

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of 2022-2031 Storm Protection  
Plan, pursuant to Rule 25-6.030, F.A.C.,  
Tampa Electric Company

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DOCKET NO.: 20220048-EI  
FILED: May 5, 2022

**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  
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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 ("PSC" or "Commission"), with a principal place of business at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

3. The affected utility in this docket is Tampa Electric Company. ("TECO").

### **FIPUG's Substantial Interests**

4. FIPUG is an ad hoc association consisting primarily of large, industrial users of electricity, and in many cases, natural gas, in Florida. The cost of electricity to FIPUG members is material and contributes to FIPUG members' overall costs of production and/or business operations. FIPUG members require adequate, reasonably priced electricity to compete effectively in their respective markets.

5. In this case, the Commission will consider and review TECO's 2022-2031 Storm Protection Plan ("the Plan") pursuant to Rule 25-6.030, Florida Administrative Code. The Commission's actions on TECO's 2022-2031 Storm Protection Plan affects the interest of FIPUG members receiving electricity from TECO. The Commission's actions will impact the rates that FIPUG members will have to pay for Commission-approved improvements in the Plan. The reliability of electricity provided to FIPUG members will have a direct and substantial impact on TECO'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.<sup>1</sup> An organization must demonstrate that 1) a substantial number of its members,

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<sup>1</sup> Although *Florida Home Builders Association* concerned standing in actions brought pursuant to section 120.56(1), Florida Statutes, its rationale has been extended to actions brought pursuant to 120.57, Florida Statutes, by the First

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 TECO's 2022-2031 Storm Protection Plan in this case. As such, each FIPUG member that is a customer of TEC 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. 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. review and evaluation of TECO's 2022-2031 Storm Protection Plan, 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 customers of TECO 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 receive electricity from TECO 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.

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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, TECO's 2022-2031 Storm Protection Plan. Part of that consideration will include the impact on rates of TECO's customers, including FIPUG members. The outcome of the proceeding will thus have significant implications for FIPUG members that are customers of TECO. Accordingly, FIPUG's interest is in ensuring that its members are charged fair, just, and reasonable rates for reliable electricity provided by TECO. The scope and costs of TECO's 2022-2031 Storm Protection Plan are the type of matters this proceeding is designed to protect.

#### **Notice of Proceeding**

11. FIPUG received notice of this docket by a review of the Commission's website.

#### **Statement of Position**

12. Tampa Electric Company 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. The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance;
- b. The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the

utility's service territory, including, but not limited to, flood zones and rural areas;

- c. The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan;
- d. d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan;
- e. Whether TECO's 2022-2031 Storm Protection Plan is reasonable;
- f. Whether the increased rates associated with TECO's 2022-2031 Storm Protection Plan are fair, just and reasonable;
- g. Whether TECO's 2022-2031 Storm Protection Plan assures sufficient reliability for TECO's customers, including FIPUG members.

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. TECO's 2022-2031 Storm Protection Plan must be reasonable, the increased rates associated with the Plan must be fair, just and reasonable, and reliability provided by the Plan must be reasonable.

**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, Florida Statutes;
- d. Section 366.041, Florida Statutes;
- e. Section 366.05, Florida Statutes;
- f. Section 366.06, Florida Statutes;
- g. Section 366.96, Florida Statutes;
- h. Rule 25-6.030, Florida Administrative Code;
- i. Rule 28-106.201, Florida Administrative Code; and
- j. 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 TECO and is authorized to represent that TECO takes no position on 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 20220048-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 5<sup>th</sup> day of May 2022 to the following:

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