

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 application of Rule 25-6.04365, F.A.C. for nuclear decommissioning study, by Duke Energy Florida, LLC.

DOCKET NO. 20190140-EI  
ORDER NO. PSC-2020-0146-PCO-EI  
ISSUED: May 14, 2020

ORDER GRANTING PETITION FOR INTERVENTION  
OF WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.,  
d/b/a PCS PHOSPHATE – WHITE SPRINGS

On July 10, 2019, Duke Energy Florida, LLC., (DEF) filed its petition to approve the accelerated decommissioning of its Crystal River Unit 3 (CR3) nuclear power plant and the transfer of spent fuel and associated assets, license and operations to Accelerated Decommissioning Partners, LLC., (ADP) and its affiliates. The Office of Public Counsel filed its Notice of Intervention on July 15, 2019, which was acknowledged by Order No. PSC-2019-0282-PCO-EI, issued on July 16, 2019. An Order Establishing Procedure, Order No. PSC-2019-0320-PCO-EI, was issued on August 2, 2019, initially modified by Order No. PSC-2019-0384-PCO-EI, issued on September 20, 2019, and further modified by Order No. PSC-2020-0105-PCO-EI, issued on April 15, 2020. The Florida Industrial Power Users Group (FIPUG) filed a petition for intervention on October 8, 2019, which was granted by Order No. PSC-2019-0522-PCO-EI, issued on December 16, 2019.

Petition for Intervention

By petition dated May 5, 2020, White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs (PCS Phosphate) requested permission to intervene in this proceeding, conduct discovery, raise issues of material fact, and otherwise participate as a full party. PCS Phosphate is a manufacturer of fertilizer products with plants and operations located within DEF's electric service territory and receives service from DEF under various rate schedules.

PCS Phosphate argues that as a customer of DEF, any decisions made by the Commission regarding the decommissioning of CR3 will directly impact DEF's utilization of its nuclear decommissioning trust fund which may affect the rates paid by DEF's retail customers. As a consumer of large amounts of electricity, CR3 decommissioning has the potential to affect PCS Phosphate's production and operating costs, overall industry competitiveness, and level of sustainable employment in the region. Thus, PCS Phosphate will be substantially and materially affected by the decisions made in this docket.

PCS Phosphate has contacted the parties to this docket regarding its intervention. DEF and FIPUG do not object to PCS Phosphate's intervention. OPC supports PCS Phosphate's intervention.

### Standards for Intervention

Pursuant to Rule 28-106.205, F.A.C., persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding and who desire to become parties may move for leave to intervene. Motions for leave to intervene must be filed at least twenty (20) days before the final hearing, must comply with Rule 28-106.204(3), F.A.C., and must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. Intervenors take the case as they find it.

To have standing, the intervenor must meet the two-prong standing test set forth in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 482 (Fla. 2d DCA 1981). The intervenor must show that (1) he will suffer injury in fact that is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) the substantial injury is of a type or nature that the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury. The "injury in fact" must be both real and immediate and not speculative or conjectural. International Jai-Alai Players Assn. v. Florida Pari-Mutuel Commission, 561 So. 2d 1224, 1225-26 (Fla. 3d DCA 1990). See also Village Park Mobile Home Assn., Inc. v. State Dept. of Business Regulation, 506 So. 2d 426, 434 (Fla. 1st DCA 1987), rev. den., 513 So. 2d 1063 (Fla. 1987) (speculation on the possible occurrence of injurious events is too remote).

PCS Phosphate meets the first prong of Agrico in that the amount it pays in electric rates may ultimately be affected by this proceeding. Additionally, PCS Phosphate meets the second prong of Agrico because the purpose of this proceeding is to determine whether the decommissioning transaction proposed by DEF should be approved for cost recovery. Based on the foregoing, PCS Phosphate meets both prongs of Agrico and has standing to intervene.

Based on these representations, it is

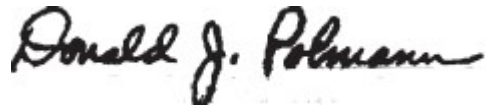
ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that the Petition to Intervene filed by White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs, is hereby granted as set forth in the body of this Order. It is further

ORDERED that White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs takes the case as it finds it. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding, to:

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By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 14th day of May, 2020.



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DONALD J. POLMANN, Ph.D., P.E.  
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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.

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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.