

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Energy conservation cost recovery
clause.**

DOCKET NO. 110002-EG

Filed: October 3, 2011

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

Pursuant to Sections 120.569, 120.57, Florida Statutes, and Rules 25-22.039, 28-106.201, Florida Administrative Code, Southern Alliance for Clean Energy (SACE), through its undersigned counsel, files its Petition to Intervene in this docket and in support thereof states:

1. Name and address of agency affected by this petition is:

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

2. Name and address of Petitioner is:

Southern Alliance for Clean Energy
P.O. Box 1842
Knoxville, Tennessee 37901
Telephone: 865-637-6055

3. All pleadings, motions, orders and other documents directed to the Petitioner should be served on:

George Cavros, Esq.
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4. Petitioner received notice of this docket by a review of the Public Service Commission's (Commission) website.

5. Statement of Substantial Interests. SACE is a non-profit corporation organized under the laws of the State of Tennessee and authorized to conduct operations in Florida. 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 the State of Florida. SACE has staff working on this mission in Tennessee, North Carolina, Georgia, South Carolina, and Florida. SACE has a substantial membership base in Florida, in the service territories of the investor-owned utilities,¹ dedicated to the promotion of responsible energy choices.

6. SACE advocates for adoption, implementation, and enforcement of meaningful clean energy policy, during the course of which they have presented experts and provided testimony in numerous forums in Florida, including before the Governor's Climate and Energy Action Team, the Florida State Legislature, the Department of Environmental Protection, and this Commission. SACE places an especially high priority on the importance of thoroughly evaluating and implementing all cost-effective energy efficiency programs as a means of mitigating or displacing the need for new more costly electricity generation. SACE has been granted party status in number of dockets before the Commission, including: *In re: Commission Review of Numeric Conservation Goals*, Docket Nos. 080407- 13 EG which set conservation goals for the Florida's investor-owned utilities,

¹ The investor-owned utility territories for which SACE has substantial membership include: Florida Power and Light Company, Progress Energy Florida, Inc., Tampa Electric Company, Gulf Power Company, and Florida Public Utilities Company.

and in the Demand Side Management (DSM) Plan dockets; Nos. 100154, 55, 57, 58-61, that were intended to implement the conservation goals set by the Commission.

7. In DSM Plan dockets, SACE raised concerns numerous times over the unnecessarily high per kWh cost of energy savings of the DSM plans submitted by the investor-owned utilities. For instance, SACE filed comments in Docket No. 100160 on August 15, 2010, September 3, 2010, December 23, 2010, April 25, 2011 and May 10, 2011, citing concerns that the energy savings costs from DSM plans were significantly and unnecessarily more expensive per kWh than energy savings from similar programs conducted by peer utilities in other states. In other words, utility customers were not getting “the most bang for the buck” from their utility’s DSM expenditures. SACE recommended to the Commission that its staff or the utilities explore the use of different programs, more reliance on lower cost programs, or simply better design existing programs. The Commission took no action at the Agenda Conferences that considered the utilities’ DSM plans to address SACE’s concerns or recommendations.

8. Instead, the Commission was assured by Staff that the prudence of such expenditures would be addressed in the Energy Conservation Cost Recovery Clause (ECCR) docket. Staff, for instance, states in its recommendation in DSM Plan Docket No. 100160 that “[s]taff notes the Commission will have the opportunity to review planned and actual expenditures associated with this program during the ECCR clause proceeding, where PEF [Progress Energy Florida] must still demonstrate that expenditures in implementing this DSM program are reasonable and prudent.”²

² Public Service Commission, Docket No. 100160, Staff Recommendation, May 12, 2011, p. 9.

9. In this case, the Commission will approve the prudence of DSM expenditures and set conservation cost recovery factors for the state's five investor-owned utilities. The scope of the prudence review must naturally include the consideration of whether the energy efficiency program costs are unnecessarily expensive and whether there are less costly program alternatives or program designs for delivering the same energy savings to Florida utility customers. Overpriced utility DSM programs will undermine public support for energy efficiency as a low-cost resource in meeting electricity demand.

10. The interests of members of SACE are the type of interests 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. Department of Labor and Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982). SACE has a substantial number of members in the investor-owned utilities' territories that will be directly affected by a Commission order in this docket. A core interest of SACE and its members is advocacy for cost-effective energy efficiency as a primary resource in meeting electricity demand. Additionally, if programs are approved with unnecessarily high costs, SACE members in the affected utility's territory will have a higher cost of service due to unnecessarily overpriced DSM programs. The subject matter of this docket is within the scope of interest and activities of SACE, and the relief requested is the type of relief appropriate for SACE to receive on behalf of its members. The rights and interests of members of SACE cannot be adequately represented by any other party in this docket, and intervention will not unduly delay or prejudice the rights of other parties.

11. Disputed Issues of Material Fact: include, but are not limited to:
- a) Have the investor-owned utilities appropriately established the costs for their DSM Plan programs?;
 - b) Are the costs of the DSM Plan programs prudent?;
 - c) Would a different mix of compliant DSM Plan programs result in a lower conservation cost recovery factor?;
 - d) Would modifying the design of existing compliant DSM Plan programs result in a lower conservation cost recovery factor?

12. Statement of Ultimate Facts Alleged: include, but are not limited to: what are the total conservation cost recovery amounts to be collected during the period of January 2012 through December 2012 for each investor-owned utility?

13. Rules and Statutes justifying relief: that entitle SACE to intervene and participate in this case include, but are not limited to, the following:

- a) Sections 366.80-.85, Florida Statutes;
- b) Section 120.569, Florida Statute;
- c) Section 120.57, Florida Statute;
- d) Rule 25-22.039, Florida Administrative Code; and
- e) Rule 28-106.21, Florida Administrative Code

14. Relief. SACE respectfully requests that it be permitted to intervene as a full party in this docket.

WHEREFORE, SACE respectfully request that the Commission enter an order granting it leave to intervene and participate in this docket as a full party and require that all parties provide the undersigned with all notices, pleadings, testimony, evidence and discovery filed in these dockets.

Respectfully submitted this 3rd day of October, 2011 by:

/s/ George Cavros

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Attorney for Southern Alliance for
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic mail and US Mail on this 3rd day of October, 2011, to the following:

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