

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In re: Petition for rate increase by Tampa Electric Company. | DOCKET NO. 20240026-EI |
| In re: Petition for approval of 2023 depreciation and dismantlement study, by Tampa Electric Company. | DOCKET NO. 20230139-EI |
| In re: Petition to implement 2024 generation base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company. | DOCKET NO. 20230090-EI ORDER NO. PSC-2024-0123-PCO-EI ISSUED: April 23, 2024 |

ORDER GRANTING INTERVENTIONS OF
FLORIDA RISING, INC. &
LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF FLORIDA

On April 2, 2024, Tampa Electric Company (“TECO”) filed a petition, minimum filing requirements, and testimony for an increase in base rates effective January 2025.

Petitions for Intervention

Florida Rising, Inc. (“Florida Rising”) and League of United Latin American Citizens of Florida (“LULAC”) filed their Petitions to Intervene on March 6, 2024. Petitioners represent that they have consulted with the parties and neither TECO nor the Office of Public Counsel object to their intervention.

Florida Rising states it is a membership-based organization dedicated, under its Articles of Incorporation, to building “broader multiracial movements with individuals from historically marginalized communities to seize power and govern to advance social, economic, and racial justice.” Florida Rising describes itself as “committed to climate justice and pushing for a regenerative future and a just transition that puts frontline communities as the center of energy policy, disaster response, food policy, and all climate change initiatives.” Florida Rising alleges that it has a substantial number of members in TECO’s service territory who will be substantially affected by rates set in this proceeding. Florida Rising expresses an interest in halting TECO’s allegedly unneeded investments in fossil fuel infrastructure because those investments unnecessarily result in higher electricity rates paid by Florida Rising’s members. Florida Rising further asserts that such investments are not prudent. Finally, Florida Rising notes that it was

previously permitted to intervene and litigate against Florida Power & Light Company in 2021 when that utility sought a rate increase.¹

LULAC states it is part of the largest and oldest Hispanic civil rights organization in the United States and advances the economic condition, educational attainment, political influence, housing, health, and civil rights of Hispanic Americans through community-based programs. LULAC alleges that it has a substantial number of members in TECO's service territory who will be substantially affected by rates set in this proceeding. LULAC maintains it has an acute interest in halting TECO's allegedly unnecessary investments in fossil fuel infrastructure because those investments unnecessarily increase the electricity rates paid by LULAC's members. LULAC further asserts that such investments are not prudent. Finally, LULAC notes that it was previously permitted to intervene and litigate against TECO in the Energy Efficiency Act goal-setting process.²

Standard for Intervention

Pursuant to Rule 28-106.205, 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, pursuant to Florida Public Service Commission ("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.

The test for associational standing was established in *Florida Home Builders Association v. Department of Labor and Employment Security*³ and *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*,⁴ which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*.⁵ Associational standing may be found where: (1) the association demonstrates that a

¹ *In re: Petition for rate increase by Florida Power & Light Co.*, Docket No. 20210015-EI, Order No. PSC-2021-0139-PCO-EI (Fla. PSC Apr. 20, 2021) (granting standing under the two-prong individual intervenor test contained in the *Agrico* case *infra*).

² *In re: Comm'n review of numeric conservation goals (Tampa Elec. Co.)*, Docket No. 20190021-EG, Order No. PSC-2019-0293-PCO-EG (Fla. P.S.C. July 25, 2019).

³ *Fla. Home Builders Ass'n v. Dep't of Labor & Emp't Sec.*, 412 So.2d 351 (Fla. 1982).

⁴ *Farmworker Rights Org., Inc. v. Dep't of Health & Rehab. Servs.*, 417 So.2d 753 (Fla. 1st DCA 1982).

⁵ *Agrico Chem. Co. v. Dep't of Env'tl. Regulation*, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981). Under *Agrico*, the individual intervenor must show that (1) they will suffer injury in fact which is of sufficient immediacy to entitle them to a Section 120.57, Florida Statutes ("F.S."), hearing, and (2) this substantial injury is of a type or nature which 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. *Id.* at 482. The "injury in fact" must be both real and immediate and not speculative or conjectural. *Int'l Jai-Alai Players Ass'n v. Fla. Pari-Mutuel Comm'n*, 561 So.2d 1224, 1225-26 (Fla.

substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.⁶

Analysis & Ruling

Based on a review of the materials provided by Florida Rising, it appears that Florida Rising meets the three-prong associational standing test established in *Florida Home Builders*. With respect to the first prong, Florida Rising demonstrates that a substantial number of its members will be substantially affected by the Commission's determination in this rate proceeding. Its members face the prospect of paying higher electricity base rates going forward. With respect to the second prong, the subject matter of this proceeding appears to be within Florida Rising's general scope of interest and activity. Florida Rising is dedicated, under its Articles of Incorporation, to build movements that advance economic justice. It also asserts that it is committed to putting frontline communities at the center of energy policy and climate change initiatives. With respect to the third prong, the relief being requested by Florida Rising appears to be of a type appropriate for this association to obtain on behalf of its members. Florida Rising seeks to intervene in this docket to represent the interests of its members in seeking fair, just, and reasonable rates based on capital investments that are environmentally prudent. Therefore, Florida Rising meets the requirements for associational standing and will be permitted to intervene as a party in this proceeding.

Based on a review of the materials provided by LULAC, it appears that LULAC meets the three-prong associational standing test established in *Florida Home Builders*. With respect to the first prong, LULAC demonstrates that a substantial number of its members will be substantially affected by the Commission's determination in this rate proceeding. Its members face the prospect of paying higher electricity base rates going forward. With respect to the second prong, the subject matter of this proceeding appears to be within LULAC's general scope of interest and activity. LULAC is charged with advancing the economic and housing conditions of its members. Rates set in this proceeding will directly impact the household budgets of LULAC's members who are TECO customers. With respect to the third prong, the relief being requested by LULAC appears to be of a type appropriate for this association to obtain on behalf of its members. LULAC seeks to intervene in this docket to represent the interests of its members in seeking fair, just, and reasonable rates based on capital investments that are environmentally prudent. Therefore, LULAC meets the requirements for associational standing and will be permitted to intervene as a party in this proceeding.

3d DCA 1990); *see also Vill. Park Mobile Home Ass'n, Inc. v. State Dep't of Bus. Regulation*, 506 So.2d 426, 434 (Fla. 1st DCA 1987), *rev. den.*, 513 So.2d 1063 (Fla. 1987) (noting speculation on the possible occurrence of injurious events was too remote).

⁶ *Fla. Home Builders Ass'n*, 412 So.2d at 353–54; *Farmworker Rights Org., Inc.*, 417 So.2d at 754.

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Based on the foregoing, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Petitions to Intervene by Florida Rising, Inc. and League of United Latin American Citizens of Florida is hereby granted as set forth in the body of this Order. It is further

ORDERED that Florida Rising, Inc. and League of United Latin American Citizens of Florida take the case as they find 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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Jordan Luebkekmann, Esq.
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By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 23rd day of April, 2024.



GARY F. CLARK
Commissioner and Prehearing Officer
Florida Public Service Commission
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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.

CMM

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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. 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.