

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission Review of Numeric Conservation Goals (Florida Power & Light Company))	DOCKET NO. 20240012-EG
_____)	
In re: Commission Review of Numeric Conservation Goals (Duke Energy Florida, LLC))	DOCKET NO. 20240013-EG (Florida Rising and LULAC only)
_____)	
In re: Commission Review of Numeric Conservation Goals (Tampa Electric Company))	DOCKET NO. 20240014-EG (Florida Rising and LULAC only)
_____)	
In re: Commission Review of Numeric Conservation Goals (JEA))	DOCKET NO. 20240016-EG (Florida Rising only)
_____)	
In re: Commission Review of Numeric Conservation Goals (Orlando Utilities Commission))	DOCKET NO. 20240017-EG (Florida Rising only)
_____)	

**JOINT PETITION TO INTERVENE BY
FLORIDA RISING, LEAGUE OF UNITED LATIN AMERICAN CITIZENS, &
ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA**

Pursuant to Sections 120.569, 120.57, Florida Statutes, and Rule 28-106.205, Florida Administrative Code, the League of United Latin American Citizens of Florida, also known as LULAC Florida, Inc. (“LULAC”), Florida Rising, Inc. (“Florida Rising”), and the Environmental Confederation of Southwest Florida, Inc. (“ECOSWF”), through their

undersigned counsel, petition for leave to intervene in the above captioned, consolidated proceedings,¹ and in support thereof state:

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 names and addresses of Petitioners are:

League of United Latin American Citizens of Florida
1400 Byram Dr.
Clearwater, FL 33755

Florida Rising, Inc.
10800 Biscayne Blvd.,
Suite 1050
Miami, FL 33161

Environmental Confederation of Southwest Florida, Inc.
421 Verna Road
Sarasota, Florida 34230

3. The name and address of counsel for Petitioners, authorized to receive all notices,

pleadings, and other communications in this docket is:

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

¹ While Florida Rising seeks intervention in all of the above captioned proceedings, LULAC only seeks to intervene in Docket Nos. 20240012-EG, 20140013-EG, and 20240014-EG (Florida Power & Light Company, Duke Energy Florida, and Tampa Electric Company, respectively), and ECOSWF only seeks to intervene in Docket No. 20240012-EG (Florida Power & Light Company).

bmarshall@earthjustice.org
jluebemann@earthjustice.org
flcaseupdates@earthjustice.org

III. RECEIPT OF NOTICE OF AGENCY’S PROPOSED ACTION

4. Petitioners received notice of the Florida Public Service Commission’s (“Commission”) action by reviewing the Commission’s open dockets in January 2024.

IV. THE INTERVENORS’ 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. As part of that mission, LULAC places a priority on evaluating all opportunities for displacing non-renewable electricity generation with lower cost end-use energy efficiency measures. These measures directly and cost-effectively reduce the amount of fossil fuels consumed by existing non-renewable energy generation facilities and displace the need for new power plants, thereby reducing the overall electric system costs for customers who ultimately bear the costs of fuel, new power plants and added infrastructure. Decreased fuel consumption also reduces the overall negative impacts to public health and the environment, as well as the economic costs associated with greenhouse gas emissions from non-renewable energy generation. Additionally, LULAC’s members have an interest in ensuring that the Commission properly considers the true value of all conservation measures, as required by law. LULAC’s members face high electricity bills that can be mitigated by the use of cost-effective energy efficiency and demand-side management measures and programs, with goals for the next 10-years being set by this proceeding.

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 Florida's members reside in the service territories of Florida Power & Light Company ("FPL"), Duke Energy Florida, LLC ("DEF"), and Tampa Electric Company ("TECO"). LULAC was granted intervention against these utilities in the previous Energy Efficiency Act goal-setting process. *Order Granting Intervention, In re: Commission review of numeric conservation goals (Florida Power & Light Company), In re: Commission review of numeric conservation goals (Duke*

Energy Florida, LLC), *In re: Commission review of numeric conservation goals (Tampa Electric Company)*, Docket Nos. 20190015-EG, 20190018-EG, 20190021-EG, Order No. PSC-2019-0293-PCO-EG (Fla. P.S.C. July 25, 2019).

8. Florida Rising is a membership-based organization dedicated, under their articles of incorporation, to building “broader multiracial movements with individuals from historically marginalized communities to seize power and govern to advance social, economic, and racial justice.” Florida Rising has a substantial number of members in FPL’s, DEF’s, TECO’s, Orlando Utility Commission’s (“OUC’s”), and JEA’s service territory that are customers of those utilities that face higher electricity bills due to inadequate investments in energy efficiency. These energy-efficiency measures that should be deployed directly and cost-effectively reduce the amount of fossil fuels consumed by existing non-renewable energy generation facilities and displace the need for new power plants, thereby reducing the overall electric system costs for customers who ultimately bear the costs of fuel, new power plants and added infrastructure. Decreased fuel consumption also reduces the overall negative impacts to public health and the environment, as well as the economic costs associated with greenhouse gas emissions from non-renewable energy generation. Additionally, Florida Rising’s members have an interest in ensuring that the Commission properly considers the true value of all conservation measures, as required by law. Florida Rising’s members face high electricity bills that can be mitigated by the use of cost-effective energy efficiency and demand-side management measures and programs, with goals for the next 10-years being set by this proceeding.

9. Florida Rising is also committed to climate justice and pushing for a regenerative future and a just transition that puts frontline communities at the center of energy policy, disaster response, food policy, and all climate change initiatives. A substantial number of Florida

Rising's members live in FPL's, DEF's, TECO's, JEA's, and OUC's service area and are customers receiving electricity service from those utilities and will be substantially affected by the outcome of this proceeding as ratepayers.

10. Additionally, Florida Rising, Inc. is itself a customer of FPL, DEF, and TECO with offices in the territories of those utilities that directly pay an electric bill to those utilities. Therefore, Florida Rising Inc.'s substantial interests are impacted by this proceeding.

11. In furtherance of the mission of Florida Rising, Florida Rising has previously intervened in the most recent Florida Power & Light Company rate case. *See Order Granting Florida Rising Inc.'s Petition to Intervene, In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 20210015-EI, Order No. PSC-2021-0139-PCO-EI (Fla. P.S.C. April 20, 2021).

12. ECOSWF has a substantial number of members consisting of business entities, other organizations, and individuals living in Southwest Florida that reside in FPL's service territory and are FPL customers. ECOSWF was organized for the purpose of conserving the natural resources of Southwest Florida, implement energy efficiency improvements and alternatives, and to engage in actions in the furtherance of energy conservation and alternative energy source development. Utility customers ultimately bear the costs of fuel, new power plants, and added infrastructure without energy-efficiency measures. Such measures directly and cost-effectively reduce the amount of fossil fuels consumed by existing non-renewable energy generation facilities and displace the need for new power plants, thereby reducing overall electric system costs for customers. Negative impacts to public health and the environment as well as economic costs associated with greenhouse gas emissions from non-renewable energy generation can be reduced by decreased fuel consumption. Additionally, ECOSWF's members have an

interest in ensuring that the Commission properly considers the true value of all conservation measures, as required by law. ECOSWF's members face high electricity bills that can be mitigated by the use of cost-effective energy efficiency and demand-side management measures and programs, with goals for the next 10-years being set by this proceeding.

13. A substantial number of ECOSWF's members live in FPL's service area and are customers receiving electricity service from FPL and will be substantially affected by the outcome of this proceeding as FPL ratepayers.

14. ECOSWF has been granted intervention in FPL need determination proceedings and its most recent rate case based on its members' substantial interests as FPL ratepayers. *In re: Petition for determination of need for Glades Power Park Units 1 and 2 electrical power plants in Glades County, by Florida Power & Light Company*, Order No. PSC-07-0238-PCO-EI (Fla. P.S.C. Mar. 16, 2007); *In re: Petition for determination of need for Okeechobee Clean Energy Center Unit 1, by Florida Power & Light Company*, Order No. PSC-15-0494-PCO-EI (Fla. P.S.C. Oct. 22, 2015); *In re: Petition for rate increase by Florida Power & Light Company*, Order No. PSC-2021-0138-PCO-EI (Fla. P.S.C. April 20, 2021).

V. STATEMENT OF AFFECTED INTERESTS

15. In the above-captioned consolidated proceeding, the Commission will determine the numeric conservation goals for FPL, DEF, TECO, JEA, and OUC. The conservation goals set by the Commission will establish the amount of energy savings to be captured by FPL, DEF, TECO, JEA, and OUC 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 invariably affect the scope, number, quality, and type of energy efficiency programs that FPL, DEF, TECO, JEA, and OUC will offer to customers to

meet the conservation goals, including their customers who are members of Florida Rising, LULAC, and ECOSWF. 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 Florida Rising, LULAC, and ECOSWF, as well as Florida Rising, Inc. in the case of FPL, DEF, and TECO.

16. Florida Rising, LULAC, ECOSWF, and their 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. Florida Rising's, LULAC's, and ECOSWF'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. Thus, the substantial interests of members of Florida Rising, LULAC, and ECOSWF 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, TECO, JEA, and OUC. Those energy savings will directly affect how much higher-cost generation is displaced which directly impacts the overall electric system costs of FPL, DEF, TECO, JEA, and OUC that is passed on to their customers, including Florida Rising, LULAC, and ECOSWF members. Thus, the Commission's order will directly affect the mission of Florida Rising, LULAC, and ECOSWF and their members and their pecuniary interests. Additionally, it 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 Florida Rising, LULAC, and ECOSWF, and their members and impacts the pecuniary interests of Florida Rising, LULAC, and ECOSWF members residing in the service territories of FPL (all), DEF (Florida Rising and LULAC), TECO (Florida Rising and LULAC), JEA (Florida Rising), and OUC (Florida Rising). Lastly, the Commission will address how to meet its

demand-side renewable requirement in these dockets. Florida Rising, LULAC, ECOSWF, and their 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 Florida Rising, LULAC, and ECOSWF, and their members and impacts the pecuniary interests of Florida Rising, LULAC, and ECOSWF members residing in the service territories of FPL, DEF (Florida Rising and LULAC), TECO (Florida Rising and LULAC), JEA (Florida Rising), and OUC (Florida Rising).

17. Moreover, Florida Rising, LULAC, ECOSWF, and their members rely on these proceedings to provide the Commission with testimony and opinion about the full technical, economic, and achievable potential for cost-effective energy efficiency, and the value of demand side renewables.

18. 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 Florida Rising, LULAC, ECOSWF, and their 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).

19. Florida Rising, LULAC, and ECOSWF are authorized by their bylaws to represent their interests and the interests of their 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 Florida Rising, LULAC, and ECOSWF, and the relief requested is the type of relief appropriate for Florida Rising, LULAC, and ECOSWF to receive on behalf of their

members. The rights and interests of Florida Rising, LULAC, and ECOSWF, and their 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.

20. Florida Rising's, LULAC's, and ECOSWF's intervention is timely. Rule 28-106.205, F.A.C.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

21. At this time, Florida Rising, LULAC, and ECOSWF cannot identify all disputed issues of material fact because the utilities have not yet submitted their filings in these proceedings.

22. Florida Rising, LULAC, and ECOSWF anticipate 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 CO₂, 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 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?

- o. Whether the Commission should establish performance incentives for the relevant utilities for meeting meaningful energy savings goals, including demand-side renewable energy goals?

VII. STATEMENT OF ULTIMATE FACT

23. The Florida Legislature has recognized the extraordinary potential for increasing energy efficiency and encouraging the development of residential and commercial renewable energy in Florida by 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.

24. 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, TECO, JEA, and OUC. 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.

25. Florida Rising, LULAC, and ECOSWF contend, and will provide data and analysis, that annual energy savings levels achieved by the State's largest utilities is significantly less than peer utilities in other states, leading to some of the highest electricity bills in the nation. Florida Rising, LULAC, and ECOSWF will highlight the Commission's unique opportunity in these consolidated cases to significantly increase goals, and in so doing, assist customers in lowering energy use and saving money on their electric bills.

26. Florida Rising, LULAC, and ECOSWF cannot, at this time, provide a complete statement of ultimate facts to be proven because the utilities have not yet submitted their filings in these proceedings.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

27. The rules and statutes that entitle Florida Rising, LULAC, and ECOSWF 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

28. Pursuant to Rule 28-106.204(3), F.A.C., Florida Rising, LULAC, and ECOSWF have conferred with counsel for FPL, DEF, TECO, JEA, OUC, the Office of Public Counsel (“OPC”), and PCS Phosphate. TECO, OUC, OPC, and PCS Phosphate advised they take no position or do not object to this petition. FPL advised that it takes no position pending review of the petition. DEF advised that it takes no position on this motion but reserves the right to respond, pending review of the petition to intervene. JEA advised that it does not oppose Florida Rising’s petition, but reserves the right to object to any issues raised beyond the scope of the proceeding.

X. RELIEF SOUGHT

29. WHEREFORE, Florida Rising, LULAC, and ECOSWF respectfully request that the Commission enter an order granting them leave to intervene in docket number 20240012-EG as full parties, enter an order granting Florida Rising and LULAC leave to intervene in docket numbers 20240013-EG and 20240014-EG as full parties, enter an order granting Florida Rising leave to intervene in docket numbers 20240016-EG and 20240017-EG as full parties, and further request parties to provide the undersigned with all pleadings, testimony, evidence, and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 15th day of March, 2024.

/s/ Bradley Marshall
Florida Bar No. 0098008
bmarshall@earthjustice.org
flcaseupdates@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)

***Counsel for League of United Latin
American Citizens of Florida, Florida
Rising, and Environmental Confederation
of Southwest Florida***

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 15th day of March, 2024, via electronic mail on:

Jacob Imig Jonathan Rubottom Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 jimig@psc.state.fl.us jrubotto@psc.state.fl.us	Walt Trierweiler Patricia Christensen Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 trierweiler.walt@leg.state.fl.us christensen.patty@leg.state.fl.us
James W. Brew Laura Wynn Baker Sarah B. Newman Stone Mattheis Xenopoulous & Brew, PC 1025 Thomas Jefferson St., NW Washington, DC 20007-5201 jbrew@smxblaw.com lwb@smxblaw.com sbn@smxblaw.com	William P. Cox Christopher T. Wright Florida Power & Light Company 700 Universe Blvd. Juno Beach, FL 33408-0420 will.cox@fpl.com christopher.wright@fpl.com
Paula K. Brown Tampa Electric Company Regulatory Affairs P. O. Box 111 Tampa, FL 33601-0111 regdept@tecoenergy.com	Matthew R. Bernier Stephanie A. Cuello Robert Pickels Duke Energy 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740 FLRegulatoryLegal@duke-energy.com matthew.bernier@duke-energy.com stephanie.cuello@duke-energy.com robert.pickels@duke-energy.com
Beth Keating Gunster, Yoakley & Stewart, P.A. 215 S. Monroe St., Suite 601 Tallahassee, FL 32301 bkeating@gunster.com	Dianne Triplett 299 First Ave. North St. Petersburg, FL 33701 dianne.triplett@duke-energy.com

<p>J. Jeffrey Wahlen Malcolm Means Virginia Ponder Ausley McMullen P.O. Box 391 Tallahassee, FL 32302 jwahlen@ausley.com mmeans@ausley.com vponder@ausley.com</p>	<p>Robert Scheffel Wright Gardner, Bist, Bowdwn, Bush, Dee, LaVia & Wright, P.A. 1300 Thomasswood Dr. Tallahassee, FL 32308 schef@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>Gary V. Perko Valerie L. Chartier-Hogancamp Holtzman Vogel Baran Torchinsky & Josefiak PLLC 119 South Monroe St., Suite 500 gperko@holtzmanvogel.com zbennington@holtzmanvogel.com vhogancamp@holtzmanvogel.com</p>	<p>Eric Saylor The Mayo Bldg., Suite 520 407 S. Calhoun St. Tallahassee, FL 32399 Eric.Saylor@FDACS.gov</p>

DATED this 15th day of March, 2024.

/s/ Bradley Marshall
Attorney