

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to approve transaction for Accelerated decommissioning services at CR3 Facility, transfer of title to spent fuel and Associated assets, and assumption of operations Of CR3 facility pursuant to the NRC license, And request for waiver from future applications of Rule 25-6.04365, F.A.C. for nuclear decommissioning study, by Duke Energy Florida, LLC.

DOCKET NO.: 20190140-EI
FILED: October 8, 2019

**FLORIDA INDUSTRIAL POWER USERS GROUP'S
PETITION TO INTERVENE**

Petitioner Florida Industrial Power Users Group ("FIPUG"), pursuant to sections 120.569 and 120.57(1), Florida Statutes, and Rule 28-106.205, Florida Administrative Code, hereby files its Petition to Intervene, and in support thereof states as follows:

The Parties

1. Petitioner / Intervenor is:

Florida Industrial Power Users Group
c/o Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone: (850) 681-3828
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For purposes of service of all pleadings, notices, and orders in this docket, Intervenor's mailing and e-service addresses are as follows:

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2. The affected agency is the Florida Public Service Commission ("Commission"), with a principal place of business at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

3. The affected utility in this docket is Duke Energy Florida, LLC. ("Duke").

FIPUG's Substantial Interests

4. FIPUG is an ad hoc association consisting of industrial users of electricity in Florida. The cost of electricity constitutes a significant portion of FIPUG members' overall costs of production. FIPUG members require adequate, reasonably-priced electricity in order to compete in their respective markets.

5. In this case, the Commission will consider Duke's request to expedite decommissioning and site restoration of the Crystal River nuclear facility (CR3 Facility) by approximately thirty-six (36) years compared to the status quo. Duke contends that expedited decommissioning and site restoration will provide significant public policy and fiscal benefits to the Crystal River area, and Duke's customers, including FIPUG members. These activities and the costs of the activities proposed by Duke will have a direct and substantial impact on Duke's customers, including FIPUG members.

6. As discussed below, FIPUG has standing to intervene in this matter on behalf of its members. In *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351 (Fla. 1982), the Florida Supreme Court set forth the requirements for an organization to demonstrate associational standing on behalf of its members in administrative proceedings.¹ An organization must demonstrate that 1) a substantial number of its members,

¹ Although *Florida Home Builders Association* concerned standing in actions brought pursuant to section 120.56(1),

although not necessarily a majority, are "substantially affected" by the agency action; 2) the subject matter of the case is within the association's general scope of interest and activity; and 3) the relief requested is of the type appropriate for the association to receive on behalf of its members. *Id.* at 353-54.

7. A substantial number of FIPUG members will be affected by the Commission's action taken on Duke's Petition in this case. As such, each FIPUG member that is an electricity customer of Duke will be affected by the outcome of this case. *See Agrico Chem. Co. v. Dep't of Env't Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981).

8. Moreover, the subject matter of this docket is within FIPUG's general scope of interest and activity. FIPUG routinely appears on behalf of its members in cases concerning utility regulation, as the cost of electricity represents a significant portion of its members' production costs. As such, the subject matter of the instant docket, i.e. evaluation of Duke's request for Commission review and approval of activities related to CR3, is well within FIPUG's scope of interest and activity.

9. Additionally, the relief sought by FIPUG by way of the instant petition is of the type appropriate for it to receive on behalf of its members and pursuant to rule 28-106.205(1), Florida Administrative Code. FIPUG seeks, by way of the instant petition, leave to intervene as a party with full rights to participate in this docket. Because its members are industrial electricity customers who will be affected by the outcome of this case, FIPUG's participation in this docket is appropriate to ensure that the rates charged to its members who received electrical service from Duke are fair, just, and reasonable. Additionally, FIPUG seeks to conduct discovery in this docket as warranted in its judgment, and raise issues of material fact that may arise herein.

Florida Statutes, its rationale has been extended to actions brought pursuant to 120.57, Florida Statutes, by the First District Court of Appeal's decision in *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*, 417 So. 2d 753, 754 (Fla. 1st DCA 1982).

10. Further, FIPUG's interests are of the type that this proceeding is designed to protect. *See, Agrico Chem. Co.*, 406 So.2d at 482. The purpose of the proceeding is for the Commission to consider, among other things, Duke's proposed changes to the decommissioning of the CR3 Facility, including the costs of those and related proposed activities. The outcome of the proceeding will thus have significant implications for FIPUG members that are customers of Duke. Accordingly, FIPUG's interest in ensuring that its members are charged fair, just, and reasonable rates for these decommissioning and related activities is of the type that this proceeding is designed to protect.

Notice of Proceeding

11. FIPUG received notice of this docket by a review of the Commission's website and an informal communication from Duke.

Statement of Position

12. Duke must meet its burden of proof in this matter. FIPUG seeks to conduct discovery and reserves the right to modify its position based on information obtained during discovery or otherwise.

Disputed Issues of Material Fact

13. Disputed issues of material fact include, but are not limited to, the following:
- a. Whether the costs for which Duke seeks recovery from customers are reasonable; and
 - b. Whether the changes in CR3 decommissioning activities for which Duke seeks Commission approval to recover rates from customers and FIPUG members are prudent.

14. FIPUG reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure to be issued in this docket.

Statement of Ultimate Facts Alleged and at Issue

15. Ultimate facts alleged and at issue include, but are not limited to, the following:
- a. The rates Duke seeks to recover from its customers for its proposed CR3 decommissioning activities must be fair, just, and reasonable; and

Rules and Statutes Justifying Relief

16. The rules and statutes that entitle FIPUG to intervene and participate in this case include, but are not limited to:

- a. Section 120.569, Florida Statutes;
- b. Section 120.57, Florida Statutes;
- c. Section 366.04(1), Florida Statutes;
- d. Section 366.06, Florida Statutes;
- e. Rule 28-106.201, Florida Administrative Code; and
- f. Rule 28-106.205, Florida Administrative Code.

Relief Requested

17. FIPUG requests that it be permitted to intervene as a full party in this docket.

Statement Required by Rule 28-106.204(3), Florida Administrative Code

18. Counsel for FIPUG has conferred with counsel for Duke and is authorized to represent that Duke does not oppose FIPUG's Petition to Intervene.

WHEREFORE, FIPUG requests that the Commission enter an order allowing it to intervene and participate as a full party in docket number 20190140-EI.

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Florida Industrial Power Users Group's Petition to Intervene has been furnished by electronic mail this 8th day of October 2019 to the following:

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