

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission Review of Numeric) DOCKET NO. 20190015-EG
Conservation Goals)
Florida Power & Light Company)
_____)

In re: Commission Review of Numeric) DOCKET NO. 20190016-EG
Conservation Goals)
Gulf Power Company)
_____)

In re: Commission Review of Numeric) DOCKET NO. 20190018-EG
Conservation Goals)
Duke Energy Florida, LLC)
_____)

In re: Commission Review of Numeric) DOCKET NO. 20190019-EG
Conservation Goals)
Orlando Utilities Commission)
_____)

In re: Commission Review of Numeric) DOCKET NO. 20190020-EG
Conservation Goals)
JEA)
_____)

In re: Commission Review of Numeric) DOCKET NO. 20190021-EG
Conservation Goals)
Tampa Electric Company)
_____)

**SOUTHERN ALLIANCE FOR CLEAN ENERGY'S
MOTION TO REQUEST ALLOWANCE OF PUBLIC PARTICIPATION**

Pursuant to Rule 28-106.204 of the Florida Administrative Code, Intervenor Southern Alliance for Clean Energy (hereinafter "SACE") files this Motion to Request Allowance of Public Participation in the above-captioned consolidated dockets, and requests the Florida Public Service Commission (hereinafter "the Commission") to allow for oral public testimony at the currently scheduled hearing. In support of this motion, Intervenor SACE states:

1. Public participation via oral testimony by the general public will serve the objectives of transparency, accessibility, and meaningful oversight represented by the Commission's goals and the Florida Energy Efficiency and Conservation Act (hereinafter "Energy Efficiency Act").

2. Part of the Commission's stated goals is to ensure "an open, accessible, and efficient regulatory process that is fair and unbiased." Florida Public Service Commission, *Statement of Agency Organization and Operations* (Jan. 2009), <http://www.psc.state.fl.us/Files/PDF/Home/SAOO.pdf>. Allowing the general public to give oral testimony directly serves this purpose by facilitating first-hand citizen engagement with the regulatory process. In this way, public oral testimony ensures that the citizens of Florida are allowed open access to the regulation of Florida's energy economy, in line with the goals of the Commission. *See id.*

3. Furthermore, allowance of public testimony aligns with the Commission's goals of a "fair and unbiased" regulatory process. Evaluation of the utilities' energy efficiency and conservation programs currently depend largely upon evidence put forth by the utilities themselves. *See* § 366.82(7), Fla. Stat. (2018) ("the commission shall require each utility to develop plans and programs to meet the overall goals"); § 366.82(10), Fla. Stat. (2018) ("[t]he commission shall require periodic reports from each utility"); § 366.82(11), Fla. Stat. (2018) ("[f]ollowing each 6-month period, each utility shall report the actual results for that period to the commission"). Public testimony will bring evidence to light that may not be reported by the utilities, or within the utilities' records. A public hearing will create a more "fair and unbiased" regulatory process by expanding the information base from which the Commission can make its decisions.

4. This Commission has also acknowledged that Florida's administrative law

jurisprudence tends to favor public participation and access to administrative proceedings. *See* Order No. PSC-02-1205-PCO-E, issued September 4, 2002, in Docket No. 020262-E1 at p. 3 (in which the Commission granted intervention based partly on a preference for public engagement demonstrated by Florida law)(citing *Florida Home Builders v. Dept. of Labor and Employment Security*, 412 So. 2d 351, 352-53 (Fla. 1982)). While Order No. PSC-02-1205-PCO-E dealt with a motion to intervene rather than general public testimony, the Florida legislature’s interests in public access that informed the Commission’s decision are equally present here. *See Florida Home Builders*, 412 So. 2d at 352-53. Allowing for public testimony will align with this Commission’s previous recognition of the legislature’s desire to expand access to administrative law processes.

5. The objectives enshrined in the Energy Efficiency Act demonstrate the necessity for oral public testimony in this proceeding. Through the Energy Efficiency Act, the Florida legislature has entrusted this Commission with a duty of meaningful oversight over the energy efficiency and conservation programs of the Energy Efficiency Act utilities. *See* § 366.81, Fla. Stat. (2018). The goal of this oversight, as defined by the legislative findings and intent, is the protection of “the *health, prosperity, and general welfare* of the state and its *citizens*” (emphasis added). *Id.* This Commission’s oversight is not simply for oversight’s sake, but is directed at protecting the well-being of the state’s citizens. *Id.*

6. As previously discussed, the utilities provide the bulk of the information available to this Commission. When provided in good faith, the utilities’ records and information are clearly helpful to understanding the finances of these energy programs. However, as demonstrated by the legislative findings and intent, the scope of this Commission’s oversight reaches beyond an evaluation of the “dollars and cents” underlying these programs. *See* §

366.81, Fla. Stat. (2018). Florida’s citizens are directly affected by the utilities’ programs and this Commission’s oversight thereof; thus the public is uniquely equipped to inform the Commission on these effects. Allowing for public testimony will ultimately aid the Commission by providing insights into the effects on “health, prosperity, and general welfare” of Florida’s citizens.

7. The Florida legislature and the state’s citizens have entrusted this Commission with the weighty responsibility of regulating the most powerful players in the state’s energy economy. More than mere economics, this responsibility includes the protection of the “health, prosperity, and general welfare of the state and its citizens.” *Id.* In carrying out its duty, the Commission has stated a laudable goal of “an open, [and] accessible” regulatory process, in line with the contours of Florida administrative law. Florida Public Service Commission, *Statement of Agency Organization and Operations* (Jan. 2009), <http://www.psc.state.fl.us/Files/PDF/Home/SAOO.pdf>; Order No. PSC-02-1205-PCO-E, issued September 4, 2002, in Docket No. 020262-E1 at p. 3. By allowing for oral public testimony, this Commission can meet these transparency goals while better fulfilling the responsibilities entrusted to it through the Energy Efficiency Act.

8. A hearing for public oral testimony is feasible within the currently scheduled hearing period and would not require the scheduling of any additional days. There are currently five days scheduled for the 2019 proceeding, while the 2014 proceeding only required three days. It suggests that this year’s proceeding is unlikely to require the full five days currently scheduled. To ensure an efficient proceeding, the Commission could schedule the oral public testimony hearing for the first day (August 12, 2019) and impose a fixed limit of three minutes per speaker. As such, the Commission would easily increase the meaningful public participation

contemplated by Florida law without requiring any more time than has already been allotted for the hearing.

9. For the reasons stated above, Intervenor SACE requests that this Commission allow for oral public testimony at a scheduled hearing. Pursuant to Rule 28-106.204(3), F.A.C., SACE has conferred with the parties regarding this motion. Tampa Electric Company, JEA, Orlando Utilities Commission, Florida Public Utilities Company, PCS Phosphate, Florida Industrial Power Users Group, and Walmart take no position on the motion. The Office of Public Counsel and Florida Department of Agriculture and Consumer Services have no objection to the motion. Florida Power & Light Co. takes no position on the motion, but reserves the right to make any permissible objections at the hearing and is not waiving any rights to do so. Gulf Power Co. takes no position on the motion, but reserves the right to make any permissible objections, including, but not limited to, admissibility of public comment as evidence in the hearing record. Duke Energy Florida, LLC takes no position on the relief sought by the motion, but notes that it disagrees that public testimony is necessary for this proceeding and also disagrees that the standards cited in this motion are correct.

RESPECTFULLY SUBMITTED this 16th day of July, 2019

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 16th day of July, 2019, via electronic mail on:

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DATED this 16th day of July, 2019.

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