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Subject: Electronic Filing / Dkt 110002-EI / FPL's Response to SACE Petition to Intervene
Attachments: 10.10.11 FPL Response to SACE Petition to Intervene.pdf
Electronic Filing

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b. Docket No. 110002 - EI
In RE: Energy Conservation Cost Recovery Clause

c. The Document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 5 pages

e. The document attached for electronic filing is Florida Power & Light Company's Response to Petition to Intervene of the Southern Alliance for Clean Energy

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FPSC-COMMISSION CLERK

10/10/2011

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation Cost Recovery Clause) Docket No. 110002-EG
))
_____) Filed: October 10, 2011

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE
TO PETITION TO INTERVENE OF THE
SOUTHERN ALLIANCE FOR CLEAN ENERGY**

Florida Power & Light Company ("FPL"), by and through its undersigned counsel, hereby files this Response to the Petition to Intervene that was filed on October 3, 2011 on behalf of the Southern Alliance for Clean Energy ("SACE").

FPL does not object to SACE's intervention in this docket and does not seek to challenge SACE's right to party status. However, pursuant to Rule 25-22.039, F.A.C., SACE must take this proceeding as it finds it. Further, if granted Intervenor status, SACE, like all other parties to this proceeding, is limited to the litigation of issues prescribed by Rule 25-17.015, F.A.C. SACE's "Disputed Issues of Material Fact" identified in paragraph 11 of the Petition to Intervene, along with the "Additional Generic Conservation Cost Recovery Issues Proposed by SACE" identified as proposed issues 7 through 11 on SACE's Preliminary List of Issues and Positions also dated October 3, 2011, attempt to inject issues that have no place in these proceedings. In short, SACE seeks to expand this proceeding beyond its proper scope and to litigate matters which, if appropriate subjects of litigation, could be raised in other proceedings. Accordingly, if SACE is allowed to intervene, it should not be permitted to pursue those issues here.

This proceeding was initiated by the Florida Public Service Commission ("FPSC" or "Commission") pursuant to Rule 25-17.015(1), F.A.C. (Order No. PSC-11-0136-PCO-EG issued February 28, 2011). Rule 25-17.015(1), F.A.C., permits the affected utilities

07398 OCT 10 =

FPSC-COMMISSION CLERK

to “seek to recover its costs for energy conservation programs.” Here, FPL seeks approval of billing factors sufficient to provide for the recovery of the implementation costs related to FPL’s approved Demand Side Management (“DSM”) programs. Rule 25-17.015(4), F.A.C., specifically states as follows: “[N]ew programs or program modifications must be approved prior to a utility seeking cost recovery.” Although the Rule does provide the utility with the opportunity to seek recovery of prudent implementation costs before a new program or modification has been approved by the Commission, no such relief is sought by FPL in this proceeding. In short, FPL seeks in this docket to recover the costs associated with DSM programs already approved by the Commission.

SACE’s Petition to Intervene and its identification of proposed Issues 7 through 11 represent inappropriate efforts by SACE to litigate or relitigate the propriety of FPL’s DSM programs, the mix of those programs, the modification and design of those programs, the total level of DSM being pursued by the Company (i.e., FPL’s “reliance” on DSM programs), and other issues related to DSM. These issues have no place in the Energy Conservation Cost Recovery (“ECCR”) proceedings where FPL seeks to recover its costs for energy conservation programs *already approved by the Commission*. As such, the Commission should reject SACE’s efforts to inject into this docket matters that are clearly outside the scope of these proceedings.

WHEREFORE, FPL respectfully requests that the Commission, if it grants SACE’s Petition to Intervene, strictly limit SACE’s intervention to issues directly relevant to the proceedings as defined by Rule 25-17.015, F.A.C., and the Commission’s Order Establishing Procedure issued February 28, 2011. Consistent therewith, FPL respectfully requests the Commission to reject SACE’s issues raised in paragraph 11 of

its Petition to Intervene and identified as proposed Issues 7 through 11 on SACE's Preliminary List of Issues and Positions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

DOCKET NO. 110002-EG

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