



December 18, 2013

Ann Cole
Director, Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RE: Docket No. 130199-EI Florida Power & Light Company;
Docket No. 130199-EI Duke Energy, Florida, Inc.;
Docket No. 130199-EI Tampa Electric Company;
Docket No. 130199-EI Gulf Power Company;
Docket No. 130199-EI Florida Public Utilities Company;
Docket No. 130199-EI Orlando Utilities Commission; and
Docket No. 130199-EI JEA

Dear Ms. Cole:

On Sierra Club's behalf, I have enclosed for filing a Petition to Intervene in the above-stated dockets. Thank you for your attention to this Petition.

Sincerely,

/s/

Diana A. Csank
Associate Attorney
Sierra Club
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Washington, DC 20001
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Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).

DOCKET NO. 130199-EI

In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.).

DOCKET NO. 130200-EI

In re: Commission review of numeric conservation goals (Tampa Electric Company).

DOCKET NO. 130201-EI

In re: Commission review of numeric conservation goals (Gulf Power Company).

DOCKET NO. 130202-EI

In re: Commission review of numeric conservation goals (JEA).

DOCKET NO. 130203-EM

In re: Commission review of numeric conservation goals (Orlando Utilities Commission).

DOCKET NO. 130204-EM

In re: Commission review of numeric conservation goals (Florida Public Utilities Company).

DOCKET NO. 130205-EI

**PETITION TO INTERVENE BY
SIERRA CLUB**

Pursuant to Rule 25-22.039, F.A.C., Sierra Club hereby petitions for leave to intervene in the above-captioned dockets and states:

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

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

2. The name and addresses of Petitioner are:

Sierra Club, National Headquarters
85 Second Street, 2nd Floor

San Francisco, CA 94105
Phone: 415-977-5500
Fax: 415-977-5797

Sierra Club, Florida Chapter
1990 Central Avenue
St. Petersburg, FL 33712
Phone: 727-824-8813
Fax: 727-823-3601

3. The name and address of the Petitioner's representative, authorized to receive all notices, pleadings, and other communications in this docket is:

Diana A. Csank
Associate Attorney
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
Phone: (202) 548-4595
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4. Petitioner received notice of the Florida Public Service Commission's (Commission) action through the August 19, 2013, Commission Order Consolidating Dockets and Establishing Procedure.

5. Petitioner Sierra Club is a national, non-profit environmental and conservation organization incorporated under the laws of the State of California. This Petition is on behalf of Sierra Club and its more than 27,000 members who live and purchase utility services in Florida, many of whom are residential customers of the utilities named in the above-captioned dockets.

6. Sierra Club seeks to reduce power sector pollution through equitable public health and environmental safeguards, and through the rapid replacement of fossil fuel-burning generation with competitive clean energy resources. Sierra Club has championed especially those policies and regulations that help overcome the market

barriers to energy conservation, efficiency, and renewable resources, as alternatives to burning fossil fuels. Sierra Club advocates for such policies and regulations nationwide by intervening, submitting comments, providing testimony, and presenting experts in state and federal energy-related proceedings; participating in public hearings and workshops; speaking to students, civic organizations, and other stakeholders; and holding seminars and symposia – all to spur the power sector to realize the full range of cost-effective clean energy resources, and thereby to protect public health and the environment.

7. Sierra Club’s Florida Chapter exemplifies this commitment to clean energy. In 2012, Sierra Club opened its first-ever net-zero energy office at 1990 Central Avenue in St. Petersburg’s historic Grand Central District. The building and its website, <http://www.stpetenetzzeroenergybuilding.com/#building-features>, showcase clean energy measures and their efficacy and cost-effectiveness, consistent with Sierra Club and the Chapter’s environmental education and advocacy goals for expanding Florida’s net-zero, clean energy infrastructure.

STATEMENT OF AFFECTED INTERESTS

8. In the above-captioned dockets the Commission will update goals for Florida’s major electric utilities to save energy through conservation and efficiency, and to develop demand-side renewable energy systems. F.S. § 366.82(2). The costs of the measures and programs through which the utilities advance these goals are passed along to ratepayers through cost recovery proceedings. Sierra Club has a specific, pecuniary interest in these dockets because a substantial number of its Florida members are ratepayers in the relevant utilities’ service territories, and they bear the costs of the

measures and programs at issue. Moreover, Sierra Club members rely on the goals set by the Commission in these dockets to ensure that the utilities implement the full range of cost-effective measures and programs to maximize savings from conservation, efficiency, and demand-side renewable resources in Florida, as alternatives to burning more fossil fuels. Sierra Club is also interested in the overall success of these measures and programs to protect, as the Legislature intended, the “health, prosperity, and general welfare” of Floridians such as Sierra Club members. F.S. § 366.81.

9. Sierra Club members’ interests are the type of interests FEECA and these dockets are designed to protect. *See e.g.*, F.S. § 366.81; *see also 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).

10. Sierra Club is authorized by its bylaws to represent its interests and the interests of its members in legal actions, including formal administrative actions such as these proceedings.¹

11. Sierra Club’s intervention will not unduly broaden the issues or delay the proceedings because Sierra Club’s interest is directly related to the subjects addressed in the proceedings.

12. Sierra Club’s intervention will not be duplicative of other parties because no other party adequately represents Sierra Club’s interests in the proceedings. While other environmental groups may petition to intervene, those groups have different expertise and different members than Sierra Club. Sierra Club is therefore uniquely

¹ See SR 9.1.1, available at: <http://www.sierraclub.org/policy/downloads/bylaws.pdf>.

sued to represent the interests of itself and its members in these proceedings. Sierra Club will also endeavor to coordinate with other environmental groups to avoid any potentially duplicative efforts, and to ensure that the proceeding is conducted in an efficient manner. Further, Sierra Club will abide by all time limits to be established or determined in this matter.

13. Sierra Club's Petition is timely and consistent with the Commission's Order Consolidating Dockets and Establishing Procedure, dated August 19, 2013.

STATEMENT OF DISPUTED ISSUES OF FACT

14. At this time, Sierra Club cannot identify any disputed issues of material fact because the utilities have not yet submitted their filings in these proceedings.

STATEMENT OF ULTIMATE FACTS

15. The Florida Energy Efficiency and Conservation Act (FEECA), F.S. §§ 366.80 - 366.85, § 403.519, requires the Commission to set goals and oversee the plans and programs for Florida's major electric utilities (with sales of 2,000 GWh or more) to secure clean energy resources, including conservation, efficiency, and demand-side renewable energy systems. The above-captioned dockets concern the goal-setting stage of FEECA, where the Commission must "evaluate the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems." F.S. § 366.82(3). Further, the Commission must consider four mandatory criteria when setting goals pursuant to FEECA:

- a) The costs and benefits to customers participating in the measure.
- b) The costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.
- c) The need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems.

- d) The costs imposed by state and federal regulations on the emission of greenhouse gases.

Id. Petitioner Sierra Club submits that FEECA utilities must provide sufficient data and analysis for the Commission to meaningfully discharge its duties, cited above, to evaluate the full potential of clean energy resources, and to consider each of the four mandatory criteria when setting goals for FEECA utilities. This information from the utilities should include: (1) matching the life-cycle costs and benefits of clean energy resources to the avoided costs of other supply-side resources; (2) the need for clean energy incentives described in section 366.82(3)(c), Florida Statutes; and (3) the costs of carbon pollution described in section 366.82(3)(d), Florida Statutes. Sierra Club maintains this information is critical to implementing FEECA standards and objectives for promoting clean energy resources, and this information should be among the minimum (not optional) data required from the utilities in these proceedings.

16. Further, as a mandatory participant in FEECA goal-setting proceedings, the Department of Agriculture and Consumer Services must file certain comments to inform the Commission's goal-setting, including, but not limited to:

- a) An evaluation of utility load forecasts, including an assessment of alternative supply-side and demand-side resource options.
- b) An analysis of various policy options that can be implemented to achieve a least-cost strategy, including nonutility programs targeted at reducing and controlling the per capita use of electricity in the state.
- c) An analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.

The Department must provide these analyses consistent with the Legislature's declaration that FEECA should be construed "liberally" to "meet the complex problems of reducing and controlling the growth rates of electric consumption and reducing the growth rates of

weather-sensitive peak demand; increasing the overall efficiency and cost-effectiveness of electricity and natural gas production and use; encouraging further development of demand-side renewable energy systems; and conserving expensive resources, particularly petroleum fuels.” F.S. § 366.81. Specifically, Sierra Club will urge the Department to address and the Commission to duly consider whether current policies, like the two-year payback screen and the absence of financial rewards and penalties for the utilities development of clean energy resources, align with FEECA standards and objectives.

17. Sierra Club maintains, and will provide data and analysis in these dockets to show that, while Florida once was a clean energy leader, Florida now lags behind other states by under-valuing and under-investing in competitive efficiency, conservation, and demand-side renewable energy systems. Indeed, absent stronger goals, FEECA utilities will continue achieving less than half the energy savings of the nation’s leading utilities – today’s leaders annually save more than 2 percent of energy sales, compared to Florida’s statewide average of only 0.3 percent. This gap underscores the opportunity to enhance Florida’s share of clean energy resources. Sierra Club will advocate for the goals set in these proceeding to realize the full range of competitive clean energy resources, and to restore Florida’s clean energy leadership with the attendant benefits for Sierra Club members and all Floridians.

STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

18. The statutes and rules that require the relief requested by Sierra Club include, but are not limited to F.S. §§ 366.80 – 366.85, and F.A.C. § 25-22.039, § 25-22.080, and § 25-22.081.

19. 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.

20. The Florida Energy Efficiency and Conservation Act, F.S. §§ 366.80 – 366.85, § 403.519, provides the Commission with jurisdiction over the establishment of numeric goals for energy efficiency, conservation, and demand-side resources in the State.

RELIEF SOUGHT

21. WHEREFORE, Sierra Club respectfully requests that the Commission enter an order granting it leave to intervene in the above-captioned, consolidated dockets, and further requests parties to provide the undersigned with all pleadings, testimony, evidence and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 18th day of December, 2013.

/s/ Diana A. Csank

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this 18th day of December, 2013 via the Internet on:

Florida Public Service Commission Kelley Corbari/Charles Murphy/Lee Eng Tan 2540 Shumard Oak Boulevard Tallahassee, FL 32399 Email: ltan@psc.state.fl.us	Florida Department of Agriculture and Consumer Services Steven L. Hall, Senior Attorney Office of General Counsel 407 South Calhoun Street, Suite 520 Tallahassee, FL 32399 Phone: 850-245-1000 FAX: 850-245-1001 Email: Steven.Hall@FreshFromFlorida.com
Florida Power & Light Company Mr. Ken Hoffman 215 South Monroe Street, Suite 810 Tallahassee, FL 32301-1858 Phone: (850) 521-3900 FAX: (850) 521-3939 Email: ken.hoffman@fpl.com	Duke Energy Mr. Paul Lewis, Jr./John Burnett 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740 Phone: (727) 820-5184 FAX: (727) 820-5041 Email: john.burnett@duke-energy.com
Florida Power & Light Company (Juno 13i) John Butler/Jessica Cano 700 Universe Blvd Juno Beach, FL 33408 Phone: (561) 304-5639 FAX: (561) 691-7135 Email: john.butler@fpl.com	Tampa Electric Company Ms. Paula K. Brown, Regulatory Affairs P. O. Box 111 Tampa, FL 33601-0111 Phone: (813)228-1444 FAX: (813) 228-1770 Email: regdept@tecoenergy.com
Florida Power & Light Company (Miami) Kevin Donaldson 4200 West Flagler Street Miami, FL 33134 Phone: (305) 442-5071 FAX: (305) 442-5435 Email: kevin.donaldson@fpl.com	Gulf Power Company Mr. Robert L. McGee, Jr. One Energy Place Pensacola, FL 32520-0780 Phone: (850) 444-6530 FAX: (850) 444-6026 Email: rlmcgee@southernco.com
JEA Mr. P. G. Para 21 West Church Street, Tower 16 Jacksonville, FL 32202-3 158 Phone: (904) 665-6208 FAX: (904) 665-4238 Email: parapg@jea.com	Florida Public Utilities Company Ms. Cheryl M. Martin 1641 Worthington Road, Suite 220 West Palm Beach, FL 33409-6703 Phone: (561) 838-1735 FAX: (561) 833-0151 Email: cyoung@fpuc.com

<p>Orlando Utilities Commission Mr. W. Christopher Browder P. O. Box 3193 Orlando, FL 32802-3193 Phone: (407) 423-9100 FAX: (407) 434-2220 Email: cbrowder@ouc.com</p>	<p>Office of Public Counsel Erik Sayler, Esq. c/o The Florida Legislature 111 W. Madison Street, Rm. 812 Tallahassee, FL 32393-1400 Email: sayler.erik@leg.state.fl.us</p>
<p>Southern Alliance for Clean Energy c/o George Cavros, Esq. 120 East Oakland Park Blvd, Ste. 105 Fort Lauderdale, FL 33334 Email: george@cavros-law.com</p>	

This 18th day of December, 2013.

/s/ Diana A. Csank