

ORIGINAL

Timolyn Henry

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Friday, May 25, 2007 3:55 PM
To: Jeffrey Stone; Russell Badders; Adam Teitzman; Filings@psc.state.fl.us; H. Mann; Keino Young; Lorena Holley; Susan Ritenour; Schef Wright
Subject: Electronic Filing - Docket 070299-EI
Attachments: PCB Pet to Intervene-Gulf Storm Hardening Plan.5-25-07.doc

a. Person responsible for this electronic filing:

Robert Scheffel Wright
 Young van Assenderp, P.A.
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b. Docket No. 070299-EI

In Re: Petition for Approval of Gulf Power Company's Storm Hardening Plan Pursuant to Rule 25-6.0342, F.A.C.

c. Document being filed on behalf of the City of Panama City Beach, Florida and the Panama City Beach Community Redevelopment Agency.

d. There are a total of 9 pages.

e. The document attached for electronic filing is Petition to Intervene of the City of Panama City Beach, Florida and the Panama City Beach Community Redevelopment Agency.

(see attached file: PCB.Pet to Intervene-Gulf Storm Hardening Plan.5-25-07.doc)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
 Secretary to Schef Wright
 Phone: 850-222-7206
 FAX: 850-561-6834

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FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval of Gulf)
Power Company's Storm Hardening Plan) DOCKET NO. 070299-EI
Pursuant to Rule 25-6.0342, F.A.C.) FILED: MAY 25, 2007
_____)

PETITION TO INTERVENE OF THE CITY OF PANAMA CITY BEACH, FLORIDA AND THE PANAMA CITY BEACH COMMUNITY REDEVELOPMENT AGENCY

The City of Panama City Beach, Florida, a municipal corporation ("Panama City Beach" or "City"), and the Panama City Beach Community Redevelopment Agency, a public body corporate and politic under Chapter 163, Part III, Florida Statutes (the "CRA"), pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039, 28-106.205, and 28-106.201, Florida Administrative Code ("F.A.C."), and by and through its undersigned counsel, hereby petitions the Commission for leave to intervene in the above-styled docket relating to Gulf Power Company's ("Gulf") "Storm Hardening Plan, 2007-2009" (the "Plan") filed in this docket on May 7, 2007. In summary, the City of Panama City Beach is a substantial customer of Gulf, and the City has ongoing interests in converting certain existing overhead ("OH") electric distribution lines in Panama City Beach to underground ("UG") service. Accordingly, the City's substantial interests in reliable electric service and in the implications of Gulf's Plan for the City's desired UG conversion projects will be determined by these proceedings, and the City is accordingly entitled to intervene.

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FPSC-COMMISSION CLERK

In further support of its Petition to Intervene, the City and the CRA state as follows.

1. The name, address, and telephone number of the Petitioner are as follows:

City of Panama City Beach and
Panama City Beach Community Redevelopment Agency
ATTN: Richard Jackson,
City Manager & CRA Executive Director
110 South Arnold Road
Panama City Beach, Florida 32413
(850) 233-5100 Telephone
(850) 233-5108 Facsimile.

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

Robert Scheffel Wright, Attorney at Law
John T. LaVia, III, Attorney at Law
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
(850) 222-7206 Telephone
(850) 561-6834 Facsimile
E-Mails - swright@yvlaw.net and jlavia@yvlaw.net

with a courtesy copy to

Douglas J. Sale, Esquire, City Attorney & CRA Counsel
Harrison Sale McCloy Thompson & Duncan
304 Magnolia Avenue
Post Office Drawer 1579
Panama City, Florida 32402-1579
(850) 769-3434 Telephone
(850) 769-6121 Facsimile.

3. The agency affected by this Petition to Intervene is:

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

4. The City of Panama City Beach is a coastal city located in Bay County, Florida, with a permanent population of

more than 7,000 persons and many visitors year-round. Panama City Beach owns and operates numerous municipal facilities and lighting equipment, for all of which the City purchases electric service from Gulf. For obvious reasons, the City is keenly interested in the reliability of Gulf Power's distribution system (and transmission system). Pursuant to the Front Beach Road Community Redevelopment Plan duly adopted pursuant to Chapter 163, Part III, Florida Statutes, the City and the CRA are also considering numerous projects that will convert existing overhead ("OH") electric distribution facilities to underground ("UG") facilities. Accordingly, the City and the CRA have direct interests in Gulf's Storm Hardening Plan and in how Gulf's Plan will affect the calculation of Contributions in Aid of Construction ("CIACs") for UG conversion projects, such as those being considered by the City.

5. Statement of Affected Interests. In this docket, the Commission will decide whether to approve Gulf's Storm Hardening Plan. Gulf's implementation of its Plan will impact the reliability of electric service throughout Gulf's service area, including Panama City Beach, and will also directly impact the Contributions in Aid of Construction ("CIACs") to be paid by the City in connection with its contemplated UG conversion projects. This impact naturally flows from Commission Rule 25-6.115(9), F.A.C., which requires that estimated OH construction costs used in calculating CIACs shall be based on the requirements of Rule

25-6.0342, F.A.C., Electric Infrastructure Storm Hardening.

6. Standing to Intervene. The City's and the CRA's substantial interests are of sufficient immediacy to entitle it 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. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the City is a substantial customer of Gulf with obvious substantial interests in the reliability of Gulf's distribution system and also an applicant for UG conversion projects whose substantial interests in having any CIACs calculated in compliance with the Commission's rules will also be determined in this proceeding.

7. Disputed Issues of Material Fact. The City of Panama City Beach believes that the disputed issues of material fact in this proceeding will include, but will not necessarily be limited to, the following.

ISSUE 1: Is Gulf's proposed Storm Hardening Plan reasonable?

ISSUE 2: Does Gulf's Plan comply with all requirements of Rule 25-6.0342, F.A.C.?

ISSUE 3: Should the Commission require any modifications to Gulf's Plan in the public interest?

ISSUE 4: Should Gulf's Storm Hardening Plan be approved, approved with modifications, or rejected?

The City reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure (when issued) in this case.

8. Statement of Ultimate Facts Alleged. The City of Panama City Beach and the Panama City Beach CRA allege the following ultimate facts entitling it to the relief requested herein.

- a. The City of Panama City Beach is a substantial retail customer of Gulf Power Company.
- b. The City of Panama City Beach is an "Applicant" within the meaning of Gulf's tariff rules and regulations applicable UG conversions and the CIACs applicable pursuant to those tariff provisions, as well as Commission Rule 25-6.115, F.A.C., which also governs UG conversions.
- c. Pursuant to the Front Beach Road Community Redevelopment Plan (the "Redevelopment Plan") adopted by the City and the CRA on August 30, 2001 and validated by final judgment of the Circuit Court entered on July 9, 2003, the City, assisted by the CRA and tax increment revenues, is designing and acquiring rights-of-way ("ROW") to redevelop the Front Beach Road (U.S. 98-Alternate) corridor (8 miles) and the intersecting connector roads (5 miles in the aggregate). These redevelopment projects include converting existing OH electric distribution facilities, the conversion cost of which will directly affect the CRA and the implementation of the adopted Redevelopment Plan.
- d. The City of Panama City Beach's and the CRA's substantial interests in reliable electric service and in having Gulf's Storm Hardening Plan designed and structured so as to promote the public interest, and to appropriately reflect the true costs and benefits relating to storm hardening as those costs will ultimately bear upon CIAC calculations pursuant to the Commission's rules, are subject to determination in this proceeding.

9. Statutes and Rules That Entitle the City of Panama City Beach and the CRA to the Relief Requested. The applicable statutes and rules that entitle the City and the CRA to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.03, 366.04(5), and 366.05(1), Florida Statutes, and Rules 25-6.0342 and 25-22.039 and Chapter 28-106, Florida Administrative Code.

10. Statement Explaining How the Facts Alleged By the City of Panama City Beach Relate to the Above-Cited Rules and Statutes. Rules 25-22.039 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. Section 366.03, Florida Statutes, requires each public utility to furnish sufficient, adequate, and efficient service; Section 366.04(5), Florida Statutes, gives the Commission jurisdiction over the planning, development, and maintenance of the grid to assure adequate and reliable service; and Section 366.05(1), Florida Statutes, gives the Commission jurisdiction to require improvements and additions to utility facilities to promote the convenience and welfare of the public. As a substantial retail customer of Gulf, the City's substantial interests in the reliability of Gulf's distribution system (and transmission system) are sufficient to establish standing in this proceeding. Moreover, as a municipal government directly subject to Gulf's CIAC tariffs and the Commission's rules relating to OH-to-UG conversions, and thus also subject to the impacts that the

approval of Gulf's Storm Hardening Plan will have on such CIACs, the City's and the CRA's substantial interests are further subject to determination in this proceeding, and the City and the CRA are entitled to intervene herein.

CONCLUSION AND RELIEF REQUESTED

The City of Panama City Beach is a substantial customer of Gulf Power Company and an "Applicant" and a local government subject to Gulf's tariff rules and regulations, and also Commission Rule 25-6.115, F.A.C., applicable to UG conversion projects. Based on its substantial interests in the reliability of Gulf's distribution system (and transmission system), as those interests may be affected by Gulf's Storm Hardening Plan, and further based on the City's and the CRA's substantial interests in the impacts that Gulf's Plan will have on CIACs to be paid by the City for UG conversion projects pursuant to the Front Beach Road Community Redevelopment Plan, the City and the CRA are entitled to intervene in this docket.

WHEREFORE, the City of Panama City Beach, Florida and the Panama City Beach Community Redevelopment Agency respectfully request the Florida Public Service Commission to enter its order GRANTING its Petition to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the City's and CRA's representatives indicated in paragraph 2 above.

Respectfully submitted this 25th day of May, 2007.

S/Robert Scheffel Wright

Robert Scheffel Wright

Florida Bar No. 966721

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Florida Bar No. 853666

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Attorneys for the City of

Panama City Beach, Florida

and the Panama City Beach Community

Redevelopment Agency

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic Mail and U.S. Mail this 25th day of May, 2007, to the following:

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H. Mann
Keino Young
Lorena Holley
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S/Robert Scheffel Wright
Attorney