

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

In re: Commission Review of Numeric ) DOCKET NO. 20190016-EG  
Conservation Goals )  
Gulf Power Company )  
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In re: Commission Review of Numeric ) DOCKET NO. 20190018-EG  
Conservation Goals )  
Duke Energy Florida, LLC )  
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In re: Commission Review of Numeric ) DOCKET NO. 20190019-EG  
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Orlando Utilities Commission )  
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In re: Commission Review of Numeric ) DOCKET NO. 20190020-EG  
Conservation Goals )  
JEA )  
\_\_\_\_\_ )

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

**PETITION TO INTERVENE BY  
SOUTHERN ALLIANCE FOR CLEAN ENERGY**

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rule and 28-106.205, Florida Administrative Code, Southern Alliance for Clean Energy (“SACE”), through its undersigned counsel, petitions for leave to intervene in the above captioned, consolidated proceedings, and in support thereof states:

**I. AGENCY AFFECTED**

1. The name and address of the agency affected by this petition is

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

## **II. IDENTIFICATION OF THE INTERVENOR AND ITS COUNSEL**

2. The name and address of Petitioner is:

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:

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

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

4. Petitioner received notice of the Florida Public Service Commission's ("Commission") action by reviewing the Commission's open dockets on January 16, 2019.

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

5. SACE is a non-profit clean energy corporation organized under the laws of the state of Tennessee and authorized to conduct operations in the State of Florida. The mission 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. As part of that mission, SACE 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 gases emissions from non-renewable energy generation. Additionally, SACE's members 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, as required by law.

6. SACE has staff in Florida working to advance these goals. In addition, there are more than 330 SACE members residing in Florida and dedicated to promoting low cost, low risk clean energy solutions, such as meaningful levels of energy efficiency, to encourage clean, safe, and economically and environmentally responsible energy choices. A substantial number of SACE's Florida members reside in the service territories of Florida Power & Light Company ("FPL") (162 members), Duke Energy Florida, LLC ("DEF") (45 members), Tampa Electric Company ("TECO") (18 members), Gulf Power Company ("GPC") (17 members), JEA (9 members), and Orlando Utilities Commission ("OUC") (7 members).

7. To further its missions, SACE has presented experts and provided technical testimony in numerous forums throughout Florida, including before the Florida Public Service Commission. SACE has been granted intervention by this Commission in numerous proceedings, including: *In re: Commission review of numeric conservation goals*, Docket Nos. 080407-EG – 080413-EG; and *In re: Commission review of numeric conservation goals*, Docket Nos. 130199-EI – 130203-EI.

8. Affidavits establishing the facts to support SACE's standing are attached to this intervention petition.

#### **V. STATEMENT OF AFFECTED INTERESTS**

9. In the above-captioned consolidated proceeding, the Commission will determine the numeric conservation goals for FPL, DEF, TECO, GPC, JEA, and OUC. The conservation goals set by the Commission will establish the amount of energy savings to be captured by FPL, DEF, TECO, GPC, 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, GPC, JEA, and OUC will offer to customers to meet the conservation goals, including their customers who are members of SACE. 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 SACE.

10. SACE and its members advocate for all cost-effective energy efficiency measures. Such measures can meet electricity demand at a fraction of the cost of building new power plants. SACE'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 SACE 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, GPC, 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, GPC, JEA, and OUC that is passed on to their customers, including SACE members. Thus, the Commission's

order will directly affect the mission of SACE and its 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 SACE and its members and impacts the pecuniary interests of SACE members residing in the service territories of FPL, DEF, TECO, GPC, JEA, and OUC. Lastly, the Commission will address how to meet its demand-side renewable requirement in these dockets. SACE and its members likewise have an interest in ensuring that the Commission properly considers the true value of all conservation measures, including demand side renewable energy, such as rooftop solar. The level of demand-side renewable implementation to be determined in the consolidated cases directly impacts the mission of SACE and its members and impacts the pecuniary interests of SACE members residing in the service territories of FPL, DEF, TECO, GPC, JEA, and OUC.

11. Moreover, SACE and its members rely on these proceedings to provide the Commission with expert testimony and opinion about the full technical, economic and achievable potential for cost-effective energy efficiency, and the value of demand side renewables.

12. These are the type of interests this proceeding is designed to protect because the purpose of these consolidated cases coincides with the substantial interests of SACE and its members. *Ameristeel Corp. v. Clark*, 691 So.2d 473 (Fla. 1997); *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), *reh'g. denied*, 415 So.2d 1359 (Fla. 1982); *Florida Home Builders Ass 'n v. Department of Labor and Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982).

13. SACE is authorized by its bylaws to represent its interests and the interests of its members in legal actions, including formal administrative actions such as these. The subject matter of this docket is well within the scope of interest and activities of SACE, and the relief requested is the type of relief appropriate for SACE to receive on behalf of its members. The rights and interests of SACE and its members cannot be adequately represented by any other party in this docket, and intervention will not unduly delay or prejudice the rights of other parties.

14. SACE's intervention is timely. Rule 25-22.039, F.A.C.

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

15. At this time, SACE cannot identify all disputed issues of material fact because the utilities have not yet submitted their filings in these proceedings.

16. SACE anticipates that the disputed issues of material fact in these proceedings will include, but are not limited to, the following:

- a. Whether the utilities provided a complete assessment of the full technical potential of all available energy savings measures?
- b. Whether the utilities provided a complete assessment of the economic potential of all available energy savings measures?
- c. Whether the utilities provided a complete assessment of the achievable potential all available energy savings measures?
- d. Whether the utilities' proposed energy savings goals appropriately reflect the costs and benefits to customers participating in the measure?

- e. Whether the utilities' proposed energy savings goals appropriately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions?
- f. Whether the utilities' proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems?
- g. Whether the utilities' proposed energy savings goals appropriately reflect the projected compliance costs imposed by state and federal regulations on the emission of CO<sub>2</sub>, and whether those numeric costs are consistent with compliance costs utilized in other dockets by the utilities before the Commission?
- h. Whether the utilities' proposed conservation goals utilize all cost-effective energy efficiency measures?
- i. Whether the utilities' proposed conservation goals properly value demand-side renewables?
- j. Whether the utilities are using an appropriate methodology to determine levels of free-ridership?
- k. What cost-effectiveness test or tests should the Commission use to set goals pursuant to section 366.82, Florida Statutes?
- l. What specific residential summer and winter megawatt (MW) and annual gigawatt-hour (GWh) energy savings goals should be established for each utility?
- m. What specific commercial/industrial summer and winter megawatt (MW) and annual gigawatt-hour (GWh) energy savings goals should be established for each utility?

n. What demand-side renewable energy savings goals should be established for each utility?

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**

17. The Florida Legislature has recognized the extraordinary potential for increasing energy efficiency and encouraging the development of residential and commercial renewable energy in Florida in adopting the Florida Energy Efficiency and Conservation Act (“FEECA”). *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, FEECA 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.

18. Under FEECA, the Commission is required to set energy efficiency and conservation goals for the state’s major electric utilities, which include FPL, DEF, TECO, GPC, 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 FEECA:

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.*

19. SACE contends, 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. SACE 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 bills.

20. SACE 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**

21. 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. §§ 366.80-.83, Fla. Stat.;
- d. R. 28-106.201, F.A.C.; and
- e. R. 28-106.205, F.A.C.

### **IX. RELIEF SOUGHT**

22. WHEREFORE, the Southern Alliance for Clean Energy respectfully requests that the Commission enter an order granting it leave to intervene in the above-styled series of dockets

as a full party, and further requests parties to provide the undersigned with all pleadings, testimony, evidence, and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 20th day of March, 2019

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

***Counsel for Petitioner  
Southern Alliance for Clean Energy***

/s/ George Cavros  
George Cavros  
Florida Bar No. 22405  
george@cleanenergy.org  
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 the foregoing was served on this 20th day of March, 2019, via electronic mail on:

Ashley Weisenfeld Margo DuVal Charles Murphy Rachael Dziechciarz Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 aweisenf@psc.state.fl.us mduval@psc.state.fl.us cmurphy@psc.state.fl.us rdziehc@psc.state.fl.us	J.R. Kelly Patricia Christensen Thomas David A. Mireille Fall-Fry Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us christensen.patty@leg.state.fl.us david.tad@leg.state.fl.us fall-fry.mireille@leg.state.fl.us
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<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 Brooke E. Lewis Hopping Green &amp; Sams P.O. Box 6526 Tallahassee, FL 32314 garyp@hgslaw.com shelleyl@hgslaw.com brookel@hgslaw.com jenniferm@hgslaw.com</p>	<p>Robert Scheffel Wright Gardner, Bist, Bowdwn, Bush, Dee, LaVia &amp; Wright, P.A. 1300 Thomasswood Dr. Tallahassee, FL 32308 schef@gbwlegal.com</p>
<p>Russel A. Badders Gulf Power Company One Energy Place Pensacola, FL 32520 Russell.Badders@nexteraenergy.com</p>	<p>Steven R. Griffin Beggs &amp; Lane P.O. Box 12950 Pensacola, FL 32591 srg@beggslane.com</p>

DATED this 20th day of March, 2019.

/s/ Bradley Marshall  
Attorney

# Attachments

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**AFFIDAVIT OF GEORGE CAVROS**  
**SOUTHERN ALLIANCE FOR CLEAN ENERGY**

1. I, George Cavros, am over 18 years of age and have personal knowledge of the following facts.

2. I serve as the Florida Energy Policy Attorney of the Southern Alliance for Clean Energy (SACE). I have held that position since 2013. Through my work with SACE, I have personal knowledge of SACE's operations, membership, and mission.

3. The mission 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. In particular, the guiding values of SACE include promoting energy independence, advancing a clean energy economy, creating job opportunities, saving energy and saving money, empowering diverse constituencies, and ensuring safe, healthy communities.

Energy efficiency is a crucial part of SACE's core mission. SACE 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 fuel 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, including customers who are SACE members, who ultimately bear the costs of fuel, new power plants and added infrastructure. Decreased fuel consumption also reduces the overall negative impacts of energy generation to public health and the environment, as well as the economic costs associated with greenhouse gas emissions from non-renewable combustion.

4. Increasing the accessibility and adoption of demand-side renewable energy, such as rooftop solar, is another key component of SACE's mission. As with energy efficiency measures, demand-side renewables decrease the demand for fossil fuel energy generation, alleviating the burden on consumers of the economic and public health costs of expanded fossil fuel combustion and infrastructure.

5. SACE has dedicated staff in Florida working to advance these goals. In addition, there are more than 330 SACE members residing in Florida and dedicated to promoting low-cost, low-risk clean energy solutions, such as adopting meaningful levels of energy efficiency, to

encourage energy choices in Florida that are economically and environmentally responsible, clean, and safe.

6. In addition, in accordance with the SACE bylaws and guiding values, SACE's members 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, as required by law.

7 Moreover, the majority of SACE's total Florida members reside in the service territories of each of the utilities involved in these FEECA proceedings, including: 162 members within the territory of Florida Power & Light Company, 45 members in the territory of Duke Energy Florida, LLC, 18 members in the territory of Tampa Electric Company, 17 members in the territory of Gulf Power Company, 9 members in the territory of JEA, and 7 members in the territory of Orlando Utilities Commission.

8. As such, SACE members are directly affected by the availability and effectiveness of energy efficiency measures and renewables programs. The adoption of meaningful efficiency measures and renewables goals directly and cost-effectively reduces the amount of fossil fuels consumed by existing non-renewable energy generation facilities and displaces the need for new power plants. Because the capital and environmental costs of increased fossil fuel generation are passed onto the public through rate increases and impaired air and water quality, SACE members experience significant consequences as a result of FEECA proceedings.

9 As Florida Energy Policy Attorney of SACE, I understand the economic and environmental benefits for our members by using energy efficiency as a utility resource, and therefore fully support increased levels of energy efficiency implementation. SACE members have

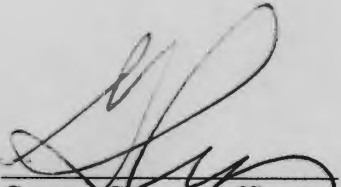


previously and continuously relied on energy efficiency measures to cost effectively participate in SACE's mission, reduce their current and future energy bills, and lessen environmental pollution.

10. I understand that the Florida Public Service Commission is considering energy efficiency goals for Florida Power & Light Company, Duke Energy Florida, LLC, Tampa Electric Company, Gulf Power Company, JEA, and Orlando Utilities Commission. Florida SACE members would use more energy efficiency measures in their homes if their electric utility offered an expanded and wider variety of programs, containing such measures, as a result of higher goals, including more meaningful financial or other incentives to assist them in adopting energy efficiency measures.

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

FURTHER AFFIANT SAYETH NOT

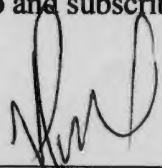
  
George Cavros, Affiant

STATE OF FLORIDA

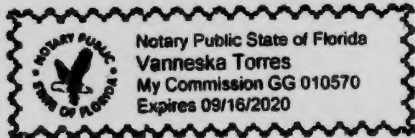
COUNTY OF BROWARD

BEFORE ME, the undersigned authority, personally appeared George Steve Cavros who is personally known or produced FL License C162-317-60-352 as identification, and who was sworn and says that the foregoing averments are true.

Sworn to and subscribed before this 14 day of March, 2019



\_\_\_\_\_  
Notary Public



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**AFFIDAVIT OF SEAN ATKINSON**  
**SOUTHERN ALLIANCE FOR CLEAN ENERGY**

1 I, Sean Atkinson, am over 18 years of age and have personal knowledge of the following facts. I reside at 1106 N. 31<sup>st</sup> Avenue, Hollywood, Florida 33021. I am a customer of Florida Power and Light Company (FPL).

2. As a member of Southern Alliance for Clean Energy, I understand the economic and environmental benefit to me of energy efficiency as a utility resource and fully support

increased levels of energy efficiency implementation by my utility. As a utility customer, I understand the importance of utility-sponsored energy efficiency programs, comprised of many measures, which provide information and financial or other incentives to me, in order to reduce my energy usage and lower my electricity bill.

3. As an electricity customer and as a member of Southern Alliance for Clean Energy, I also understand that energy efficiency measures help reduce electricity demand and delay or displace the need for constructing more costly new power plants to meet electricity demand, thereby helping to keep my electricity bills from escalating in the future.

4. I understand that the Florida Public Service Commission is considering energy efficiency goals for FPL. I have relied on utility-sponsored energy efficiency programs to help me identify energy efficiency opportunities in my home and to provide incentives for adopting energy efficiency measures. I have relied on the Ceiling Insulation energy efficiency program.

5. I would use more energy efficiency measures in my home if my electric utility offered an expanded and wider variety of programs, as a result of higher goals, including more meaningful financial or other incentives to assist me in adopting energy efficiency measures.

6. If my electric utility does not offer an expanded and wider variety of energy efficiency programs with more meaningful incentives, I will lose the opportunity to cost-effectively reduce my electric bill in the short-term through the use of affordable energy efficiency measures. Instead, I will have to choose between spending much more money on energy efficiency projects, such as an A/C upgrade and a solar water heater, or to pay an increased monthly electricity bill, because I will use more electricity without the efficiency incentives. In addition, my bills will also increase due to the need for more expensive new power generation, which would have been avoided or deferred by increased efficiency programs by my

utility. An increase in both the amount and price of electricity upon which I rely each month would thereby directly and adversely cause me financial harm.

7 I would like to install photovoltaic solar panels, but am unable to afford to do so. If my utility adopts a program to help as a result of the FEECA proceedings, I would be much more likely to install solar panels, thus lowering my electricity usage and bill. Without rooftop solar, I will be forced to pay more for my energy needs, directly causing me financial harm.

FURTHER AFFIANT SAYETH NOT

Sean Atkinson  
Sean Atkinson, Affiant

STATE OF FLORIDA

COUNTY OF BROWARD

BEFORE ME, the undersigned authority, personally appeared Sean Atkinson who is personally known or produced FL License A375-780-71-340-3 as identification, and who was sworn and says that the foregoing averments are true.

Sworn to and subscribed before this 14 day of March, 2019

[Signature]

Notary Public

