

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Duke Energy Florida, LLC's Petition  
for a limited proceeding to approve Clean  
Energy Connection Program and Tariff and  
Stipulation

DOCKET NO. 20200176-EI

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

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rule and 28-106.205, Florida Administrative Code, the League of United Latin American Citizens of Florida, also known as LULAC Florida Educational Fund, Inc. ("LULAC"), through its undersigned counsel, petitions for leave to intervene in the above captioned proceeding and in support thereof states:

**I. AGENCY AFFECTED**

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

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

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

2. The name and address of Petitioner is:

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

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

Bradley Marshall  
Jordan Luebke  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.

Tallahassee, Florida 32301  
(850) 681-0031 (tel)  
(850) 681-0020 (fax)

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

4. Petitioner received notice of the Florida Public Service Commission’s (“Commission”) action by e-mail notification from Duke Energy Florida, LLC (“Duke”) on July 2, 2020.

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

5. LULAC Florida is part of the largest and oldest Hispanic civil rights organization in the United States, which advances the economic condition, educational attainment, political influence, housing, health, and civil rights of Hispanic Americans through community-based programs operating through local councils across the nation. The articles of incorporation for the organization states that “educating the public on issues related to the environment . . . [and] economic empowerment” are central to LULAC’s mission. To meet these goals, LULAC has an elevated interest in evaluating solar programs that will affect the economic interests of its members. Solar, properly deployed, can greatly reduce costs related to fuel consumption and energy generation, costs that increase the energy burden of the utilities’ customers and are found to be disproportionately high in Hispanic communities. Reducing these costs reduces the high-energy burdens on the Hispanic community, implicating LULAC’s interest in the economic condition of its members the Hispanic population of Florida, including those located in Duke’s territory. Duke’s proposed solar program could disproportionately burden LULAC’s members and the Hispanic population in Duke’s territory by making low-income customers subsidize the credits given to large corporations under Duke’s program.

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 equitable solar programs 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 proper program design for utility-scale solar programs. LULAC has worked to advocate for true community solar programs at the Florida Legislature and has long been interested in solar program design. LULAC believes that Duke's program falls far short of meeting the requirements and intent of a community solar program.

7. LULAC currently has members and leadership in Florida working towards these energy and environment-focused goals, including working to address solar program design and related economic and environmental concerns. LULAC has a substantial number of members in Duke's service territory, and was granted intervention against Duke in the Energy Efficiency Act goal-setting process. Order Granting Intervention, *In re: Commission review of numeric*

*conservation goals (Duke Energy Florida, LLC)*, Docket No. 20190018-EG, Order No. PSC-2019-0293-PCO-EG (Fla. P.S.C. July 25, 2019).

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

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

9. In the above-captioned proceeding, the Commission will determine whether to approve of Duke's proposed solar program. The costs of the proposed solar program will be passed on to all of Duke's customers, including customers who are members of LULAC, increasing the electric bills of LULAC members.

10. LULAC and its members advocate for equitable solar policies and in fighting to ensure that solar is implemented in a fair fashion that does not disproportionately increase the energy burdens borne by Florida's Hispanic community. Accordingly, LULAC's members have an interest in ensuring that the Commission properly considers the disproportionate impacts of Duke's proposed solar program on the Hispanic community. Thus, the substantial interests of members of LULAC are affected in this case because the Commission's order will determine the costs to be incurred from general ratepayers, including from low-income communities and including from LULAC's members. Thus, the Commission's order will directly affect both the mission of LULAC and the pecuniary, social, and environmental interests of its members.

11. Moreover, LULAC and its members rely on this proceeding to provide the Commission with information on the economic and environmental difficulties faced by Florida's Hispanic communities and the proper design, including the proper allocation of costs and benefits in solar program design, in addressing the difficulties.

12. These are the type of interests this proceeding is designed to protect because the purpose of this case coincides with the substantial interests of LULAC and its members.

*Ameristeel Corp. v. Clark*, 691 So.2d 473 (Fla. 1997); *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), *reh'g. denied*, 415 So. 2d 1359 (Fla. 1982); *Florida Home Builders Ass 'n v. Department of Labor and Employment Security*, 412 So. 2d 351, 353-54 (Fla. 1982).

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

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

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

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

- a. Does Duke's program guarantee the rate of return for large corporations by increasing the bills of non-participants, including LULAC's members and low-income customers?
- b. Is Duke's program mainly geared to guaranteeing a rate of return for large corporations?
- c. Is that rate of return for large corporations guaranteed by the general body of ratepayers, including low-income customers?

- d. Are the risks of the program borne by the general body of ratepayers, including low-income customers, if costs are higher than expected or expected benefits do not materialize?
- e. Is it fair and/or transparent to include the costs for solar credits as part of the “fuel” clause on people’s electric bills?
- f. Did Duke properly calculate the benefits flowing to non-participants?
- g. Are carbon prices imminent?
- h. Is Duke’s proposed resource plan without this proposed solar program the program that Duke would actually undertake if the proposed solar program is not approved?
- i. Does Duke’s program appropriately reflect the costs and benefits to customers participating in the program?
- j. Does Duke’s program appropriately reflect the costs and benefits to the general body of ratepayers?
- k. Is Duke’s proposed program fair, just, and reasonable?

## **VII. STATEMENT OF ULTIMATE FACT**

16. Under its general ratemaking regulatory authority, the Commission is responsible for ensuring rates and rate structures are fair, just, and reasonable, and is responsible for ensuring rates are not unjustly discriminatory. § 366.06, Fla. Stat.

17. Additionally, the Commission must consider additional elements in fixing fair, just, and reasonable rates for each customer class, including the cost of providing service to the class, the rate history, value of service, the consumption and load characteristics of the various classes of customers, and public acceptance of rate structures. § 366.06(1), Fla. Stat.

18. LULAC contends that Duke's proposed solar program is not in the public interest, is not fair, just, and reasonable, and is unjustly discriminatory. LULAC will highlight the Commission's unique opportunity in ensuring that solar programs, such as those proposed by Duke, actually treat all customers fairly and justly.

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

19. The rules and statutes that entitle LULAC to intervene and participate in this case include, but are not limited to, the following:

- a. §120.569, Fla. Stat.;
- b. § 120.57, Fla. Stat.;
- c. §§ 366.03-.06, Fla. Stat.;
- d. R. 28-106.201, F.A.C.; and
- e. R. 28-106.205, F.A.C.

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

20. Pursuant to Rule 28-106.204(3), F.A.C., LULAC has conferred with counsel for Duke regarding this petition. Duke advised that it takes no position on this petition, pending proof that LULAC has standing in this proceeding.

#### **X. RELIEF SOUGHT**

21. WHEREFORE, the League of United Latin American Citizens of Florida 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 said dockets.

RESPECTFULLY SUBMITTED this 15th day of July, 2020

/s/ Bradley Marshall  
Bradley Marshall  
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(850) 681-0020 (facsimile)

*Counsel for League of United Latin  
American Citizens of Florida*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 15th day of July, 2020, via electronic mail on:

Dianne M. Triplett Dianne.Triplett@duke-energy.com Duke Energy Florida, LLC 299 1st Avenue North St. Petersburg, FL 33701 (727) 820-4692/ (727) 820-5519 (fax)	Matthew R. Bernier Matt.Bernier@duke-energy.com Duke Energy Florida, LLC 106 E. College Avenue, Ste. 800 Tallahassee, FL 32301 (850) 521-1428 / (850) 521-1437 (fax)
Katie Chiles Ottenweller Vote Solar katie@votesolar.org 151 Estoria St SE Atlanta, GA 30316 706.224.8017	

DATED this 15th day of July, 2020.

/s/ Bradley Marshall  
Attorney

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DOCKET NO. 20200176-EI

**DECLARATION OF ELISEO SANTANA**

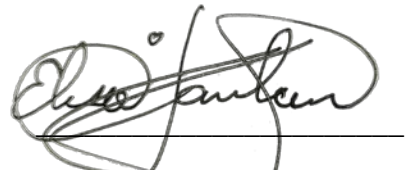
1. I, Eliseo Santana, am over 18 years of age, of sound mind, and have personal knowledge of the following facts.
2. I reside at 1400 Byram Dr., Clearwater, FL 33755.
3. I’ve been living in Pinellas County in Florida since 1980, for 40+ years now, after four years of being in the Army.
4. Florida is my home. It is where all of my children and all of my 13 grandchildren have been born and where they live. They all live within a short distance of my home. I’m on a fixed income, because I retired 8 years ago from the Pinellas County Sheriff Office, with 31 years of service.
5. I am a Duke Energy customer.
6. I am a member of the League of United Latin American Citizens of Florida (LULAC Florida), and currently serve as the chapter president for LULAC Florida’s Pinellas council. The Pinellas council has 23 members, all of whom are members of LULAC Florida and are Duke customers. I have served as chapter president for over 2 years.
7. I joined LULAC Florida because of the need to unite our Latino community and fight systemic racism.

8. LULAC Florida is part of the oldest and largest Hispanic civil rights organization in the United States. It works to advance 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.
9. To advocate for these goals, LULAC Florida has previously been involved in several dockets at the Florida Public Service Commission.
10. LULAC Florida sought and was granted intervention in the Florida Energy Efficiency and Conservation Act (EEA) goal-setting dockets for Florida Power and Light, Duke Energy, and Tampa Electric Company. There, LULAC Florida strongly argued for increased energy efficiency targets that would best protect its members by reducing the need for expensive and polluting fossil fuel use, and helping those struggling to make ends meet be able to afford their bills.
11. During the recent program design phase of the 2019 EEA proceeding, LULAC Florida carefully studied and provided comments on the proposals of Florida Power and Light/Gulf Power, Duke Energy, and Tampa Electric Company, for the same reasons.
12. LULAC Florida is a membership-based organization with approximately 150 members throughout Florida. These members include many who experience low or fixed incomes, and are therefore particularly affected by increases in utility bills.
13. I know that Latin Americans in Florida are more likely to live in older or less energy efficient housing, more likely to be renters, and more likely to have a lower income than residents of this state as a whole.
14. The disproportionate energy burden affecting Latin Americans is an issue that goes to the heart of the mission of LULAC Florida.

15. During the EEA proceedings last year, I travelled to Tallahassee to provide testimony about the effects of high energy bills and the need to reduce energy burdens through efficiency. The electric bill for my own home, at about 1,100 square feet, has been steadily creeping up in recent years. Now it's about \$300. Because I'm on a fixed income, every single dollar that it increases, is one less dollar that I have to be able to spend on other needs that I have.
16. I also listened to the testimony of many other LULAC Florida members who described utility bills that are rising or that are causing them to struggle. LULAC Florida members will be hurt by any increase in their utility bills.
17. Now, Duke is pushing for a new program to build solar. I'm very concerned by the structure of this program—everybody pays, but only some people get the benefits. This is not equitable. I'm very concerned that this will affect the bills of low income people and people on fixed incomes, like myself and many other LULAC Florida members.
18. Duke already has solar plants that were paid for by all of its customers and benefit all of its customers. If Duke wants to build more solar power, that is the fairer way to do it.
19. I would love to have solar at my house, but I can't afford the upfront investment. Instead of building a program that reserves most of the panels for residents like me, Duke plans to charge me and other LULAC Florida members to pay to guarantee benefits to big corporations who could afford to put up their own solar.
20. I also see this through the lens of being a veteran. I have spent my life ensuring that our country is standing on two solid feet, that our national defense is taken care of, not just for me, but for my children and my grandchildren and those that come after. And it appears to me that when we are reliant on a fuel source that is external to Florida, that

we're putting the national defense at jeopardy. I remember in the 1980's with the Iranian embargo and the issues that we had, and we have not learned. So I agree that it is important for our national security that we reduce our dependence on fuel by adopting more renewables.

21. However, it has to be done in a fair way. We need to spend our money to make sure that each and every home—my home—generates as much energy as it can by having solar panels, windmills, whatever is needed, to locally provide that energy that I need, because it's essential for our national security.
22. It's essential for the well-being of our community. It is essential for the State of Florida.
23. I declare that the foregoing is true and correct. Executed on this 15th day of July, 2020.



Eliseo Santana