

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20200176-EI

FILED: December 9, 2020

**THE SOUTHERN ALLIANCE FOR CLEAN ENERGY'S
POST HEARING STATEMENT AND BRIEF**

Southern Alliance for Clean Energy ("SACE"), by and through its undersigned counsel, pursuant to Order No. PSC-2020-0324-PCO-EI Establishing Procedure, hereby submits its Post-Hearing Statement and Brief in the above styled docket. References to the hearing transcript page numbers will be denoted by "T. at #." References to exhibit numbers will be denoted as "Ex. #," and references to the Stipulation paragraphs will be marked as "Stip. at #."

STATEMENT OF BASIC POSITION

No one can deny the strong demand for solar power in the Sunshine State. Both utility-scale and rooftop solar installations continue to grow in Florida. Yet some residential customers cannot directly access the economic benefits of solar power because they may rent their homes, live in multi-unit dwellings, or have shaded roofs. Likewise, there are commercial customers that may not own their business property, may not want the responsibility of owning and maintaining rooftop solar, or may just not have enough rooftop space to meet their needs.

The Duke Energy Florida ("DEF") Clean Energy Connection ("CEC") shared solar program is an innovatively designed program that meets the demand for solar power with a host of system benefits that accrue to all customers. It significantly accelerates the

development of clean, abundant and inexpensive solar power on DEF's system that meet DEF's system needs, and is projected to provide \$532 million of economic benefits to all of DEF's customers. The operation of the ten 74.9 MW solar installations that comprise the program will eliminate the need for a 225 MW fossil fuel unit and defer others, thereby reducing the burning of fossil fuels on DEF's system, insulating customers from fuel price spikes on bills, and reducing harmful air emissions – including reducing CO₂ emissions at an average rate of 700,000 tons annually. T. at 316-17.

Given the state's regulatory structure, the program design provides a realistic pathway to meet the demand for solar power from Florida businesses, local governments, schools, and families while also meeting DEF system needs. The program includes a significant 26 MW allocation to DEF's low-income customers that provides a net benefit from the first month of participation. T. at 55, 106. The program is designed to provide fair, just and reasonable rates, and provides a number of economic and other benefits that the Florida Legislature has found to be explicitly in the public interest for renewable power development. The program provisions and tariff embodied in the stipulation ("Stipulation") filed on July 1, 2020, improved the program and clean energy benefits for all of DEF's customers. The Stipulation is in the public interest and it deserves the Commission's approval. SACE respectfully requests that the Stipulation be approved in its entirety.

POSITION ON ISSUES

ISSUE 1: Is DEF's proposed Clean Energy Connection Program and Tariff an appropriate mechanism to seek approval for the construction of 750MW of new solar generation facilities?

POSITION: * **Yes. The Stipulation meets DEF’s system needs, provides significant economic benefits to all of DEF’s customers with fair, just and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools, and families.***

ISSUE 2: Does DEF’s proposed Clean Energy Connection Program and Tariff give any undue or unreasonable preference or advantage to any person or locality or subject the same to any undue or unreasonable prejudice or disadvantage in any respect, contrary to Section 366.03, Florida Statutes?

POSITION: * **No. The Stipulation meets DEF’s system needs, provides significant economic benefits to all of DEF’s customers with fair, just and reasonable rates while concurrently meeting the enormous demand for solar power from participants such as businesses, local governments, schools and families who are more than fully funding program fixed costs.***

ISSUE 3: Should the Commission allow recovery of all costs and expenses associated with the DEF’s proposed Clean Energy Connection Program Tariff in the manner proposed by DEF?

POSITION: * **Yes. The Stipulation meets DEF’s system needs, provides significant economic benefits to all of DEF’s customers with fair, just and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools and families.***

ISSUE 4: Should the Commission approve DEF’s proposed Clean Energy Connection Program and Tariff?

POSITION: ***Yes. The program and tariff provisions, embodied in the Stipulation, meet DEF’s system needs, provide significant economic benefits to all of DEF’s customers with fair, just and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools, and families. ***

ISSUE 5: Should the Commission approve the Stipulation for approval of the Duke Energy Florida, LLC, Clean Energy Connection Program and Tariff, as being in the public interest when taken as a whole?

POSITION: * **Yes. The Stipulation, in its entirety, meets DEF’s system needs, provides significant economic benefits to all of DEF’s customers with fair, just and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools and families. See SACE’s Post-Hearing Brief.***

ISSUE 6: Should this docket be closed?

POSITION: *Yes, after approval of the Stipulation. *

POST-HEARING BRIEF

I. INTRODUCTION

On July 1, 2020, DEF filed a petition for a limited proceeding to approve the CEC program and tariff and Stipulation. CEC is a proposed voluntary shared solar program where participants pay a monthly subscription fee that covers 104.9% of the fixed costs of the ten 74.9 MW solar projects that support the program. T. at 86, 174. In return the participants receive 12.7% of the system economic benefits. T. at 202. The benefits flow to the participants as a monthly bill credit that escalates annually. T. at 203. The subscription fee directly correlates to level of the subscription. The bill credit correlates to the participant's subscription share of the output of the generation of the solar projects. After approximately year 7 of program enrollment, participants can expect to realize a net economic benefit. Id.

The parties to the Stipulation are DEF, SACE, Vote Solar and Walmart. SACE entered into discussions on the design of the program with DEF prior to the filing of the Stipulation. Those discussions led to improvements in the program and clean energy outcomes for customers that eliminated the need for SACE to intervene in the proceeding in order to advocate for changes to the program design. The provisions embodied in the Stipulation significantly accelerate the amount of clean, abundant and inexpensive solar power on DEF's system and are projected to provide \$532 million of economic benefit to all DEF customers, while concurrently meeting the enormous demand for solar power

from businesses, local governments, schools and families in DEF's service territory. T. at 46, 73.

II. ARGUMENT SUMMARY

The Stipulation before the Commission for approval in this docket is in the public interest. The Commission has been presented with substantial competent evidence on the economic benefits of the Stipulation. Those benefits include: a projected net economic benefit of \$532 million for all DEF customers, whether participants in the program or not; and fuel hedging benefits to all customers from fossil gas being displaced by cleaner fuel-free solar power. T. at 46, 315.

The additional solar power from the CEC program solar projects meets DEF's resource needs by cost-effectively eliminating the construction and operation of a 225 MW fossil gas combustion turbine from its near-term plans, and deferring other fossil-fueled units. T. at 315, Ex. 5.

Additionally, the Stipulation provisions expand and ensure access to solar power to more DEF customers including local governments – 17 local governments will be participating if the Stipulation is approved - and a 26 MW allocation for low-income customers with provisions that maximize participation and savings for families that might not otherwise have access to solar power. Stip. at 1, T. at 104.

Moreover, the Stipulation meets the Florida Legislature's intent regarding the promotion of renewable energy, including reducing the state's dependency on fossil gas and reducing volatility of fuel costs. Lastly, the program will provide economic and job creation benefits to local communities. The Legislature has deemed these benefits to be explicitly in the public interest. § 366.91(1), Fla. Stat.

The Commission with its approval of the SolarTogether program last year has shown that's it is willing to consider innovative designs in shared solar programs.¹ The CEC program takes this design to the next step by allocating a significantly higher proportion - almost 90% - of the benefits of the program to all customers with higher participant allocations for low-income customers, and a local government allocation of 10 %. Stip. at 1.

LULAC Witness Rabago offers up power purchase agreements between retail customers and non-utility third parties as an alternative to the program in his testimony. T. at 384. Yet, this alternative is not a currently viable regulatory pathway in Florida for meeting customer demand for solar, let alone on the scale of the proposed CEC program.

III. ARGUMENT: THE STIPULATION IS IN THE PUBLIC INTEREST

A. THE COMMISSION HAS THE AUTHORITY AND SUBSTANTIAL COMPETENT EVIDENCE TO APPROVE THE STIPULATION

The Commission should approve the Stipulation filed July 1, 2020, in this docket in its entirety because it is in the public interest. As a threshold matter, Florida statute provides that “unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.” §120.57(4), Fla. Stat. Moreover, the Commission is not precluded by statute or case law from approving non-unanimous settlements. Citizens v. Graham, 146 So.3d 1143, 1152-54 (Fla. 2014); *see also* South Fla. Hosp. & Healthcare Ass’n v. Jaber, 887 So.2d 1210, 1212-13 (Fla. 2004) (affirming Commission’s approval of a non-unanimous settlement despite absence of full

¹ Florida Public Service Commission, Order No. PSC-2020-0084-S-EI, March 20, 2020.

evidentiary hearing).

The Commission's determination of whether to approve a settlement agreement is based on the public interest standard. Sierra Club v. Brown, 243 So.3d 903, 910-913 (Fla. 2018) (citing Graham, 146 So. 3d at 1164); *see also* Gulf Coast Elec. Coop., Inc. v. Johnson, 727 So.2d 259, 264 (Fla. 1999) (“[I]n the final analysis, the public interest is the ultimate measuring stick to guide the PSC in its decisions”).

The determination of public interest rests “exclusively with the Commission.” Graham 146 So.3d at 1173. The determination of public interest requires a case-specific analysis based on consideration of the Stipulation taken as a whole. *Id.* In this case, the program and tariff provisions embodied in the Stipulation are in the public interest based on the competent and substantial evidence provided to the Commission regarding the economic (and environmental) benefits that flow to all customers from the Stipulation. The benefits are more fully described below.

B. THE STIPULATION PROVIDES SIGNIFICANT ECONOMIC BENEFITS TO ALL DEF CUSTOMERS

Clean Energy Connection is designed similarly to the SolarTogether shared solar program approved by the Commission earlier this year. Order No. PSC 2020-0084-EI. The CEC program consists of 10 solar installations of 74.9 MW that projects the economic system savings of the ten solar installations over their economic life and shares that benefit with all customers and participants in the program. While the SolarTogether program allocated 45% of the system benefits to all customers, the CEC program allocates 87.3% of system benefits. T. at 441, 443. Participants will receive 12.7% of the system benefits over the life of the program in return for covering 104.9% of the program

fixed costs through paying monthly subscription fees T. at 443. CEC is projected to save all DEF customers \$532.7 million of Cumulative Present Value Revenue Requirement (“CPVRR”). T. at 47, Ex. 6. This benefit will accrue on all customer bills over the 30-year term of the program.

DEF has found the projects to be cost-effective for its customers. T. at 85, 106. In projecting the CPVRR system savings, DEF uses the very same load, fuel and CO₂ compliance costs published in its most recent 2020 Ten Year Site Plan. T. at 311-12. DEF calculated the cost effectiveness of the proposed CEC program in the same manner that it performs cost effectiveness evaluations of numerous projects including the development of every Solar Base Rate Adjustment (“SoBRA”) filing it has made to the Commission. T. at 311. In addition to a reference case fuel price projection, and a carbon emissions compliance cost beginning in 2025, DEF performed sensitivities based on low and high fuel price projections, which produced its CPVRR results. T. at 312, Ex. 2, 3, 4.

The reference case fuel scenario projects \$532 million in savings for all customers. DEF system savings will vary with actual future fuel prices. That’s why DEF modeled a high and low fuel price scenario in addition to reference case. The high fuel scenario projects even more savings for all DEF customers. Ex. 4. The low fuel price scenario assumes that the trend of historically low fossil gas prices continues well into the future. In the event of this unlikely outcome, DEF Witness Borsch, provides that in the low fuel price sensitivity compared to the reference fuel price case, the fuel savings is reduced by \$126 million in CPVRR. Id. However, this occurs in an environment in which customers are still saving over \$700 million in fuel costs and in which the total fuel expenditure for the fleet is reduced by over \$3 billion in CPVRR compared to the reference fuel case. T. at 429.

DEF is actively engaged in the solar market and has significant experience in solar cost projections and development. According to DEF Witness Stout, DEF has completed construction of five solar projects that are in operation, has two projects that are currently under construction, and three projects that are in the final development stage. T. at 176. By building on that recent experience, and layering appropriate adjustments to the market that are forecasted for 2023-24, DEF believes that its solar installation costs are conservative and reasonable for the program. Id.

As with any utility investment in a traditional ratemaking processes, the cost of new generation is recovered from the general body of customers initially as a rate increase that is offset by the benefits, such as avoided fuel and environmental compliance cost for solar projects. The fuel and other cost savings decrease rates over the life of this new generation. T. at 441. Therefore it is not unusual, as in the case of the CEC program, that the economic benefits for all customers increase over time. Ex. 31.

C. CEC MEETS SYSTEM NEEDS

The operation of the CEC solar projects provide system benefits to the utility and its customers by eliminating and deferring the need for proposed fossil fuel units in DEF's Ten Year Site Plan. T. at 316; Ex. 5. The CEC projects provide an initial capacity benefit of 427 MW (57% of the nameplate capacity) at the time of the summer peak. T. at 431. This capacity results in the deferral of fossil gas combustion turbines that would otherwise be projected to be needed throughout the 30-year life of the solar projects. Id, Ex. 5. Additionally, DEF must analyze eliminating or deferring even more fossil gas units pursuant to the terms of the Stipulation more fully described below. Stip. at 3. Not only does the CEC

program provide a net economic benefit to all customers, it also meets DEF's resource needs while helping the utility move to a cleaner emission profile.

This cleaner emission profile has important economic hedge benefits for customers. The CEC solar projects will generate electricity with abundant, inexpensive, renewable solar power that will offset the need for burning fossil fuels on the company's system. Since the solar projects have no fuel costs, the solar generation will help insulate all DEF customers from fuel price spikes on their monthly bills. The cleaner emission profile also insulates customers from current emission compliance costs and future CO₂ emission compliance costs. The ten solar installations will reduce CO₂ emissions, at an average rate of approximately 700,000 tons per year. This avoided CO₂ compliance cost is appropriately included in DEF's economic benefit projections for the program. T. at 317, Ex. 4.

LULAC Witness Rabago, while critical of the CEC program, does not deny that the accelerated solar development on DEF's system will meet DEF's system needs. Moreover, Witness Rabago suggests alternatives to the program, such as retail customers entering into power purchase agreements with non-utility third parties. T. at 384. Yet this is not currently a viable regulatory pathway for meeting customer demand for solar in Florida, let alone on the scale of the proposed CEC program. *See* § 366.02, Fla. Stat.; P.W. Ventures v. Nichols 533 So.2d 281 (Fla. 1988). Therefore, innovation is required to realize the benefits of shared solar at scale. The CEC program provides a reasonable regulatory pathway to meet DEF's system needs and the enormous demand for solar power among retail customers while also providing net economic benefit to all DEF customers.

D. CEC MEETS CUSTOMER DEMAND AND MAXIMIZES THE CUSTOMER EXPERIENCE

There is strong demand for solar power in the Florida. The 535 MW that are already presubscribed in the CEC program is a testament to that demand. T. at 73-75. Both utility-scale and rooftop solar installations continue to grow in Florida. Yet, there are residential customers that cannot directly access the economic benefits of solar power because they may rent their homes, live in multi-unit dwellings, or have shaded roofs. Likewise, there are commercial customers that may not own their business property, may not want the responsibility of owning and maintaining rooftop solar, or may just not have enough rooftop space to meet their needs.

Shared solar programs, like CEC, help bridge that gap. The Company has prioritized the customer experience of the program design by providing participants with transparent and flexible subscription terms. The program will allow participation with no upfront subscription fees, flexible subscription amounts, no cancellation fees for leaving the program, and a portability feature that allows the subscription to stay with customers if they move within the DEF service territory. Participation is voluntary and customers can keep their subscription as long as they remain a DEF customer. Participants may unsubscribe at any time. T. at 156; Ex. 9; Stip. at 1.

Additionally, CEC plays a vital role in expanding access to more customers, including low-income families, and a significant number of local governments that are committed to reaching 100% renewable energy or resiliency goals. The stipulation provides for a 26 MW allocation for low-income customers. T. at 101, 106; Stip. at 1. DEF has committed to maintaining that allocation through the first year of the program until filled. Stip. at 1(d). That allocation is larger than the total

size of many shared solar programs, including the Tampa Electric shared solar program approved by this commission last year.² Low-income participants will enjoy a net bill benefit from their first month of participation. T. at 108-09; Ex. 9.

Moreover, there are a number of local governments that have committed to reaching 100% renewable energy goals and making their government operations more resilient. They may not have enough roof space for solar to meet their power renewable energy needs and are limited by current regulation from procuring such power from a non-utility provider. To date, there are 17 local governments that have preregistered for the CEC program. T. at 104. Given Florida's regulatory structure, CEC provides a reasonable and realistic pathway to meeting their goals – while also providing hundreds of millions of dollars of net economic benefit to all DEF customers.

E. THE STIPULATION IMPROVED THE CEC PROGRAM

The Stipulation entered into between DEF and SACE, Vote Solar and Walmart improved the program. T. at 75-76, 258-60; *See* Stip. The improvements include the following:

- A requirement that DEF analyze, no later than 2023, eliminating even more future fossil gas units from its Ten Year Site Plans in favor of additional solar development and battery storage development. Stip. at 3.
- It provides a 10% allocation for local governments that will help them in meeting their respective clean energy and resiliency goals. Stip. at 1(b).
- It contains a significant 26 MW allocation for low-income families. It also requires DEF to co-market the solar program to participants in its low-income energy efficiency programs in order to maximize savings for those families and to maximize participation, and permitting customer participation regardless of arrearage status. Stip. at 1(c), (d).

² Florida Public Service Commission, Order No. PSC-2019-0215-TRF-EI, June 3, 2019

- It provides a framework for data collection and stakeholder engagement related to customer-owned rooftop solar. Stip. at 4.
- It ensures that DEF will competitively bid Engineering, Procurement and Construction for the solar projects, and consider acquiring third-party-owned projects at various stages of development. Stip. at 5-7.

IV. THE STIPULATION PROVIDES BENEFITS THAT THE LEGISLATURE HAS EXPLICITLY DEEMED IN THE PUBLIC INTEREST

The Florida Legislature has explicitly provided that the promotion of renewable energy is in the public interest.

The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida’s growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies. §366.91(1), Fla. Stat. (emphasis added)

The Florida Legislature has also explicitly stated its intent “to promote the development of renewable energy” in order to diversify the types of fuel used to generate electricity in Florida; lessen Florida’s dependence on natural gas; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and minimize the costs of power supply to electric utilities and their customers. §366.92(1), Fla. Stat. Moreover, the Florida Legislature has explicitly authorized the Commission to consider the efficient use of alternative energy resources in establishing fair, just and reasonable rates. §366.041(1), Fla. Stat.

Therefore, the benefits that flow from Stipulation are explicitly in the public interest pursuant to Florida statute. If the Stipulation is approved, will allow DEF to expand and accelerate development of clean, renewable solar power leading to the

construction of 749 MW of solar installations in Florida. CEC's solar power generation will displace the need for a portion of the natural gas currently used to generate electricity on DEF's system, thereby lessening Florida's dependence on natural gas. Ex. 5. This is a benefit that is identified in, and consistent with, Florida statute. Since the fuel for solar power generation is free, it will have the effect of minimizing the volatility of fuel costs to the benefit of all DEF customers T. at 53. DEF projects that CEC will produce rate base, fuel and emission compliance cost savings of \$532 million over the 30-year life of the solar installations Ex. 6. Given the projected savings, it will minimize costs of power supply to DEF and its customers over the life of the program. Moreover, CEC will help make Florida a leader in new innovative technologies and help drive economic development and local jobs through the construction and maintenance of ten solar installations and investments of this scale can also attract clean energy companies to the state. T. at 86. By virtue of being an emission-free resource, it will help improve environmental conditions. For instance, the operation of the solar projects will reduce CO₂ emissions, at an average rate of approximately 700,000 tons per year. In addition, the solar projects will result in reductions of SO₂ and NO_x air pollutants by an annual average of 142 tons and 21 tons, respectively. T. at 317.

V. CONCLUSION

An enhanced level of Commission scrutiny is appropriate for a shared solar program with an innovative design such as CEC. The CEC program builds on a similarly designed program, SolarTogether, approved by the Commission earlier this year and takes it to the next step by allocating almost 90% of benefits to all customers while participants in the program more than fully fund the program's fixed costs. CEC is

projected to provide significant economic system savings, to all customers while meeting DEF's system needs. The fuel cost sensitivity scenarios are reasonably designed to show a range of future price scenarios. The program's solar power additions will create fuel price and emission compliance hedge benefits for all customers. The program is therefore cost effective and reasonably and fairly allocates economic and hedging benefits to all customers. The program's design reflects fair, just and reasonable rates and the totality of benefits are in the public interest and support approval of the Stipulation in its entirety.

RESPECTFULLY SUBMITTED this 9th day of December, 2020

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 9th day of December, via electronic mail on:

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DATED this 9th day of December, 2020.

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