

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 090009-EI
ORDER NO. PSC-09-0197-PCO-EI
ISSUED: March 31, 2009

ORDER ADDRESSING SAPORITO AND SAPORITO ENERGY CONSULTANT'S NOTICE
OF INTENT TO RETAIN INTERESTED PARTY STATUS AND PETITION TO OBTAIN
PARTY STATUS

Background

On February 24, 2009, Thomas Saporito, as President of Saporito Energy Consultants (SEC), filed a Notice of Intent to Retain Interested Party Status and Petition to Obtain Party Status in this Docket (Notice of Intent and Petition). In its filing, neither Mr. Saporito nor SEC made allegations as to the grounds for granting party status.

Florida Power & Light Company's Response

On March 3, 2009, Florida Power & Light Company (FPL) filed a Response to SEC's Notice of Intent and Petition. FPL does not object to Mr. Saporito or SEC participating as an Interested Person. FPL does object to both Mr. Saporito and SEC's Petition to the extent the Petition is construed as a petition to intervene. FPL argues that the request does not allege any facts to demonstrate that Mr. Saporito or SEC is entitled to intervene in this docket. FPL cites to Section 120.52(12)(b), Florida Statutes (F.S.), and Rule 25-22.039, Florida Administrative Code (F.A.C.), as requiring persons who wish to become parties to file petitions that include allegations sufficient to demonstrate the person is entitled to participate.

Progress Energy Florida, Inc.s' Response

On March 4, 2009, Progress Energy Florida, Inc. (PEF) filed a response to the Notice of Intent and Petition. PEF asserts that it did not receive the Notice of Intent and Petition and was not aware of the filing until it received FPL's response. PEF also states it has no objection to Mr. Saporito or SEC obtaining Interested Person status, but objects to the Petition to obtain party status because the Petition avoids the rules of intervention.

Analysis and Ruling

Interested Person status is an administrative function of the Commission Clerk. The Prehearing Officer does not rule upon that notice; therefore, to the extent that Mr. Saporito and SEC's Notice of Intent and Petition are a request to obtain Interested Person status, there is no need to rule.¹ To the extent Mr. Saporito and SEC intend the filing to be a petition to intervene,

¹ Upon receipt of SEC's Notice of Intent and Petition, the Commission Clerk listed SEC as an Interested Person in this Docket.

DOCUMENT NUMBER-DATE

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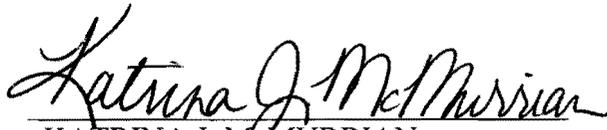
FPSC-COMMISSION CLERK

the petition does not meet the filing requirements of Section 120.569, F.S. and Rule 25-22.039, F.A.C. A petition to intervene must include sufficient allegations upon which the Prehearing Officer may rule. This filing contains no allegations. Therefore, the Notice of Intent and Petition, to the extent it is intended to be a petition to intervene, is insufficient on its face and is not granted. This ruling shall not preclude the petitioners from filing a petition to intervene which complies with the statutory and rule requirements.

Based on the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that Thomas Saporito and Saporito Energy Consultant's Notice of Intent to Retain Interested Party Status and Petition to Obtain Party Status is insufficient on its face as a petition to intervene and is not granted.

By ORDER of Commissioner Katrina J. McMurrian, as Prehearing Officer, this 31st day of March, 2009.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(SEAL)

LCB

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.