

**Matilda Sanders**

From: George Cavros [george@cavros-law.com]  
Sent: Monday, August 13, 2007 1:35 PM  
To: Filings@psc.state.fl.us  
Subject: Electronic Filing of Petition to Intervene.doc

**ORIGINAL**

Attachments: 3107653073-SACE-Intervention Petition.doc



SACE-Interve  
on Petition.do

A. Person responsible for electronic filing:

George Cavros, Esq.  
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954.563.0074 (office)  
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B. Docket No. 070467-EI,  
In re: Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company.

C. Document is filed on behalf of Southern Alliance for Clean Energy.

D. There is a total of 11 pages in the attached document.

E. The document attached for electronic filing is a Petition to Intervene in the above referenced case filed on behalf of Southern Alliance for Clean Energy.

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*Matilda Sanders  
8/13*

DOCUMENT NUMBER-DATE

07095 AUG 13 5

FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Petition to determine need for Polk  
Unit 6 electrical power plant, by Tampa  
Electric Company.

DOCKET NO. 070467-EI

Filed August 13, 2007

**SOUTHERN ALLIANCE FOR CLEAN ENERGY'S PETITION TO INTERVENE**

Petitioner Southern Alliance for Clean Energy ("SACE"), pursuant to Rule 25-22.039,  
F.A.C., hereby files its petition to intervene in this docket and states:

**I. AGENCIES AFFECTED**

1. The agency affected by this petition is

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

**II. IDENTIFICATION OF PETITIONER**

2. Petitioner, Southern Alliance for Clean Energy ("SACE") is a non-profit  
corporation organized under the laws of Tennessee.

3. The address and telephone number for SACE are P.O. Box 1842, Knoxville, TN  
37901-1842; Phone: (865) 637-6055.

4. The name and address of counsel for SACE authorized to receive all notices,  
pleadings, and other communications in this docket are:

George Cavros, Esq.  
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DOCUMENT NUMBER-DATE

07095 AUG 13 07

FPSC-COMMISSION CLERK

### **III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION**

Petitioners received notice of the Florida Public Service Commission's (Commission) action through its Notice of Commencement of Proceeding for Determination of Need for a Proposed Electrical Power Plant posted on the Commission's website on July 20, 2007.

### **IV. PETITIONER'S SUBSTANTIAL INTERESTS**

5. The mission of SACE is to promote responsible energy choices that solve global warming problems and ensure clean, safe and healthy communities throughout the Southeast, including in the State of Florida. SACE has staff working to accomplish this mission in Florida, Tennessee, North Carolina, Georgia, and South Carolina.

6. In furtherance of that mission, SACE is concerned about the construction of new coal-fired power plants, because they are the largest point source of air pollution, such as sulfur dioxide, nitrogen oxide, particulate matter, mercury, and carbon dioxide, in the United States, and because the Southeast is home to a disproportionate share of air pollution problems resulting from coal plants. Particulate matter pollution from coal plants in the region leads to premature deaths of nearly 10,000 people every year in the Southeast region, and coal-fired power plants across the Southeast dump 30,000 pounds of the neurotoxin mercury into the air and water annually. Over 150 Florida waterways are under a Florida Department of Health fish consumption advisory due to mercury contamination.

7. Also in furtherance of its mission, SACE, through public education, media outreach and legal intervention, works to ensure that regulatory agencies and legislative leaders in Southeastern states, including Florida, protect their citizens by implementing: energy efficiency measures; responsible energy facilities siting; and maintaining strong state laws regulating air pollution, including carbon dioxide, a major global warming pollutant.

8. Also in furtherance of its mission, SACE works with utilities, including utilities in Florida, to help develop both the accreditation for and the development of clean, renewable energy programs. SACE works with the Center for Resource Solutions which oversees the national Green-E accreditation program, the nation's leading independent certification and verification program for renewable energy.

9. SACE has 37 members in the Southwest and West-Central Florida region served by TECO and 1,781 members in Florida. SACE members in Florida have been actively involved in various forums related to proposals for new coal-fired power plants.

10. A substantial number of members of the SACE reside in the area that is served by and would be affected by the proposed Tampa Electric Company ("TECO") coal plant, including members in the Tampa area, and members who live along the Southwest coast and West-Central Florida. These members would be substantially affected by the proposed TECO coal-fired power plant.

11. The Commission will decide in this docket whether it should certify the need for TECO's proposal for a new coal-fired generating unit. In making its determination, the Commission must take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, the need for fuel diversity and supply reliability, whether the proposed plant expansion is the most cost effective alternative available, whether the power generated by the proposed unit can be produced with the least risk of all alternatives, and whether the conservation measures taken by or reasonably available to TECO might mitigate the need for the proposed unit. The Commission may also consider other matters within its jurisdiction which it deems relevant.

12. As consumers of electricity in the TECO service area, some SACE members would bear a significant economic risk associated with the Commission's decision in this case, in particular, related to energy price volatility resulting from regulatory decisions that are made based on incorrect and/or inadequate factual information reflecting a narrow and short-sighted energy strategy. Additionally, these SACE members would be directly affected by the cost impacts of future carbon regulation (which at this point is a virtual certainty) and the inappropriate reliance on new capacity instead of less expensive and readily available improvements in efficiency and other demand side alternatives. SACE believes that before the Commission takes any action on the proposed TECO plant, TECO should be required to meaningfully evaluate alternatives such as energy efficiency, renewable energy, demand-side management and conservation and that the Commission should have the opportunity to examine in detail and with the appropriate methodology TECO's evaluation of these strategies. Failure to require a vigorous assessment of such strategies will result in unnecessary premiums for fossil fuel generation for Florida's ratepayers, including SACE members.

13. SACE members would also be affected by pollution from the proposed TECO unit, including criteria pollutants like nitrogen oxides, sulfur dioxide, volatile organic compounds, and particulates, global warming pollutants, such as carbon dioxide, and toxic pollutants, like mercury.

14. Nitrogen oxides that would be emitted by the proposed TECO coal plant would react with volatile organic compounds to produce ground level ozone (smog). When inhaled, smog produces a wide range of respiratory health problems, including shortness of breath, chest pains, and more serious long term problems such as asthma and lung inflammation. Populations most at risk are children and the elderly who already suffer from respiratory problems. Nitrogen

oxides are transformed through photochemical reaction to nitrates that are deposited in regional waterways add nutrients that promote algae blooms. Continued algae blooms, such as “red tide,” along Florida’s West Coast would kill aquatic life and endanger human health.

15. The proposed TECO coal plant would emit particulate matter (PM). Some particulate matter like PM<sub>2.5</sub> is so fine that it bypasses the human body’s defense system and lodges directly in the lungs. Peer-reviewed studies published since 1997 link fine particulate pollution to strokes, heart disease, respiratory ailments, and premature death. The United States Environmental Protection Agency estimates that particulate matter kills 20,000 people and hospitalizes many more each year.

16. The proposed TECO plant would also emit carbon dioxide, a potent global warming pollutant. In 2006, the atmospheric carbon dioxide concentration reached 382 parts per million, a level thought to exceed the amount in the atmosphere for the last 650,000 years. Current carbon dioxide levels are warming the planet, changing climate, thereby threatening natural ecosystems and human life.

17. Impacts likely to result from global warming include significant sea level rise which would affect SACE members in Florida. Sea level rise would threaten the Florida coast with substantial impacts on human populations, valuable property, and ecologically sensitive areas. Coastal beaches would experience increased erosion; wetlands would be compromised; drinking water supplies would be exposed to increased salt water intrusion; ocean acidification would threaten the marine food chain; and more intense hurricanes and storm surges would endanger Florida citizens, including SACE members.

18. SACE believes that the Commission should fully consider in this docket the extent to which TECO can mitigate the global warming impacts that would be caused by the

proposed unit by the capture and sequestration of carbon dioxide produced by the unit. Without such mitigation, the TECO unit will exacerbate global warming and cause further impacts to the substantial interests of SACE members, as would any coal-fired power plant.

19. Should TECO be granted a Certificate of Need, based on the foregoing impacts, the economic interests of members of SACE as ratepayers, and the health, safety, and welfare interests in breathing clean air, in recreating on and in clean water, and in preventing the flooding of their coastal properties due to sea level rise will be substantially and adversely affected. Protection of these interests of its members is germane to the core mission of SACE.

20. SACE qualifies for intervention in the above proceeding pursuant to Rule 25-22.039, F.A.C. SACE has interests that are of the type this proceeding is designed to protect. *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. Dep't of Labor and Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982).

## **V. STATEMENT OF DISPUTED ISSUES OF FACT**

21. Whether TECO has adequately demonstrated a need for additional generating capacity in the area that will be served by the proposed unit.

22. Whether TECO has adequately demonstrated that the proposed unit is the most cost-effective and lowest risk alternative to provide needed capacity in the area that would be served.

23. Whether TECO erroneously concluded in its filing that there are no additional reasonably available conservation or DSM measures, which would mitigate the need for the proposed plant.

24. Whether conservation and DSM measures have been adequately valued and examined in connection with assessing the need for and appropriateness of the proposed coal-fired unit. In light of all costs and risks associated with construction of coal plants (including costs related to complying with future carbon regulations), efficiency, conservation and other DSM measures are likely to offer significant comparative benefits that will mitigate the need for the unit.

25. Whether TECO's assessment of the proposed unit as the most cost-effective alternative adequately and appropriately accounts for the cost of complying with future carbon regulation.

26. Whether TECO adequately and appropriately considered alternative new capacity options such as renewable energy sources and natural gas.

27. Whether the proposed unit is consistent with general principles of good integrated planning and portfolio management.

28. Whether TECO has demonstrated that the carbon capture and sequestration is a viable option for the proposed unit.

29. Whether TECO's proposed unit is the best resource choice for TECO in the contexts of fuel diversity and environmental compliance.

## **VI. STATEMENT OF ULTIMATE FACTS**

30. TECO must meet the requirements of Rules 25-22.080 and 25-22.081, F.A.C. Before certifying the need for the TECO unit as proposed, the Commission must ensure that the proposed unit is needed, and that it is the most appropriate alternative considering all available options.



31. The analysis provided by TECO does not fully and fairly evaluate important alternatives, such as DSM and other conservation measures, does not adequately assess costs that will affect the unit over its life, and does not adequately analyze important risks, including carbon dioxide emission costs, and other environmental costs associated with the operation of a new coal-fired power plant.

32. Each of these elements is necessary to protect the interests of affected consumers as required by Florida law.

33. The Commission must closely scrutinize the FPL proposal, including cost projections, evaluation of alternatives, evaluation of risks (including consideration of carbon-related costs), and the conclusion that new capacity is needed in the area to be served by the proposed unit.

34. The Commission must require additional analysis where any of these evaluations is found lacking, and should decline to certify the need for the proposed facility unless TECO can affirmatively demonstrate that the proposed unit is the best available alternative.

## **VII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED**

35. The statutes and rules that require the relief requested by Intervenors include, but are not limited to, Chapter 120, sections 403.519 and 366.80 – 366.85 Florida Statutes, and Rules 25-22.039, 25-22.080, and 25-22.081, F.A.C.

36. Rule 25-22.039, Florida Administrative Code, provides that persons whose substantial interests are subject to determination in, or may be affected through an agency proceeding are entitled to intervene in such proceeding.

37. The Florida Energy Efficiency and Conservation Act, sections 366.80 – 366.85 and 403.519, Florida Statutes, provides the Commission with jurisdiction over the need

determinations for any provider of electric energy in the State and directs the Commission to ensure that new generating facilities are needed and, if needed, reflect the most cost-effective and least risky alternative.

38. Section 403.519(3), Florida Statutes, provides the guidelines which the Commission must take into account in making its need determination. In making its determination, the Commission must take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, the need for fuel diversity and supply reliability, whether the proposed plant expansions are the most cost-effective alternative available, whether the power generated by the proposed plants can be produced with the least risk of all alternatives, and the Commission must expressly consider the conservation measures taken by or reasonably available to TECO which might mitigate the need for the proposed unit, and may consider other matters within its jurisdiction which it deems relevant.

39. The Commission's determinations on any or all of these criteria will have a substantial impact on SACE members, as set out above. The substantial interests of SACE members are of a type or nature which this proceeding is designed to protect.

#### **IX. RELIEF SOUGHT**

40. WHEREFORE, SACE respectfully requests that the Commission enter an order granting it leave to intervene in this docket and that the Commission take full consideration of the issues raised by SACE in this docket and of the testimony and other evidence offered by SACE, and that the Commission grant such relief as is appropriate after consideration of the evidence presented to the Commission.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of August, 2007

**/s/ George Cavros**

George Cavros, Esq.  
Florida Bar No. 0022405  
Counsel for Southern Alliance for Clean Energy  
120 E. Oakland Park Blvd, Ste. 105  
Fort Lauderdale, FL 33334  
954.563.0074

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on  
this 13<sup>th</sup> day of August via US Mail on:

Ausley and McMullen  
Lee L. Willis, Esq.  
James D. Beasley  
P.O. Box 391  
Tallahassee, FL 32302

Florida Public Service Commission  
Jennifer Brubaker, Esq.  
2540 Shumard Oak Blvd.  
Tallahassee, FL 3299-0850

This 13<sup>th</sup> day of August, 2007.

**/s/ George Cavros**