

Diamond Williams

100001-EI

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Sent: Friday, October 15, 2010 11:24 AM
To: Beth Keating; James Brew; Cheryl Martin; Patrick Wiggins; R. Wade Litchfield; Jon Moyle; Vicki Kaufman; J.R. Kelly; John W. McWhirter, Jr.; Randy Miller; Karin Torain; Erik Saylor; Filings@psc.state.fl.us; Jean Hartman; Keino Young; Lisa Bennett; Patrick Wiggins; Susan Ritenour; Paula Brown; Shayla McNeill; John T. Burnett; Cecilia Bradley; Cheryl Martin; Jeffrey Stone; James D. Beasley; John Butler; Paul Lewis, Jr.; Norman Horton; Patricia A. Christensen; Russell Badders; Charles Rehwinkel; Schef Wright
Cc: Rhonda Dular
Subject: Electronic Filing - Docket No. 100001-EI
Attachments: 100001.EI.Petition.to.Intervene.10-15-10.pdf

a. Person responsible for this electronic filing:

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b. 100001-EI
In Re: Fuel and Purchased Power Cost Recovery Clause with Generation Performance Incentive Factor.

c. Document being filed on behalf of the City of Marianna.

d. There are a total of 9 pages.

e. The document attached for electronic filing is Petition to Intervene of the City of Marianna.

(see attached file: 100001.EI.Petition.to.Intervene.10-15-10.pdf)

Thank you for your attention and assistance in this matter.

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DOCUMENT NUMBER DATE
08657 OCT 15 2010
FPSC-COMMISSION CLERK

10/15/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power Cost)
Recovery Clause with Generation) DOCKET NO. 100001-EI
Performance Incentive Factor)
_____) FILED: OCTOBER 15, 2010

PETITION TO INTERVENE OF THE CITY OF MARIANNA

The City of Marianna, pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.039 and 28-106.205, Florida Administrative Code ("F.A.C."), hereby petitions to intervene in the above-styled docket. The City of Marianna is a retail customer of Florida Public Utilities Company ("FPUC"), whose fuel cost recovery charges are determined in this docket. The City of Marianna respectfully petitions for intervention to protect its interests in having the Commission determine the fair, just, and reasonable rates to be charged by FPUC, and in having the Commission take such other action to protect the interests of the City of Marianna and of all customers served by FPUC (and the other utilities) as the Commission may deem appropriate. The interests of the City of Marianna will be directly affected by the Commission's decisions in this case, and accordingly, the City of Marianna is entitled to intervene to protect its substantial interests. In further support of its Petition to Intervene, the City of Marianna states as follows.

¹ All references herein to the Florida Statutes are to the 2010 edition thereof.

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

The City of Marianna
2898 Green Street
Marianna, Florida 32446
Telephone (850) 482-4353.

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.

3. A courtesy copy of all pleadings, orders, and
correspondence should be directed to:

Frank E. Bondurant, City Attorney
Bondurant and Fuqua, P.A.
4450 Lafayette Street
P.O. Box 1508
Marianna, Florida 32447

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

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

5. The City of Marianna is the county seat of Jackson
County. According to the 2004 census, the City of Marianna is
home to 6,200 residents. Marianna is also the home of Chipola
College, five K-12 public schools, and the Marianna Municipal
Airport. The City of Marianna is a retail electric customer of
FPUC. The City of Marianna requires adequate, reasonably-priced
electricity in order to conduct its government and provide for

the safety and welfare of its citizens.

6. Statement of Affected Interests. In this docket, the Commission will decide whether to approve FPUC's requests for fuel and purchased power cost recovery charges, including true-up amounts for costs already incurred and projected future costs, or to modify them such that they are fair, just, and reasonable. Since it is a direct retail customer of FPUC, the City of Marianna's substantial interests will be affected by any action that the Commission takes in this docket.

7. The City of Marianna's substantial interests are of sufficient immediacy to entitle the City of Marianna 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 City of Marianna is a retail electric customer of FPUC, and its substantial interests will be directly affected by the Commission's decisions regarding FPUC's fuel charges. Thus, the interests that the City

of Marianna seeks to protect are of sufficient immediacy to warrant intervention, and the nature of its interests in having the Commission set fuel charges for FPUC that are fair, just, reasonable, and not unduly discriminatory is exactly the type of interest that this proceeding is designed to protect. This is a proceeding to review fuel and purchased power costs and to set rates for the recovery of reasonable and prudent fuel and purchased power costs, and the City of Marianna seeks to protect its substantial interests as they will be affected by the Commission's decisions determining FPUC's fuel charges.

8. Disputed Issues of Material Fact. The City of Marianna agrees that the issues of material fact in this proceeding are those set forth in the Commission Staff's list of issues.

(Pursuant to the Order Establishing Procedure in this docket, the City understands that, as an intervenor, it takes the case as it finds it, and that the City does not now have the ability to raise additional issues beyond those raised by other parties, and also that the City does not have the opportunity to present testimony in support of its positions. The City of Marianna will, of course, participate in this docket in full compliance with the Commission's rules and orders.)

9. Statement of Ultimate Facts Alleged. It is the burden of FPUC to prove that its claimed fuel and purchased power costs are reasonable and prudent and that it is entitled to charge

rates (fuel charges) to recover such costs. The City of Marianna is a retail customer of FPUC, and accordingly, its substantial interests are subject to determination in and will be affected by the Commission's decisions in this docket. Accordingly, the City of Marianna is entitled to intervene herein.

10. Statutes and Rules That Entitle the City of Marianna to Relief. The applicable statutes and rules that entitle the City of Marianna 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 Rule 25-22.039 and Chapter 28-106.205, Florida Administrative Code. 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. The City of Marianna is a customer of FPUC, and accordingly, its substantial interests are subject to determination in and will be affected by the Commission's decisions in this docket. Accordingly, the City of Marianna is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over FPUC's rates and the Commission's statutory mandate to ensure that FPUC's rates are fair, just, and reasonable. The facts alleged here by the City of Marianna demonstrate (a) that the Commission's decisions herein will have a significant impact on FPUC's rates and charges, (b) that the

City of Marianna will be directly impacted by the Commission's decisions regarding FPUC's rates and charges, and (c) accordingly, that these statutes provide the basis for the relief requested by the City of Marianna in this Petition to Intervene.

CONCLUSION AND RELIEF REQUESTED

The City of Marianna seeks to intervene in the Commission's Fuel Cost Recovery Docket to protect its substantial interests in having the Commission set fuel and purchased power cost recovery charges for FPUC that are fair, just, reasonable, and not unduly discriminatory. The interests that the City of Marianna seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by this proceeding.

WHEREFORE, the City of Marianna respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene, and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the City of Marianna's representatives indicated in paragraphs 2 and 3 above.

Respectfully submitted this 15th day of October, 2010.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic and U. S. Mail on this 15th day of October, 2010.

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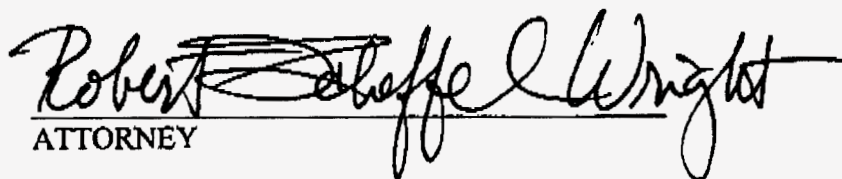
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