

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Energy conservation cost recovery
clause.**

DOCKET NO. 20210002

Filed: April 12, 2021

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

Pursuant to Sections 120.569, 120.57, Florida Statutes, and Rule 28-106.205, Florida Administrative Code, Southern Alliance for Clean Energy ("SACE"), through its undersigned counsel, files its Petition to Intervene in the above captioned 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 INTERVENORS AND THEIR COUNSEL

2. The name and address of Petitioner is:

Southern Alliance for Clean Energy
P.O. Box 1842
Knoxville, Tennessee 37901
Telephone: (865) 637-6055

3. The name and address of counsel for Petitioner, authorized to receive

all notices, pleadings, and other communications in this docket is:

George Cavros
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite 105
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(954) 295-5714
george@cavros-law.com

III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. SACE received notice of the Florida Public Service Commission's ("Commission") Order No. PSC-2021-002-PCO-EG establishing this docket on January 4 2021.

IV. SACE's SUBSTANTIAL INTERESTS

5. SACE is a non-profit clean energy corporation organized under the laws of Tennessee and authorized to conduct operations in the State of Florida. The purpose of SACE, as explicitly stated in its bylaws, is to advocate for energy plans, policies, and systems that best serve the environmental, public health, and economic interest of communities in the Southeast, including Florida, and recovery of costs associated with such plans, policies and systems. SACE's guiding mission is to promote responsible and equitable energy choices to ensure clean, safe, and healthy communities throughout the Southeast, including Florida. It is well established that energy efficiency is the quickest, cleanest and cheapest way to meet the resource needs of an electric utility. As part of its purpose and mission, SACE advocates for scaling up implementation of this lower cost, lower risk resource. SACE has staff working in Florida to advance energy choices that best serve the economic, environmental, and public health interests of all Floridians, including SACE members. To further its purpose and mission, SACE has presented experts and

provided technical testimony and comments on utility rate structures, resource planning, power plant need determinations, cost recovery, energy efficiency goals and demand side management (“DSM”) programs in numerous forums throughout Florida, including before the Commission. SACE has petitioned to intervene and been granted party status in numerous dockets that relate to economic impacts to customers¹ and was a party in this annual Energy Conservation Cost Recovery Clause docket from 2011 to 2014. There are a substantial number of SACE members residing in the service territories of Florida Power and Light Company and Gulf Power Company, Tampa Electric Company, and Duke Energy Florida (“Utilities”) who are ratepayers and dedicated to advancing SACE’s purpose and mission.

V. STATEMENT OF AFFECTED INTEREST

6. In this docket, the Commission will decide which DSM program costs have been prudently incurred by the Utilities and the conservation cost recovery factors that will be applied to and recovered through electricity bills. Residential customers of the Utilities, including those that are SACE members, will be impacted

¹ Dockets include: In re: Petition for approval of FPL SolarTogether program and tariff of Florida Power & Light Company: Docket No. 20200176-EI; In re: Petition for a limited proceeding to approve clean energy connection program and tariff and stipulation by Duke Energy Florida; Petition for rate increase by Gulf Power Company: Docket No. 20160186-EI; Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC: Docket No. 20170183-EI; In re: Commission Review of Numeric Conservation Goals: Docket Nos. 20190015, 16, 18, 19, 20, 21; *In re: Environmental cost recovery clause*: Docket No. 20140007, 20170007; *In re: Nuclear Cost Recovery Clause*: Docket Nos. 20090009-20170009; *Petition for determination of need for Okeechobee Clean Energy Center Unit 1, by Florida Power & Light Company*: Docket No. 150196; *In re: Energy conservation cost recovery clause*: Docket Nos. 20110002- 20140002; *Request to opt-out of cost recovery for investor-owned electric utility energy efficiency programs by Wal-Mart Stores East, LP and Sam’s East, Inc. and Florida Industrial Power Users Group*: Docket No. 140226; *Petition for determination of need for Citrus County Combined Cycle Power Plant, by Duke Energy Florida, Inc.*: Docket No. 20140110; *Commission review of numeric conservation goals- 2014*: Docket Nos. 130199, 130200, 130201, 130202; *Commission review of numeric conservation goals -2009*: Docket Nos. 080407-13; *Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.*: Docket No. 20100437-EI; and *In re: Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company*: Docket No. 20070467-EI.

by virtue of being billed for and paying electricity bills. Therefore, the pecuniary interest of SACE members is substantially affected by the decisions that flow from this docket. This proceeding will provide SACE and other parties, and the Commission, the opportunity to test the prudence of costs expended to meet Commission-established goals, prior to costs being passed on to the Utilities' customers, including customers that are SACE members.

7. In addition to economic impact on SACE members, the Utilities' costs in implementing DSM programs, if not prudently incurred, can negatively impact the support for energy efficiency among the public and this Commission, and thereby negatively impact SACE's purpose and mission. Therefore, the outcome of this docket substantially affects the purpose and mission of SACE and its members in advocating for responsible and equitable energy choices that best serve the economic and environmental interests of Floridians, including those that are SACE members.

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

Organization, Inc. v. Department of Health and Rehabilitative Services, 417 So. 2d 753, 754 (Fla. 1st DCA 1982), which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981). SACE satisfies all of the associational standing requirements. First, a substantial number of the SACE's members are located in the Utilities' service territory and receive and are billed for electricity service. Therefore, SACE members will be directly and substantially affected financially as well as through its mission of advocating for low cost, low risk resources such as energy efficiency. Secondly, SACE has a long history of representing its members' pecuniary and clean energy interests before this Commission –including in this annual docket in previous years. Therefore, this proceeding is well within the scope of SACE's mission. Finally, the requested relief - intervention in this annual docket - that substantially affects both its members' economic and clean energy interests, is appropriate for SACE to seek on behalf its members.

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

VI. STATEMENT OF DISPUTED ISSUES OF FACT

- Whether the expenses for which the Utilities seek recovery are prudent,

- Whether the proposed energy conservation cost recovery clause factors are appropriate.

SACE reserves the right to add additional issues in accordance with the Commission's rules and the Order Establishing Procedure.

VII. STATEMENT OF ULTIMATE FACT

10. SACE's allegations of ultimate facts include, but are not limited to, whether the individual Utilities have met their burden of proof that the energy conservation costs were prudently incurred.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

11. 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. §§ 366.81-82, Fla. Stat.; and
- d. R. 28-106.205, F.A.C.

IX. CONFERRAL WITH OTHER PARTIES

12. Pursuant to R. 28-106.204, F.A.C., SACE has reached out to confer with the counsel of Florida Power and Light and Gulf Power Company, Duke Energy Florida, LLC, Tampa Electric Company, FPUC, FIPUG, PCS Phosphate and can represent that they take no position. SACE reached out to OPC as well but was not able to identify its position by the time of this filing.

X. RELIEF SOUGHT

13. WHEREFORE, SACE respectfully requests that the Commission enter an order granting it leave to intervene in the above-styled docket as a full party, and further requests parties to provide the undersigned with all pleadings, testimony, evidence and discovery filed in the docket.

RESPECTFULLY SUBMITTED this 12th day of April 2021

/s/ George Cavros
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Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite
105
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(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 12th day of April, 2021 via electronic mail on:

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<p>James Brew PCS Phosphate 1025 Thomas Jefferson St., NW, Ste. 800 W Washington, DC. 20007 jbrew@smxblaw.com</p>	<p>Jon C. Moyle, Jr./Karen Putnal/Ian Waldick Florida Industrial Power Users Group 118 North Gadsden Street Tallahassee, FL 32301 jmoyle@moylelaw.com kputnal@moylelaw.com iwaldick@moylelaw.com</p>
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/s/ George Cavros
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DATED: April 12, 2021