

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recover Clause)
)
) DOCKET NO. 140007-EI
) FILED: May 28, 2014
_____)

**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 docket and in support thereof states:

I. 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

II. 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:

George Cavros, Esq.
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite 105
Fort Lauderdale, FL 33334

(954) 295-5714 (tel)
(866) 924-2824 (fax)

III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. Petitioners received notice of the Florida Public Service Commission's ("Commission") action through its February 14, 2014 Order Establishing Procedure.

IV. 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. SACE's stated mission is to promote responsible energy choices that create climate change solutions and ensure clean, safe and healthy communities throughout the Southeast.

6. SACE has staff in Florida working to advance energy plans and policies that best serve the environmental, public health and economic interests of communities in Florida. In addition, there are 226 SACE members residing in Florida and dedicated to promoting responsible energy choices that achieve clean, safe and healthy communities. A substantial number of SACE's Florida members reside in the service territories of the four largest Florida investor-owned utilities ("IOU") and include: Florida Power & Light Company ("FPL") (110 members); Duke Energy Florida, Inc. ("DEF") (38 members), Tampa Electric Company ("TECO") (19 members), and Gulf Power Company ("GPC") (16 members).

7. To further its mission of promoting clean, safe and healthy communities, 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 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; 130199- 130022; *In re: Energy conservation cost recovery clause*, Docket Nos. 110002-EG – 140002-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.

V. STATEMENT OF AFFECTED INTERESTS

8. As part of its mission to promote responsible energy choices and ensure clean, safe and healthy communities throughout the Southeast, SACE supports federal, state, local statutes, administrative regulations, orders, ordinances, resolutions, or other requirements that apply to electric utilities and are designed to protect the environment. Clean Air Act rules, such as the Clean Air Interstate Rule (CAIR), Mercury and Air Toxics Standards (MATS), and National Ambient Air Quality Standards (NAAQS) and Clean Water Act effluent limitation guidelines and standards for the Steam Electric Generating Industry help reduce air and water pollution from power plants. Therefore, electricity customers in IOU service territories, including

customers who are SACE members, benefit from reduced air water pollution through IOU environmental compliance plans.

9. In this docket, the Commission approves IOU compliance plans intended to meet the requirements of environmental statutes and rules. In this docket, the Commission will determine whether the IOU's environmental compliance costs have been prudently incurred¹ and determine the Environmental Cost Recovery Clause ("ECRC") rates in this docket, and determine if future projected environmental compliance costs are reasonable. The environmental costs approved by this Commission will be included in the ECRC rates and passed on to IOU customers, including customers who are members of SACE.

10. As such, members of SACE will bear the cost of ECRC rates deemed to be prudently incurred and costs flowing from future environmental compliance activities found to be reasonable by the Commission. Consistent with the mission of SACE, it wishes to ensure that environmental compliance activity is carried out in the most prudent, reasonable and cost-effective means possible. Towards that end, SACE will examine alleged prudently incurred costs and examine alleged reasonable projected compliance costs, and examine compliance options such as the retirement of power plant units, increased reliance on clean, renewable energy resources, and greater end-use energy efficiency implementation to help reasonably and cost-effectively meet environmental compliance objectives. The reasonableness and prudence of individual expenditures, and the IOUs decisions on future compliance plans made in light of subsequent environmental rule developments, will continue to be subject to the Commission's

¹ Section 366.8255, Florida Statutes, provides that the Commission may approve a utility's proposed environmental compliance activities and environmental compliance costs, and that the Commission is to "allow recovery of the utility's prudently incurred environmental compliance costs ..."

review in future ECRC proceedings on these matters.² As such, Commission actions and orders in this docket are inexorably intertwined with the substantial interest of SACE and its members.

11. These are the type of interests this proceeding is designed to protect because the purpose of this case 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 Establishing Procedure at 9, and Rule 25-22.039, F.A.C.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

14. The disputed issues of material fact in this proceeding will include, but are not limited to the following:

- a) What are the final environmental cost recovery true-up amounts for the period January 2013 through December 2013?

² See Order PSC-13-0606-FOF-EI, November 19, 2013.

- b) What are the estimated/actual environmental cost recovery true-up amounts for the period January 2014 through December 2014?
- c) What are the projected environmental cost recovery amounts for the period January 2015 through December 2015?
- d) What are the environmental cost recovery amounts, including true-up amounts, for the period January 2015 through December 2015?

VII. STATEMENT OF ULTIMATE FACT

15. As described above, in the above-captioned proceeding, the Commission will determine the investor-owned utilities' ECRC rates in this docket, and whether cost related to environmental compliance have been prudently incurred and if future projected costs are reasonable. The environmental costs approved by this Commission will be included in the IOU's ECRC rates and passed on to customers, including customers who are members of SACE. The proposed costs for recovery by the IOUs may not be prudently incurred and may not be the most reasonable means to achieve environmental compliance for IOU customers, including customers who are members of SACE.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

16. 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. §366.8255, Fla. Stat.;
- d. R. 25-22.039 F.A.C.; and
- e. R. 28-106.205, F.A.C.

IX. RELIEF SOUGHT

17. WHEREFORE, the Southern Alliance for Clean Energy respectfully requests that the Commission enter an order granting it leave to intervene in the above-styled docket 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 28th day of May, 2014

/s/ George Cavros
George Cavros
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite 105
Fort Lauderdale, FL 33334
(954) 295-5714 (tel)
(866) 924-2824 (fax)

Counsel for Petitioner
Southern Alliance for Clean Energy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 28th day of May, 2014 via electronic mail on:

Charles Murphy Lee Eng Tan Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 ltan@psc.state.fl.us	J.R Kelly/Charles Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 Rehwinkel.charles@leg.state.fl.us
Jon C. Moyle, Jr. Florida Industrial Power Users Group 118 North Gadsden Street Tallahassee, FL 32301 jmoyle@moylslaw.com	John Butler Florida Power & Light Company (Juno 13i) 700 Universe Blvd. Juno Beach, FL John.butler@fpl.com
Robert L. McGee, Jr. Gulf Power Company One Energy Place Pensacola, FL 32520-0780 rlmcgee@southernco.com	Dianne Triplett John Burnett Duke Energy Florida 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740 john.burnett@duke-energy.com
James Beasley & J. Jeffry Wahlen Ausley & McMullen Law Firm P.O. Box 391 Tallahassee, FL 32302 jbeasley@ausley.com	Paula K. Brown Tampa Electric Company Regulatory Affairs P. O. Box 111 Tampa, FL 33601-0111 Regdept@tecoenergy.com
PCS Phosphate - White Springs James W. Brew / F. Alvin Taylor c/o Brickfield Law Firm 1025 Thomas Jefferson St., NW, 8th Flo Washington, DC 20007 jbrew@bbrslaw.com	Kenneth Hoffman Florida Power and Light 215 South Monroe Street, Suite 810 Tallahassee, FL 32301-1858 Ken.Hoffman@fpl.com
Jeffery Stone & Russell A. Badders Beggs & Lane Law Firm P.O. Box 12950 Pensacola, FL 32591 jas@beggslane.com rab@beggslane.com	Matthew R. Bernier/Paul Lewis, Jr. 106 East College Avenue, Suite 800 Tallahassee, FL 32301 Matthew.bernier@duke-energy.com

Robert Scheffel Wright/John T. LaVia,
c/o Gardner Law Firm
1300 Thomaswood Drive
Tallahassee, FL 32308
Schef@gbwlegal.com

Hopping Law Firm
Gary V. Perko
P.O. Box 6526
Tallahassee, FL 32314
Gperko@hgslaw.com

/s/ George Cavros
George Cavros, Esq.