

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Request for approval of Duke  
Energy Florida, LLC's new Clean Energy  
Impact Program, a New Renewable Energy  
Certificates (REC) Buying Program

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DOCKET NO.: 20220202-GU  
FILED: March 15, 2023

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

Petitioner, the 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  
Facsimile: (850) 681-8788

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, Inc. ("DEF").

**FIPUG's Substantial Interests**

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

5. In this case, the Commission will consider DEF's request to approve DEF's new, optional Renewable Energy Certificates (RECs) program called Clean Energy Impact. This program provides DEF customers the option to purchase renewable attributes from some of the DEF's renewable energy resource facilities. In Exhibit A attached to DEF's Petition, DEF states in part that "the cost of RECs will be set annually beginning when Commission approval of the Program is received based on the current market rate on the tradeable market of applicable RECs plus an administrative fee not to exceed 20% of the REC price or a fixed amount based on volume amounts within the tariff to cover the cost of operating the Program." The DEF proposed Clean Energy Impact program will have a direct and substantial impact on a substantial number of FIPUG members, some of whom have sustainability goals that could be met through the procurement of RECs. Furthermore, some FIPUG members also generate renewable energy which has environmental attributes, including RECs.

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, 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 DEF's petition in this case. As such, a substantial number of FIPUG's membership 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 and the cost of electricity. As such, the subject matter of the instant docket, i.e. the proposed Clean Energy Impact program, is 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, which addresses intervention.

10. Thus, FIPUG seeks, by way of the instant petition, leave to intervene as a party with full rights to participate in this docket, conduct discovery and identify issues of interest to

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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 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).

FIUPG members. Because FIPUG has members who will be affected by the outcome of this case, FIPUG's participation in this docket is appropriate.

**Notice of Proceeding**

11. FIPUG received notice of this docket when reviewing filings made at the Public Service Commission.

**Statement of Position**

12. DEF must meet its burden of proof in this matter. FIPUG seeks to conduct discovery and reserves the right to set forth and/or 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 DEF's Clean Energy Impact program is fair, just and reasonable;
- b. Whether DEF's proposed Clean Energy Impact program is in the public interest;

14. FIPUG reserves all rights to raise additional issues in accordance with the Commission's rules.

**Statement of Ultimate Facts Alleged and at Issue**

15. Ultimate facts alleged and at issue include, but are not limited to, the following:

- a. DEF's proposed Clean Energy Impact program must be fair, just, and 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. Rule 28-106.201, Florida Administrative Code; and
- h. Rule 28-106.205, Florida Administrative Code.
- i.

**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 DEF and is authorized to represent that DEF 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 20220202-GU.

/s/ Jon C. Moyle

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Attorneys for Florida Industrial Power Users Group

**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 15th day of March 2023 to the following:

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