

**Marguerite McLean**

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**From:** ljacobs50@comcast.net  
**Sent:** Friday, October 24, 2008 4:59 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Katherine Fleming; wade\_litchfield@fpl.com; paul.lewisjr@pgnmail.com; Regdept@tecoenergy.com; sdriteno@southernco.com; milta@jea.com; mseagrave@fuc.com; cheryl\_martin@fpuc.com; burgess.steve@leg.state.fl.us  
**Subject:** Numeric Conservation Goals DN 080407-080413 Petition to Intervene - SACE; NRDC  
**Attachments:** Joint Petitrn to Intervene SACE-NRDC.doc



**Joint  
Intervene  
Electronic Filing**

**a. Person filing  
E. Leon Jacobs  
Williams & Jacobs  
1720 S. Gadsden St**

**b Document filed  
NRDC and SACE Petition to intervene  
. Docket No. 080407-EG Florida Power & Light Company;  
Docket No. 080408-EG Progress Energy, Florida, Inc. ;  
Docket No. 080409-EG Tampa Electric Company;  
Docket No. 080410-EG Gulf Power Company ;  
Docket No. 080411-EG Florida Public Utilities Company;  
Docket No. 080412-EG Orlando Utilities C; and  
Docket No. 080413-EG Jacksonville Electric Authority**

**c. 8 pages**

*Dme 11/5/08  
R.V.N.*

WILLIAMS & JACOBS, LLC

ATTORNEYS AT LAW  
1720 S. GADSDEN ST. MS. 14  
TALLAHASSEE, FL 32301

MOSES WILLIAMS, ESQ.

E. LEON JACOBS, JR., ESQ.

October 24, 2008

Ann Cole  
Director, Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, Florida 32399-0850

RE: Docket No. 080407-EG Florida Power & Light Company;  
Docket No. 080408-EG Progress Energy, Florida, Inc. ;  
Docket No. 080409-EG Tampa Electric Company;  
Docket No. 080410-EG Gulf Power Company ;  
Docket No. 080411-EG Florida Public Utilities Company;  
Docket No. 080412-EG Orlando Utilities C; and  
Docket No. 080413-EG Jacksonville Electric Authority

Dear Ms. Cole:

On behalf of the Southern Alliance for Clean Energy, and the Natural Resources Defense Council, I have enclosed for filing Petitions to Intervene in the above-stated dockets. I thank you for your attention to this matter.

Sincerely,

*/s/ E. Leon Jacobs, Jr.*

E. Leon Jacobs, Jr.  
Attorney for Intervenor

Enclosures

DOCUMENT NUMBER-DATE

10113 OCT 24 8

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Commission Review of Numeric ) DOCKET NO. 080407-EG  
Conservation Goals )  
Florida Power & Light Company )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 080408-EG  
Conservation Goals )  
Progress Energy, Florida, Inc. )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 080409-EG  
Conservation Goals )  
Tampa Electric Company )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 080410-EG  
Conservation Goals )  
Gulf Power Company )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 080411-EG  
Conservation Goals )  
Florida Public Utilities Company )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 080412-EG  
Conservation Goals )  
Orlando Utilities Commission )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 080413-EG  
Conservation Goals )  
Jacksonville Electric Authority )  
\_\_\_\_\_ )

**JOINT PETITION TO INTERVENE OF  
THE NATURAL RESOURCES DEFENSE COUNCIL AND  
THE SOUTHERN ALLIANCE FOR CLEAN ENERGY**

Petitioners the Natural Resources Defense Council (“NRDC”) and the Southern Alliance for Clean Energy (“SACE”), pursuant to Rule 25-22.039, F.A.C., hereby file this petition for leave to intervene in this docket and state:

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

2. The names and addresses of Petitioners are:

Natural Resources Defense Council  
40 West 20<sup>th</sup> Street  
New York, NY 10011

and

Southern Alliance for Clean Energy  
P.O. Box 1842  
Knoxville, Tennessee 37901

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

E. Leon Jacobs, Jr.  
Williams & Jacobs, LLC  
1720 S. Gadsden St. MS 14  
Suite 201  
Tallahassee, Florida 32301  
(850) 222-1246  
(850) 599-9079 fax  
[Ljacobs50@comcast.net](mailto:Ljacobs50@comcast.net)

4. Petitioners received notice of the Florida Public Service Commission’s (“Commission”) action through its Notice of Commission Workshop issued by the Commission on October 8, 2008.

5. SACE is a non-profit corporation organized under the laws of the state of Tennessee. The mission of SACE is to promote responsible, economic energy choices that solve global warming problems and ensure clean, safe and healthy communities throughout the Southeast, including the State of Florida. SACE has staff working on this mission in Tennessee, North Carolina, Florida, Georgia and South Carolina. There are 1,781 SACE members in Florida, dedicated to the promotion of responsible energy choices. In furtherance of its mission, SACE has been granted intervention by the Commission in a number of FPSC proceedings, including *In re: Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company*, Docket No. 070467-EI.

6. NRDC is a nonprofit New York corporation, whose purpose is to safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends. NRDC has over 25 years of experience in the areas of utility regulation and energy efficiency policy. NRDC has a total constituency of over 1.2 million members and activists, including over 25,000 in Florida. NRDC has devoted particular focus to energy policy in the state, having participated as a party in numerous proceedings before this Commission.

7. Petitioners are deeply involved in advocacy on adoption, implementation, and enforcement of meaningful energy policy, during the course of which they have presented experts and provided testimony in numerous forums in Florida, including before the Governor's Climate and Energy Action Team, the Florida State Legislature, the Department of Environmental Protection and this Commission. Petitioners place an especially high priority on the importance of thoroughly evaluating all cost-effective energy efficiency measures as a means of mitigating or displacing the need for new, non-renewable electricity generation.

## **STATEMENT OF AFFECTED INTERESTS**

8. The Commission in these series of dockets will determine the numeric goals for the implementation of conservation and energy efficiency by the major generating electric utilities in Florida. The costs of the facilities and programs through which the utilities advance these goals are passed along to ratepayers of each company through cost recovery proceedings. Additionally, the Florida Legislature has directed that through this goal setting process, the Commission should guide utilities in developing plans and facilities to increase energy efficiency, conservation and demand-side resources within their respective service territories. Thus, the substantial interests of members of SACE and NRDC are affected in these proceedings because they will bear the costs of programs presented by utilities, and because they will rely on these proceedings to ensure that the most cost-effective measures and programs are made available by the utilities to maximize savings from energy efficiency, conservation and demand-side resources, as alternatives to fossil fuel-generated electric energy. The interests of members of SACE and NRDC are the type of interests this proceeding is designed to protect. *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. 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).

## **STATEMENT OF DISPUTED ISSUES OF FACT**

9. Petitioners cannot at this point identify any disputed issues of material fact because the utilities have not yet submitted their filings in these proceedings.

## **STATEMENT OF ULTIMATE FACTS**

10. Goals in these proceedings are the first to be established under amendments to section 366.82, Florida Statutes (F.S.), adopted in 2008. Amended s. 366.82 imposes additional requirements on the Commission in evaluating and approving these numeric goals. Specifically, the Legislature added requirements that the Commission “evaluate the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems.” s. 366.82(3), F.S. Also, the Commission is required, for the first time to assess these goals in terms of the ability of conservation, energy efficiency and demand-side resources to impact the costs imposed by state and federal regulations on emission of greenhouse gases. Among other provisions in these amendments, the Commission is required to assess data filed by the newly formed Florida Energy and Climate Commission, and reach conclusion on the potential of energy efficiency, conservation and demand-side resources to contribute to a least-cost energy portfolio for Florida. Petitioners allege that these requirements necessarily expand and refocus the required data, analysis and deliberations by which numeric goals for energy efficiency, conservation and demand-side resources are established in Florida. See *In re: Adoption of Numeric Conservation Goals and Consideration of National Energy Policy Act Standards (Section 111)*, FPSC Order No. PSC-94-1313-FOF-EG, October 25, 1994.

11. Petitioners allege that the numeric goals adopted under amended s. 366.82, must evaluate the full potential of energy efficiency, conservation and demand-side resources, to include matching their life-cycle costs and benefits to the avoided costs of fossil fuel generation, in a regulatory regime that actively considers costs to reduce greenhouse gases.

**STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED**

12. The statutes and rules that require the relief requested by Petitioners include, but are not limited to Chapter 120, F.S., sections 366.80 – 366.85 Florida Statutes, and Rules 25-22.039, 25-22.080, and 25-22.081, F.A.C.

13. Rule 25-22.039, Florida Administrative Code, provides that persons whose substantial interests are subject to determination in, or may be affected through an agency proceeding are entitled to intervene in such proceeding.

23. The Florida Energy Efficiency and Conservation Act, sections 366.80 – 366.85 , Florida Statutes, provides the Commission with jurisdiction over the establishment of numeric goals for energy efficiency, conservation and demand-side resources in the State.

**RELIEF SOUGHT**

30. WHEREFORE, NRDC and SACE respectfully request that the Commission enter an order granting them leave to intervene in the above-styled series of dockets, and further requests parties to provide the undersigned with all pleadings, testimony, evidence and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of October, 2008

**/s/ E. Leon Jacobs, Jr.**

E. Leon Jacobs, Jr.  
Williams & Jacobs, LLC  
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Suite 201  
Tallahassee, Florida 32301  
Florida Bar Id. 0714682  
(850) 222-1246  
(850) 599-9079 fax  
[Ljacobs50@comcast.net](mailto:Ljacobs50@comcast.net)



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 24<sup>th</sup> day of October via the Internet and via US Mail on:

Katherine Fleming Florida Public Service Commission Gerald L. Gunter Building 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850	J.R. Kelly / Stephen Burgess Office of Public Counsel c/o The Florida Legislature 11 I W. Madison Street, Room 8 12 Tallahassee, FL 32399-1400
Wade Litchfield, Esq. Florida Power & Light Company 215 S. Monroe Street, Suite 810 Tallahassee, Florida 32301-1859	Mr. Paul Lewis, Jr. Progress Energy Florida 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740
John T. Burnett / R. Alexander Glenn Progress Energy Service Company, LLC Post Office Box 14042 St. Petersburg, FL 33733-4042	Paula K. Brown Tampa Electric Company Regulatory Affairs P. O. Box 111 Tampa, FL 33601-0111
Susan D. Ritenour Gulf Power Company One Energy Place Pensacola, FL 32520-0780	John T. English Florida Public Utilities Company P. O. Box 3395 West Palm Beach, FL 33402-3395
Chris Browder Orlando Utilities Commission P. O. Box 3193 Orlando, FL 32802-3193	Teala M. Milton JEA V.P., Government Relations 21 West Church Street, Tower 16 Jacksonville, FL 32202-3158

This 24<sup>th</sup> day of October, 2007.

**/s/ E. Leon Jacobs, Jr.**