

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recover Clause)
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)
_____)

DOCKET NO. 170007-EI
FILED: February 13, 2017

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.
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite 105
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(954) 295-5714 (tel)
(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") action through Order PSC-17-0007-PCO-EI on January 3, 2017 establishing this docket.

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.

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. SACE has a substantial number of Florida members that reside in the service territories of the four largest Florida investor-owned utilities ("IOU") Florida Power & Light Company, over 100 members; Duke Energy Florida, Inc., over 40 members; Tampa Electric Company, over 20 members, and Gulf Power Company, 20 members. To further its mission of advocating for energy plans, policies and systems that best serve the environmental, public health and economic interest of communities in the Southeast, 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 this Commission. SACE has been granted intervention by this Commission in a number of proceedings, including this previous annual recurring docket in 2014, *In re: Environmental cost*

recovery clause: Docket No. 140007.¹ Other proceedings in which SACE has been granted intervention include: *In re: Nuclear Cost Recovery Clause*: Docket Nos. 090009- 170009; *Petition for determination of need for Okeechobee Clean Energy Center Unit 1, by Florida Power & Light Company*: Docket No. 150196; *In re: Energy conservation cost recovery clause*: Docket No. 110002- 140002; *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; *Petition for determination of need for Citrus County Combined Cycle Power Plant, by Duke Energy Florida, Inc.*: Docket No. 140110; *Commission review of numeric conservation goals- 2014*: Docket Nos. 130199, 130200, 130201, 130202; *Commission review of numeric conservation goals -2009*: Docket Nos. 080407-13; *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

7. As part of its mission to promote responsible energy choices and ensure clean, safe and healthy communities throughout the Southeast, SACE supports federal, state, local statutes, administrative regulations, orders, ordinances, resolutions, or other requirements that apply to electric utilities and are designed to protect the environment. Clean Air Act rules, such as the Clean Air Interstate Rule (CAIR), Mercury and Air Toxics Standards (MATS), and National Ambient Air Quality Standards (NAAQS) and Clean Water Act provisions, such as the National Pollution Discharge Elimination System (NPDES), and other standards for power plants

¹ Order No. PSC-14-0355-PCO-EI, July 11, 2014.

that help reduce air and water pollution from power plants. Therefore, electricity customers in IOU service territories, including customers who are SACE members, benefit from reduced air and water pollution through IOU environmental compliance plans.

8. In this docket, the Commission approves IOU compliance plans intended to meet the requirements of federal and state environmental statutes and rules. In this docket, the Commission additionally determines whether the IOUs' environmental compliance costs have been prudently incurred² and determine the Environmental Cost Recovery Clause ("ECRC") rates in this docket, and determine if future projected environmental compliance plan and costs are reasonable. The environmental costs approved by this Commission will be included in the ECRC rates and passed on to IOU customers through bills, including customers who are members of SACE.

9. As such, members of SACE will not only bear the environmental and public health outcome of any approved compliance plan, but the financial cost of from environmental plans deemed to be prudent or reasonable by the Commission. Consistent with the mission of SACE, it wishes to ensure that environmental compliance activity is carried out in the most prudent, reasonable and cost-effective means possible. Towards that end, SACE will examine alleged prudently incurred costs and examine alleged reasonable projected compliance costs. As such, Commission actions and orders in this docket are inexorably intertwined with the substantial interest of SACE and its members.

10. 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*

² Section 366.8255, Florida Statutes, provides that "the Commission may approve a utility's proposed environmental compliance activities and environmental compliance costs, and that the Commission is to "allow recovery of the utility's prudently incurred environmental compliance costs"

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).

11. 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.

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

VI. STATEMENT OF DISPUTED ISSUES OF FACT

13. The disputed issues of material fact in this proceeding will include, but are not limited to the following:

- a) Are any new proposed environment compliance plans the most cost-effective plan?
- b) What are the final environmental cost recovery true-up amounts for the period January 2016 through December 2016?
- c) What are the estimated/actual environmental cost recovery true-up amounts for the period January 2017 through December 2017?
- d) What are the projected environmental cost recovery amounts for the period January 2018 through December 2018?

VII. STATEMENT OF ULTIMATE FACT

14. As described above, in the above-captioned proceeding, the Commission will determine the IOUs' ECRC rates in this docket, and whether cost related to environmental compliance have been prudently incurred and if future projected costs are reasonable. The environmental costs approved by this Commission will be included in the IOUs' ECRC rates and passed on to customers through bills, including customers who are members of SACE. The proposed costs for recovery by the IOUs may not be prudently incurred and may not be the most reasonable means to achieve environmental compliance for IOU customers, including customers who are members of SACE.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

15. 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. §366.8255, Fla. Stat.;
- d. R. 25-22.039 F.A.C.; and
- e. R. 28-106.205, F.A.C.

IX. RELIEF SOUGHT

16. 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 13th day of February, 2017

/s/ George Cavros

George Cavros

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(866) 924-2824 (fax)

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 13th day of Feb, 2017 via electronic mail on:

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