VOTE SOLAR

December 9, 2020

VIA ELECTRONIC FILING

Adam J. Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: *Petition by Duke Energy Florida, LLC for a limited proceeding to approve Clean Energy Connection Program and Tariff and Stipulation; Docket No. 20200176-EI*

Dear Mr. Teitzman:

Enclosed for filing on behalf of Vote Solar is Vote Solar's post hearing brief in Docket No. 20200176.

Thank you for your assistance in this matter. Please feel free to reach out to me at (706)224-8017 should you have any questions concerning this filing.

Sincerely,

s/ Katie Chiles Ottenweller

Katie Chiles Ottenweller

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to approve Clean Energy Connection Program and Tariff and Stipulation, by Duke Energy Florida, LLC. ___________________________________/	Docket No. 20200176-EI DATED: December 9, 2020

VOTE SOLAR'S
POST-HEARING BRIEF AND
STATEMENT OF ISSUES AND POSITIONS

Pursuant to Order Nos. PSC-2020-0324-PCO-EI and PSC-2020-0430-PHO-EI, Vote Solar files its Post-Hearing Brief and Statement of Issues and Positions with the Florida Public Service Commission ("Commission").

INTRODUCTION

On July 1, 2020, Duke Energy Florida, LLC ("DEF") filed a petition for a new voluntary solar subscription program ("Clean Energy Connection" or "CEC Program") and Tariff and Stipulation. The proposed CEC Program is designed to allow DEF customers to voluntarily subscribe to a portion of the solar capacity built through the program and to receive a credit based on a portion of the system savings produced by that solar capacity.

The program size is 749 megawatts ("MW"), consisting of ten individual solar power plants sized at 74.9 MW each, which will be placed in service between 2022 and 2024. The Clean Energy Connection program will provide an estimated $533 million dollars in economic benefits, which are allocated so that 12.7% flow to participating customers and 87.3% flow to the general body of DEF customers over the life of the program.

By leveraging individual customers' demand for clean energy, the CEC Program will bring approximately 750 MW of cost-effective solar power to Florida, diversifying the state's energy portfolio, avoiding out-of-state fossil fuel purchases, and creating savings for all customers. For all of these reasons, and discussed in detail below, this program is in the public interest.

STATEMENT OF ISSUES AND POSITIONS

ISSUE 1:	Should the Commission approve the Stipulation for approval of the Duke Energy Florida, LLC, Clean Energy Connection Program and Tariff, when taken as a whole, as in the public interest?
VOTE SOLAR:	*Yes. The Stipulation for approval of the Clean Energy Connection program and tariff, when taken as a whole, is in the public interest, and should be approved by the Commission. The program as proposed represents a prudent investment, satisfies the purposes of Florida statutes, and will meet a significant customer need.*

ARGUMENT:

Florida's Supreme Court has made clear that "when presented with a settlement agreement, the Commission's review shifts to the public interest standard." *Florida Indus. Power Users Group v. Brown*, 273 So. 3d 926, 929-30 (Fla.2019). The public interest standard considers "whether the agreement – as a whole – resolved all of the issues, established rates that were just, reasonable, and fair, and is in the public interest." *Id*. But the Supreme Court also made clear that "the prudence of large capital investments is a relevant consideration in the Commission's review of a settlement under the public interest standard because imprudent investments of millions of dollars would likely clash with a public interest finding." *Id*. at 930.

The existence of a settlement agreement in no way obviates the Commission's duty to ensure that utilities are making prudent investments on behalf of all customers. This duty is even more important in cases such as this one, where the proposed investments are not subject to Florida's Power Plant Siting Act. *See* Section 403.519, Fla. Stat. For this reason, we encourage the Commission to make an explicit finding that this program represents a prudent investment, in addition to weighing in on other relevant factors that make up its "public interest" determination.

The program, as proposed by DEF, is clearly a prudent investment. For one, it is cost-effective. Gone are the days when solar power represented a premium cost compared to traditional resources. *See* Tr. at 85 (direct testimony of Duke witness Huber stating that "as a cost-effective solar generation system, the CEC Program is expected to lower customer bills over the life of the CEC Program"). These 749 MWs are projected to save DEF's system $532.7 million dollars (in Cumulative Present Value Revenue Requirements). Stip. at 5. The financial evaluation on which this analysis is based is the same that Duke Energy uses for many of its proposed new generation investments. *See* Tr. at 311 (direct testimony of Duke witness Borsch stating that DEF calculated cost effectiveness of the CEC program in the same manner that it performs cost effectiveness evaluations of numerous projects including the 10-Year Site Plan and all of its SoBRA filings).

There was some discussion at the hearing concerning whether SoBRA cost caps provide better consumer protections than the proposed CEC Program. While the SoBRA cost caps provide some measure of cost certainty, those caps are based on static (and constantly changing) market prices, which have been in decline since the 2016 rate case decisions were made. As evidence of this, FPL's proposed SolarTogether capital cost was below its 2020 SoBRA project capital cost. *See* Order No. PSC-2019-0484-FOF-EI. On a CPVRR basis, it also accomplished a payback for the general body of customers that exceeded the payback for SoBRA projects, even when accounting for the cost of subscriber credits. *See* FPSC Docket 20190161-EI, Tr. 118. DEF has projected that the cost of this program will create significant system savings, and will be developed at lower cost than was established under SoBRA. The proposed new solar capacity under the CEC Program has a projected per kW cost of $1,372/kW-ac for the 2022 projects, $1,273/kW-ac for the 2023 projects, and $1,222/kW-ac for the 2024 projects. Tr. at 175. This is well below the cost caps established for DEF's SoBRA projects of $1,650/kW-ac as a protection for customers. *See* Order No. PSC-2017-0451-AS-EU at 25.

In addition, the Commission can rely on the fact that should costs exceed what DEF has filed is this docket, those additional costs could come under review at a future rate proceeding. *See* Tr. at 350 (Duke witness confirming that the Commission could scrutinize costs at the next rate case). We encourage the Commission to base any future reviews on market costs at the time that the projects are developed, which are a more real-world demonstration of prudency than the static cost caps created under the SoBRA mechanism.

In addition to the prudency of the solar generation, there are other reasons to find this program to be in the public interest. Another factor in determining whether something is in the "public interest" is whether it aligns with the Florida Legislature's purpose in encouraging renewable energy. Fortunately, the Legislature has been very clear on its intended goals in developing renewable energy, including encouraging investment within Florida, diversifying the types of fuel used to generate electricity, lessening the state's reliance on fossil fuels, and decreasing carbon emissions. *See* Section 366.92, Florida Statutes.

Vote Solar believes that this program meets each of these goals, and more. This program accelerates the amount of solar power in Florida, leveraging customer demand for clean energy *to encourage investment within Florida*, an explicit goal of the Legislature. This program will result in approximately 750 MW of new solar power being constructed and added to the grid in Florida between 2022-2024. This represents real jobs, tax income and much-needed economic development in Florida's communities. These solar megawatt-hours displace fossil generation and fuel, the costs of which would have been borne by all customers. And as a fuel-free generating resource, this solar energy acts as an important hedge against Florida consumers' over-dependence on natural gas and its inherent fuel price volatility.

We also note for the Commission that the primary purpose of coming forward with a settlement is not, as some parties have inferred, to benefit from some lesser or more amorphous standard of review. Rather, it is to bring a better, more robust and consensus-based offering to the Commission – one that will lead to both innovation and durability. Vote Solar supports the ability of all parties to raise issues that are relevant to the matter at hand, and we encourage the Commission to conduct a robust inquiry into this (and any other) investment being proposed that will impact customers. The CEC Program solar capacity stands on its own merits as being a prudent investment that warrants approval by this Commission.

ISSUE 2:	Is DEF's proposed CEC tariff an appropriate mechanism to seek approval for the construction of 749 MW of new solar generation facilities?
VOTE SOLAR:	*Yes. The tariff enables the benefit-sharing between participants and the general body of customers. The approval of facilities without an associated tariff would not allow participants to contribute over 100% of the cost of the program over its life, which would create additional costs for the general body of customers.*

ARGUMENT:

As stated previously, the proposed 749 MW are projected to save DEF's system $532.7 million dollars (CPVRR). Stip. at 5. Put another way, the system will cost less, to the tune of half a billion dollars, by adding this solar energy to the grid. The central issue in this docket is not whether the solar resources are cost-effective, but rather *how those benefits ought to be allocated* across the body of customers, and specifically between subscribers and the general body of ratepayers.

When solar power represented a premium product, it was appropriate to segregate out the full costs of that product to those customers who specifically required access to it due to their sustainability goals – ensuring that cost causers are entirely bearing the costs that they incur. That is no longer the case. Today, solar creates the possibility of savings for any customer, which creates opportunities to evaluate how those savings can be shared in order to expand access to clean energy and its benefits to all customers, not just a few.

This is a new paradigm for shared solar, and one that is borne out of the unique barriers that we face in Florida. There is no market for community solar to be provided by non-utility developers in Florida, due to the lack of enabling legislation. This means if a customer is unable to use on-site solar to meet their needs, their <u>only</u> alternative is to rely on a utility offering such as this one. Customers also lack access to on-site solar financing mechanisms that are available in much of the country, such as third-party power purchase agreements (PPAs), which especially appeal to customers that lack tax appetite and need a third-party finance agent in order to benefit from federal tax incentives (such as low-income customers, governments and non-profits). These barriers make easy in/easy out, "no down payment" offerings such as this one particularly appealing. For cities that cannot utilize the federal solar tax incentives due to lack of tax liability, DEF's offering provides an affordable pathway to meeting their sustainability goals. For renters, those in multifamily housing and those with shaded roofs, DEF's offering is the only option for accessing solar savings. For low-income customers who need immediate savings to participate, DEF's offering brings solar within reach. And for large companies that lack sufficient viable roof space to meet corporate sustainability goals, the CEC program is their only viable path to corporate responsibility.

When customer needs align with legislative goals of incentivizing renewable energy adoption, the Commission should look for ways to overcome the myriad policy barriers that exist. But the fact is that Floridians need more options, not less. The CEC Program is a step in the right direction, but it should not be a replacement for existing and future offerings that Floridians desperately need. This is where the other provisions of the stipulation become relevant, because they commit DEF to continue exploring other means of expanding access to solar power for all customers:

- The CEC Program accelerates the amount of solar on DEF's system, bringing benefits to customers faster than DEF originally planned. DEF commits by 2023 to use the information gained from this new capacity to conduct an evaluation of whether it can replace future planned gas units with solar plus storage facilities. Stip. at 6. Vote Solar believes that this will continue to accelerate solar development, creating savings for all customers.
- DEF commits to data collection and collaboration on rate design impacting customer-owned solar generation, and to preserve existing net metering options for customers through at least 2023. This protects the growing rooftop solar market in DEF's service territory, which provides customer empowerment, economic growth, and bill savings for tens of thousands of Floridians. *Id.*

- DEF commits to competitively solicit bids for the CEC project development, allowing competition between self-developed projects and third-party project acquisitions. If DEF opts to select self-developed projects for any of the ten CEC sites, a filing will be made to the Commission and staff demonstrating the details of the selection process. This will provide a much-needed layer of accountability to ensure that cost effective projects are being selected, as well as information about options that are currently available from non-utility developers in Florida's market. *Id*. at 7-8. With better information about pricing and products available in Florida's solar market, the Commission and DEF will be better positioned to bring the most competitive pricing to customers.
- DEF commits to analyzing the viability of on-site solar plus storage technologies for back-up power at critical loads to support public health and safety. While off-site solar has its benefits (scale, cost, etc.), one of the most important attributes of solar is its ability to generate electricity at the end of the line, and when paired with storage, to keep the lights on during outages. Given Florida's high hurricane risk, there is immense value to all Floridians for DEF to explore how these technologies can be paired to protect public health and safety. *Id*. at 8-9.

If these provisions demonstrate nothing else, it should reassure the Commission that this program is one important tool in DEF's toolkit, but the Company is also committing itself by this Stipulation to extensive learning, collaboration and innovation over the next several years, the goal of which is to explore additional technology combinations and program designs that will unlock further customer value.

ISSUE 3: Does DEF's proposed CEC Program and tariff give any undue or unreasonable preference or advantage to any person or locality or subject the same or any undue or unreasonable prejudice or disadvantage in any respect, contrary to Section 366.03, Florida Statutes?

VOTE SOLAR: *No. The CEC program strikes a fair and reasonable balance in the allocation of the program's costs and benefits between the general body of customers, non-subscribing customers, and subscribing customers (those who are low-income and non-low-income), in consideration of the unique contributions, needs and interests of each.*

ARGUMENT:

In addition to being a prudent standalone investment, the program as proposed represents a fair balance of allocation of the costs and benefits of the new solar capacity between various segments of customers. According to DEF, the Clean Energy Connection program will provide an estimated $533 million dollars in economic benefits, which are allocated so that 12.7% flow to participants and 87.3% flow to the general body of DEF customers. Tr. at 46. The program design also gives appropriate treatment to government and low-income customers, in light of the unique barriers that they face to accessing clean energy. Vote Solar believes that the benefit-sharing arrangement is both an innovative and a fair way to apportion the benefits of the program, and reflects the specific needs and interests of various customer segments, as described in further detail below.

- ***Subscribing customers:*** These customers pay into the program for, on average, seven years before they begin to financially benefit from their subscription. This seven-year payback was designed in order to make the CEC Program attractive to customers, and aligns with the Legislature's goal of incentivizing renewable energy investments in the state. Tr. at 84. Over the life of the program, 12.7% of the overall system savings will flow to subscribers through monthly credits. Tr. at 46.

- ***Low-income subscribers:*** The CEC Program contains significant benefits for thousands of low-income subscribers, including a capacity set-aside of 27.7% of the residential capacity. Tr. at 80. Unlike the offering for other subscribers, the low-income offering will create immediate savings for these customers. *Id*. It also includes a "hold harmless" to ensure their bills do not increase due to enrollment; co-marketing of the program with existing energy efficiency programs; and the ability to enroll regardless of a customer's arrearage status. This offering is essentially the same as is given to other subscribers, but adjusted to provide more benefits early, ensuring consistent bill reductions. *Id*. at 80-81. This is aimed at addressing a specific barrier that exists for low-income customers: they are generally unable to wait for economic benefits to accrue, and need offerings that provide immediate savings. No party in this proceeding has questioned the appropriateness of structuring the low-income set aside in this manner.
- ***Government subscribers:*** Ten percent of the program capacity is allocated to local governments, which generally reside in the commercial and industrial group of customers. Tr. at 77. The value proposition for these customers is the same as for other non-low income subscribers. The value of having a separate allocation is to address a unique barrier that local governments face: their internal decision-making processes tend to be more onerous and time-consuming than corporate actors. *Id*. The carve-out gives them sufficient time to participate in the program without being boxed out by other large commercial and industrial customers.

  The local government carve-out has also been without controversy in this docket. To date, 11 local governments in FL have established 100% clean energy goals. Vote Solar strongly supports these efforts, and we are keenly aware of the challenges in making these goals a reality. For many cities, there is simply not enough suitable roof space to rely solely on rooftop solar to get to 100 percent clean energy. The provisions in the Stipulation strengthen DEF's Clean Energy Connection program by securing a separate capacity allocation for local government customers that face unique barriers to accessing clean energy and need longer lead time to enroll in solar offerings.[1]

- ***The General Body of Customers:*** Customers as a whole will receive 87.3% of the estimated economic benefits of the new solar capacity. It is worth noting that this is a more generous allocation than was approved under Florida Power & Light's SolarTogether program, 55 percent of which was allocated to subscribers and 45% to the general body of customers. In light of the contribution that subscribing customers are making to this clean energy investment – covering *more* than the full revenue requirement over the life of the program, while only receiving a fraction of the projected benefits – this design is a significant improvement for the general body of customers over the typical subscription solar design that would isolate all of the financial benefits of the program to subscribers. In exchange for this long-term benefit, the general body of customers contributes to the subscription credit in the early years of the program offering. For the first several years, customers will pay forward subscribers' subscription costs, but over the life of the program, they will be paid back in spades, with subscribers eventually covering 104.9% of the total program cost, and the vast majority of the long-term benefits being allocated to all ratepayers. Tr. at 86. This benefit includes $39.2 million of fixed revenue requirement CPVRR benefit. Tr. at 201.

[1] The importance of this offering for local government clean energy access is evident from letters of support that have been filed in Docket 20200176-EI by the City of St. Petersburg, the City of New Port Richey, the City of Tarpon Springs, the City of Clearwater, the City of DeLand, the City of Dunedin, the City of Treasure Island, Pinellas County, Orange County and the Southeast Sustainable Directors Network.

The Commission has broad authority pursuant to Florida statutes to set just, fair, and reasonable rates. *See In re: Petition for approval of waiver of CIAC Rule No. 25-6.064, F.A.C. for new line extensions serving electric vehicle fast charging stations, by Tampa Electric Company,* Dkt. No. 20200011-EI; Order No. PSC-2020-0108-PAA-EI (Fla. P.S.C. April 16, 2020) (Approving rule waiver that lowered rates for EV charging infrastructure despite cost shifting where utility demonstrated that the program could create system benefits, meeting the purposes of the underlying statutes). As this Commission has stated, "[t]he underlying purposes of Sections 366.03 and 366.05(1), Florida Statutes, are to ensure that customers are provided with sufficient, adequate, and efficient service at fair and reasonable rates and charges; and to ensure that such service and the associated rates and charges are provided in a non-discriminatory manner." *In re: Petition for Approval of a Pre-pay Residential Service Experimental Rate by Florida Power & Light Company*, Dkt. No. 000478-EI; Order No. PSC-00-1282-PAA-EI (Fla. P.S.C. Jan. 14, 2000).

This Commission has made clear in past orders that Section 366.03, F.S. prohibits only those rates which are *unduly* discriminatory. *In re: Petition of Tampa Electric Company for approval of construction deferral agreement with IMC Fertilizer, Inc.*, Dkt. No. 890200-EQ, Order No. 24151 (Fla. P.S.C. February 25, 1991) (finding that a special rate for a single customer was not unduly discriminatory where revenues received by the utility for the benefit of all customers outweighed the additional revenues they gave up under a construction deferral agreement). But the Commission has also declined requests for special rates from specific classes of customers based purely on considerations of need or broader societal good. *See, e.g., In re: Petition for rate increase by Tampa Electric Company*, Dkt. No. 080317-EI, Order No. PSC-09-

0283-FOF-EI, 273 P.U.R.4th 177 (Fla. P.S.C. April 30, 2009) (Denying request to provide a subsidized rate to schools).

In this case, the disparate treatment afforded by the tariff is not undue or discriminatory; nor does it single out any particular customer or group of customers unfairly. Rather, the allocation of costs and benefits in the tariff is based on reasonable assessments of the various contributions and barriers faced by different groups of customers, as stated above. While this shared benefits model is relatively new for solar, the general structure of this program isn't new to the Commission. Similar to traditional energy efficiency offerings, the CEC program leverages voluntary customer participation to access long-term savings for all customers over the life of the resource. This creates opportunities for customers to invest in clean energy offerings that are currently unavailable in the market, and ensures that those investments are channeled in a way that creates system-wide benefits.

And importantly, the purpose of the underlying statutes that the Commission is charged with implementing will be served by authorizing this tariff. The Florida Legislature has determined that it is in the public interest to promote the development of renewable energy and has recognized the potential for renewable energy to increase fuel diversity, lessen dependence on natural gas, minimize fuel cost volatility, and encourage investment within Florida. Section 366.92(1), Florida Statutes. This tariff serves those purposes in that it accomplishes an acceleration of clean energy adoption by Duke Energy Florida, at lower total cost to ratepayers.

ISSUE 4:	Should the Commission allow recovery of all costs and expenses associated with DEF's proposed CEC Program in the manner proposed by DEF?
VOTE SOLAR:	*Yes.*

ISSUE 5:	Should the Commission approve DEF's proposed CEC Program and associated tariff, Rate Schedule CEC-1, which is the same tariff attached to the Direct Testimony of Lon Huber filed July 1, 2020?
VOTE SOLAR:	*Yes.*
ISSUE 6:	Should this docket be closed?
VOTE SOLAR:	*Yes. Upon issuance of an order approving DEF's CEC program, tariff and stipulation, this docket should be closed.*

CONCLUSION

Vote Solar respectfully requests that the Commission approve the CEC Program, tariff and stipulation submitted on July 1, 2020.

DATED this 9th day of December, 2020.

Respectfully submitted,

/s/ Katie Chiles Ottenweller
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[2] Katie Chiles Ottenweller has been designated as a qualified representative, authorized to represent the interests of Vote Solar before the Florida Public Service Commission, pursuant to Order No. PSC-2020-0021-FOF-OT (issued January 13, 2020).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Vote Solar's Post-Hearing Brief has been served by electronic mail to the following on December 9, 2020:

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