



Dianne M. Triplett  
ASSOCIATE GENERAL COUNSEL  
Duke Energy Florida, Inc.

July 10, 2014

**VIA ELECTRONIC FILING**

Ms. Carlotta Stauffer, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Joint Motion in Opposition to Motion for Reconsideration; Docket Nos. 130199, 130200, 130200, 130201, 130202, and 130203

Dear Ms. Stauffer,

On behalf of Duke Energy Florida, Inc., Florida Power & Light Company, Gulf Power Company, JEA and Tampa Electric Company, please find enclosed the Joint Motion in Opposition to Motion for Reconsideration filed by The Alliance for Solar Choice.

Thank you for your assistance in this matter. Please feel free to call me at (727)820-4692 should you have any questions concerning this filing.

Respectfully,

*s/Dianne M. Triplett*  
Dianne M. Triplett  
Associate General Counsel  
[Dianne.Triplett@duke-energy.com](mailto:Dianne.Triplett@duke-energy.com)

DMT/mw  
Enclosure

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

Dated: July 14, 2014

**JOINT RESPONSE IN OPPOSITION TO  
MOTION FOR RECONSIDERATION**

Duke Energy Florida, Inc., Florida Power & Light Company, Gulf Power Company, JEA and Tampa Electric Company (collectively, "FEECA Utilities"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby file their response in opposition to the motion for reconsideration of Order Number PSC-14-0329-PCO-EU, which was filed by The Alliance for Solar Choice ("TASC"). In short, TASC does not identify any point of fact or law which the Commission overlooked; rather, TASC presents the same arguments that the Commission has already considered and properly rejected. Accordingly, the Motion for Reconsideration should be denied. In further support, the FEECA Utilities state the following:

1. On June 10, 2014, TASC filed a Petition to Intervene in the above DSM goals dockets. After the FEECA Utilities timely filed a response in opposition to the Petition, TASC filed a motion for leave to file a reply on June 18, 2014. The FEECA Utilities filed a response in opposition to this motion as well.

2. The Commission issued Order PSC-14-0329-PCO-EU (“Order 14-0329”) on June 25, 2014, in which the Commission denied TASC’s petition to intervene and also denied TASC’s motion for leave to file a reply. TASC filed its Motion for Reconsideration on July 7, 2014.<sup>1</sup>

3. The FEECA Utilities agree with the standard of review for a motion to reconsider that is cited by TASC in its motion. Indeed, TASC notes that “[i]t is not appropriate to reargue matters that have already been considered by the Commission.” (p. 7 of Motion, citing *Sherwood v. State*, 111 So. 2d 96 (Fla. 3<sup>rd</sup> DCA 1959)). However, TASC then blithely ignores the very standard it cites, rearguing positions that the Commission has already considered and rejected. Specifically, TASC argues that, because the Commission rejected TASC’s Motion for Leave to Reply, the Commission did not consider four assertions of fact and law in its Order Denying Intervention. However, for the same reasons stated by the FEECA Utilities in their joint response in opposition to the Motion for Leave to Reply, TASC raises nothing new in its Motion for Reconsideration that would warrant the Commission’s reconsidering Order 14-0329. Thus, the Commission should deny the Motion for Reconsideration.

4. TASC asserts four grounds in support of its request for reconsideration: 1) there are factual distinctions that would distinguish rooftop developers from wholesale equipment dealers that the Commission previously held lacked standing; 2) Order 14-0329 does not properly consider the FEECA statute’s “zone of interests” as modified by subsequent statutory amendments; 3) Order 14-0329 misapplies the associational standing test; and 4) there will be “basic policy disharmony” if parties are excluded from the FEECA proceeding given the 2008 amendments to FEECA. Because grounds (2) and (4) essentially make the same argument, this response will address those two together.

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<sup>1</sup> Counsel for Duke Energy Florida and Tampa Electric Company note that, while TASC claims in its Motion for Reconsideration to have conferred, by email, with all parties to this proceeding before filing the Motion, they did not receive any such email. Had they received it, they would have indicated that their respective clients opposed the motion, as did the other FEECA Utilities.

5. As to the first ground, the factual distinctions that TASC seeks to draw in support of its motion do not have a material impact on the standing analysis and, therefore, do not meet the standard for a motion for reconsideration. Even if TASC's members are "roof-top solar developers," rather than wholesale solar suppliers or energy auditors like the proposed intervenors who were denied intervention in the prior orders cited by the Commission in Order 14-0329, their economic and proprietary interests, like those of the solar interests addressed in the Commission's prior orders, depend upon factors extraneous to these proceedings and consumer reactions. Order No. PSC-95-1346-S-EG, Docket No. 941173-EG, at pp. 8-9 (Nov. 1, 1995). As such, their interests are too speculative and indirect to satisfy the "injury in fact" prong of the *Agrico* standing test under the logic of the Commission's prior orders. Indeed, Order 14-0329 states that "the commercial interest of rooftop solar providers is not the type of interest that these proceedings are designed to protect." (Page 4). Therefore, the Commission clearly knew (and considered) that TASC represented rooftop solar developers rather than wholesale solar suppliers and still found that such interests were not valid to allow intervention.

6. As to TASC's second and fourth grounds, the mere fact that FEECA was amended in 2008 to specifically reference "demand-side renewable energy systems" does not impact the Commission's standing analysis and, therefore, does not justify reconsideration. The Commission orders that TASC seeks to distinguish specifically recognized that FEECA, even prior to the 2008 amendments, "encouraged" the use of solar energy and other renewable resources. *See* Order No. PSC-95-1346-S-EG, Docket No. 941173-EG, at p. 10 (Nov. 1, 1995); Order No. PSC-95-1343-S-EG, Docket No. 941170-EG, at p. 13 (Nov. 1, 1995). Notwithstanding that the pre-2008 FEECA encouraged the use of solar energy, the Commission concluded that it was not intended to promote businesses, to protect business markets, or to protect the competitive economic interests of the solar industry. Order 14-0329 cites specifically

to Order No. PSC-95-1346-S-EG when making this point, thus demonstrating again that the Commission considered, and rejected, the arguments TASC now asserts are “new” or “overlooked.”

7. Finally, TASC’s third ground simply rehashes associational standing arguments TASC has already made, and that the Commission has already considered in Order 14-0329. Indeed, TASC argues in its Petition to Intervene (e.g. paragraphs 5, 6, and 8-12) the very same points it makes in its Motion for Reconsideration. Disagreement with the Commission’s findings, however, does not give rise to a proper motion for reconsideration.

**WHEREFORE**, the FEECA Utilities respectfully request that the Commission deny TASC’s Motion for Reconsideration of Order 14-0329.

Respectfully submitted,

DUKE ENERGY FLORIDA, INC.  
Dianne M. Triplett, Esq.  
Matthew R. Bernier, Esq.

BY: s/Dianne M. Triplett

GULF POWER COMPANY  
Jeffrey A. Stone, Esq.  
Russell A. Badders, Esq.  
Steven R. Griffin, Esq.

BY: s/Steven R. Griffin

TAMPA ELECTRIC COMPANY  
James D. Beasley, Esq.  
J. Jeffrey Wahlen, Esq.  
Ashley M. Daniels, Esq.

BY: s/James D. Beasley

FLORIDA POWER & LIGHT COMPANY  
Wade R. Litchfield, Esq.  
John T. Butler, Esq.

BY: s/John T. Butler

JEA

BY: s/Gary V. Perko  
Gary V. Perko  
HOPPING GREEN & SAMS, P.A.  
119 South Monroe St., Suite 300 (32301)  
P. O. Box 6526  
Tallahassee, Florida 32314  
Phone: 850/222-7500  
Fax: 850/224-8551

**CERTIFICATE OF SERVICE**  
**DOCKET NOS. 130199-EI, 130200-EI, 130201-EI, 130202-EI & 130203-EM**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic delivery this 10<sup>th</sup> day of July, 2014 to the following:

Charles Murphy, Esq.  
Lee Eng Tan, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
[Cmurphy@psc.state.fl.us](mailto:Cmurphy@psc.state.fl.us)  
[Ltan@psc.state.fl.us](mailto:Ltan@psc.state.fl.us)

Steven L. Hall, Senior Attorney  
Office of General Counsel  
Florida Department of Agriculture & Consumer  
Services  
407 South Calhoun Street, Suite 520  
Tallahassee, FL 32399  
[Steven.Hall@freshfromflorida.com](mailto:Steven.Hall@freshfromflorida.com)  
Attorney for DOACS

Diana A. Csank, Esq.  
Sierra Club  
50 F Street, N.W., 8<sup>th</sup> Floor  
Washington, D.C. 20001  
[Diana.Csank@Sierraclub.org](mailto:Diana.Csank@Sierraclub.org)  
Attorney for Sierra Club

Jon C. Moyle, Jr., Esq.  
Karen Putnal, Esq.  
Moyle Law Firm, P.A.  
118 N. Gadsden Street  
Tallahassee, FL 32301  
[jmoyle@moylelaw.com](mailto:jmoyle@moylelaw.com)  
[kputnal@moylelaw.com](mailto:kputnal@moylelaw.com)  
Attorneys for FIPUG

George Cavros, Esq.  
Southern Alliance for Clean Energy  
120 E. Oakland Park Blvd., Suite 105  
Fort Lauderdale, FL 33334  
[george@cavros-law.com](mailto:george@cavros-law.com)  
Attorney for SACE

Alisa Coe, Esq.  
David G. Guest, Esq.  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, FL 32301  
[acoe@earthjustice.org](mailto:acoe@earthjustice.org)  
[dguest@earthjustice.org](mailto:dguest@earthjustice.org)  
Attorneys for SACE

James W. Brew, Esq.  
F. Alvin Taylor, Esq.  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, NW  
Eighth Floor, West Tower  
Washington, DC 20007-5201  
[jbrew@bbrslaw.com](mailto:jbrew@bbrslaw.com)  
[ataylor@bbrslaw.com](mailto:ataylor@bbrslaw.com)  
Attorneys for PCS Phosphate-White Springs

J. Stone, Esq.  
R. Badders, Esq.  
S. Griffin, Esq.  
Beggs & Lane  
P.O. Box 12950  
Pensacola, FL 32591-2950  
[jas@beggslane.com](mailto:jas@beggslane.com)  
[rab@beggslane.com](mailto:rab@beggslane.com)  
[srg@beggslane.com](mailto:srg@beggslane.com)  
Attorneys for Gulf Power Company

Dianne M. Triplett, Esq.  
Matthew R. Bernier, Esq.  
299 First Avenue North  
St. Petersburg, Florida  
[dianne.triplett@duke-energy.com](mailto:dianne.triplett@duke-energy.com)  
[matthew.bernier@duke-energy.com](mailto:matthew.bernier@duke-energy.com)  
Attorneys for Duke Energy

Mr. Paul Lewis, Jr.  
106 East College Avenue, Suite 800  
Tallahassee, FL 32301-7740  
[paul.lewisjr@duke-energy.com](mailto:paul.lewisjr@duke-energy.com)

Mr. W. Christopher Browder  
P. O. Box 3193  
Orlando, FL 32802-3193  
[cbrowder@ouc.com](mailto:cbrowder@ouc.com)  
Orlando Utilities Commission

Ms. Cheryl M. Martin  
1641 Worthington Road, Suite 220  
West Palm Beach, FL 33409-6703  
[Cheryl\\_martin@fpuc.com](mailto:Cheryl_martin@fpuc.com)  
Florida Public Utilities Company

Robert Scheffel Wright, Esq.  
John T. LaVia, Esq.  
Gardner, Bist, Wiener, Wadsworth,  
Bowden, Bush, Dee, La Via & Wright, P.A.  
1300 Thomaswood Drive  
Tallahassee, Florida 32308  
[schef@gbwlegal.com](mailto:schef@gbwlegal.com)  
[jlavia@gbwlegal.com](mailto:jlavia@gbwlegal.com)  
Attorneys for Walmart

J. Beasley, Esq./J. Wahlen, Esq./A. Daniels, Esq.  
Ausley Law Firm  
Post Office Box 391  
Tallahassee, FL 32302  
[jbeasley@ausley.com](mailto:jbeasley@ausley.com)  
[jwahlen@ausley.com](mailto:jwahlen@ausley.com)  
[adaniel@ausley.com](mailto:adaniel@ausley.com)  
Attorneys for Tampa Electric

Ms. Paula K. Brown  
Regulatory Affairs  
P. O. Box 111  
Tampa, FL 33601-0111  
[Regdept@tecoenergy.com](mailto:Regdept@tecoenergy.com)  
[pkbrown@tecoenergy.com](mailto:pkbrown@tecoenergy.com)  
Tampa Electric  
Mr. P. G. Para  
21 West Church Street, Tower 16  
Jacksonville, FL 32202-3158  
[parapg@jea.com](mailto:parapg@jea.com)  
JEA

Mr. Robert L. McGee, Jr.  
One Energy Place  
Pensacola, FL 32520-0780  
[rlmcgee@southernco.com](mailto:rlmcgee@southernco.com)

R. Wade Litchfield, Esq.  
John T. Butler, Esq.  
Assistant General Counsel – Regulatory  
700 Universe Boulevard  
Juno Beach, FL 33408  
[john.butler@FPL.com](mailto:john.butler@FPL.com)  
[jessica.cano@FPL.com](mailto:jessica.cano@FPL.com)

J.R. Kelly, Esq.  
Erik L. Saylor, Esq.  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
[kelly.jr@leg.state.fl.us](mailto:kelly.jr@leg.state.fl.us)  
[saylor.erik@leg.state.fl.us](mailto:saylor.erik@leg.state.fl.us)

John Finnigan  
Environmental Defense Fund  
128 Winding Brook Lane  
Terrace Park, OH 45174  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)

Thadeus B. Culley  
Keyes, Fox & Wiedman LLP  
The Alliance for Solar Choice  
401 Harrison Oaks Blvd., Ste 100  
Cary, NC 27513  
[tculley@kfwlaw.com](mailto:tculley@kfwlaw.com)

Jill Tauber  
1625 Massachusetts Ave., NW Suite 702  
Washington, DC 20036-2243  
[Jtauber@earthjustice.org](mailto:Jtauber@earthjustice.org)

Alton E. Drew  
Special Counsel  
Florida State Conference of the NAACP  
667 Peoples Street, SW, #4  
Atlanta, GA 30310  
[altondrew@altondrew.com](mailto:altondrew@altondrew.com)

Gary V. Perko  
P O Box 6526  
Tallahassee, FL 32314  
[gperko@hgslaw.com](mailto:gperko@hgslaw.com)

By: /s/ Dianne M. Triplett  
Dianne M. Triplett  
Fla. Bar No. 0872431