

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Electric Utility Hurricane
Preparedness and Restoration Actions

DOCKET NO. 20170215-EU

DATED: May 9, 2018

MOTION TO INTERVENE OF THE FLORIDA RETAIL FEDERATION

The Florida Retail Federation (“FRF”), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rule 28-106.205, Florida Administrative Code (“F.A.C.”), hereby moves for leave to intervene in the above-styled docket. The FRF is an established association with more than 8,000 members in Florida, who provide retail goods and services to Floridians. The FRF’s membership includes retail customers of all of Florida’s investor-owned utilities and all, or very nearly all, of Florida’s municipal and cooperative utilities. Because this docket encompasses the storm preparedness and restoration actions and practices of all of Florida’s utilities, they will be referred to collectively herein as the “Utilities” or “Florida Utilities.”

The FRF has participated as an intervenor party in many dockets involving Florida’s public utilities over at least the past 18 years, including major rate cases, Fuel Cost Recovery Dockets, Nuclear Cost Recovery Dockets, and other proceedings during this period. The FRF respectfully moves to intervene in the above-styled docket to protect its members’ interests in having the Commission determine the terms, conditions, and practices relevant to the Utilities’ preparedness for hurricanes and tropical storms and their practices related to storm restoration, including the collection and analysis of

¹ All references herein to the Florida Statutes are to the 2017 edition thereof.

forensic data that the Commission can use to facilitate decisions that will tend to ensure that the Utilities use best practices for both preparedness and restoration. The interests of the FRF's members, all (or virtually all²) of whom purchase electricity at retail from Florida's Utilities, will be directly affected by the Commission's decisions in these proceedings, and accordingly, the FRF is entitled to intervene to protect its members' substantial interests. In further support of its Motion to Intervene, the Florida Retail Federation states as follows.

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

Florida Retail Federation
227 South Adams Street
Tallahassee, Florida 32301
Telephone (850) 222-4082
Telecopier (850) 226-4082.

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

Robert Scheffel Wright
John T. LaVia, III
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1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
Facsimile (850) 385-5416.

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

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

² This qualification is included to reflect the possibility that there may be an FRF member who does not receive electric service from any utility, although the undersigned is not aware of any such situation.

4. The Florida Retail Federation is an established association of more than 8,000 members in Florida. All (or virtually all) of the FRF's members are retail electric customers of one or more of Florida's Utilities. The FRF's members require reliable, adequate, and reasonably-priced electricity to operate their businesses consistently with the needs of their customers and ownership.

5. Statement of Affected Interests. In this docket, the Commission will consider issues relating to the Utilities' preparedness for hurricanes and tropical storms and also relating to their restoration practices. As discussed by participants at the Commission workshop conducted in this docket on May 2-3, 2018, issues will include storm hardening activities as part of hurricane preparedness and will also include the collection of data for use in optimizing storm preparedness and restoration practices. As the representative of its members, all (or virtually all) of whom receive service from one or more Florida Utilities, the Florida Retail Federation's and its members' substantial interests will be affected by any action that the Commission takes in this docket.

6. The FRF's substantial interests are of sufficient immediacy to entitle the FRF 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 FRF

is the representative of its more than 8,000 members, all (or virtually all) of whom are retail electric customers of the Florida Utilities, and these members' substantial interests will be directly affected by the Commission's decisions regarding the Utilities' storm preparedness and storm restoration practices.

7. Associational Standing. Under Florida law, to establish standing as an association representing its members' substantial interests, an association such as the Florida Retail Federation must demonstrate three things:

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;
- b. that the intervention by the association is within the association's general scope of interest and activity; and
- c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). The FRF satisfies all of these "associational standing" requirements. All (or virtually all) of the FRF's more than 8,000 members purchase retail electric service from the Florida Utilities, and all of the FRF's members depend on the Commission to require and the Utilities to implement best practices for storm preparedness and storm restoration so as to maximize service reliability and minimize losses due to outages caused by hurricanes and tropical storms. The FRF exists to represent its members' interests in a number of venues, including the Florida Public Service Commission, and the FRF has regularly participated in many rate cases, Fuel

Cost Recovery Clause proceedings, and other dockets involving Florida's public utilities, and occasionally in dockets involving electric utilities, for at least the past 18 years. Finally, the relief requested -- intervention and fair treatment of FRF members -- is across-the-board relief that will apply to all of the FRF's members in the same way; therefore, the requested relief is of the type that is appropriate for an association to obtain on behalf of its members.

8. Disputed Issues of Material Fact. At this point, no disputed issues of material fact have been identified. The FRF reserves its rights to raise issues pursuant to any Order Establishing Procedure issued in this docket.

9. Statement of Ultimate Facts Alleged – FRF's Standing. All (or virtually all) of the FRF's more than 8,000 members are retail electric customers of Florida Utilities. All of the FRF's members require reliable, adequate, and reasonably-priced electricity to operate their businesses. The FRF's members, and indeed all Florida electric customers, and their substantial interests will be directly affected by the Commission's actions in this docket. Intervention in this proceeding is within the scope of the FRF's purposes in promoting and protecting its members' interests, and the relief sought is appropriate for the FRF to seek on behalf of its members. Accordingly, as the representative association of its members, the FRF is entitled to intervene in this proceeding.

10. Statement of Ultimate Facts Alleged – Substantive. All (or virtually all) of the FRF's more than 8,000 members are retail electric customers of Florida Utilities. All of the FRF's members require reliable, adequate, and reasonably-priced electricity to

operate their businesses. The FRF's members are entitled to have the Commission consider and take appropriate actions to promote the implementation of sound storm preparedness and storm restoration practices that will ensure the provision of safe, reliable, and reasonably priced electric service.

11. Statutes and Rules That Entitle the Florida Retail Federation to Relief. The applicable statutes and rules that entitle the FRF to relief include, but are not limited to, Chapter 120, Florida Statutes, and Sections 366.04(5)&(6), Florida Statutes, and Rule 28-106.205, Florida Administrative Code. Rule 28-106.205, F.A.C., provides 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. All (or virtually all) of the FRF's members are retail customers of one or more of Florida's Utilities, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission's decisions and actions in this docket. As the representative association of its members, the FRF is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over reliability and safety of electric service in Florida. The facts alleged here by the FRF demonstrate that the Commission's decisions and actions herein will affect the reliability and safety of electric service as it is affected by hurricanes and tropical storms, that all (or virtually all) of the FRF's members will be affected by such decisions, and accordingly, that these statutes provide the basis for the relief requested by the FRF in this Motion to Intervene.

CONCLUSION

12. The Florida Retail Federation is an established association that, consistent with its purposes and history of intervening in Commission proceedings to protect its members' interests under the Commission's statutes, rules, and orders, seeks to intervene in this docket, which addresses the safety and reliability of electric service in Florida as that service is affected by hurricanes and tropical storms. The FRF seeks to intervene in order to protect its members' substantial interests in having the Commission collect appropriate data for use in promoting safe and reliable service and take other actions directed toward promoting and ensuring that Florida's Utilities utilize sound storm preparedness and restoration activities in order to minimize outages and maximize reliability and safety in and following storms. The interests of the FRF's members that the FRF 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 Florida Retail Federation respectfully requests 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 FRF's representatives indicated in paragraph 2 above.

Respectfully submitted this 9th day of May, 2018.



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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 9th day of May, 2018, to the following:

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