

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Duke) DOCKET NO. 20240025-EI
Energy Florida, LLC)
_____)

**PETITION TO INTERVENE BY FLORIDA RISING &
LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF FLORIDA**

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rule 28-106.205, Florida Administrative Code, the League of United Latin American Citizens of Florida, also known as LULAC Florida, Inc. (“LULAC”), and Florida Rising, Inc., through their undersigned counsel, petition for leave to intervene in the above captioned proceeding, and in support thereof state:

I. AGENCY AFFECTED

1. The name and address of the agency affected by this petition is

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

II. IDENTIFICATION OF THE INTERVENORS AND THEIR COUNSEL

2. The names and addresses of Petitioners are:

League of United Latin American Citizens of Florida
1400 Byram Dr.
Clearwater, FL 33755

Florida Rising, Inc.
10800 Biscayne Blvd.,
Suite 1050
Miami, FL 33161

3. The names and addresses of counsel for Petitioners, authorized to receive all notices, pleadings, and other communications in this docket are:

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III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. Petitioners received notice of the Florida Public Service Commission's ("Commission") action through a search of the open dockets on the Commission's website and through electronic notification from Duke Energy Florida, LLC ("Duke").

IV. THE INTERVENORS' SUBSTANTIAL INTERESTS

5. LULAC Florida is part of the largest and oldest Hispanic civil rights organization in the United States, which advances the economic condition, educational attainment, political influence, housing, health, and civil rights of Hispanic Americans through community-based programs operating through local councils across the nation. Reducing this rate hike will reduce the high-energy burdens on the Hispanic community, implicating LULAC's interest in the economic condition of its members and the Hispanic population of Florida, including those located in Duke's territory.

6. In addition to addressing the economic concerns of its members, LULAC has focused on environmental issues to advance its mission. LULAC has established multiple environmental health and protection programs, as well as adopted positions on energy security and climate change in its National Policy Platform. Stopping unneeded fossil-fuel generation is key to this mission. Non-renewable energy generation releases harmful pollutants into the air that have a direct effect on the health of nearby individuals. LULAC has recognized that Hispanic communities are often disproportionately affected by the health effects resulting from non-renewable energy-related pollution. Similarly, the pollutants released by non-renewable

energy generation facilities are direct contributors to global climate change. In a resolution passed by LULAC, the organization has recognized the disproportionate effect of climate change on Hispanic communities and has resolved to address climate change as part of its mission.

LULAC has an acute interest in halting Duke's unnecessary investments in fossil-fuel infrastructure. As these investments have bypassed the state's Power Plant Siting Act process, the proper review of the prudence of these investments is in this case. LULAC believes that Duke's investments fall far short of meeting the prudence requirements of the Commission.

7. LULAC currently has members and leadership in Florida working towards these energy and environment-focused goals, including working to address our generating infrastructure and related economic and environmental concerns. LULAC has a substantial number of members in Duke's service territory which will be substantially affected by the outcome of this proceeding as Duke ratepayers. LULAC was granted intervention against Duke in the Energy Efficiency Act goal-setting process and against Duke in the Clean Energy Connection case. Order Granting Intervention, *In re: Commission review of numeric conservation goals (Duke Energy Florida, LLC)*, Docket No. 20190018-EG, Order No. PSC-2019-0293-PCO-EG (Fla. P.S.C. July 25, 2019); Order Granting Intervention, *In re: Petition for a limited proceeding to approve clean energy connection program and tariff and stipulation, by Duke Energy Florida, LLC*, Docket No. 20200176-EI, Order No. PSC-2020-0336-PCO-EI (Fla. P.S.C. Oct. 1, 2020).

6. Florida Rising is a membership-based organization dedicated, under their 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 has a substantial number of members in Duke's service territory which

will be substantially affected by the outcome of this proceeding as Duke customers that will face higher electricity rates and thus higher bills to pay for Duke's unneeded investments in fossil-fuel infrastructure. At issue in this proceeding is determining "fair, just, and reasonable rates." *See, e.g.*, § 366.06(1), Fla. Stat. "Just" is defined by Black's Law Dictionary as "legally right; lawful; equitable." Black's Law Dictionary (11th ed. 2019). The directive to make fair, just, and reasonable rates therefore includes the concept of ensuring equitable rates. In turn, "equitable" is defined as "Just, consistent with principles of justice and right." *Id.* Black's Law Dictionary defines "justice" as "1. The fair treatment of people" or "2. The quality of being *fair* or *reasonable*," *id.* (emphasis added), and Merriam-Webster similarly defines it as "the quality of being just, impartial, or fair."¹ In the context used in Florida Rising's mission and the statute, "just" and "justice" have virtually the same meaning, with "justice" being a noun and "just" being an adjective. "Economic" is defined as "of, relating to, or based on the production, distribution, and consumption of goods and services."² Therefore, said differently, Florida Rising's mission includes fighting for and ensuring that its members receive fair, just, and reasonable (from the definition of "justice") costs of services (from the definition of "economic"). Electric rates, at issue in this proceeding, are the cost of electricity service. Ensuring "fair, just, and reasonable rates," as at issue in this rate-setting proceeding, is therefore not only within Florida Rising's general scope of interest and activity, it virtually meets the dictionary definition of Florida Rising's mission of fighting for economic justice for its members. Other than an explicit organizational mission to fight for "fair, just, and reasonable

¹ <https://www.merriam-webster.com/dictionary/justice> (second definition).

² <https://www.merriam-webster.com/dictionary/economic>.

rates”—verbatim—it is hard to imagine a more germane organizational mission for the interests implicated in this proceeding than one aiming to ensure “economic justice” for its members.

7. Beyond advocating for economic equity, which will be a key issue in Duke’s rate case, deciding fair, just, and reasonable rates, Florida Rising is also 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.

8. A substantial number of Florida Rising’s members live in Duke’s service area and are customers receiving electricity service from Duke and will be substantially affected by the outcome of this proceeding as Duke ratepayers.

9. In furtherance of the mission of Florida Rising, Florida Rising has previously intervened in the most recent Florida Power & Light Company rate case. *See Order Granting Florida Rising Inc.’s Petition to Intervene, In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 20210015-EI, Order No. PSC-2021-0139-PCO-EI (Fla. P.S.C. April 20, 2021).

V. STATEMENT OF AFFECTED INTERESTS

10. In the above-captioned proceeding, the Commission will determine whether to grant Duke’s petition to raise its rates and whether to allow Duke to recover funds – and profits – for its investments in fossil-fuel infrastructure that have never been reviewed by the Commission. The proposed rate increase will result in substantial bill increases to LULAC’s and Florida Rising’s members. The proposed rate hike will further increase the energy burden already suffered by low-income customers in Duke’s territory, and will negatively impact LULAC’s and Florida Rising’s members in Duke’s service territory.

11. The substantial interest of members of LULAC and Florida Rising are affected in this case because the Commission's order will determine the rates their members pay in Duke's service territory. Thus, the Commission's order will directly affect the mission of LULAC and Florida Rising, along with their members and their pecuniary interests.

12. As ratepayers, LULAC's and Florida Rising's members are affected by the construction and expansion of unneeded infrastructure that Duke will be seeking to recover investments for through this proceeding. LULAC and Florida Rising believe that before the Commission decides any of these investments have been prudent, Duke should be required to meaningfully evaluate alternatives such as energy efficiency, cost-effective renewable energy, demand-side management and conservation – strategies that are grossly underutilized in Florida's energy portfolio – and that the Commission and the interested public should have the opportunity to examine and provide testimony on Duke's evaluation of these strategies. Failure to require a rigorous assessment of such strategies will result in unnecessary premiums for fossil fuel generation for Florida's ratepayers, including LULAC's and Florida Rising's members.

13. Moreover, LULAC, Florida Rising, and their members rely on these proceedings to provide the Commission with expert testimony and opinion about the value and prudence of the investments Duke has been making in fossil-fuel infrastructure.

14. These are the type of interests this proceeding is designed to protect because the purpose of this case coincides with the substantial interests of LULAC, Florida Rising and their members. *Ameristeel Corp. v. Clark*, 691 So.2d 473 (Fla. 1997); *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), *reh. denied*, 415 So.2d 1359 (Fla. 1982); *Florida Home Builders Ass 'n v. Department of Labor and Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982).

15. LULAC and Florida Rising are authorized to represent their interests and the interests of their members in legal actions, including formal administrative actions such as this. The subject matter of this docket is well within the scope of interest and activities of LULAC and Florida Rising, and the relief requested is the type of relief appropriate for these organizations to receive on behalf of their members. The rights and interests of LULAC and Florida Rising and their members cannot be adequately represented by any other party in this docket, and intervention will not unduly delay or prejudice the rights of other parties.

16. Florida Rising's mission to pursue economic justice on behalf of its members—ensuring that the electricity rates they will ultimately pay are fair, reasonable, and just—is an interest for which the Commission has consistently granted associational standing to organizations representing their members in rate base proceedings. In recent rate proceedings, on the basis of potential financial impacts to organizations' members, this Commission has correctly recognized the associational standing of many organizations, including, but not limited to: the AARP;³ Florida Retail Federation;⁴ South Florida Hospital and Healthcare Association;⁵ Federal Executive Agencies;⁶ Florida Industrial Power Users Group;⁷ and the League of Women Voters of Florida.⁸

17. However, Florida Rising notes that the stated missions of these previously admitted organizations run the gamut from specific to non-existent:

³ *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 160021-EI, Order No. PSC-16-0180-PCO-EI at 3 (Fla. P.S.C. May 4, 2016).

⁴ *Id.*, Order No. PSC-16-0181-PCO-EI at 3 (Fla. P.S.C. May 4, 2016).

⁵ *Id.*, Order No. PSC-16-0158-PCO-EI at 2 (Fla. P.S.C. May 4, 2016).

⁶ *Id.*, Order No. PSC-16-0157-PCO-EI at 2 (Fla. P.S.C. April 21, 2016).

⁷ *Id.*, Order No. PSC-16-0132-PCO-EI at 2 (Fla. P.S.C. April 4, 2016).

⁸ *Petition for rate increase by Gulf Power Company*, Docket No. 160186-EI, Order No. PSC-16-0585-PCO-EI at 3 (Fla. P.S.C. Dec. 30, 2016).

- a. AARP’s mission statement is “to empower people to choose how they live as they age.”⁹
- b. Florida Retail Federation is dedicated to the “advancement and support of Florida’s retailers.”¹⁰
- c. The South Florida Hospital and Healthcare Association’s “mission is to improve the efficient delivery of quality healthcare services to our communities by championing collaboration and communication among leaders across the healthcare continuum.”
- d. Federal Executive Agencies “consist of certain agencies . . . which have offices, facilities, and/or installations in the service area of [FPL] and purchase electrical utility service from FPL,”¹¹ and thus, though admitted as a single entity, has no official organizational mission.
- e. Florida Industrial Power Users Group, as “an ad hoc association consisting of industrial users of electricity in Florida,” is not incorporated as a legal entity and does not have a mission statement, but has been admitted to rate proceedings before the Commission to ensure its members have “reasonably-priced electricity in order to compete in their respective markets.”¹²

⁹ AARP, *About AARP*, <https://www.aarp.org/about-aarp/> (last visited Mar. 6, 2024).

¹⁰ Florida Retail Federation, *About* <http://www.frf.org/index.php/about> (last visited Mar. 6, 2025).

¹¹ *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 160021-EI, Federal Executive Agencies’ Petition to Intervene at 1-2 (Apr. 4, 2016).

¹² *Id.*, Florida Industrial Power Users Group Petition to Intervene at 2 (Mar. 11, 2016).

- f. League of Women Voters of Florida “is a nonpartisan political organization encouraging informed and active participation in government, working to increase understanding of major policy issues, and advocating for legislative changes and policies for the public good.”¹³

18. In granting intervention to each of these organizations on the basis of economic impacts to their affected members, this Commission has never ruled that the above missions were too broad, too unrelated, or too nonexistent, to confer associational standing in a rate case.

19. Florida Rising, Inc. and LULAC meet the three-prong standing test from *Florida Home Builders*, in that 1) a substantial number of Florida Rising’s and LULAC’s members will be substantially affected by the Commission’s decision in this docket; 2) the subject matter of this proceeding is within Florida Rising’s and LULAC’s general scope of interest and activity (i.e., fair and just reasonable rates and Florida Rising’s interest in advocating for economic justice for its members); and 3) the relief requested is of a type appropriate for Florida Rising and LULAC to receive on behalf of its members (i.e., fairer and more just rates).

20. LULAC’s and Florida Rising’s intervention is timely. R. 28-106.205, F.A.C.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

21. LULAC and Florida Rising cannot at this time provide a complete statement of disputed issues of fact as discovery has not started and Duke has not filed the minimum filing requirements or any pre-filed testimony as of the filing of this petition. It is expected that disputed issues of fact include, but are not limited to, the following:

- a. Whether Duke’s proposed return on equity is reasonable.
- b. Whether Duke’s quality of service is adequate.

¹³ League of Women Voters of Florida, <https://lwvfl.org/> (last visited Mar. 6, 2024).

- c. Whether Duke's proposed equity to debt ratio is reasonable.
- d. Whether Duke's continued investments in fossil-fuel infrastructure are prudent.
- e. Whether the other investments Duke seeks to recover have been prudent.
- f. Whether Duke's requested rate increase is fair, just, and reasonable.
- g. Whether Duke has proven any financial need for rate relief.
- h. Whether Duke's projected revenues and forecasts are appropriate.

VII. STATEMENT OF ULTIMATE FACT

22. LULAC and Florida Rising cannot at this time provide a complete statement of ultimate facts to be proven because discovery has not started and the minimum filing requirements have not been filed. LULAC's and Florida Rising's allegations of ultimate facts include, but are not limited to, that Duke's requested rate increase is unjust, unreasonable, and unjustly discriminatory, and includes recovery for investments in fossil-fuel infrastructure and other infrastructure that were not prudent.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

23. The rules and statutes that entitle LULAC and Florida Rising to intervene and participate in this case include, but are not limited to, the following:

- a. § 120.569, Fla. Stat.;
- b. § 120.57, Fla. Stat.;
- c. §§ 366.03-06, Fla. Stat.;
- d. R. 28-106.201, F.A.C.; and
- e. R. 28-106.205, F.A.C.

IX. CONSULTATION WITH OTHER PARTIES

31. Pursuant to Rule 28-106.204(3), F.A.C., LULAC and Florida Rising have conferred with counsel for Duke and for the Office of Public Counsel (“OPC”) regarding this petition. OPC advised it does not object and Duke advised that they take no position on this motion but reserve the right to respond, pending review of the petition to intervene.

X. RELIEF SOUGHT

32. WHEREFORE, LULAC and Florida Rising respectfully request that the Commission enter an order granting them leave to intervene in the above-styled docket as full parties, and further requests parties to provide the undersigned with all pleadings, testimony, evidence, and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 6th day of March, 2024.

/s/ Bradley Marshall
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***Counsel for League of United Latin
American Citizens of Florida and Florida
Rising***

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 6th day of March, 2024, via electronic mail on:

Dianne Triplett Duke Energy Florida 299 First Avenue North St. Petersburg, FL 33701 dianne.triplett@duke-energy.com	Matthew Bernier Stephanie Cuello Robert Pickels 106 East College Ave., Suite 800 Tallahassee, FL 32301 matthew.bernier@duke-energy.com stephanie.cuello@duke-energy.com robert.pickels@duke-energy.com
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DATED this 6th day of March, 2024.

/s/ Bradley Marshall
Attorney