

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of FPL
SolarTogether program and tariff, by Florida
Power & Light Company.

DOCKET NO. 20190061-EI
ORDER NO. PSC-2019-0315-PCO-EI
ISSUED: July 31, 2019

ORDER GRANTING INTERVENTION

On March 13, 2019, Florida Power & Light Company (FPL) filed a petition for a new voluntary community solar program, called FPL SolarTogether, which will allow FPL customers to subscribe to a portion of new solar capacity built through the program and to receive a credit for a portion of the system savings produced by that solar capacity. Phase 1 of the program consists of five FPL SolarTogether projects that comprise a total of 20 solar power plants that are 74.5 megawatts each. This docket is currently scheduled for hearing on October 15-16, 2019.

Petition for Intervention

By petition dated July 19, 2019, Walmart Inc. (Walmart) requested permission to intervene in this proceeding. Walmart states that it is a large customer of FPL with multiple accounts. Walmart also states that it has preregistered for the SolarTogether Program and is favorably interested in the structure and design of the proposed SolarTogether Program and rate schedule. As such, Walmart contends its substantial interests will be directly affected by the Commission's decisions in this proceeding. No party has filed an objection to Walmart's petition, and the time for doing so has expired.

Standards for Intervention

Pursuant to Rule 28-106.205, Florida Administrative Code (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).

Based on the above representations, it appears that Walmart has met the two-prong standing test in *Agrico*, 406 So. 2d at 482. Walmart is a large customer of FPL that has preregistered for the SolarTogether Program, and its interests may be substantially affected by this proceeding.

Therefore, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Petition to Intervene filed by Walmart Inc. is hereby granted as set forth in the body of this Order. It is further

ORDERED that Walmart Inc. 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 Gary F. Clark, as Prehearing Officer, this 31st day of July, 2019.



GARY F. CLARK
Commissioner and Prehearing Officer
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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.