energy." CLEO Institute states that under its Articles of Incorporation, "all persons interested in the purposes of the Institute are eligible for membership if they are capable of contributing to the achievement of the purposes and to the effective operation of the organization." CLEO Institute states that its mission is to educate and empower communities to demand climate action, ensuring a safe, just, and healthy environment for all. CLEO Institute asserts that its purpose is to "advance environmental literacy and civic engagement by developing transformative initiatives that can be scaled and replicated." CLEO Institute claims that at least 10,000 of its dues paying members reside in Florida, with approximately 6,500 residing within FPL's service territory. CLEO Institute states that it is itself a rate-paying FPL customer with its principle place of business located in FPL's service territory.

Further, CLEO Institute alleges that it and its members are substantially affected by the subject matter of this rate proceeding. CLEO Institute claims that an objective of it and its members is to support equitable, non-partisan climate and resilience solutions by advocating for

and supporting innovative energy infrastructure projects. CLEO Institute argues that an increase in FPL rates would affect its operational costs, and as a result diminish its mission by “requiring a smaller share of its members’ dues and its contributors’ donations to be used for charitable and educational purposes.” CLEO Institute claims that a matter of significant importance to it and its members is the “potential economic consequences of FPL’s rate filing to low-income communities disproportionately impacted by climate change. . . .” CLEO further claims that it and its members will be impacted by FPL’s petition for a rate increase because the rate increase would impact FPL’s customers’ access to solar power and mitigation of climate change impacts.

CLEO Institute asserts that nothing in its governing documents or laws prohibits CLEO Institute from requesting relief on behalf of its members. CLEO Institute argues that pursuant to Ameristeel Corp. v. Clark<sup>1</sup> and Agrico Chemical Co. v. Department of Environmental Regulation<sup>2</sup> the instant proceeding is designed to protect CLEO Institute and its members. For these reasons CLEO Institute argues that it has standing to intervene “as full parties” in this docket.

In its Response, FPL states that CLEO Institute fails to meet the Florida Home Builders Association v. Department of Labor and Employment Security (Florida Home Builders)<sup>3</sup> test for associational standing because the overall organizational aims of CLEO Institute are “well outside of the rate-setting issues that will be decided in this proceeding” and “relate to interests that are beyond the Commission’s jurisdiction.” FPL does not dispute the fact CLEO Institute is an FPL customer. However, FPL argues that any intervention on the part of CLEO Institute should be limited to its individual capacity as an FPL customer. Finally, FPL argues that it has the right to test CLEO Institute’s allegations supporting associational standing via discovery and testimony addressing the evidentiary basis for CLEO Institute’s intervention.

#### 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, an individual intervenor must meet the two-prong standing test set forth in 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) this substantial

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<sup>1</sup> Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997).

<sup>2</sup> Agrico Chemical Co. v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), reh’g. denied, 415 So. 2d 1359 (Fla. 1982).

<sup>3</sup> Florida Home Builders Association v. Department of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982).