



February 20, 2014

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

**Re: Docket No. 130199-EA Florida Power & Light Company;
Docket No. 130199-EI Duke Energy, Florida, Inc.;**
Docket No. 130199-EI Tampa Electric Company;
Docket 130199-EI Gulf Power Company

Dear Ms. Cole,

On behalf of the Southern Alliance for Clean Energy (“SACE”), I have enclosed a Petition to Intervene in the above-captioned dockets. Thank you for your attention to this matter.

Sincerely,

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*Counsel for Petitioner
Southern Alliance for Clean Energy*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission Review of Numeric) DOCKET NO. 130199-EI
Conservation Goals)
Florida Power & Light Company)
_____)

In re: Commission Review of Numeric) DOCKET NO. 130200-EI
Conservation Goals)
Duke Energy Florida, Inc.)
_____)

In re: Commission Review of Numeric) DOCKET NO. 130201-EI
Conservation Goals)
Tampa Electric Company)
_____)

In re: Commission Review of Numeric) DOCKET NO. 130202-EI
Conservation Goals)
Gulf Power Company)
_____)

**PETITION TO INTERVENE BY
SOUTHERN ALLIANCE FOR CLEAN ENERGY**

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, Southern Alliance for Clean Energy (“SACE”), through its undersigned counsel, petitions for leave to intervene in the above captioned, consolidated proceedings, and in support thereof states:

I. INTRODUCTION

Clean energy and a responsible energy policy are critical to Florida’s economic future and the health of its citizens. Fluctuating fossil-fuel prices and the rapidly increasing costs of constructing power plants exposes customers to significant risk of price spikes – and hence significantly higher bills. The conservation goal setting process provides a unique opportunity for the Florida Public Service Commission (“Commission”) to play an active role in addressing

this risk to customers by meaningfully integrating lower cost *and* lower risk energy efficiency resources into Florida's energy resource portfolio.

Florida is currently challenged by a lack of diversity in its energy mix for meeting electricity demand. The state generated well over 60 percent of its electricity from natural gas in 2012,¹ and that reliance is likely to increase. The increasing reliance on natural gas is primarily a product of both regulatory and economic factors. On the regulatory front, the EPA's Mercury and Air Toxics Standard rule requires improved emission control technology to cut harmful emissions, primarily mercury, from coal plants. Utilities around the country, including in Florida, have found it more economical to retire older coal units rather than comply with the rule.²

The historic low price of natural gas, due to the domestic hydraulic fracturing boom, makes new coal plants relatively non-competitive compared to new natural gas plants. Florida's foray into new nuclear plants has been plagued by delays, and has shifted hefty cancellation costs onto customers.³ Therefore, the state's largest utilities are doubling down on natural gas as a resource – planning several new natural gas plants and repowered plants by 2020.⁴ Yet, natural gas has been a commodity subject to significant price volatility in the past,⁵ and prices are expected to increase going forward.⁶

¹ Florida Public Service Commission, *Review of the 2013 Ten Year Site Plans* at 34 (Oct. 2013).

² *Id.* at 30.

³ See Florida Public Service Commission Docket Nos. 100437-EI, 130009-EI, and 130208-EI

⁴ Florida Public Service Commission, *Review of the 2013 Ten Year Site Plans* at 38 (October 2013).

⁵ Press Release, Florida Power & Light, Dramatic Increases in Fuel Costs Compel FPL to Ask for Fuel-Adjustment Increase (June 3, 2008), *available at* <http://www.fpl.com/news/2008/060308.shtml>.

⁶ U.S. Energy Information Administration, *Annual Energy Outlook 2013* at 77 (Apr. 2013).

It is often stated that the cheapest kilowatt hour is the one that is never used – for good reason. Smarter energy use can meet electricity demand at a fraction of the cost of new power plants. It helps customers slash energy use and save money on electric bills. Yet, this resource in Florida is underutilized relative to other leading states. For instance, the state’s two largest utilities, Florida Power and Light, and Duke Energy Florida, which serve almost 70% of customer accounts in Florida, capture a mere 0.2% and 0.3% in annual energy savings respectively. Twenty states have regulatory programs in place that obtain at least 1% in annual energy savings.⁷ This gap highlights the Commission’s unique opportunity in these consolidated cases to significantly increase energy savings, and in so doing, diversify the state’s energy portfolio with energy efficiency. Meaningful integration of energy efficiency into Florida’s energy portfolio can assist families and businesses in lowering their energy use and saving money on their bills, lower overall utility system costs, and is the cheapest and quickest way to obtain greenhouse gas (“GHG”) reduction benefits.

Likewise, the Commission has an opportunity to promote fuel-free resources, such as solar energy systems, as it addresses its mandate to encourage demand-side renewable energy. Like energy efficiency, solar energy generation is an underutilized resource in Florida. Indeed, solar energy generation comprises less than 1% of Florida’s total electricity generation despite a nearly 70% decline in cost over the last decade,⁸ and could reach grid parity in Florida in several years.⁹ Residential solar water heaters could also provide significant energy savings, given that the average household with an electric water heater spends at least 14% of its home energy costs

⁷ American Council for an Energy Efficiency Economy, *The 2013 State Energy Efficiency Scorecard* at 35 (Nov. 2013).

⁸ Navigant Research, *Solar PV Market Forecasts, Installed Capacity, System Prices, and Revenue for Distributed and Non-Distributed PV* at 1 (3d Quarter 2013).

⁹ NC Sustainable Energy Ass’n, *Levelized Cost of Solar Photovoltaics in North Carolina* at 6 (Feb. 2012).

heating water.¹⁰ This Commission has an opportunity to continue to remove barriers to the development of renewable energy technologies.

It is important to note that investor-owned utilities (“IOU”) are monopolies whose rates are regulated by state public service commissions through cost of service ratemaking. Shareholders are entitled to a rate of return on the book value of their capital assets (rate base). The assets include generation (power plants) and transmission assets. Therefore, there is a distinct disincentive for IOUs to embrace energy services, such as energy efficiency, that can defer or eliminate the need for power plants, upon which IOU shareholders earn a rate of return. As a result, performance incentives are likely necessary to encourage a Florida IOUs to pursue meaningful energy saving targets.

II. 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

III. IDENTIFICATION OF THE INTERVENORS AND THEIR COUNSEL

2. The name and address of Petitioner is:

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

3. The name and address of counsel for Petitioners, authorized to receive all notices, pleadings, and other communications in this docket is:

¹⁰ Energy Information Administration, *2009 Residential Energy Consumption Survey, Household End Use Expenditures in the South Region, Totals and Averages* (2009), available at <http://www.eia.gov/consumption/residential/data/2009/index.cfm?view=consumption>; Wendell A. Porter et al., *Energy Efficient Homes: Water Heaters* at 1 (Univ. of Fla., Inst. of Food and Agric. Sci., Doc. FCS3277, 2008), available at <http://edis.ifas.ufl.edu>.

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IV. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. Petitioners received notice of the Florida Public Service Commission's ("Commission") action through its August 19, 2013 Order Consolidating Dockets and Establishing Procedure.

V. THE INTERVENOR'S SUBSTANTIAL INTERESTS

5. SACE is a non-profit clean energy corporation organized under the laws of the state of Tennessee and authorized to conduct operations in the State of Florida. The mission of SACE, as reflected in its bylaws, is to advocate for energy plans, policies, and systems that best serve the environmental, public health, and economic interest of communities in the Southeast, including Florida. As part of that mission, SACE places a priority on evaluating all opportunities for displacing non-renewable electricity generation with lower cost end-use energy efficiency measures. These measures directly and cost-effectively reduce the amount of fossil fuel consumed by existing non-renewable energy generation facilities and displace the need for new power plants, thereby reducing the overall electric system costs for customers who ultimately bear the costs of fuel, new power plants and added infrastructure. Decreased fuel consumption also reduces the overall public health, environmental, and economic costs associated with

greenhouse gases emissions from non-renewable energy generation. Additionally, SACE's members have an interest in ensuring that the Commission properly considers the true value of all conservation measures, including demand-side renewable energy, such as rooftop solar, as required by law.

6. SACE has staff in Florida working to advance these goals. In addition, there are more than 212 SACE members residing in Florida and dedicated to promoting low cost, low risk clean energy solutions, such as meaningful levels of energy efficiency, in order to promote clean, safe, and economically and environmentally responsible energy choices. A substantial number of SACE's Florida members reside in the service territories of Florida Power & Light Company ("FPL") (101 members), Duke Energy Florida, Inc. ("DEF") (37 members), Tampa Electric Company ("TECO") (18 members), or Gulf Power Company ("GPC") (16 members).

7. To further its mission, SACE has presented experts and provided technical testimony in numerous forums throughout Florida, including before the Governor's Climate and Energy Action Team, the Florida State Legislature, the Department of Environmental Protection, and the Florida Public Service Commission. SACE has been granted intervention by this Commission in a number of proceedings, including: *In re: Commission review of numeric conservation goals*, Docket Nos. 080407-EG – 080413-EG; *In re: Energy conservation cost recovery clause*, Docket Nos. 110002-EG – 130002-EG; *In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc.*, Docket No. 100160-EG; *In re: Petition of approval of demand-side management plan of Tampa Electric Company*, Docket No. 100159-EG; *In re: Petition of approval of demand-side management plan of Florida Power & Light Company*, Docket No. 100155-EG; *In re: Petition of approval of demand-side management plan of Gulf Power Company*, Docket No. 100154-EG; *In re: Nuclear cost recovery clause*, Docket

Nos. 090009-EI – 130009-EI; *In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.*, Docket No. 100437-EI; and *In re: Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company*, Docket No. 070467-EI.

VI. STATEMENT OF AFFECTED INTERESTS

8. In the above-captioned consolidated proceeding, the Commission will determine the numeric conservation goals for FPL, DEF, TECO, and GPC. The conservation goals set by the Commission will establish the amount of energy savings to be captured by FPL, DEF, TECO and GPC through end-use energy efficiency, demand response programs, and through demand-side renewable energy implementation – such as photovoltaic (“PV”) panels. The goals set by the Commission will invariably affect the scope, number, quality, and type of energy efficiency programs that FPL, DEF, TECO, and GPC will offer to customers to meet the conservation goals, including their customers who are members of SACE. The cost of the programs to support the goals set by the Commission will be passed on to customers, including customers who are members of SACE.

9. SACE and its members advocate for all cost-effective energy efficiency measures. Such measures can meet electricity demand at a fraction of the cost of building new power plants. SACE’s members have an interest in ensuring that the Commission properly considers the true value of all conservation measures, including demand side renewable energy, as required by law. Thus, the substantial interest of members of SACE are affected in these consolidated cases because the Commission’s order will determine the level of cost-effective energy savings to be captured through the utility-sponsored programs of FPL, DEF, TECO, and GPC. Those energy savings will directly affect how much higher-cost generation is displaced which directly

impacts the overall electric system of costs of FPL, DEF, TECO, and GPC that is passed on to their customers, including SACE members. Thus, the Commission's order will directly affect the mission of SACE members and their pecuniary interests. Additionally, it will determine the level of effort the aforementioned utilities will undertake to help customers reduce energy use and save money on their bills. This level of effort directly impacts the mission of SACE and its members and impacts the pecuniary interests of SACE members residing in the service territories of FPL, DEF, TECO, and GPC. Lastly, the Commission will address how to meet its demand-side renewable requirement in these dockets. SACE and its members likewise have an interest in ensuring that the Commission properly considers the true value of all conservation measures, including demand side renewable energy, such as rooftop solar. The level of demand-side renewable implementation to be determined in the consolidated cases directly impacts the mission of SACE and its members and impacts the pecuniary interests of SACE members residing in the service territories of FPL, DEF, TECO, and GPC.

10. Moreover, SACE and its members rely on these proceedings to provide the Commission with expert testimony and opinion about the full technical, economic and achievable potential for cost-effective energy efficiency, and the value of demand side renewables.

11. These are the type of interests this proceeding is designed to protect because the purpose of these consolidated cases coincides with the substantial interests of SACE and its 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).

12. SACE 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. The subject matter of this docket is well 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 SACE and its 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.

13. SACE's intervention is timely and consistent with the Commission's Order Consolidating Dockets and Establishing Procedure at 10. Rule 25-22.039, F.A.C.

VII. STATEMENT OF DISPUTED ISSUES OF FACT

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

15. SACE anticipates that the disputed issues of material fact in these proceedings will include, but are not limited to, the following:

- a. Whether the utilities provided a complete assessment of the full technical potential of all available energy savings measures?
- b. Whether the utilities provided a complete assessment of the economic potential of all available energy savings measures?
- c. Whether the utilities provided a complete assessment of the achievable potential all available energy savings measures?
- d. Whether the utilities' proposed energy savings goals appropriately reflect the costs and benefits to customers participating in the measure?

- e. Whether the utilities' proposed energy savings goals appropriately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions?
- f. Whether the utilities' proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems?
- g. Whether the utilities' proposed energy savings goals appropriately reflect the projected compliance costs imposed by state and federal regulations on the emission of CO₂, and whether those numeric costs are consistent with compliance costs utilized in other dockets by the utilities before the Commission?
- h. Whether the utilities' proposed conservation goals utilize all cost-effective energy efficiency measures?
- i. Whether the utilities' proposed conservation goals properly value demand-side renewables?
- j. Whether the utilities are using an appropriate methodology to determine free-ridership?
- k. What cost-effectiveness test or tests should the Commission use to set goals pursuant to section 366.82, Florida Statutes?
- l. What specific residential summer and winter megawatt (MW) and annual gigawatt-hour (GWh) energy savings goals should be established for each utility?
- m. What specific commercial/industrial summer and winter megawatt (MW) and annual gigawatt-hour (GWh) energy savings goals should be established for each utility?

n. What demand-side renewable energy savings goals should be established for each utility?

o. Whether the Commission should establish performance incentives for the relevant utilities for meeting meaningful energy savings goals, including demand-side renewable energy goals?

p. What modifications, if any, should be made to the utilities' existing Pilot Solar programs?

VIII. STATEMENT OF ULTIMATE FACT

16. The Florida Legislature has recognized the extraordinary potential for increasing energy efficiency and encouraging the development of residential and commercial renewable energy in Florida in adopting the Florida Energy Efficiency and Conservation Act ("FEECA"). *See* §§ 366.81—366.85, Fla. Stat. Indeed, the Florida legislature declared it "critical to utilize the most efficient and cost effective demand-side renewable energy systems and conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens." § 366.81, Fla. Stat. Moreover, FEECA is to be "liberally construed" to meet the legislature's stated policy of reducing the rate of electricity consumption, increasing the overall efficiency and cost-effectiveness of electricity use, encouraging further development of demand-side renewable energy systems, and conserving expensive resources. § 366.81, Fla. Stat.

17. Under FEECA, the Commission is required to set energy efficiency and conservation goals for the state's major electric utilities, which include FPL, DEF, TECO, and GPC. In setting those goals, 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.” §366.82(3), Fla. Stat. Additionally, 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.

18. SACE contends, and will provide data and analysis, that annual energy savings levels achieved by the state’s largest utilities is significantly less than peer utilities in other states. For instance, the state’s two largest utilities, FPL and DEF, which serve almost 70% of customer accounts in Florida, capture a mere 0.2% and 0.3% in annual energy savings respectively. Twenty states have regulatory programs in place that obtain at least 1% in annual energy savings. This gap highlights the Commission’s unique opportunity in these consolidated cases to significantly increase goals, and in so doing, assist customers in lowering energy use and saving money on their bills. SACE submits that FPL, DEF, TECO, and GPC must provide sufficient and appropriate evidence to the Commission in order for it to meet its FEECA statutory goals setting duty.

19. SACE cannot at this time provide a complete statement of ultimate facts to be proven because the utilities have not yet submitted their filings in these proceedings. SACE’s allegations of ultimate facts include, but is not limited to, that the utilities’ updated technical potential analysis does not provide a complete assessment of the full technical potential of all energy efficiency measures and demand side renewables as required by statute. The lack of a

complete technical potential assessment further undercuts the assessment of the economic potential of measures, and the achievable potential of measures, which the Commission shall ultimately utilize to set goals.

IX. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

20. The rules and statutes that entitle SACE 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. §§366.80-.85, Fla. Stat.;
- d. R. 28-106.201, F.A.C.;
- e. R. 28-106.205, F.A.C; and
- f. R. 25-22.039, F.A.C.

X. RELIEF SOUGHT

21. WHEREFORE, the Southern Alliance for Clean Energy respectfully requests that the Commission enter an order granting them leave to intervene in the above-styled series of dockets as a full party, and further requests parties to provide the undersigned with all pleadings, testimony, evidence, and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 20th day of February, 2014

/s/ Joshua D. Smith
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 20th day of February, 2014, via electronic mail on:

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<p>Diana Csank Sierra Club 50 F St. NW, 8th Floor Washington, D.C. 20001 Phone: (202) 548-4595 FAX: (202)547-6009 Diana.Csank@sierraclub.org</p>	

DATED this 20th day of February, 2014.

/s/ Joshua D. Smith
Attorney