

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to
approve large load tariff, by Duke Energy
Florida, LLC.

DOCKET NO. 20260064-EI
ORDER NO. PSC-2026-0288-PCO-EI
ISSUED: August 24, 2026

ORDER ON STANDING

Background

On April 22, 2026, Duke Energy Florida, LLC (DEF or Utility) filed a petition for a limited proceeding seeking approval of a new Large Load Customer Policy (LLCP), a Large Load Customer Agreement (LLCA), and revised Contribution in Aid of Construction (CIAC) tariffs. DEF states that this filing complies with newly passed state legislation, Senate Bill 484 (SB 484). The Governor signed SB 484 into law on May 7, 2026, which took effect on July 1, 2026 (Chapter No. 2026-65, Laws of Florida). In compliance with Section 366.06(3), Florida Statutes (F.S.), an administrative hearing on DEF's petition is scheduled for August 25-26, 2026.

The Office of Public Counsel (OPC) is authorized to intervene by Section 350.0611, F.S. PCS Phosphate – White Springs (PCS Phosphate), Florida Industrial Power Users Group (FIPUG), Florida Rising, Inc. (FR), and Nucor Steel Florida, Inc. (Nucor) were granted intervention in this docket subject to proof of standing or stipulations that there are sufficient facts to support all elements for standing.

The standing of each of the parties granted conditional intervention in this docket has remained a contested issue in this docket and was designated as Issue D in the Prehearing Order¹. Accordingly, on August 17, 2026, an evidentiary hearing took place to receive testimony and exhibits to facilitate my determination of whether any or all of the following parties have standing to intervene in this docket: PCS Phosphate, FIPUG, FR, and Nucor.

Evidentiary Hearing

At the hearing, testimony regarding standing was provided by FIPUG witness Jeffrey Pollock and Florida Rising witnesses Katina Rentas Negrón and Karl Rábago, and each of these witness's prefiled testimony and exhibits were entered into the hearing record. PCS Phosphate witness Tony Georgis' prefiled testimony and exhibits were also entered into the record. Finally, a notice of Type 2 stipulation² regarding Nucor's standing in this docket was entered into the record. The parties filed briefs on August 20, 2026, regarding whether standing of the above-mentioned parties is appropriate in this docket.

¹ Issue D states: "Whether the following persons have standing to intervene in this proceeding: a. PCS Phosphate — White Springs; b. Florida Industrial Power Users Group; c. Florida Rising, Inc.; d. Nucor Steel Florida, Inc."

² A Type 2 stipulation occurs when the utility and our staff, or the utility and at least one party adversarial to the utility, agree on the resolution of the issue and the remaining parties (including our staff if they do not join in the agreement) do not object to us relying on the agreed language to resolve that issue in a final order.

Parties' Positions

ISSUE D: Whether the following persons have standing to intervene in this proceeding:

- a. PCS Phosphate – White Springs**
- b. Florida Industrial Power Users Group**
- c. Florida Rising, Inc.**
- d. Nucor Steel Florida, Inc.**

- DEF:**
- a. No position.
 - b. No position.
 - c. FL Rising does not have standing to intervene in this proceeding. FL Rising has not met its burden to prove it has a substantial number of members who will be substantially impacted by this docket. It has not shown that any of its members are actual DEF ratepayers. Because this proceeding does not change current rates, FL Rising cannot show immediate harm from this docket.
 - d. No position.

- OPC:**
- a. No position.
 - b. FIPUG has not demonstrated standing to intervene in this docket.
 - c. No position.
 - d. No position.

- FIPUG:**
- | | | |
|----|--------------------------------------|------|
| a. | PCS Phosphate – White Springs | Yes. |
| b. | Florida Industrial Power Users Group | Yes. |
| c. | Florida Rising, Inc. | No. |
| d. | Nucor Steel Florida, Inc. | Yes. |

- FL RISING:**
- (a) Yes, PCS Phosphate, as an individual customer whose rates could ultimately be impacted by this proceeding, has standing.
 - (b) FIPUG claims to have about eight members served by Duke. This would appear to support associational standing, as eight members are a substantial number and this proceeding may greatly impact electric rates. Florida Rising is not waiving its legal arguments regarding incorporation status being necessary to participate in Chapter 120 proceedings, nor its ability to raise such arguments at the appellate level.
 - (c) Yes. (Negrón, Rábago)
 - (d) Yes, Nucor Steel, as an individual customer whose rates could ultimately be impacted by this proceeding, has standing.

- NUCOR:**
- a. No position.
 - b. No position.
 - c. No position.
 - d. Yes, Nucor Steel Florida, Inc., as an individual customer whose rates could ultimately be impacted by this proceeding, has standing.

PCS

PHOSPHATE: A party's standing to intervene is a threshold matter that concerns whether the party is entitled to initiate or participate in a cause of action, or, in this case, a public regulatory docket.³ A party is entitled to perform discovery, submit testimony, conduct depositions and cross-examination, take positions, agree to compromise or settle issues, file briefs and argue contested matters, with all of the time and expense that those matters require.⁴ Other parties are obligated to incur the time and expense of responding to those interrogatory and production of document requests, requests for depositions, and competing positions on issues that a party may take or initiate. Consequently, to the extent practicable, questions regarding party standing should be decided before the evidentiary proceedings begin. PCS Phosphate's credentials concerning its status as a current DEF customer with a substantial interest in the issues presented here are unassailable and its standing to intervene should be confirmed without qualification. In addition, it bears noting that PCS Phosphate and the other listed intervenors have an extensive history of participation in matters before the Commission and are well known by the other parties to this docket. The public interest is not served by further deferring the standing question, and PCS Phosphate is willing to stipulate to the standing of all parties if they are willing to extend the same courtesy to PCS Phosphate.

- a. PCS Phosphate: Yes. (Tony Georgis)
- b. See statement above.
- c. See statement above.
- d. See statement above.

Analysis and Decision

Legal Standard

Rule 28-106.206, Florida Administrative Code (F.A.C), governs intervention in this proceeding. Paragraph (2)(c) states that a motion to intervene must contain "[a]llegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial interests of the intervenor are subject to determination or will be affected by the proceeding." Under subsection (1), "[t]he presiding officer may impose terms and conditions on the intervenor to limit prejudice to other parties."

Standing is a threshold issue in nearly every legal proceeding. For individual standing, intervenors must meet the two-prong standing test set forth in Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 4758 (Fla. 2d DCA 1981). That test requires that an intervenor demonstrate (1) that he will suffer injury in fact that is of sufficient immediacy to entitle him to a hearing and (2) the injury is of a type or nature that the proceeding

³ See, e.g., Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2d DCA 1981).

⁴ See, e.g., Rule 28-106.206, Florida Administrative Code ("F.A.C.") (Discovery); Rule 28-106.213, F.A.C. (Evidence); Rule 28-106.215, F.A.C. (Post-Hearing Submittals).

is designed to protect. PCS Phosphate and Nucor both appear in their individual capacity as single customers of the utility and are analyzed solely under the Agrico test.

For associational standing, intervenors 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 (Fla. 1982). The test is based on the Agrico test but requires that (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. FIPUG and Florida Rising both appear in their associational capacity as representatives of member groups and shall be analyzed under the Florida Home Builders test.

Analysis

Prior to applying either test described above to the appropriate parties for the purposes of determining their respective standing, it is pertinent to understand what DEF's petition seeks in this docket and identify the effects that may occur when this Commission decides whether to approve, deny, or deny with modifications DEF's petition. Although base rates will remain unchanged at the conclusion of this docket under the 2024 Settlement Agreement, the Commission's decision will establish terms and conditions governing future electric service that could reasonably affect the rates and costs borne by DEF customers. Standing to participate in Commission proceedings is generally a low bar.⁵

a. PCS Phosphate's Standing

PCS Phosphate filed for intervention as an individual person whose substantial interests are or may be affected by the determination in this docket. As mentioned, PCS Phosphate submitted prefiled testimony and evidence into the record in support of its allegations of individual standing through its witness, Tony Georgis. All the parties to this docket have either supported or effectively conceded that PCS Phosphate has standing to intervene in this docket.

The record supports that PCS Phosphate is a mining and manufacturing operation that is located within DEF's electric service area and receives electric service from DEF under various DEF non-residential rate schedules approved by this Commission. Therefore, the record supports that PCS Phosphate is a customer of DEF. As mentioned above, our decision in this docket will affect circumstances in the future for all DEF customers. PCS Phosphate must be allowed to protect its future interests as a customer of DEF and, for these reasons, I find that PCS Phosphate has provided sufficient facts to demonstrate standing to intervene as a party in this proceeding.

⁵ See Order No. PSC-2026-0022-S-EI (finding that the only intervenor to the 2025 FPL Rate Case who did not have standing was the Southern Alliance for Clean Energy, for failure to offer any prefiled testimony or factual stipulations in support of its allegations).

b. FIPUG's Standing

FIPUG asserts that it is an association of industrial and commercial power users in Florida, and therefore its standing must be analyzed under the Florida Home Builders test. FIPUG alleges that a substantial number of FIPUG members purchase electricity from DEF, and further allege that the substantial interests of those members will be affected by the outcome of this proceeding. FIPUG claims that, as an association, it has a direct and substantial interest in the issues raised and notes its participation for decades as an intervenor in formal administrative proceedings before this Commission, including DEF rate cases.

FIPUG submitted prefiled testimony in support of its allegations of standing through the personal knowledge of its witness, Jeffrey Pollock. Witness Pollock testified that a substantial number of FIPUG members purchase electricity from DEF. He testified that such members are among the largest DEF customers, requiring reliable and affordably-priced electricity. These members have a direct and substantial interest in the outcome of this docket as a result of the LLCP, LLCA, and revised CIAC tariff.

OPC has opposed FIPUG's standing in this docket by asserting that FIPUG has failed to meet the first and second prongs of the Florida Home Builders test. The crux of OPC's argument is that FIPUG has failed to disclose any of its members as record evidence and, therefore, has failed to meet its burden to establish associational standing.

I find that FIPUG has presented sufficient record evidence to establish associational standing. FIPUG's prefiled testimony establishes that it represents members who are DEF customers and whose interests could reasonably be affected by the Commission's decision in this proceeding. Although FIPUG did not identify individual members by name, the Florida Home Builders test does not impose a specific numerical threshold or require that affected members be individually identified in every case. On the basis of that record evidence and the reasonable inferences from that evidence, I find that FIPUG has provided sufficient facts to demonstrate standing in this proceeding.

c. FR's Standing

FR represents that it is a membership-based organization powered by people and driven to advance economic and racial justice across Florida. FR filed for associational standing to represent them and, therefore, its standing must be analyzed under the Florida Home Builders test. FR asserts that it has identified at least 117 members that take service from DEF by cross-referencing its members addresses through DEF's website to confirm each member is served by DEF, as well as members in additional counties served by DEF. FR argues that this amount of DEF customers is clearly a "substantial number" as it relates to the first prong of the Florida Home Builders test.

FR submitted prefiled testimony and evidence in support of its allegations of standing through its witnesses, Katina Rentas Negrón and Karl Rábago. Witness Rentas Negrón provided testimony to describe FR as an association and support FR's allegation that its members do

include a substantial number of DEF customers. Witness Rábago's testimony asserted an expectation that DEF's proposal will create cost-shifting on all customers—including residential customers—to serve data centers and, therefore, FR's members will be substantially impacted by a decision in this docket.

DEF has challenged FR's standing in this docket, arguing that FR has not produced any competent evidence that a substantial number of its members are DEF customers and asserting that FR's alleged injury is speculative. I do not find DEF's arguments compelling. FR has presented sufficient record evidence through prefiled testimony that a substantial number of its members are customers of DEF, and such members must be allowed to protect their future interests through participation in this docket. On the basis of the record evidence and the reasonable inferences from that evidence, I find that FR has provided sufficient facts to demonstrate standing in this proceeding.

d. Nucor's Standing

Regarding Nucor's standing in this docket, I approve the Type 2 stipulation introduced into the record as follows: Yes, Nucor Steel Florida, Inc., as an individual customer whose rates could ultimately be impacted by this proceeding, has standing.

Conclusion

For the foregoing reasons, I find that PCS Phosphate, FIPUG, FR, and Nucor have standing to intervene as parties in this docket.

Therefore, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that PCS Phosphate – White Springs; the Florida Industrial Power Users Group; Florida Rising, Inc.; and Nucor Steel Florida, Inc. have standing as laid out in this order.

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 24th day of August, 2026.



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.

MRT/SF

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 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.