



July 15, 2020

VIA ELECTRONIC FILING

Adam J. Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Duke Energy Florida, LLC's Petition for a Limited
Proceeding to Approve Third Solar Base Rate Adjustment;
Docket No. 20200153-EI

Dear Mr. Teitzman:

Enclosed for filing on behalf of Hardee Dydo Solar LLC ("HDS") in the above-referenced Docket is HDS's Response to the Duke Energy Florida's (DEF) opposition to HDS's intervention.

Thank you for your assistance in this matter. Please feel free to call me at (850) 481-3543 should you have any questions concerning this filing.

Sincerely,

A handwritten signature in blue ink, which appears to read "Kevin Casey".

Kevin Casey

cc: Parties of Record
Dianne M. Triplett

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding
to approve third solar base rate adjustment,
by Duke Energy Florida, LLC

Docket No. 20200153-EI

Filed: July 9, 2020

**HARDEE DYDO SOLAR'S RESPONSE TO DUKE ENERGY FLORIDA'S
OPPOSITION OF HARDEE DYDO SOLAR'S INTERVENTION**

Hardee Dydo Solar LLC ("Hardee Dydo" or "HDS"), hereby respectfully responds to Duke Energy Florida's ("DEF" or "Duke" Response in Opposition to Hardee Dydo's Petition to Intervene in the above-styled docket.

In summary, Hardee Dydo is the owner of a 74.9 MW solar generating facility in late stage development in Hardee County, Florida (the "Facility"). Hardee Dydo is proposing to sell the output of the Facility to DEF pursuant to a power purchase agreement ("PPA"), including an option to sell the Facility to DEF at various points in time during the PPA term at very favorable pricing when compared to the cost of new solar construction. Hardee Dydo has, to date, been unsuccessful in negotiating a PPA with DEF at pricing below the cost to ratepayers of comparable DEF facilities. One such facility is the Charlie Creek Solar Power Plant also located in Hardee County, and a project for which Duke is seeking approval in this docket at a cost to ratepayers higher than what HDS is proposing to DEF, and through DEF, to ratepayers. Consistent with Commission Rule 25-22.082(16), F.A.C., Hardee Dydo is entitled to intervene in this proceeding because the Florida Public Service Commission's (the "Commission") decision herein will determine Hardee Dydo's substantial interests in pursuing its business of supplying cost-effective power to DEF for the benefit of DEF and importantly its customers and ratepayers.

In further support of its Petition to Intervene Hardee Dydo states as follows.

PROCEDURAL BACKGROUND

1. This docket was initiated by DEF's filing of its "Petition for Limited Proceeding to Approve Third Solar Base Rate Adjustment" (the "Petition") on May 29, 2020. The final hearings in this case have yet to be scheduled, and therefore, pursuant to Rule 25-22.039, F.A.C., this petition to intervene is timely filed.

FACTUAL BACKGROUND

2. Hardee Dydo Solar LLC is a Florida limited liability company authorized to do business in the State of Florida and duly registered with the Florida Department of State, Division of Corporations.

3. Hardee Dydo is the owner of the Hardee Dydo Solar Facility, a solar photovoltaic generating facility which when built will be capable of producing 74.9 MWac of electricity.

4. Hardee Dydo has submitted various proposals to DEF for sale of the output of the Facility at rates below that for which DEF ratepayers will pay for DEF's self-constructed solar PV facilities, including e.g. the Charlie Creek facility also in Hardee County, Florida. Hardee Dydo has submitted various proposals to DEF in 2019 and 2020, and DEF has repeatedly delayed and stalled serious negotiations with HDS. Among other aspects of its proposals, Hardee Dydo offered to provide the full 74.9 MWac output of the Facility delivered to the Duke Fort Green Springs 69kV substation on terms equal to which DEF will self-supply power at Charlie Creek and on terms below the costs to ratepayers associated with the Charlie Creek facility. Hardee Dydo has also offered to sell the Facility to DEF in its late stage development phase at Hardee

Dydo's cost plus a fixed fee which would result in a capital cost well below DEF projects submitted for approval in this docket (the “DEF 3rd SOBRA Filing Projects”).

5. According to data presented in DEF’s filing in this docket the projected cost of the five DEF facilities is approximately \$525 Million, or about \$1,402 per kW for the combined unit's 335.8 MW of capacity.

RESPONSE TO DUKE ENERGY FLORIDA'S STATEMENTS

1. Hardee Dydo's substantial interests are of sufficient immediacy to entitle it to participate 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 outcome of this proceeding will immediately impact and determine Hardee Dydo's substantial interests in providing electric energy to Duke and its ratepayers, in that those interests will be determined, finally, by the Commission's decision on the requested petition for limited approval when a Hardee Dydo option is available to DEF at pricing and on terms that are more attractive to ratepayers.

2. In Paragraph 7, DEF states that:

“This limited proceeding was established to consider DEF’s petition for its third Solar Base Rate Adjustment (“SoBRA”) as permitted by the 2017 Settlement and in accordance with the factors for review included in that Agreement; it is not a proceeding designed to protect HDS’s economic interests in the alleged development of utility scale solar projects within DEF’s service territory.”

Hardee Dydo would note that in DEF’s “Petition for Limited Proceeding to Approve 2017 Second Revised and Restate Stipulation and Settlement Agreement, Including Certain Rate Adjustments”, Docket 20170183-EI, DEF states that:

“Duke will also consider buying out existing potential projects in any stage of development”

And that:

“the issues for determination are limited to: the reasonableness and cost effectiveness of the solar generation projects (i.e., will the projects lower the projected system cumulative present value revenue requirement “CPVRR” as compared to such CPVRR without the solar projects)”

And also:

“Any Party may challenge the reasonableness of DEF’s actual or projected solar project costs.”

HDS has challenged the reasonableness of DEF’s projected solar project costs to be charged to ratepayers and also asserts that DEF is not prudently considering alternatives that may benefit the ratepayer more than a DEF self-developed project.

3. HDS asserts that Duke’s argument in Paragraph 8 of their Opposition to HDS’s Intervention is without merit. Duke asserts that HDS’s petition for Intervention “seeks to inject issues into this proceeding that are outside the scope of the Commission’s consideration in this Docket...”. HDS asserts that it is the Commission’s goal and duty to protect ratepayers and by examining alternatives to Duke self-built projects that will bring a greater benefit to the ratepayers in this limited proceeding the Commission is doing just that. In Duke’s same Paragraph 8 they cite the 2017 Settlement, also cited above, stating that the “solar generation projects...will lower the projected system cumulative present value revenue requirement ‘CPVRR’ as compared to such CPVRR without the solar projects.” Again, it is the Commission’s goal to protect ratepayers. Alternatives that would have a materially greater impact in lowering the CPVRR should be reviewed to benefit ratepayers.

WHEREFORE, HDS respectfully requests that the Commission enter an order allowing it to intervene as a party in this docket.

Respectfully submitted,

/s/ Kevin J. Casey

Kevin J. Casey

4301 Dominion Blvd., Suite 120

Glen Allen, Virginia 23060

Phone: 832-704-1402

kevin@beaufortrosemary.com

dcasey@beaufortrosemary.com

*Managing Director of Beaufort Rosemary LLC -
Member of Hardee Dydo Solar LLC*