

Crystal Card

From: Alisa Coe <acoe@earthjustice.org>
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To: Filings@psc.state.fl.us
Subject: SACE's Motion, Docket Nos. 130199-130202
Attachments: SACE Motion, Docket Nos. 130199-130202.pdf

Please see the resubmitted document attached.

- A. /s/ Alisa Coe
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- B. Docket No. 130199-EI
Docket No. 130200-EI
Docket No. 130201-EI
Docket No. 130202-EI
- C. Southern Alliance for Clean Energy
- D. Filings consists of 1 document the Motion by SACE, is 8 pages long, including an attached Proposed Order.
- E. The attached document is SACE's Motion to Extend Intervenors' Filing Deadline, and attached proposed order.

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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).

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DOCKET NO. 130202-EI

Filed March 14, 2014

SOUTHERN ALLIANCE FOR CLEAN ENERGY’S MOTION TO EXTEND INTERVENORS’ FILING DEADLINE

Pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C.), Southern Alliance for Clean Energy (“SACE”) moves the Florida Public Service Commission (“Commission”) to extend Intervenors’ testimony deadline,¹ and in support states the following.

1. The current controlling dates in the Order Establishing Procedure in relevant part sets the filing deadlines as follows: Utilities’ testimony and exhibits due April 2, 2014 and Intervenors’ testimony and exhibits due May 5, 2014, and Staff’s testimony and exhibits, if any, due May 19, 2014, and Rebuttal testimony and exhibits due June 2, 2014.

2. The Utilities’ testimony will include an analysis of technical, economic and achievable potential of energy efficiency and demand side renewable measures with various cost-effectiveness tests, screens for “free-ridership,” and various sensitivities applied to the

¹ Docket Nos. 130199 – 130204, Order No. PSC-13-0386-PCO-EU, Order Consolidating Dockets and Establishing Procedure, p. 10, August 19, 2013. Subsequently modified by Order No. PSC-14-0112-PCO-EU, February 26, 2014.

Utilities' proposed achievable potential – which will serve as the basis for the Commission's goal setting responsibility in the above consolidated dockets.²

3. SACE fully supports the contentions in Sierra Club's Motion for extension of time for Intervenor's testimony and believes an extension of six weeks and a shortening of discovery response time is absolutely necessary. A filing deadline of May 5, 2014 is overly burdensome on the Intervenor and will likely not produce a quality record on which the Commission must base its decision in the above dockets. Once testimony is filed by the Utilities, Intervenor's will have the burden of fully reviewing and analyzing the Utilities' testimony and developing and filing testimony based on, and responding to, the Utilities' testimony, within 33 days of receipt of such testimony. Since Intervenor do not have the opportunity for surrebutal in this case, this will be Intervenor's only opportunity to file testimony that addresses the complex issues of the technical, economic and achievable potential analysis and the screens, cost-effectiveness tests and sensitivities applied to the achievable potential by the Utilities. Given that the achievable potential will form the basis for the Commission's goals, there is an important public interest to allow adequate time for Intervenor to fully develop testimony for the Commission's consideration. It is important to note, that unlike 2009, when SACE was part of a collaborative with the utilities engaged in a technical potential study, SACE is not a party to such collaborative in these consolidated dockets, and therefore has limited information regarding the technical potential study and no information regarding the economic and achievable potential outcomes. Despite the parties agreement in June that the updates to the Technical Potential Study should be completed by September 30, 2013, *see* Order Establishing Procedure at p. 2, it became clear at the subsequent informal meetings of February 13, 2013 and March 5, 2013 that the utilities do not intend to provide these studies until the deadline for the submission of their

² *Id.* at 13

testimony. Given that April 2, 2014 will be the first time Intervenors have access to the utilities voluminous and complex testimony and studies, thirty three days to fully respond is inadequate.

4. While SACE believes that the six-week relief for extension for Intervenor testimony requested by Sierra Club in its motion is necessary, SACE moves to have the Intervenors testimony deadline extended to at least May 19, 2014 as a minimum. This extension coincides with the testimony and exhibit deadline for Staff. Staff has indicated informally that it does not intend to sponsor any witnesses; therefore, extending the deadline to that date will not prejudice any of the parties because the Utilities and other parties would otherwise have to provide rebuttal to Staff testimony, as they did in 2009.³ Given that Staff will not sponsor a witness as it did in the 2009 conservation goal setting proceedings, the parties will not be prejudiced by extending the Intervenors' filing deadline to May 19, 2014.

5. The Commission has a precedent of finding that such relief is appropriate when it is in the public interest and elevates the quality of the record before the Commission, as it did in the 2009 conservation goal setting docket. Order No. PSC-09-0467-PCO-EG, at 3. Additionally, in other dockets involving complex issues of disputed facts, the time provided for Intervenors has been considerably more than provided in the current schedule for these consolidated dockets. For instance, in the 2013 annual nuclear cost recovery docket, the stated deadline for Intervenor testimony after the filing of utility testimony was 51 days.⁴ The aforementioned is an annual docket; whereas, the above captioned dockets are opened every five years. As such, the Intervenors in this case are entitled to a minimum extension until at least May 19, 2014 (total 47 days).

³ Docket Nos. 080407-13, Testimony of Richard Spellman, July 17, 2009.

⁴ Docket No. 130009, Order No. PSC-13-0063-PCO-EI, January 29, 2013.

6. Pursuant to Rule 28-106.204(3) of the Florida Administrative Code, SACE conferred with all other parties of record, and is authorized to represent that Duke Energy Florida does not agree with the request for an extension until May 19, 2014; Gulf Power, FPL and TECO do not support the request; FIPUG and PCS Phosphate have no objection to the request; and FDACS does not take a position on the request. FPL also takes the position that if any extension for Intervenor testimony is provided, a similar extension for rebuttal testimony should be provided. Sierra Club takes no position until we can see the papers filed, however Sierra Club believes that the relief requested by SACE will be inadequate to relieve a briefing schedule that is prejudicial to organizations representing the public interest and as a result will deprive the Commission of the benefit of a full airing of the issues and facts in this case. SACE is unaware of the position of the remaining parties.

WHEREFORE, all the reasons stated above in this motion, SACE respectfully requests that, at a minimum, its motion for an extension for the Intervenor filing deadline to May 19, 2014 be granted by the Commission.

Respectfully submitted this 14th day of March, 2014

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 14th day of March, 2014, via electronic mail on:

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DATED this 14th day of March, 2014.

/s/Alisa Coe
Attorney

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DOCKET NO. 130202-EI

Order No.

ISSUED:

PROPOSED] SECOND ORDER MODIFYING PROCEDURE

By Order No. PSC-13-0386-PCO-EU (Order Establishing Procedure) issued on August 19, 2013, dates were established for filing deadlines in these dockets. Having reviewed SACE's Motion to Extend Intervenors' Filing Deadline filed by SACE on March 14, 2014, good cause has been established to extend the Intervenors' Filing Deadline by two weeks. As such, Intervenors' testimony and exhibits shall now be filed by May 19, 2014.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay and promote the just, speeding and inexpensive determination of all aspects of the case.

Based on the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that Order No. PSC-13-0386-PCO-EU is modified as set forth in the body of this order.

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this ____ day of _____, 2014.

Prehearing Officer