

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for Rate Increase by Florida City Gas

DOCKET NO. 20220069-GU

DATED: OCTOBER 19, 2022

**MOTION TO INTERVENE OF  
THE SUGAR CANE GROWERS COOPERATIVE OF FLORIDA**

The Sugar Cane Growers Cooperative of Florida (the “Cooperative” or “SCGC”), pursuant to Chapters 120 and 366, Florida Statutes,<sup>1</sup> and Rules 28-106.204 and 28-106.205, Florida Administrative Code (“F.A.C.”), hereby moves for leave to intervene in the above-styled docket. The Cooperative is a Florida not for profit corporation engaged in the business of growing, processing, refining, and delivering sugar to consumers throughout America and around the world. The Cooperative is a retail customer of Florida City Gas (“FCG” or “City Gas”), the petitioner in this docket (the “City Gas Rate Case Docket” or the “Rate Case”).

As a retail customer of City Gas, the Cooperative respectfully moves to intervene in this Rate Case to protect its interests in having the Commission determine the fair, just, and reasonable rates, terms, and conditions under which the Cooperative receives service from City Gas. As a direct retail customer of City Gas, the Cooperative has standing to participate as a full party in this docket, and accordingly, the Commission should grant the Cooperative’s motion to intervene. In further support of its Motion to Intervene, the Cooperative states as follows.

---

<sup>1</sup> All references herein to the Florida Statutes are to the 2022 edition thereof.

1. The name, address, and telephone number of the Cooperative is as follows:

Sugar Cane Growers Cooperative of Florida  
1500 George Wedgworth Way  
Belle Glade, Florida 33430.

2. All pleadings, orders and correspondence should be directed to FAIR's representatives as follows:

Robert Scheffel Wright  
John T. LaVia, III  
Gardner, Bist, Bowden, Dee, LaVia, Wright, Perry & Harper, P.A.  
1300 Thomaswood Drive  
Tallahassee, Florida 32308  
Telephone (850) 385-0070  
Facsimile (850) 385-5416  
[schef@gbwlegal.com](mailto:schef@gbwlegal.com)  
[jlavia@gbwlegal.com](mailto:jlavia@gbwlegal.com).

3. The agency affected by this Motion to Intervene is the Florida Public Service Commission ("Commission"). The Commission's address is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850.

4. The Petitioner and affected utility in this docket is Florida City Gas, a public utility providing natural gas services to customers within the Commission's regulatory jurisdiction under Chapter 366, Florida Statutes.

5. Statement of Affected Interests. The Cooperative requires safe, adequate, and reasonably priced natural gas service to conduct its business. In this Rate Case, the Commission will consider FCG's request to increase its rates to produce additional base rate revenues of \$29.0 million annually, based on a projected 2023 Test Year. FCG also

requests that the Commission increase FCG's equity ratio from 48.0 percent to 59.6 percent, approve a rate of return on equity of 10.75 percent, approve a reserve surplus amortization mechanism ("RSAM"), and provisions that would allow FCG to adjust its base rates in the event of changes in tax laws. The Commission will necessarily have to decide whether to approve any rate increases and whether to approve any of the other requests, such as the RSAM or the tax law change provisions, made by FCG. The Commission's decisions will necessarily affect the Cooperative's substantial interests in having safe and adequate natural gas service provided at fair, just, and reasonable rates as required by Chapter 366, Florida Statutes. Accordingly, the Cooperative's substantial interests will be directly affected by any action that the Commission takes in this docket, and the Cooperative is entitled to intervene as a full party herein.

6. The Cooperative's substantial interests are of sufficient immediacy to entitle SCGC to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Dep't of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the Cooperative is a direct retail customer of FCG, and as explained above the Cooperative's substantial interests will be directly affected by the Commission's decisions regarding FCG's requested rate increases and other provisions;

indeed, approval of any rate increase will adversely affect the Cooperative's substantial interests. Thus, the interests that SCGC seeks to protect are of sufficient immediacy to warrant intervention, and the Cooperative's interests in having the Commission set rates for FCG that are fair, just, and reasonable, and in prescribing terms and conditions for service that are likewise fair, just, and reasonable, are exactly the type of interests that this proceeding is designed to protect.

7. Notice of Proceeding. Since there is no preliminary agency action pending in this docket, the Cooperative advises the Commission that it obtained notice of the proceeding upon review of the Commission's website and FCG's website.

8. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to, the following:

- a. Whether the increased base rates for which FCG seeks Commission approval are fair, just, and reasonable;
- b. Whether FCG's proposed rate base amounts upon which its rate increased requests are based are reasonable and prudent;
- c. Whether FCG's proposed operating and maintenance expenses are reasonable and prudent;
- d. Whether the rate of return on equity and capital structure (equity ratio) proposed by FCG are fair, just, and reasonable;
- e. Whether FCG's proposed RSAM is authorized under Florida law, and if so, whether it will result in rates that are fair, just, and reasonable; and

- f. Whether FCG's proposed tax law change provisions are authorized under Florida law, and if so, whether such provisions will result in rates that are fair, just, and reasonable.

The Cooperative reserves all rights to raise additional issues in this Rate Case in accordance with the Commission's applicable rules and the Order Establishing Procedure issued in this docket.

9. Statement of Ultimate Facts Alleged – Standing to Intervene. The Sugar Cane Growers Cooperative of Florida is a direct retail customer of Florida City Gas, and accordingly, the Cooperative's substantial interests will be directly affected by the Commission's actions in this docket. As a retail customer of FCG, the Cooperative is entitled to intervene in this proceeding.

10. Statement of Ultimate Facts Alleged – Substantive. It is FCG's burden to prove that FCG's requested relief will result in rates that are fair, just, and reasonable and that FCG's service is provided pursuant to terms and conditions that are fair, just, and reasonable. The Cooperative does not believe that FCG has met or can meet the requisite burden to justify FCG's requested rate increases and other requests.

11. Statutes and Rules That Entitle the Cooperative to Relief. The applicable statutes and rules that entitle the SCGC to relief include, but are not limited to, Sections 120.57(1), 366.04(1), 366.05(1), 366.06(1), and 366.07, Florida Statutes, and Rules 28-106.204 and 28-106.205, Florida Administrative Code. Sections 120.569 and 120.57, Florida Statutes, and Rules 28-106.204 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an

agency proceeding are entitled to intervene in such proceeding. The Cooperative is a direct retail customer of FCG, and accordingly, the SCGC's substantial interests are subject to determination in and will be affected by the Commission's decisions in this docket. Accordingly, the Cooperative is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over public utility rates and the Commission's statutory mandate to ensure that the rates of public utilities, such as FCG, are fair, just, and reasonable. The facts alleged here by the Cooperative demonstrate that the Commission's decisions herein will have a significant impact on the SCGC's rates and charges, and accordingly, that these statutes provide the basis for the relief requested by the Cooperative in this Motion to Intervene.

12. Statement of Conferral. Pursuant to Rules 28-106.204(3) and 28-106.205(2)(e), F.A.C., counsel for the SCGC avers the following with respect to other parties' positions regarding the SCGC's motion to intervene. FCG takes no position and reserves the right to respond pending review of SCGC's motion to intervene. The Office of Public Counsel has no objection to the SCGC's intervention. The Federal Executive Agencies have no objection to the SCGC's intervention. The Commission Staff take no position with respect to the SCGC's intervention.

### **CONCLUSION AND RELIEF REQUESTED**

13. The Sugar Cane Growers Cooperative of Florida seeks to intervene in this FCG Rate Case Docket to protect its substantial interests in having the Commission set rates for FCG that are fair, just, and reasonable. The interests that the SCGC seeks to

protect via its intervention and participation in this case are immediate and of the type to be protected by the Commission through this proceeding.

**RELIEF REQUESTED**

**WHEREFORE**, the Sugar Cane Growers Cooperative of Florida respectfully moves the Florida Public Service Commission to enter its order GRANTING this Motion to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the SCGC's representatives indicated in paragraph 2 above.

Respectfully submitted this 19th day of October, 2022.

**/s/ Robert Scheffel Wright**

Robert Scheffel Wright

[schef@gbwlegal.com](mailto:schef@gbwlegal.com)

John T. LaVia, III

[jlavia@gbwlegal.com](mailto:jlavia@gbwlegal.com)

Gardner, Bist, Bowden, Dee, LaVia,  
Wright, Perry & Harper, P.A.

1300 Thomaswood Drive  
Tallahassee, Florida 32308  
Telephone (850) 385-0070  
Facsimile (850) 385-5416

Attorneys for the Sugar Cane Growers Cooperative of Florida

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 19th day of October, 2022, to the following:

Florida Public Service Commission  
Matthew Jones, Esquire  
Walter Trierweiler, Esquire  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
[Mjones@psc.state.fl.us](mailto:Mjones@psc.state.fl.us)  
[Wtrierweiler@psc.state.fl.us](mailto:Wtrierweiler@psc.state.fl.us)

Florida City Gas  
Kurt Howard  
700 Universe Boulevard  
Juno Beach, Florida 33408  
[kurt.howard@nexteraenergy.com](mailto:kurt.howard@nexteraenergy.com)

Office of Public Counsel  
Richard Gentry, Esquire  
Mary A. Wessling, Esquire  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
[Gentry.righard@leg.state.fl.us](mailto:Gentry.righard@leg.state.fl.us)  
[Wessling.mary@leg.state.fl.us](mailto:Wessling.mary@leg.state.fl.us)

Beth Keating, Esquire  
Gunster, Yoakley & Stewart, P.A.  
215 South Monroe Street, Suite 601  
Tallahassee, Florida 32301  
[BKeating@gunster.com](mailto:BKeating@gunster.com)

Florida City Gas  
Christopher T. Wright, Esquire  
Joel T. Baker, Esquire  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
[christopher.wright@fpl.com](mailto:christopher.wright@fpl.com)  
[joel.baker@fpl.com](mailto:joel.baker@fpl.com)

Thomas A. Jernigan, Esquire  
Ebony M. Payton, Esquire  
Holly L. Buchanan, Major, USAF  
Rafael Franjul, TSgt, USAF  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, Florida 32403  
[thomas.jernigan.3@us.af.mil](mailto:thomas.jernigan.3@us.af.mil)  
[ebony.payton.ctr@us.af.mil](mailto:ebony.payton.ctr@us.af.mil)  
[holly.buchanan.1@us.af.mil](mailto:holly.buchanan.1@us.af.mil)  
[rafael.franjul@us.af.mil](mailto:rafael.franjul@us.af.mil)  
[ULFSC.Tyndall@us.af.mil](mailto:ULFSC.Tyndall@us.af.mil)

**/s/ Robert Scheffel Wright**  
ATTORNEY