

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).

DOCKET NO. 130199-EI

In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.).

DOCKET NO. 130200-EI

In re: Commission review of numeric conservation goals (Tampa Electric Company).

DOCKET NO. 130201-EI

In re: Commission review of numeric conservation goals (Gulf Power Company).

DOCKET NO. 130202-EI

In re: Commission review of numeric conservation goals (JEA).

DOCKET NO. 130203-EM

Dated: June 20, 2014

**JOINT RESPONSE IN OPPOSITION TO  
MOTION FOR LEAVE TO FILE REPLY**

Duke Energy Florida, Inc., Florida Power & Light Company, Gulf Power Company, JEA and Tampa Electric Company (collectively, "FEECA Utilities"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby file their response in opposition to the motion for leave to file a reply filed by The Alliance for Solar Choice ("TASC"), and in support thereof state:

1. On June 10, 2014, TASC filed a Petition to Intervene in the above DSM goals dockets. After the FEECA Utilities filed a response in opposition to the Petition, TASC filed a motion for leave to file a reply on June 18, 2014.

2. In its motion, TASC offers two grounds as "good cause" for granting it leave to file a reply. First, TASC asserts that the FEECA Utilities' response includes "factual mischaracterizations" concerning the alleged interests of TASC's members in these dockets. Second, TASC asserts that the FEECA Utilities' response is "in legal error" by citing to prior

Commission orders interpreting FEECA's "zone of interests" without "taking into account" subsequent statutory amendments.

3. As to the first point, the factual distinctions that TASC seeks to draw in support of its motion would not have a material impact on the standing analysis and, therefore, do not constitute good cause for TASC to file a reply. Even if TASC's members are "roof-top solar developers," rather than wholesale solar suppliers or energy auditors like the proposed intervenors who were denied intervention in the prior orders cited by the FEECA utilities, their economic and proprietary interests, like those of the solar interests addressed in the Commission's prior orders, depend upon factors extraneous to these proceedings such as consumer reactions. *See* Order No. PSC-95-1346-S-EG, Docket No. 941173-EG, at pp. 8-9 (Nov. 1, 1995). As such, their interests are too speculative and indirect to satisfy the "injury in fact" prong of the *Agrico* standing test under the logic of the Commission's prior orders. In short, TASC's motion offers distinctions without a difference that could justify the filing of a reply.

4. As to TASC's second point, there is no "legal error" in the FEECA Utilities' response. The mere fact that FEECA was amended in 2008 to specifically reference "demand-side renewable energy systems" does not impact the Commission's standing analysis and, therefore, does not justify TASC's proposed reply. The prior Commission orders discussed in the FEECA Utilities' response specifically recognized that FEECA, even prior to the 2008 amendments, "encouraged" the use of solar energy and other renewable resources. *See* Order No. PSC-95-1346-S-EG, Docket No. 941173-EG, at p. 10 (Nov. 1, 1995); Order No. PSC-95-1343-S-EG, Docket No. 941170-EG, at p. 13 (Nov. 1, 1995). Notwithstanding that FEECA encouraged the use of solar energy, the Commission concluded that it was not intended to

promote businesses, to protect business markets, or to protect the competitive economic interests of the solar industry. TASC's motion offers no valid support for its claim of legal error.

**WHEREFORE**, the FEECA Utilities respectfully request that the Commission deny TASC's motion for leave to file a reply to the FEECA Utilities' joint response in opposition to TASC's petition to intervene.

Respectfully submitted,

DUKE ENERGY FLORIDA, INC.  
Dianne M. Triplett, Esq.  
Matthew R. Bernier, Esq.

BY: /s/Dianne M. Triplett

GULF POWER COMPANY  
Jeffrey A. Stone, Esq.  
Russell A. Badders, Esq.  
Steven R. Griffin, Esq.

BY: /s/Steven R. Griffin

TAMPA ELECTRIC COMPANY  
James D. Beasley, Esq.  
J. Jeffrey Wahlen, Esq.  
Ashley M. Daniels, Esq.

BY: /s/James D. Beasley

FLORIDA POWER & LIGHT COMPANY  
Wade R. Litchfield, Esq.  
John T. Butler, Esq.

BY: /s/John T. Butler

JEA

BY: /s/Gary V. Perko  
Gary V. Perko  
HOPPING GREEN & SAMS, P.A.  
119 South Monroe St., Suite 300 (32301)  
P. O. Box 6526  
Tallahassee, Florida 32314  
Phone: 850/222-7500  
Fax: 850/224-8551

**CERTIFICATE OF SERVICE**  
**DOCKET NOS. 130199-EI, 130200-EI, 130201-EI, 130202-EI & 130203-EM**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic delivery this 20th day of June, 2014 to the following:

Charles Murphy, Esq.  
Lee Eng Tan, Esq.  
Kelley F. Corbari, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
Cmurphy@psc.state.fl.us  
Ltan@psc.state.fl.us  
kcorbari@psc.state.fl.us

Steven L. Hall, Senior Attorney  
Office of General Counsel  
Florida Department of Agriculture & Consumer  
Services  
407 South Calhoun Street, Suite 520  
Tallahassee, FL 32399  
Steven.Hall@freshfromflorida.com  
Attorney for DOACS

Diana A. Csank, Esq.  
Sierra Club  
50 F Street, N.W., 8<sup>th</sup> Floor  
Washington, D.C. 20001  
Diana.Csank@Sierraclub.org  
Attorney for Sierra Club

Jon C. Moyle, Jr., Esq.  
Karen Putnal, Esq.  
Moyle Law Firm, P.A.  
118 N. Gadsden Street  
Tallahassee, FL 32301  
jmoyle@moylelaw.com  
kputnal@moylelaw.com  
Attorneys for FIPUG

George Cavros, Esq.  
Southern Alliance for Clean Energy  
120 E. Oakland Park Blvd., Suite 105  
Fort Lauderdale, FL 33334  
george@cavros-law.com  
Attorney for SACE

Alisa Coe, Esq.  
David G. Guest, Esq.  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, FL 32301  
acoe@earthjustice.org  
dguest@earthjustice.org  
Attorneys for SACE

James W. Brew, Esq.  
F. Alvin Taylor, Esq.  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, NW  
Eighth Floor, West Tower  
Washington, DC 20007-5201  
jbrew@bbrslaw.com  
ataylor@bbrslaw.com  
Attorneys for PCS Phosphate-White Springs

J. Stone, Esq.  
R. Badders, Esq.  
S. Griffin, Esq.  
Beggs & Lane  
P.O. Box 12950  
Pensacola, FL 32591-2950  
jas@beggslane.com  
rab@beggslane.com  
srg@beggslane.com  
Attorneys for Gulf Power Company

Dianne M. Triplett, Esq.  
Matthew R. Bernier, Esq.  
299 First Avenue North  
St. Petersburg, Florida  
dianne.triplett@duke-energy.com  
matthew.bernier@duke-energy.com  
Attorneys for Duke Energy

Mr. Paul Lewis, Jr.  
106 East College Avenue, Suite 800  
Tallahassee, FL 32301-7740  
paul.lewisjr@duke-energy.com

Mr. W. Christopher Browder  
P. O. Box 3193  
Orlando, FL 32802-3193  
cbrowder@ouc.com  
Orlando Utilities Commission

Ms. Cheryl M. Martin  
1641 Worthington Road, Suite 220  
West Palm Beach, FL 33409-6703  
cyoung@fpuc.com  
Florida Public Utilities Company

Robert Scheffel Wright, Esq.  
John T. LaVia, Esq.  
Gardner, Bist, Wiener, Wadsworth,  
Bowden, Bush, Dee, La Via & Wright, P.A.  
1300 Thomaswood Drive  
Tallahassee, Florida 32308  
schef@gbwlegal.com  
jlavia@gbwlegal.com  
Attorneys for Walmart

J. Beasley, Esq./J. Wahlen, Esq./A. Daniels, Esq.  
Ausley Law Firm  
Post Office Box 391  
Tallahassee, FL 32302  
jbeasley@ausley.com  
jwahlen@ausley.com  
adaniel@ausley.com  
Attorneys for Tampa Electric

Ms. Paula K. Brown  
Regulatory Affairs  
P. O. Box 111  
Tampa, FL 33601-0111  
Regdept@tecoenergy.com  
Tampa Electric

Mr. P. G. Para  
21 West Church Street, Tower 16  
Jacksonville, FL 32202-3158  
parapg@jea.com  
JEA

Mr. Robert L. McGee, Jr.  
One Energy Place  
Pensacola, FL 32520-0780  
rlmcee@southernco.com

John T. Butler, Esq.  
Jessica Cano, Esq.  
700 Universe Boulevard  
Juno Beach, FL 33408  
[John.Butler@FPL.com](mailto:John.Butler@FPL.com)  
[Jessica.Cano@fpl.com](mailto:Jessica.Cano@fpl.com)

J.R. Kelly, Esq.  
Erik L. Saylor, Esq.  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
kelly.jr@leg.state.fl.us  
saylor.erik@leg.state.fl.us

John Finnigan  
Environmental Defense Fund  
128 Winding Brook Lane  
Terrace Park, OH 45174  
jfinnigan@edf.org

Thadeus B. Culley  
Keyes, Fox & Wiedman LLP  
The Alliance for Solar Choice  
401 Harrison Oaks Blvd., Ste 100  
Cary, NC 27513  
tculley@kfwlaw.com

By: /s/ Gary V. Perko  
Gary V. Perko  
Fla. Bar No. 855898