

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of demand-side
management plan of Duke Energy Florida, Inc.

DOCKET NO. 150083-EI
FILED: May 7, 2015

PETITION TO INTERVENE BY
SOUTHERN ALLIANCE FOR CLEAN ENERGY

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rules 25-22.039 and 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 docket 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 Petitioners, authorized to receive all notices, pleadings, and other communications in this docket is:

George Cavros, Esq.
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(866) 924-2824 (fax)

III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. Petitioners received notice of the Florida Public Service Commission's ("Commission") through the Company's petition filing on the Commission's website.

IV. THE INTERVENOR'S SUBSTANTIAL INTERESTS

5. SACE is a non-profit clean energy corporation organized under the laws of the state of Tennessee and 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 Southeast, including Florida. SACE's stated mission is to promote responsible energy choices that create climate change solutions and ensure clean, safe and healthy communities throughout the Southeast. SACE places an especially high priority on the importance of thoroughly evaluating and implementing all cost-effective energy efficiency programs as a means of mitigating or displacing the need for new more costly non-renewable generation.

6. SACE has staff in Florida working to advance energy plans and policies that best serve the environmental, public health and economic interests of communities in Florida. In addition, there are 247 SACE members residing in Florida and dedicated to promoting responsible energy choices that achieve clean, safe and healthy communities. A substantial number of SACE's Florida members reside in the service territory of Duke Energy Florida, Inc. ("DEF"), with 39 members.

7. To further its mission, SACE has presented experts and provided technical testimony in numerous forums throughout Florida, including before the Florida State Legislature, the Department of Environmental Protection, and this Commission. SACE has been granted

intervention by this Commission in a number of energy efficiency, cost recovery and resource need proceedings, including *In re: Commission review of numeric conservation goals*, Docket Nos. 080407-EG – 080413-EG and 130199-EI – 130022-EI; *In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc.*, Docket No. 100160-EG; *In re: Petition of approval of demand-side management plan of Tampa Electric Company*, Docket No. 100159-EG; *In re: Petition of approval of demand-side management plan of Florida Power & Light Company*, Docket No. 100155-EG; *In re: Petition of approval of demand-side management plan of Gulf Power Company*, Docket No. 100154-EG; and in the *In re: Energy conservation cost recovery clause*, Docket Nos. 110002-EG- 140002-EG.

STATEMENT OF AFFECTED INTERESTS

8. Consistent with its mission, SACE and its members advocate for low cost, low risk resources to meet electricity demand, with a particular focus on meaningful levels of energy efficiency implementation and proper program design. SACE was a party in the Commission's most recent energy conservation goal setting proceedings, consolidated Docket Nos. 130199 - 130204. In those dockets, the issue of so-called "free-ridership" was debated, with SACE arguing that the practice of eliminating programs with a customer payback of 2 years or less had not been based on any utility empirical data. Without data on free-ridership as part of an evaluation, measurement and verification ("EM&V") process, the utilities' elimination of low cost high impact measures (particularly important for lower income customers) is arbitrary. In Commission Order PSC-14-0696-FOF-EU in that docket, the Commission stated in part that "the EM& V approach, as advanced by [SACE] witness Mims, is not suitable due to costs and time constraints and is more appropriate for program design. Furthermore, the current phase in this proceeding requires us to address goals, not programs." (p. 25)

9. In this docket the Commission will approve in whole or in part, or denial of the demand side management programs of DEF that implement the conservation goals established by Commission Order No. PSC-14-0696-FOF-EU. If the programs do not implement the goals established by the Commission's order, or such programs not efficiently designed, or such programs do not include appropriate EM&V to calculate freeridership, there will be a further erosion of the use of energy efficiency as a resource in Florida.

10. SACE members who are customers of DEF, will bear the cost of the Commission's decision on the submitted demand side management program plans. As such, the company's demand side management programs must be efficiently designed so that customers get the most financial "bang for their buck." SACE's additionally wishes to ensure that future conservation goals are fully informed with empirical data regarding adoption rates of certain measures that have been traditionally eliminated by the utilities' using an arbitrary 2 year payback period – thereby promoting a more informed and enhanced energy efficiency policy in Florida which is consistent with the mission of SACE and its members. Hence, the Commission's order in the above captioned docket will necessarily affect the substantial interests of SACE and its members.

11. These are the type of interests this proceeding is designed to protect because the purpose of this case coincides with the substantial interests of SACE and its members. *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).

12. SACE is authorized by its bylaws to represent its interests and the interests of its members in legal actions, including formal administrative actions such as these. The subject

matter of this docket is well within the scope of interest and activities of SACE, and 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.

13. SACE's intervention is timely and consistent with the Commission's Order Establishing Procedure, and Rule 25-22.039, F.A.C.

V. STATEMENT OF DISPUTED ISSUES OF FACT

14. The disputed issues of material fact in this proceeding include, but not limited to:

- a. Do the DSM programs meet the requirements of Commission Order No. PSC-14-0696-FOF-EU?
- b. Are the programs designed in the most efficient way to maximize customer energy savings?
- c. Is the utilities EM&V adequate to capture empirical data on so called free-ridership?

VI. STATEMENT OF ULTIMATE FACT

15. The ultimate facts alleged include, but not limited to the following: should the Commission approve the Company's DSM plan?

VII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

16. 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. R. 25-22.039 F.A.C.; and
- d. R. 28-106.205, F.A.C.

VIII. RELIEF SOUGHT

17. WHEREFORE, the Southern Alliance for Clean Energy 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 said dockets.

RESPECTFULLY SUBMITTED this 7th day of May, 2015

/s/ George Cavros
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Southern Alliance for Clean Energy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic mail this 7th day of May, 2015, to the following:

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