

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Fuel and purchased power cost
recovery clause with generating
performance incentive factor.**

DOCKET NO. 20230001

Filed: January 12, 2023

**SOUTHERN ALLIANCE FOR CLEAN ENERGY'S
PETITION TO INTERVENE**

Pursuant to Sections 120.569, 120.57, Florida Statutes, and Rule 28-106.205, Florida Administrative Code, Southern Alliance for Clean Energy (“SACE”), through its undersigned counsel, files its Petition to Intervene in the above styled docket. In support thereof, SACE states the following:

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 Petitioner, authorized to receive all notices, pleadings, and other communications in this docket is:

George Cavros
Southern Alliance for Clean Energy

120 E. Oakland Park Blvd., Suite 105
Fort Lauderdale, Florida 33334
(954) 295-5714
george@cavros-law.com

III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. SACE received notice of the Florida Public Service Commission's ("Commission") order establishing this docket filed on January 3, 2023.

IV. SACE'S SUBSTANTIAL INTERESTS

5. SACE is a non-profit corporation organized under the laws of Tennessee and authorized to conduct operations in the State of Florida. The purpose of SACE, as explicitly stated 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, and recovery of costs associated with such plans, policies and systems.¹ SACE has staff working in Florida to advance energy choices that best serve the economic, environmental, and public health interests of all customers, including those that are SACE members. SACE has 430 members in Florida with a substantial number of SACE members residing in Florida Power and Light Company's ("FPL") service territory - 231 members; Duke Energy Florida's ("DEF") service territory - 58 members; and Tampa Electric's ("TECO") service territory - 27 members who are all ratepayers and dedicated to advancing SACE's purpose. To further its purpose, SACE has been granted party status and engaged in numerous dockets regarding energy plans that impact the economic interests of customers, including those who are SACE members. Most recently, SACE was granted party status in the Storm Protection Plan docket - *In re: Review of Storm*

¹ Bylaws of Southern Alliance for Clean Energy, Article II, 2017

Protection Plan, pursuant to Rule 25-6.030, F.A.C, Florida Power and Light Company. The Commission found the following in relevant part:

[I]t appears SACE has met the three-prong associational standing requirements of Florida Home Builders. As to the first prong, a substantial number of SACE's Florida members reside in FPL's service territories, and their substantial interests will be affected by the Commission's decision because any agency action concerning FPL's SPP will affect the scope of costs in subsequent cost recovery proceedings. In particular, since FPL included new Winterization Programs as part of its SPP, it appears the \$215 million projected cost of these programs could affect the substantial interests of SACE's members. As to the second prong, SACE's Bylaws direct SACE to advocate concerning the economic interests of its members and communities in the Southeast. Because the scope of future cost recovery proceedings will be impacted by the Commission's decision, the SPP subject matter of this proceeding is within the association's general scope of interest and activity. In addition, this SPP proceeding is the appropriate venue for SACE to provide input concerning the validity and scope of FPL's new underlying winter weather and load forecasts, which ultimately affects the economic interests of SACE's members. As to the third prong, SACE seeks the ability to advocate on behalf of its members' economic interests concerning the economic impact of FPL's SPP, which is the type of relief authorized by SACE's bylaws.

Order PSC-2022-0214-PCO-EI (emphasis added).

This is consistent with earlier orders recognizing SACE's substantial interest in protecting the economic interests of its members - through ensuring equitable utility policy and rates in the FPL base rate case,² and in a number of previous cost recovery dockets.³

V. STATEMENT OF AFFECTED INTERESTS

1. The Commission's actions in this docket will necessarily affect the rates that FPL, DEF and TECO customers will pay in 2023 and 2024, including those that are SACE members. In this docket the utilities will file testimony and exhibits that includes requests for recovery of fuel and purchased power costs, and potential generation performance incentive rewards. The

² See Order No. PSC-2021-0136-PCO-EI, April 16, 2021

³ See e.g. Order No. PSC-2021-0181-PCO-EG.

filings will include fuel cost adjustment and purchased power true-ups for 2022, actual-estimated fuel cost and purchased power adjustments for 2023, and projected fuel cost and fuel cost factors for 2024. Additionally, in this docket, the utilities will file mid-course correction requests for recovery of significant 2022 unrecovered fuel costs that may include carrying costs. The aforementioned utilities' witnesses testified in Docket No. 20220001 that the 2022 under recovered amounts may lead to monthly bill increases this year that range from approximately \$11 per month to \$27 per month on residential customer power bills.⁴ In this docket, all fuel and purchased power costs will be reviewed for reasonableness, prudence and consistency with Commission rules. Commission orders in this docket will necessarily affect the rates and bills of FPL, DEF and TECO customers, including those that are SACE members. SACE is uniquely positioned to represent the interests of its own members, and wishes, with the full rights of a party, to closely scrutinize the utilities' fuel cost recovery plans, and cost recovery requests of any other plan or program for which costs are recovered through this docket, to ensure that economic outcomes and any policy outcomes best serve the interest of its members.

2. These are exactly the type of interests this proceeding is designed to protect for associations such as SACE. To establish standing as an association representing its members' substantial interests, an association such as SACE must demonstrate three things: (1) that a substantial number of its members are substantially affected by the agency's decisions; (2) that the intervention by the association is within the association's general scope of interest and activity; and (3) that the relief requested is of a type appropriate for an association to obtain on behalf of its members. *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351, 353-54 (Fla. 1982), and *Farmworker Rights Organization, Inc. v. Department of*

⁴ Florida Public Service Commission, Docket No. 20220001, *Hearing Transcript* pp. 460, 619, 645, November 18, 2022.

Health and Rehabilitative Services, 417 So. 2d 753, 754 (Fla. 1st DCA 1982), which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981). SACE satisfies all of the associational standing requirements. A substantial number of the SACE's members are located in the aforementioned utilities' service territories, and receive and are billed for electricity service. The Commission actions in this docket will determine the fuel factors paid by ratepayers on their bills this year and next year, including SACE members. Hence, SACE members' economic interests will be directly and substantially affected by the Commission's order in this docket establishing cost recovery factors on customer bills. As provided above, SACE, consistent with its bylaws, has represented its members' economic interests before the Commission on energy plans and policies – and plans to continue to do so in this docket. Therefore, the Commission's consideration of the proposed FPL, DEF, and TECO fuel cost recovery plans in this docket are well within the general scope of SACE's stated purpose in its bylaws. Finally, the requested relief - intervention in this case with the full rights of a party – is appropriate as it will provide SACE an opportunity to closely examine the reasonableness and prudence of fuel and purchased power costs, generation performance incentive factors, the ultimate fuel factors, and any other requested cost recovery, and advocate on behalf of its members.

3. SACE is explicitly authorized by its bylaws to represent the interests of its members in legal actions, including formal administrative actions such as in this docket. This petition for intervention is timely and will not unduly delay or prejudice the rights of other parties.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

SACE reserves the right to add additional issues in accordance with the Commission's rules, the Order Establishing Procedure, or any other Commission order.

- Whether the anticipated mid-course correction request for under recovered 2022 fuel cost requests are reasonable and prudent;
- Whether the 2022 fuel and purchased power true-up requests are reasonable and prudent;
- Whether the 2023 actual/estimate fuel and power purchased cost requests are reasonable and prudent;
- Whether the projected 2024 projected fuel and power purchased costs and fuel factors are reasonable and prudent.

VII. STATEMENT OF ULTIMATE FACT

SACE's allegations of ultimate facts include, but are not limited to: FPL, DEF, and TECO must meet their burden of proof that fuel cost recovery requests are reasonable, prudent, and consistent with Commission rules.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

4. 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. R. 28-106.205, F.A.C.

IX. CONFERRAL WITH OTHER PARTIES

5. Pursuant to R. 28-106.204, F.A.C., SACE has reached out to confer with the counsel of FPL, DEF, TECO, OPC, FIPUG, FRF, PCS Phosphate, and Nucor Steel and can represent that OPC, FRF, PCS Phosphate and FIPUG have no objection, DEF, TECO, Nucor Steel take no position, and FPL takes no position pending review of the petition.

X. RELIEF SOUGHT

6. WHEREFORE, SACE 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 the docket.

RESPECTFULLY SUBMITTED this 12th day of January 2022

/s/ George Cavros

George Cavros

Southern Alliance for Clean Energy

120 E. Oakland Park Blvd., Suite 105

Fort Lauderdale, FL 33334

(954) 295-5714

Counsel for Petitioner

Southern Alliance for Clean Energy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of SACE's Petition for

Intervention was served on this 12th day of January, 2023 via electronic mail on:

| | |
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| Suzanne Brownless Ryan Sandy Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399 sbrownless@psc.state.fl.us rsandy@psc.state.fl.us | Charles Rehwinkel, Patty Christensen 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 christensen.patty@leg.state.fl.us rehwinkel.charles@leg.state.fl.us pirrello.anastacia@leg.state.fl.us wessling.mary@leg.state.fl.us |
| Ken Hoffman Florida Power and Light Company 134 W. Jefferson Street Tallahassee, FL 32301 ken.hoffman@fpl.com | Maria Moncada Florida Power & Light Company 700 Universe Boulevard Juno Beach FL 33408-0420 Maria.moncada@fpl.com |
| Jon C. Moyle, Jr., Karen Putnal Florida Industrial Power Users Group 118 North Gadsden Street Tallahassee, FL 32301 jmoyle@moylelaw.com kputnal@moylelaw.com | Robert Scheffel Wright/John T. LaVia III 1300 Thomaswood Drive Tallahassee FL 32308 schef@gbwlegal.com jlavia@gbwlegal.com |
| Matthew R. Bernier/Robert L. Pickels/Stephanie A. Cuello 106 E. College Avenue, Suite 800 Tallahassee FL 32301 matthew.bernier@duke-energy.com robert.pickels@duke-energy.com stephanie.cuello@duke-energy.com | Dianne M. Triplett 299 First Avenue North St. Petersburg FL 33701 Dianne.triplett@duke-energy.com |
| J. Wahlen/M. Means/V. Ponder P.O. Box 391 Tallahassee FL 32302 jwahlen@ausley.com mmeans@ausley.com vponder@ausley.com | James W. Brew/Laura Wynn Baker c/o Stone Law Firm Washington DC 20007 jbrew@smxblaw.com lwb@smxblaw.com |

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| <p>Peter J. Mattheis/Michael K. Lavanga/Joseph R. Briscar 1025 Thomas Jefferson St., NW, Ste. 800 West Washington DC 20007 jrb@smxblaw.com pjm@smxblaw.com mkl@smxblaw.com</p> | <p>Beth Keating 215 South Monroe St., Suite 601 Tallahassee FL 32301 bkeating@gunster.com</p> |
|--|---|

/s/ George Cavros
Attorney

ATTACHMENTS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Fuel and purchased power cost
recovery clause with generating performance
incentive factor.**

DOCKET NO. 20230001

AFFIDAVIT OF STEPHEN A. SMITH
SOUTHERN ALLIANCE FOR CLEAN ENERGY

1. I, Stephen A. Smith, am over 18 years of age and have personal knowledge of the following facts.

2. I serve as the Executive Director of Southern Alliance for Clean Energy (“SACE”). Through my position with SACE, I have personal knowledge of SACE’s membership and purpose.

3. The purpose 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; and the recovery of costs associated with such plans, policies and systems.

4. Consistent with its purpose, SACE has engaged in a number of Florida Public Service Commission proceedings, including cost recovery dockets, on behalf of its members to advocate for plans and policies that best serve the environmental, public health, and economic interest of Florida customers, including those that are SACE members.

5. SACE has dedicated staff in Florida working to advance these goals. In addition, there are 420 SACE members residing in Florida of which 231 members, 58 members, and 27 members that reside in the service territories of Florida Power and Light Company (“FPL”), Duke Energy Florida (“DEF”), and Tampa Electric (“TECO”) respectively.

6. I understand that the Florida Public Service Commission in this docket will consider testimony and requests by FPL, DEF and TECO for fuel true-up cost recovery amounts for 2022; actual/estimated fuel cost recovery amounts for 2023, generating incentive performance rewards or penalties, and projected fuel cost recovery and fuel factors for 2024. I also understand that there will be mid-course correction requests filed by FPL, DEF and TECO in this docket for significant under recovered 2022 fuel costs amounts - with potential carrying costs. The fuel cost recovery amounts and factors approved for recovery in this docket, and other plans and programs for which costs are recovered through this docket, will necessarily impact customer power bills, including the power bills of SACE members.

7. The scrutiny of such cost recovery requests and advocacy of outcomes that best serve the interest of residential customers, including SACE members, are within SACE's stated purpose in its bylaws and the type of interest SACE protects on behalf of its members in proceedings.

FURTHER AFFIANT SAYETH NOT



Stephen A. Smith, Affiant

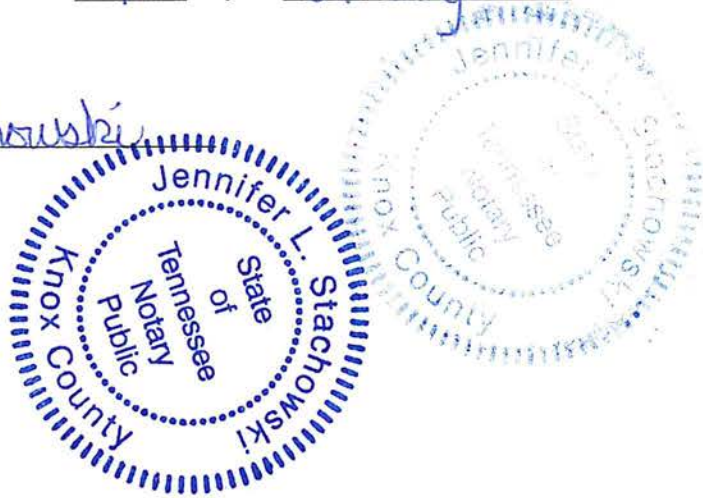
STATE OF TENNESSEE

COUNTY OF Knox

BEFORE ME, the undersigned authority, personally appeared Stephen A. Smith who is personally known or produced Driver's License as identification, and who was sworn and says that the foregoing averments are true.

Sworn to and subscribed before this 11th day of January, 2023.

Jennifer L. Stachowski
Notary Public





Bylaws of the Southern Alliance for Clean Energy- 501(c)3

Amended October 1, 2017

Article I **NAME**

Section 1 - Name

The name of the Corporation shall be the Southern Alliance for Clean Energy, hereinafter referred to as "SACE".

ARTICLE II **PURPOSES**

It shall be the purpose of SACE to perform educational research and programs concerning the environment, public health, and economic impacts of the energy use and policy in the Southeast; and to advocate for energy plans, policies, and systems that best serve the environmental, public health, and economic interest, including recovery of costs associated with such plans, policies and systems, of communities in the Southeast.

It shall also be the purpose of SACE to carry out civic engagement activities to increase citizen education and citizen participation in the electoral process in the Southeast. All civic engagement activities shall be limited to educational activities of the type conducted by an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, as amended.

The organization may engage in education, advocacy, litigation and all other legal means to further the mission of SACE. The organization may engage in such activities that occur or have an impact outside of the geographical scope of the Southeast if such activities will further the mission of SACE.

The organization may engage in litigation if approved by a majority vote of the Board of Directors. The Board or a Committee thereof may establish additional procedures for obtaining such approval if it chooses. Litigation that has already commenced may be ratified by a majority vote of the Board of Directors, which will have the effect of providing approval as of the date of commencement of such litigation.

It shall also be the purpose of SACE to provide financial support for such activities carried out by the Southern Alliance for Clean Energy Action Fund, Inc., which are charitable, educational, and scientific purposes as defined in Section 501(c)3 of the Internal Revenue Code.

Article III
MEMBERS

Section 1 – Classes of Membership

1. SACE shall have two classes of membership: Voting Members and Nonvoting Members.
2. Voting Members of SACE shall be those members who pay dues, which will be set by resolution of the Board of Directors. Voting Members have the right to attend and to vote at Annual and Special Meetings of the members, as described in Article IV.
3. Nonvoting Members shall be those members who do not pay dues but who apply to become members of SACE or who meet other membership criteria as may be set from time to time by the Board of Directors related to participation in SACE advocacy or other activities. Nonvoting members have the right to attend Annual and Special Meeting of the members described in Article IV, but, notwithstanding the other provisions of Article IV, Nonvoting Members shall not have the right to vote on any matter coming before such a meeting, shall not have the right to call a Special Meeting, and shall not have the right to receive individual notice of Annual or Special Meetings. SACE will attempt to notify Nonvoting Members of any Annual or Special meeting of the members via general communications such as online notice of the meeting, but lack of such notice to Nonvoting Members will not alter the effect of any actions taken at such meeting.
4. Members may include individuals, non-profit organizations and businesses.

Section 2 – SACE shall communicate and involve its members by:

1. Periodically sending surveys to its membership to assess interest, involvement, awareness and to gather feedback;
2. Sending regular newsletter communications, which include opportunities to connect with the issues and work of SACE;
3. Sending action alerts to offer a means of involvement in the issues and work of SACE.

Section 3 — Resignation or Removal

1. A member may resign at any time. A voting member may be removed or

suspended due to non-payment of dues. A Nonvoting Member may be removed by any Officer of SACE for any reason without any process or right of appeal. A Voting Member may be removed or suspended for any reasons, subject to the following procedures:

2. The Voting Member is provided not less than fifteen (15) days prior written notice by first class or certified mail sent to the last address of the Voting Member shown on the corporation's records of the expulsion, suspension, or termination and the reasons therefore; and
3. The Voting Member is provided an opportunity to be heard, orally or in writing not less than five (5) days before the effective date of the expulsion, suspension or termination by a person or persons authorized to decide that the proposed expulsion, suspension or termination not take place.

ARTICLE IV

ANNUAL MEETINGS AND SPECIAL MEETINGS OF MEMBERS

Section 1 - Time and Place for Annual Meeting

SACE shall hold an annual meeting of its members. Provision shall be made for members who are unable to attend the annual meeting in person to listen via telephone conference or by other means, but only members attending the meeting in person may vote on matters before the meeting. A quorum shall consist of one-tenth of one percent (0.001) of the total number of current members of SACE

Section 2 - Annual Meeting Agenda

During the annual meeting the president and designated financial officer shall report on the activities and financial condition of the corporation; a vote on the slate of the Board of Directors shall be held pursuant to Article V, Section 3; and the members shall consider and act upon such other matters as may be raised consistent with the notice requirements in Section 4 of this Article.

Section 3 - Special Meetings

SACE may hold a special meeting of its members on call of its board of directors. SACE shall hold a special meeting of its members if the holders of at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the Secretary one (1) or more written demands for the meeting describing the purpose or purposes for which it is to be held. The record date for determining the members entitled to demand a special meeting is the date the first member signs the demand.

Special meetings of members shall be held at SACE's principal office. Only business within the purpose or purposed described in the meeting notice may be conducted at a special meeting of members.

Section 4-Notice of Annual or Special Meetings and List of Members

SACE shall notify its members of the place, date and time of each annual and

special meeting of members no fewer than ten (10) days nor more than two (2) months before the meeting date. Notice of an annual meeting shall include a description of any matter or matters, which must be approved by the members and may include other agenda items not requiring a vote. Notice of a special meeting includes a description of the matter or matters for which the meeting is called. Members at the close of business on the business day preceding the day on which notice is given are entitled to notice of the meeting. Notice may be communicated in person, by telephone, wireless communication; or by mail or private carrier. Notice may be delivered as part of a newsletter, magazine or other publication regularly sent to members at the member's address shown in SACE's current record of members, or in the case of members who are residents of the same household and who have the same address in the corporation's current record of members, if addressed or delivered to one (1) of such members, at the address appearing on the current list of members.

Prior to giving notice of an annual or special meeting, SACE shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list must show the address and number of votes each member who is entitled to vote at the meeting. The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two (2) business days after notice is given of the meeting for which the list was prepared and continuing through the meeting at SACE's principal office. A member, a member's agent or attorney is entitled, subject to Tennessee law, on written demand to inspect and to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection. SACE shall also make the list of members available at the meeting, and any member, a member's agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment. Failure of SACE to make available the members' list does not affect the validity of action taken at the meeting.

ARTICLE V

BOARD OF DIRECTORS

Section 1 - Board Authority

SACE shall be governed by a Board of Directors, which shall exercise the powers of SACE unless herein otherwise designated. Powers of SACE shall be vested and exercised exclusively by the Board of Directors. The Board shall oversee the Corporation's operations. The responsibilities of the Board or the Board's delegate shall include the management, direction, and control of the affairs, activities, and property of SACE.

Section 2 - Annual Meeting Agenda

During the annual meeting, the president and designated financial officer shall report on the activities and financial condition of the corporation; the members shall vote on any nominee to be the Member-Selected pursuant to Article V, Section 3; and the members shall consider and act upon such other matters as may be raised consistent with the notice requirements in Section 4 of this Article.

Section 3 – Terms of Office, Vacancies and Election

Directors may serve for any number of two (2) year terms, consecutive or

otherwise, with terms of one-half (1/2) of the Board expiring each year. Directors shall vote to fill any vacancies under the provisions of Sections 7 and 10 of this Article. Directors are eligible to succeed themselves.

At any meeting of the Board of Directors at least ten (10) days prior to the annual meeting of members in Article V in the year in which the term of the Member-Selected Director is set to expire, the Board may select a nominee to become the next Member-Selected Director and may send the name and relevant information about the nominee to the membership with the notice of the annual meeting. During the annual meeting, those members present in person and entitled to vote shall elect by majority vote whether to accept or reject the Member-Selected Director offered for election by the Board

The Board may, by majority vote at its annual meeting, select Directors to fill vacancies on the Board as a result of the expiration of the terms of members of the Board other than the Member-Selected Director or to fill other vacant seats on the Board to increase the number of members of the Board to up to the maximum permitted under Section 2 of this Article.

The Board shall attempt to select Board members such that there is representation from throughout the Southeast, however, Board members may also be selected from outside the region.

Section 4 - Compensation

Directors shall not be compensated for serving on the Board, but may be reimbursed for actual expenses incurred on behalf of SACE.

Section 5 - Removal

The Board with a vote of two-thirds may remove directors, with or without cause, (2/3) of the directors then in office.

Section 6 - Resignation

Resignations are effective upon receipt by the secretary of a written notification, or receipt by the President or other officer if the Secretary is the director who is resigning, unless the notice specifies a later effective date.

Section 7 - Vacancies

Vacancies for any reason in positions on the Board of Directors before the expiration of the term shall be filled for the unexpired period of the term by the Board under the provisions of Sections 10 or 11 of this Article. If the directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all directors remaining in office.

Section 8 - Meetings

The Board shall hold at least one (1) regular in-person meeting a majority of directors attending, per calendar year. Other meetings may be held by a conference call of the entire Board or, if the Board establishes an Executive Committee pursuant to Article VII of these Bylaws, by an in-person meeting of the Executive Committee. Meetings shall be held at such time, date, and place as designated by the President of the Board of Directors. The first meeting of the calendar year shall be designated as the annual meeting. Each Director must

attend a minimum of one (1) board meeting per year. If a director fails to meet this minimum, his or her office shall be declared vacant and shall be filled pursuant to section 7 of this Article. At the discretion of the Board, application of this rule may be waived due to extenuating circumstances.

Section 9 - Notice

Notice of regular or special meetings will be given to the Board at least seven (7) days in advance of the meeting. Notice shall be in writing (email is sufficient, along with acknowledgement of receipt of the email) and shall consist of providing each director with the date, time and place of the meeting.

A director may waive any notice in writing, signed by the director entitled to the notice and filed with the minutes or corporate records. A director's attendance at or participation in a meeting waives any required notice unless the director at the beginning of the meeting or promptly upon his arrival objects to holding the meeting or transaction business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 10 - Quorum and Voting

A quorum shall consist of the greater of one-third (1/3) of the directors in office or two (2) directors. All decisions of the Board shall be majority vote of those present at a meeting at which a quorum is present or by unanimous written consent under the provisions of Section 11 of this Article.

Section 11 - Action Without Meeting

Any action required, or permitted to be taken at a meeting of the Board or of any committee may be taken without a meeting if all the directors or committee members consent in writing (email is sufficient) to taking the action without a meeting and to approving the specific action. Such consents shall have the same force and effect as an unanimous vote of the Board or of the committee as the case may be.

The action must be evidenced by one or more written consents describing the action taken, signed by each director or committee member, and included in the minutes filed with the corporate records reflecting the action taken. Action taken under this Section is effective when the last director signs the consent unless the consent specifies a different effective date.

Section 12 - Participation by Conference Telephone Call

Any or all directors may participate in a meeting by conference telephone or similar communication equipment, so long as directors participating in such meeting can hear one another. Participation by the entire Board in a meeting by telephone conference call may substitute for one (1) in-person meeting, as set forth in Section 8 of this Article.

ARTICLE VI

OFFICERS

Section 1 - Officers

The following shall constitute the elected officers of SACE: President, Vice President, Secretary and Treasurer The Board may designate any other officers

from time to time. The same individual may simultaneously hold more than one office except for the office of president and any other office.

Section 2 - Term of Office

Officers shall serve one (1) year terms. Officers are eligible to succeed themselves through reelection.

Section 3 - Election

The Board at its annual meeting in each year shall elect officers. The terms of office shall expire at the next succeeding annual meeting and shall be filled by the Board, at a meeting or by action in writing pursuant to Section 11 of Article V for a term expiring at the next succeeding annual meeting.

Section 4 - Removal

An officer may be removed by the Board at a meeting, or action in writing pursuant to Section 11 of Article V whenever in the Board's judgment the best interests of SACE will be served thereby. The removal of a person from corporate office will not terminate or otherwise affect any contractual relationship between that individual and SACE.

Section 5 - Resignations

Resignations are effective upon receipt by the Secretary of a written notification, or receipt by the President or other officer if the Secretary is resigning.

Section 6 - Vacancies

Vacancies for any reason before the expiration of the term shall be filled for the unexpired period of the term by the Board under the provisions of Sections 10 or 11 of Article V.

ARTICLE VII

COMMITTEES

Section 1 - Committee Creation

The Board of Directors may create committees of its directors or other persons, as it deems necessary by resolution adopted under Sections 10 or 11 of Article V. These committees shall have such authority as the Board directs

An Executive Committee established under this Section, having and exercising the full power of the Board, must consist of a minimum of three (3) directors. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual director, of any responsibility imposed upon it or him or her by law.

ARTICLE VIII

STAFF

Section 1 - Staff Procedures

The needs of SACE regarding the hiring of staff, the duties to be performed and authority to be exercised shall be determined by the Board of Directors or its delegate. The Executive Director shall determine procedures for hiring, evaluating and dismissing staff.

ARTICLE IX

INDEMNIFICATION

Section 1 - Definitions

"Proceeding" shall mean any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative and whether formal or informal.

"Eligible Person" shall mean any person who at any time was or is a director, officer, employee, and member of any committee or subcommittee, agent or a volunteer of SACE.

Section 2 - Right to Indemnification

Any Eligible Person made or threatened to be made a party to or respondent in a Proceeding by reason of his or her position with or service to SACE shall, to the fullest extent permitted by law, be indemnified by SACE against all liabilities and all expenses reasonably incurred by him or her arising out of or in connection with such a Proceeding, if he or she (i) conducted himself or herself in good faith, and (ii) reasonably believed, in the case of conduct in his or her official capacity with SACE, that his or her conduct was in its best interest and, in all other cases, that his or her conduct was at least not opposed to its best interests, and (iii) in the case of any criminal proceeding had no reasonable cause to believe his or her conduct was unlawful. The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent is no, of itself, determinative that the eligible person did not meet the standard of conduct described above

SACE may not indemnify a director in a Proceeding where (i) the person shall be adjudged liable to SACE or (ii) in the case of a Proceeding charging improper benefit, the person shall be adjudged liable on the basis that personal benefit was improperly received by him or her.

Section 3 - Mandatory Indemnification of Directors and Officers

SACE shall indemnify a director or officer who is wholly successful on the merits or otherwise, or who is immune from suit under Section 48-58-601 of the Tennessee Nonprofit Corporation Act, in the defense of any Proceeding to which he or she was a party because he or she is or was a director or officer of SACE. In such instances, SACE shall indemnify only against reasonable expenses incurred in connection with the Proceeding.

Section 4 - Limitation on Right of Indemnification

Except where an eligible person has been successful on the merits with respect

to such proceeding, any indemnification hereunder shall be made only after (i) the Board (acting by a quorum consisting of directors who were not involved in such Proceeding) determines that the Eligible Person met the applicable indemnification standard set forth in Section 2 of this Article; or (ii) in the absence of a quorum, a finding is rendered in a written opinion by independent legal counsel that the person or persons met the applicable indemnification standard set forth in Section 2 of this Article.

Section 5 - Other Rights

The right of indemnification provided hereunder shall not be deemed exclusive of any other right to which any person may be entitled in addition to the indemnification provided hereunder. This indemnification shall in the case of the death of the person entitled to indemnification, inure to the benefit of his or her heirs, executors or other lawful representative.

Section 6 - Interim Indemnification

SACE shall, with respect to a Proceeding described in this Article, advance attorney's fees as interim indemnification to any Eligible Person if the following conditions are satisfied: (i) the Eligible Person furnishes SACE with a written affirmation of his or her good faith belief that he has met the standard of conduct described in Section 2 of this Article or is immune from suit under the Tennessee Nonprofit Corporation Act, and (ii) the Eligible Person furnishes SACE with a written undertaking, executed personally or on his or her behalf, to promptly repay the advance if it is ultimately determined that he or she is not entitled to indemnification and deposits a bond or equivalent security.

To take advantage of the provisions of this Section, the Board also (acting by a quorum consisting of directors who are not involved in such proceeding) must determine (a) that the facts then known to it would not preclude indemnification under this Section and (b) that the Eligible Person is likely to meet the applicable indemnification standard set forth in this Article. In the absence of such a quorum, a finding must be rendered in a written opinion by independent legal counsel that the eligible Person is likely to meet the applicable indemnification standard.

Section 7 - Insurance

The Board may authorize the purchase of and maintain insurance on behalf of any Eligible Person against any liability asserted against or incurred by him which arises out of such person's status in such capacity, or out of acts taken in such capacity, whether or not SACE would have the power to indemnify the person against that liability under law.

ARTICLE X

CONFLICTS OF INTEREST

Section 1 - Disclosure of Financial Interests

To identify conflicts of interest, all directors, officers and members of any committee exercising Board-delegated powers must disclose to the Board, or to the members for such committee, the existence of any financial interest in any entity with which he or she knows or has arrangement, and all material facts related to that interest. Financial interests include any direct or indirect

relationship, through business, investment or family, such as actual or potential ownership or investment interests or compensation arrangements. Directors shall also disclose any fiduciary duty to a person or entity other than SACE that might jeopardize the director's ability to exercise independent judgment and act in the best interests of SACE. The fact that a director, officer or committee member is also a director or officer or member of a not-for-profit organization that obtains or seeks funds from institutions or individuals from which SACE also obtains or seeks funds shall not by itself be deemed to be a conflict of interest.

Section 2 - Determination of Conflicts of Interest

After the interested person has delivered all relevant information and has retired from the room, the Board or committee must determine whether or not the financial interest creates a conflict of interest that merits recusal of the interested director from consideration of the matter.

Section 3 - Resolution of Conflicts of Interest

If the Board determines that a conflict of interest does exist, it must ensure that the interested director(s) do not participate in final decision making with regard to the transaction. The Board may approve the transaction or arrangement, or some alternative if it determines it: (i) is in the organization's best interests and for its own benefit; (ii) is fair and reasonable to the organization; and (iii) is the most advantageous transaction or arrangement the organization can obtain with reasonable efforts under the circumstances.

Section 4 - Violation of Conflict of Interest Policy

If an officer, director or member of a committee with Board-delegated powers violated this conflict of interest policy, the Board, in order to protect SACE's best interests, may take appropriate disciplinary action against the interested person. Such action may include formal reprimand, cancellation of the transaction or arrangement generating the conflict, suspension of employment and/or removal from the Board.

Section 5 - Distribution of Conflict of Interest Policy

All officers, directors and members of committees with Board-delegated powers shall receive a copy of the Conflict of Interest Policy, as it appears in these Bylaws. All officers, directors and member of committees with Board-delegated powers shall sign an annual statement declaring that the person: received a copy of the policy; has read and understands the policy; and agrees to comply with the policy.

ARTICLE XI

COMPENSATION

Section 1 - Compensation Policy

In establishing appropriate compensation levels for a Board Member under contractual arrangement or anyone else exercising substantial influence over SACE, in addition to complying with the other provisions of this conflict of interest policy, the Board or committee shall:

- A. Recuse/exclude members who receive directly or indirectly a substantial portion of their income from SACE;
- B. Rely on appropriate comparative data, including comparable agreements in similar organizations; compensation levels for similar positions in both exempt and taxable organizations; and regional economic data; and
- C. Document the bases upon which it relies for its compensation determinations.

Section 2 - Compensation Committee

The Board may, if it chooses, establish a compensation committee to set appropriate levels of compensation. A compensation committee shall consist solely of disinterested persons with respect to the transaction in question and shall follow the above-outlined procedures.

ARTICLE XII

FISCAL YEAR AND FINANCIAL ADMINISTRATION

Section 1 - Fiscal Year

The fiscal year shall be January 1 to December 31, but may be changed by resolution of the Board.

Section 2 - Checks, Drafts and Other Similar Documents

All checks, orders for the payment of money and insurance certificates shall be signed or endorsed by an officer or officers or agent or agents of SACE and in a manner as shall from time to time be determined by resolution of the Board or any committee to which such authority has been expressly delegated by the Board.

Section 3 - Contracts

Unless the Board determines otherwise by resolution, the President, Vice President, Secretary and Treasurer shall be authorized to execute contracts on behalf of SACE. These individuals may, with written notice to the Board, delegate this authority to employees or volunteers subject to limitation upon the delegated authority as may be necessary or expedient for running the affairs of SACE. Unless otherwise expressly determined by the Board, no other individuals shall be authorized to bind SACE to any contract.

Section 4 - Deposits and Accounts

All funds of SACE, not otherwise employed shall be deposited in general or special accounts in the banks, trust companies or other depositories as the board or any committee to which such authority has been delegated by the Board may select, or as may be selected by any officer or officers or agent or agents of SACE, to whom such power may be delegated by the Board. For the purpose of deposit and for the purpose of collection for the account of SACE, checks, drafts and other orders of SACE may be endorsed, assigned and delivered on behalf of SACE by any officer or agent of SACE.

Section 5 - Annual Financial Statements

Complete financial statements prepared in conformity with generally accepted accounting principles (GAAP), accompanied by an audit report of an independent certified public accountant, shall be presented to and reviewed by the board after the close of each fiscal year. Financial statements shall include (i) significant categories of contributions and other income; (ii) expenses reported in categories corresponding to the description of major programs and activities contained in the Corporation's annual report, solicitations and other informational materials; (iii) a detailed schedule of expenses by natural classification (e.g. salaries, employee benefits, occupancy, postage etc.), representing the natural expenses incurred for each major program and supporting activity; (iv) accurate presentation of all fund raising and administrative costs; (v) total costs and the basis for allocating any fund-raising or other expenses associated with multi-purpose activities (e.g. fund raising combined with social advocacy or public education campaigns).

ARTICLE XIII

AMENDMENTS

Section 1 - Amendments to Articles

Amendments to the Charter must be approved by a majority of the directors in office at the time the amendment is adopted or pursuant to Section 11 of Article IV. SACE shall provide notice of any meeting at which an amendment is to be voted upon.

Section 2 - Amendments to the Bylaws

Amendments to the Bylaws must be approved by a majority of the directors in office at the time the amendment is adopted or pursuant to section 11 of Article IV. SACE shall provide notice of any meeting at which an amendment is to be voted upon.

ARTICLE XIV

BOOKS AND RECORDS

Section 1 - Financial Records and Accounts

SACE shall keep a correct, accurate and complete set of financial records and accounts.

Section 2 Recordkeeping

The Secretary or his or her designee shall keep or cause to be kept adequate minutes of all Board or committee meetings, and all meetings of committees with Board-designated powers reflecting at a minimum the names of those in attendance, any resolutions passed and the outcomes of any votes taken. When potential conflicts of interests are discussed, the minutes shall include the names of the persons who disclosed financial interests; the nature

of the financial interests; whether or not the Board determined that a conflict existed; the names of the persons present for the discussions and votes related to the relevant transactions or arrangement; and a recorded of the vote. At the request of any participating Board member, the records of such discussions and individual votes yav be kept sealed, with only the outcome reported publicly.

Section 3 - Public Disclosure

SACE shall keep available for public inspection at its principal place of business and any branch office copies of the Form 1023(exemption application) as filed and any Form 990 (information tax return) filed within the past three years. Names and identifying information of contributors shall be redacted from publicly available copies. In addition, as required by the tax code and regulation, SACE shall provide copies of the materials to any member of the public making a request in during normal business hours or in writing. This public disclosure obligation shall be no broader than required by law and shall not apply, for example, if SACE is the target of a campaign or harassment.

AMENDED and ADOPTED



Secretary



Date