

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Gulf) DOCKET NO. 160186-EI
Power Company)
_____)

**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 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 Petitioners, authorized to receive all notices,

pleadings, and other communications in this docket is:

Bradley Marshall
Alisa Coe
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, Florida 32301
(850) 681-0031 (tel)
(850) 681-0020 (fax)

bmarshall@earthjustice.org
acoe@earthjustice.org

III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. Petitioners received notice of the Florida Public Service Commission's ("Commission") action through Gulf Power Company's petition for an increase in rates on the Commission's website, filed October 12, 2016.

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 Gulf Power's service territory in Florida. As part of that mission, SACE's members place a priority on evaluating all opportunities for displacing non-renewable electricity generation with lower cost end-use energy efficiency measures and customer-sited renewable energy generation. These measures directly and cost-effectively reduce the amount of fossil fuel consumed by existing non-renewable energy generation facilities and displace the need for new power plants, thereby reducing the overall electric system costs for customers who ultimately bear the costs of fuel, new power plants and added infrastructure. Decreased fuel consumption also reduces the overall public health, environmental, and economic costs associated with greenhouse gases emissions from non-renewable energy generation. SACE's members have made investments in energy efficiency and conservation measures, and support policies promoting demand-side renewable energy, such as rooftop solar. As ratepayers, they are adversely affected by policies that make it harder to lower their power use by reducing their consumption, such as the rate restructure proposed by Gulf Power Company in this proceeding.

These interests are consistent with SACE's mission of promoting energy conservation and energy efficiency policies on behalf of its members for environmental and economic reasons.

6. SACE has a substantial number of Florida members reside in the service territory of Gulf Power Company ("GPC").

7. To further its mission, SACE has presented experts and provided technical testimony in numerous forums throughout Florida, including before the Governor's Climate and Energy Action Team, the Florida State Legislature, the Department of Environmental Protection, and the Florida Public Service Commission. SACE has been granted intervention by this Commission in a number of proceedings, including: *In re: Petition for determination of need for Okeechobee Clean Energy Center Unit 1 by Florida Power & Light Company*, Docket No. 150196-EI; *In re: Commission review of numeric conservation goals*, Docket Nos. 130199-EI – 1302020-EI; *In re: Commission review of numeric conservation goals*, Docket Nos. 080407-EG – 080413-EG; *In re: Energy conservation cost recovery clause*, Docket Nos. 110002-EG – 130002-EG; *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; *In re: Nuclear cost recovery clause*, Docket Nos. 090009-EI – 130009-EI; *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. 100437-EI; and *In re: Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company*, Docket No. 070467-EI.

V. STATEMENT OF AFFECTED INTERESTS

8. In the above-captioned proceeding, the Commission will determine whether to grant GPC's petition to raise its rates and whether to allow GPC to restructure residential rates. The proposed rate restructure would result in a substantial increase in fixed charges while lowering the energy charge. Such a rate increase and rate restructure, as proposed by GPC, will result in substantial bill increases to SACE's members. SACE's members in GPC's service territory have invested sums of money and support policies that support energy efficiency and other measures to lower their energy use and their bill. The proposed rate restructure raises the rates the most on the consumers that have saved the most energy, and thus would negatively impact SACE's members in GPC's service territory.

9. SACE and its members advocate for and invest in cost-effective energy efficiency measures and support customer-sited renewable energy generation (rooftop solar). Such measures can meet electricity demand at a fraction of the cost of building new power plants. SACE's members have an interest in ensuring that the Commission properly considers the true value of all conservation measures, including demand side renewable energy, as required by law. Thus, the substantial interest of members of SACE are affected in this cases because the Commission's order will determine the rates SACE's members pay in GPC's service territory, and whether such rates will discourage the use of energy-efficiency measures and demand side renewable energy, and whether SACE's members will be financially penalized by GPC via high fixed charges for having invested in energy-efficiency measures and demand side renewable energy or be prevented from reducing their bill by reductions in energy consumption. Thus, the Commission's order will directly affect the mission of SACE members and their pecuniary interests.

10. Moreover, SACE and its members rely on these proceedings to provide the Commission with expert testimony and opinion about the full technical, economic and achievable potential for cost-effective energy efficiency, and the value of demand side renewables.

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. Rule 25-22.039, F.A.C.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

14. Whether GPC's proposed residential rate restructure will discourage energy efficiency.

15. Whether GPC's proposed residential rate restructure will discourage demand side renewable generation like rooftop-solar.
16. Whether customers with demand side renewable generation are subsidized by other customers.
17. Whether customers who invest in energy efficiency and conservation measures are subsidized by other customers.
18. Whether customers using demand side renewable generation pay an equitable share of fixed costs and demand costs.
19. Whether customers who invest in energy efficiency and conservation measures pay an equitable share of fixed costs and demand costs.
20. Whether the decrease in need for additional grid infrastructure caused by energy efficiency and demand side renewable generation decreases fixed costs.
21. Whether GPC's proposed residential rate restructure equitably apportions fixed costs.
22. What the demand-related costs are in GPC's service territory.
23. Whether GPC's requested rate increase is fair, just, and reasonable.
24. Whether GPC's proposed residential rate restructure is fair, just, and reasonable.
25. Whether GPC's request to increase allowable return on equity is reasonable.
26. Whether GPC has proven any financial need for rate relief.
27. Whether GPC's projected revenues and forecasts are appropriate.
28. Whether the proposed changes to GPC's goals under the Florida Energy Efficiency Conservation Act are appropriate.

VII. STATEMENT OF ULTIMATE FACT

29. SACE cannot at this time provide a complete statement of ultimate facts to be proven because discovery has not been completed. SACE's allegations of ultimate facts include, but are not limited to, that GPC's requested rate increase and rate restructure are unjust, unreasonable, and unjustly discriminatory, and discourage energy efficiency and demand side renewable energy such as rooftop solar, in violation of state policy and law.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

30. 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. § 366.06, Fla. Stat.;
- d. §§366.80-.85, Fla. Stat.;
- e. R. 28-106.201, F.A.C.;
- f. R. 28-106.205, F.A.C; and
- g. R. 25-22.039, F.A.C.

IX. CONSULTATION WITH OTHER PARTIES

31. Pursuant to Rule 28-106.204(3), F.A.C., SACE has conferred with all parties of record and the undersigned reports that the Office of Public Counsel has no objection and Gulf Power Company is still considering its position.

X. RELIEF SOUGHT

32. WHEREFORE, the Southern Alliance for Clean Energy respectfully requests that the Commission enter an order granting them 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 16th day of November, 2016.

/s/ Bradley Marshall
Florida Bar No. 0098008
bmarshall@earthjustice.org
Alisa Coe
Florida Bar No. 0010187
acoe@earthjustice.org
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, Florida 32301
(850) 681-0031
(850) 681-0020 (facsimile)

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 16th day of November, 2016, via electronic mail on:

Biana Lherisson Kelley Corbari Stephanie Cuello Theresa Tan Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 blheriss@psc.state.fl.us kcorbari@psc.state.fl.us scuello@psc.state.fl.us ltan@psc.state.fl.us	Jeffrey A. Stone Russell A. Badders Steven R. Griffin Beggs & Lane 501 Commendencia St. Pensacola, FL 32576-2950 jas@beggslane.com rab@beggslane.com srg@beggslane.com
Richard D. Melson 705 Piedmont Dr. Tallahassee, FL 32312 rick@melsonlaw.com	Charles A. Guyton Gunster, Yoakley & Stewart, P.A. 215 S. Monroe St., Suite 618 Tallahassee, FL 32301 cguyton@gunster.com
Robert L. McGee, Jr. Gulf Power Company One Energy Place Pensacola, FL 32520-0780 rlmcgee@southernco.com	J.R. Kelly Stephanie A. Morse Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us morse.stephanie@leg.state.fl.us

DATED this 16th day of November, 2016.

/s/ Bradley Marshall
Attorney