

**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. 20190018-EG  
Conservation Goals )  
Duke Energy Florida, LLC )  
\_\_\_\_\_ )

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

**PETITION TO INTERVENE BY  
LEAGUE OF UNITED LATIN AMERICAN CITIZENS**

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rule and 28-106.205, Florida Administrative Code, the Florida League of United Latin American Citizens, also known as LULAC Florida Corp. (“LULAC”), through its undersigned counsel, petitions for leave to intervene in the above captioned, consolidated proceedings, 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 INTERVENOR AND ITS COUNSEL**

2. The name and address of Petitioner is:

LULAC Florida Corp.  
6041 SW 159 CT  
Miami, FL 33193  
Telephone: (305)389.4471

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

Bradley Marshall  
Bonnie Malloy  
Jordan Luebke  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, Florida 32301  
(850) 681-0031 (tel)  
(850) 681-0020 (fax)

### **III. RECEIPT OF NOTICE OF AGENCY’S PROPOSED ACTION**

4. Petitioner received notice of the Florida Public Service Commission’s (“Commission”) action by reviewing the Commission’s open dockets.

### **IV. THE INTERVENOR’S SUBSTANTIAL INTERESTS**

5. LULAC Florida is part of the largest and oldest Hispanic civil rights organization in the United States, which advances the economic condition, educational attainment, political influence, housing, health, and civil rights of Hispanic Americans through community-based programs operating through local councils across the nation. The mission of LULAC, as stated on their website, is to “advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States.” To meet these goals, LULAC has an elevated interest in evaluating energy efficiency and conservation measures that will affect the economic interests of its members. These sorts of measures can greatly reduce costs related to fuel consumption and energy generation, costs that increase the energy burden of the utilities’ customers and are found to be disproportionately high in Hispanic communities. Reducing these costs reduces the high energy burdens on the Hispanic community, implicating LULAC’s interest in the economic condition of its members the Hispanic population of Florida.

6. In addition to addressing the economic concerns of its members, LULAC has focused on environmental issues to advance its mission. LULAC has established multiple environmental health and protection programs, as well as adopted positions on energy security and climate change in its National Policy Platform. Adopting strong energy efficiency and conservation goals in Florida has the potential to significantly lower the fuel consumption of currently existing non-renewable energy generation facilities, as well as displacing the need for new energy generation facilities. Non-renewable energy generation releases harmful pollutants into the air that have a direct effect on the health of nearby individuals. LULAC has recognized that Hispanic communities are often disproportionately affected by the health effects resulting from non-renewable energy-related pollution. Similarly, the pollutants released by non-renewable energy generation facilities are direct contributors to global climate change. In a resolution passed by LULAC, the organization has recognized the disproportionate effect of climate change on Hispanic communities and has resolved to address climate change as part of its mission. LULAC has an acute interest in the evaluation of energy efficiency and conservation measures due to their direct effects on environmental health and climate change.

7. LULAC currently has members and leadership in Florida working towards these energy and environment-focused goals, including working to address energy efficiency and conservation related economic and environmental concerns. Virtually all of LULAC's Florida members reside in the service territories of Florida Power & Light Company ("FPL") (55 members), Duke Energy Florida, LLC ("DEF") (17 members), and Tampa Electric Company ("TECO") (75 members).

8. An affidavit establishing the facts to support LULAC's standing is attached to this intervention petition.

## V. STATEMENT OF AFFECTED INTERESTS

9. In the above-captioned consolidated proceeding, the Commission will determine the numeric conservation goals for FPL, DEF, and TECO. The conservation goals set by the Commission will establish the amount of energy savings to be captured by FPL, DEF, and TECO 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 inevitably affect the scope, number, quality, and type of energy efficiency programs that FPL, DEF, and TECO will offer to customers to meet the conservation goals, including their customers who are members of LULAC. 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 LULAC.

10. LULAC 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, decreasing the disproportionate health effects and energy burdens borne by Florida’s Hispanic community. Accordingly, LULAC’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, as well as the effects of these measures on the Hispanic community. Thus, the substantial interests of members of LULAC 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, and TECO. Those energy savings will directly affect how much higher-cost generation is displaced which directly impacts the overall electric system costs of FPL, DEF, and TECO that is passed on to their customers, including LULAC members. Thus, the Commission’s order will directly

affect both the mission of LULAC and the pecuniary, social, and environmental interests of its members. Additionally, the Commission's order 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 LULAC and its members and impacts the pecuniary interests of LULAC members residing in the service territories of FPL, DEF, and TECO. Lastly, the Commission will address how to meet its demand-side renewable requirement in these dockets. LULAC 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 LULAC and its members and impacts the pecuniary interests of LULAC members residing in the service territories of FPL, DEF, and TECO.

11. Moreover, LULAC and its members rely on these proceedings to provide the Commission with information on the economic and environmental difficulties faced by Florida's Hispanic communities and the value of energy efficiency and conservation measures in addressing the difficulties.

12. 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 LULAC 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'g. 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).

13. LULAC 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 LULAC, and the relief requested is the type of relief appropriate for LULAC to receive on behalf of its members. The rights and interests of LULAC 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.

14. LULAC's intervention is timely. Rule 28-106.205, F.A.C.

## **VI. STATEMENT OF DISPUTED ISSUES OF FACT**

15. LULAC 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 CO<sub>2</sub>, 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 levels of 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?

## **VII. 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 (“Energy Efficiency Act”). *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, the Energy Efficiency Act 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 the Energy Efficiency Act, the Commission is required to set energy efficiency and conservation goals for the state’s major electric utilities, which include FPL, DEF, and TECO. 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 the Energy Efficiency Act:

- 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. LULAC contends that annual energy savings levels achieved by the state's largest utilities is significantly less than peer utilities in other states. LULAC will highlight the Commission's unique opportunity in these consolidated cases to significantly increase goals, and in so doing, assist customers, including LULAC's members, in lowering energy use and saving money on their bills.

#### **VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED**

19. The rules and statutes that entitle LULAC 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-.83, Fla. Stat.;
- d. R. 28-106.201, F.A.C.; and
- e. R. 28-106.205, F.A.C.

#### **IX. CONSULTATION WITH OTHER PARTIES**

20. Pursuant to Rule 28-106.204(3), F.A.C., LULAC has conferred with the parties regarding this petition. Florida Power and Light Company, Duke Energy Florida, Tampa Electric Company, the Office of Public Counsel, Florida Department of Agriculture and Consumer Services, PCS Phosphate, and Walmart take no position on the petition. Southern Alliance for Clean Energy supports the petition and is prepared to file jointly with LULAC.

**X. RELIEF SOUGHT**

21. WHEREFORE, the League of United Latin American Citizens respectfully requests that the Commission enter an order granting it 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 17th day of July, 2019

/s/ Bradley Marshall  
Bradley Marshall  
Florida Bar No. 0098008  
bmarshall@earthjustice.org  
Bonnie Malloy  
Florida Bar No. 86109  
bmalloy@earthjustice.org  
Jordan Luebke  
Florida Bar No. 1015603  
jluebke@earthjustice.org  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, Florida 32301  
(850) 681-0031  
(850) 681-0020 (facsimile)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 17th day of July, 2019, via electronic mail on:

<p>Ashley Weisenfeld Margo DuVal Charles Murphy Rachael Dziechciarz Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 aweisenf@psc.state.fl.us mduval@psc.state.fl.us cmurphy@psc.state.fl.us rdziehc@psc.state.fl.us</p>	<p>J.R. Kelly Patricia Christensen Thomas David A. Mireille Fall-Fry Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us christensen.patty@leg.state.fl.us david.tad@leg.state.fl.us fall-fry.mireille@leg.state.fl.us</p>
<p>Charles A. Guyton Beth Keating Gunster Law Firm 215 S. Monroe St., Suite 601 Tallahassee, FL 32301-1804 cguyton@gunster.com bkeating@gunster.com</p>	<p>William P. Cox Christopher T. Wright Florida Power &amp; Light Company 700 Universe Blvd. Juno Beach, FL 33408-0420 will.cox@fpl.com christopher.wright@fpl.com</p>
<p>James D. Beasley J. Jeffry Wahlen Malcolm N. Means Ausley McMullen P.O. Box 391 Tallahassee, FL 32302 jbeasley@ausley.com jwahlen@ausley.com mmeans@ausley.com</p>	<p>Robert Pickels Matthew R. Bernier Dianne M. Triplett Duke Energy 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740 robert.pickels@duke-energy.com matthew.bernier@duke-energy.com dianne.triplett@duke-energy.com</p>
<p>Mike Cassel Florida Public Utilities Company 1750 S.W. 14th St., Suite 200 Fernandina Beach, FL 32034-3052 mcassel@fpuc.com</p>	<p>Ken Hoffman Florida Power &amp; Light Co. 215 S. Monroe St., Suite 810 Tallahassee, FL 32301 ken.hoffman@fpl.com</p>
<p>Paula K. Brown Tampa Electric Company Regulatory Affairs P. O. Box 111 Tampa, FL 33601-0111 regdept@tecoenergy.com</p>	<p>Robert Scheffel Wright John T. LaVia, III Gardner, Bist, Bowden, Bush, Dee, LaVia &amp; Wright, P.A. 1300 Thomaswood Dr. Tallahassee, FL 32308 schef@gbwlegal.com jlavia@gbwlegal.com</p>

<p>Christopher Browder Orlando Utilities Commission P. O. Box 3193 Orlando, FL 32802-3193 cbrowder@ouc.com</p>	<p>Berdell Knowles JEA 21 West Church Street, Tower 16 Jacksonville, FL 32202-3158 knowb@jea.com</p>
<p>Kelly Corbari Joan Matthews Allan J. Charles Florida Department of Agriculture and Consumer Services Office of General Counsel 407 South Calhoun St., Suite 520 Tallahassee, FL 32399 Kelley.Corbari@FreshFromFlorida.com joan.matthews@FreshFromFlorida.com allan.charles@FreshFromFlorida.com</p>	<p>Gary V. Perko Brooke E. Lewis Hopping Green &amp; Sams P.O. Box 6526 Tallahassee, FL 32314 garyp@hgslaw.com shelleyl@hgslaw.com brookel@hgslaw.com jenniferm@hgslaw.com</p>
<p>Russel A. Badders Gulf Power Company One Energy Place Pensacola, FL 32520 Russell.Badders@nexteraenergy.com</p>	<p>Steven R. Griffin Beggs &amp; Lane P.O. Box 12950 Pensacola, FL 32591 srg@beggslane.com</p>
<p>Holly Henderson Gulf Power Company 215 S. Monroe St., Suite 618 Tallahassee, FL 32301-1804 holly.henderson@nexteraenergy.com</p>	<p>Stephanie U. Eaton SPILMAN THOMAS &amp; BATTLE, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 seaton@spilmanlaw.com</p>
<p>Derrick Price Williamson Barry A. Naum SPILMAN THOMAS &amp; BATTLE, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 dwilliamson@spilmanlaw.com bnaum@spilmanlaw.com</p>	<p>James W. Brew Laura A. Wynn Stone Mattheis Xenopoulos &amp; Brew, PC 1025 Thomas Jefferson Street, NW Suite 800 West Washington, DC 20007-5201 jbrew@smxblaw.com law@smxblaw.com</p>
<p>Jon C. Moyle, Jr. Karen A. Putnal Ian E. Waldick Moyle Law Firm, P .A. 118 North Gadsden Street Tallahassee, Florida 32301 jmoyle@moylelaw.com kputnal@moylelaw.com iwaldick@moylelaw.com mqualls@moylelaw.com</p>	

DATED this 17th day of July, 2019.

/s/ Bradley Marshall  
Attorney

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**AFFIDAVIT OF DAVID SINCLAIR**  
**LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF FLORIDA**

1. I, David Sinclair, am over 18 years of age and have personal knowledge of the following facts. I reside at 8434 Pebble Circle, Tampa, Florida 33615. I am a customer of Tampa Electric Company.

2. I currently serve as Chair, Environment and Climate Issues of the League of United Latin American Citizens of Florida (“LULAC”), which is incorporated as LULAC Florida Corp. I have held that office since 2018. Through my work with LULAC, I have personal knowledge of LULAC’s operations, membership, and mission. LULAC’s principal place of business is 6041 SW 159 CT Miami FL, 33193.

3. The Florida LULAC is part of the largest and oldest Hispanic civil rights organization in the United States, which advances the economic condition, educational attainment, political influence, housing, health, and civil rights of Hispanic Americans through community-based programs operating through local councils across the nation. The mission of LULAC, as reflected in its website, is to empower and advance all Hispanic nationality groups in

the United States, through advocacy and engagement on education, civil rights, health, and employment for Hispanics. To fulfill these goals, LULAC understands and promotes the importance of ensuring affordable electricity bills, a healthy environment, and a stable climate as conditions in order for its membership to thrive. LULAC's advocacy on energy policy and the right to a healthy climate includes supporting legislative reform to promote an increase in solar power in Florida, coordinating workshops to educate membership and the public on energy issues, and intervening in the Florida Energy Efficiency and Conservation Act ("Energy Efficiency Act") proceedings before the Florida Public Service Commission.

4. LULAC has 160 members across Florida, including members throughout each of the service territories of Florida Power & Light Company, Duke Energy Florida, LLC, and Tampa Electric Company. In fact, the vast majority of LULAC's total Florida membership resides in the service territories of these utilities, with 55 members in the service territory of Florida Power & Light Company, 17 members in the service territory of Duke Energy Florida, LLC, and 75 members in the service territory of Tampa Electric Company.

5. LULAC has long supported programs to protect the health and economic empowerment of the Hispanic communities in the Florida through education and advocacy. LULAC has dedicated members and volunteers in Florida working to advance these goals. LULAC is increasingly focused on promoting climate and energy justice, community solar legislation, and meaningful energy efficiency throughout Florida, including in the territories of Florida Power & Light Company, Duke Energy Florida, LLC, and Tampa Electric Company. LULAC members have been actively supporting a Hillsborough County-centered community-wide campaign to demand that Tampa Electric Company consider a significant increase in solar power generation and a decrease in its use of fracked gas.

6. LULAC's members reside in peninsular Florida, on the frontlines of the climate crisis. Among the many harms posed by climate change, LULAC members are threatened by the accelerating effects of sea level rise, more severe hurricane seasons, and heat stress brought on by rising temperatures. Improving energy efficiency measures directly and cost-effectively reduces the demand on non-renewable energy generation facilities and displaces the need to build new power plants as well as to run greenhouse gas intensive peaker plants. Lowering Florida's dependence on fossil fuels and limiting further unnecessary emissions of greenhouse gases is crucial to minimizing the harm climate change is already causing LULAC members and all Floridians.

7. Setting strong Energy Efficiency Act goals can also support LULAC's "Latinos Living Healthy" initiatives by reducing the negative impacts to public health threats caused by fossil fuel power generation. Burning fossil fuels to generate electricity pollutes the air and water of surrounding communities and exacerbates heat stress by contributing to climate change. Hispanic Americans already experience higher rates of asthma and are more likely to suffer respiratory conditions from air pollution due to fossil fuel combustion than non-Hispanic white Americans. By postponing or avoiding the need to build additional fossil powered plants, this Energy Efficiency Act proceeding can help create a healthier environment for LULAC members and all Floridians.

8. As ratepayers, LULAC members are directly and adversely affected by policies that make it harder to lower their power costs by reducing their consumption. Many Floridians, including many LULAC members, live on low and fixed incomes, and the affordability of electricity bills can threaten their households' financial stability. Consequently, LULAC members are directly affected by the availability and effectiveness of energy efficiency measures



and renewables programs. Investing in energy efficiency lowers costly expenditures on fuel, new power plants, and added infrastructure, a heavy burden which is borne by customers. By replacing future demand with increased energy efficiency and renewable energy, instead of charging customers potentially billions of dollars to build avoidable power plants, LULAC members and all Floridians can avoid the significant rate hikes that accompany expensive new construction and harm low income households.

9. LULAC members have also lowered their utility bills through investments in the use of demand-side renewable energy systems, energy efficiency measures, and energy conservation. LULAC's members will benefit from strong energy conservation goals for these utilities that encourage energy efficiency measures, demand-side renewable energy systems, and energy conservation. These interests are consistent with LULAC's mission on behalf of its members.

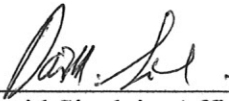
10. LULAC also supports increasing the accessibility and adoption of demand-side renewable energy, such as rooftop solar. As with energy efficiency measures, demand-side renewables decrease the demand for fossil fuel energy generation, alleviating the burden on consumers of the economic and public health costs of expanded fossil fuel combustion and infrastructure.

11. As Chair, Environment and Climate Issues for LULAC in Florida, I understand the economic, environmental, and health benefits for our members by using energy efficiency as a utility resource, and therefore fully support increased levels of energy efficiency implementation. LULAC members have previously and continuously relied on energy efficiency measures to cost effectively participate in LULAC's mission, reduce their current and future energy bills, and lessen environmental pollution.

12. I understand that the Florida Public Service Commission is considering energy efficiency goals for Florida Power & Light Company, Duke Energy Florida, LLC, and Tampa Electric Company. LULAC members would use more energy efficiency measures in their homes if their electric utilities offered an expanded and wider variety of programs, including more meaningful financial or other incentives to assist them in adopting energy efficiency measures, as a result of the PSC adopting higher goals in the 2019 Energy Efficiency Act case.

13. Conversely, if the electric utilities on which LULAC members rely fail to offer an expanded and wider menu of energy efficiency programs, alongside more meaningful incentives, LULAC members will lose the opportunity to participate in programs to cost-effectively reduce their electric bills in the short-term through the use of affordable energy efficiency measures, and may not be able to afford such choices at all in the absence of financial assistance. As a result, LULAC members will be burdened by increased monthly electricity bills, because without efficiency incentives they will require more electricity than they otherwise would have. In addition, LULAC members' bills will also increase due to the need for more expensive new power generation, which would have been deferred or avoided by increased efficiency. An increase in both the amount and price of electricity upon which LULAC members rely each month thereby directly and adversely causes financial harm to the membership of LULAC.

FURTHER AFFIANT SAYETH NOT

  
\_\_\_\_\_  
David Sinclair, Affiant

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority, personally appeared DAVID SINCLAIR who is personally known or produced FLDL as identification, and who was sworn and says that the foregoing averments are true.

Sworn to and subscribed before this 17<sup>th</sup> day of JULY, 2019.

[Signature]

Notary Public

