

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by Duke  
Energy Florida, LLC.  
(Duke Energy Florida)

Docket No: 20240025-EI

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

Pursuant to sections 120.569, 120.57(1), Florida Statutes, and Rule 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 proceedings, and in support thereof states:

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

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

2. The name and address of Petitioner is:

Southern Alliance for Clean Energy  
P.O. Box 1842  
Knoxville, TN 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:

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4. Notice of Agency’s Proposed Action. Petitioner received notice of the Florida Public Service Commission’s (“Commission”) action in this matter through the filing of Duke Energy Florida, LLC’s (“DEF”) Test Year Notification on January 31, 2024. Petitioner regularly reviews the Commission’s online docket to identify matters of interest to itself and its members.

5. Intervenor’s Substantial Interests. SACE is a non-profit clean energy corporation organized under the laws of the State of Tennessee and is 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 Southeastern United States, including Florida, and recovery of costs associated with such plans, policies, and systems. As part of that mission, SACE places a priority on promoting responsible and equitable energy choices to ensure clean, safe, and healthy communities throughout the Southeast, including Florida.

6. SACE has staff in Florida working to advance these goals. In addition, there are more than 8,000 SACE members residing in Florida and dedicated to promoting efficient, clean, safe, and economically and environmentally responsible energy choices. A substantial number of SACE’s Florida members reside in DEF’s service territory, approximately 1,602,<sup>1</sup> who are ratepayers and dedicated to advancing SACE’s purpose and mission.

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 intervenor status by this Commission in numerous

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<sup>1</sup> SACE identifies 1,602 members who are certain to reside within the DEF service territory, that is, who have provided their full address and who live within a zip code or at an address that can be determined clearly to fall entirely within DEF’s territorial boundaries.

proceedings, including in: *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 20210015-EI; *In re: Petition for approval of FPL SolarTogether program and tariff of Florida Power & Light Company*, Docket No. 2020176-EI; *In re Commission review of numeric conservation goals*, Docket Nos. 20190015-EG – 20190021-EG; *In re: Commission review of numeric conservation goals*, Docket Nos. 130199-EI – 130203-EI; *In re: Commission review of numeric conservation goals*, Docket Nos. 08407-EG – 080413-EG; *In re: Nuclear Cost Recovery Clause*, Docket Nos. 20090009, 20100009, 20110009, 20120009, 20130009, 20140009, 20150009, 20160009, and 20170009; *In re: Environmental cost recovery clause*, Docket Nos. 20170007 and 20140007; *In re: Energy conservation cost recovery clause*, Docket Nos. 20110002, 20120002, 20130002 and 20140002; *In re: Petition for determination of need for Okeechobee Clean Energy Center Unit 1, by Florida Power & Light Company*, Docket No. 150196; *In re: 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; *In re: Petition for determination of need for Citrus County Combined Cycle Power Plant, by Duke Energy Florida, Inc.*, Docket No. 20140110; *In re: 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.

8. Statement of Affected Interests. The DEF rate plan, if approved, will allow DEF to raise its revenue requirements by \$593 million in 2025, and thereafter, \$98 million in 2026 and \$129 in 2027, for a total increase in revenue requirements of \$820 million within the next three years. Included in the revenue requirement is a request for an 11.15% return on common equity

capital, representing a 67-basis point increase in the approved midpoint for return on equity (“ROE”). The cost to support this additional revenue requirement will be borne by DEF customers through their power bills, including DEF customers that are SACE members.<sup>2</sup> SACE members, as ratepayers, will be directly and substantially affected by DEF’s proposed rate plan and could be further affected economically in the long term by DEF’s choice to invest additional capital into its fleet of combustion turbines instead of expanding its use of battery storage. It is not clear that DEF performed a meaningful evaluation of lower cost, lower risk demand side management alternatives before making further capital investments into its fossil gas infrastructure. This proceeding will provide SACE and other parties, and the Commission, the opportunity to test the prudence of investments made by DEF, and expenses, prior to costs being passed on to DEF customers, including DEF customers who are also SACE members.

9. In addition to economic impact, the DEF rate plan substantially affects the purpose and mission of SACE because it includes capital projects and programs that will affect resource decisions and clean energy outcomes in the state for years to come, including but not limited to DEF’s energy mix and corresponding emission profile, fossil gas plant and infrastructure expansion, timing of fossil fueled plant retirements, solar development, the number of battery storage installations, and EV infrastructure and related EV adoption rates. DEF’s continued investment into the expansion of capacity in its fossil gas units, for example, can detrimentally affect SACE’s and its members’ mission in working to ensure responsible and equitable energy choices that lead to safer and healthier communities as expansion of capacity in fossil gas units and delayed retirement of coal units locks in greenhouse gas emissions and other air pollutants

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<sup>2</sup> As stated in DEF’s own filings, if approved, the DEF rate plan will increase the residential base electricity rates of its customers, denying them savings they would otherwise realize from the end of the 2022 fuel under-recovery and the conclusion of storm cost recovery.

from these units for years, and in some cases, decades, exacerbating climate change, and poor air quality in local communities. While SACE supports investment in solar power and EV programs, it works to ensure that the program designs proposed by any utility meet the program's stated purpose by maximizing results that lead to cost-effective and equitable outcomes. Therefore, the introduction of these and other newly proposed programs and policies in the DEF rate plan substantially affect clean energy the clean energy purpose and mission of SACE and its members.

10. These are exactly the type of interests this proceeding is designed to protect for associations such as SACE and its members. *See, Ameristeel Corp. v. Clark*, 691 So. 2d 473 (Fla. 1997); *Agrico Chemical Co. v. Department of Environmental Regulation*, 415 So. 2d 1359 (Fla. 1982). To establish its standing as a representative of its members' substantial interests, an association like SACE must demonstrate the following: 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 Ass'n 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. 1<sup>st</sup> DCA 1982).

11. SACE satisfies each of the requirements set forth in *Florida Homebuilders*.

12. A substantial number of SACE's members reside within DEF's service territory and receive from and are billed by DEF for electricity service. These SACE members are therefore directly and substantially affected financially as well as through the energy choices embedded within the DEF rate plan that would be financed by revenues secured from such SACE members paying DEF's rates. Each such SACE member residing within DEF's service territory would have

individual standing to intervene personally, though most are unlikely to have the resources in time, money, or knowledge to do so on their own.

13. As indicated above, SACE's bylaws articulate its purpose to "advocate for energy plans, policies, and systems that best serve the environmental, public health, and economic interest including recovery of costs associated with such plans, policies and systems of communities in the Southeast." Further, SACE's bylaws explicitly authorize the organization to engage in advocacy and litigation in furtherance of its purposes. SACE has a long history of representing its members' pecuniary and clean energy interests before this Commission, including in previous rate cases. As a result, this proceeding is will within the scope of SACE's interests and activities.

14. 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.

15. Disputed Issues of Material Fact. SACE anticipates that assertions of material facts will be in dispute in these proceedings. However, at this time, SACE cannot identify all disputed issues of material fact because the utilities have not yet submitted their filings.

16. SACE anticipates that the disputed issues of material fact in these proceedings will include, but are not limited to, the following, and reserves the right to identify additional issues of material fact as they arise:

- a. Whether the proposed ROE is commensurate with that of other enterprises having corresponding risks;
- b. Whether the proposed ROE leads to fair, just and reasonable rates;

- c. Whether the jurisdictional values for setting the rate base are appropriate;
- d. Whether the DEF proposed rate plan produces fair, just and reasonable rates;
- e. Whether the investments proposed in the multi-year rate plan are prudent;
- f. Whether newly introduced programs are designed to meet their stated objective in a cost-effective and equitable fashion.

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

17. Disputed Legal Issues. SACE anticipates that issues of law may be in dispute during these proceedings. However, at this time, SACE cannot identify all disputed issues of law, but reserves the right to interpose or dispute assertions of law as they arise during the proceedings.

18. Statement of Ultimate Facts Alleged. SACE's allegations of ultimate facts include, but are not limited to, whether DEF has met its burden of proof that it is entitled to a rate increase, and whether DEF has met its burden of proof that the proposed rate increase will result in fair, just, and reasonable rates. SACE reserves the right to revise or add to this statement of ultimate facts alleged when procedurally appropriate to do so.

22. Laws Entitling Petitioner to Relief. 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. §§ 366.04-366.06, Fla. Stat.;
- d. Rule 28-106.201, F.A.C.; and
- e. Rule 28-106.205, F.A.C.

23. Prayer for Relief. The Southern Alliance for Clean Energy respectfully requests that the Commission enter an Order granting it leave to intervene in the above-named matters as a full party, and further requests parties to provide the undersigned with all pleadings, testimony, exhibits, evidence, and discovery filed in said matters.

24. Statements Required by Rule 28-106.204(3), Florida Administrative Code. The above-captioned matters are not subject to the proposed agency action procedure. Therefore, it is premature at this time to state whether SACE supports or opposes the Commission's preliminary action. Pursuant to Rule 28-106.204(3), Florida Administrative Code, undersigned has conferred with counsel for all other parties of record, and no such party has stated an objection to this Petition. FPSC staff, PCS Phosphate, Florida Rising and LULAC, and the Florida Retail Federation take no position on the Petition. OPC and Sierra Club indicate that they support the Petition. DEF states that it takes no position but reserves the right to respond pending review of the Petition. FIPUG has not responded to inquiries sent via email on Friday, April 19, 2024 at 3:19 p.m., and Monday April 22, 2024 at 3:19 p.m.

RESPECTFULLY SUBMITTED this 23rd day of April, 2024.

/s/ William C. Garner

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this  
23rd day of April, 2024 via electronic mail on:

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