

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida) DOCKET NO. 20210015-EI
Power & Light Company)
_____)

**PETITION TO INTERVENE BY FLORIDA RISING,
LEAGUE OF UNITED LATIN AMERICAN CITIZENS, &
ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA**

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rule 28-106.205, Florida Administrative Code, the League of United Latin American Citizens of Florida, also known as LULAC Florida Educational Fund, Inc. (“LULAC”), Environmental Confederation of Southwest Florida, Inc. (“ECOSWF”), and Florida Rising, Inc., through its undersigned counsel, petition for leave to intervene in the above captioned proceedings, and in support thereof state:

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 names and addresses of Petitioners are:

League of United Latin American Citizens of Florida
6041 SW 159 CT
Miami, FL 33193

Environmental Confederation of Southwest Florida, Inc.
421 Verna Road
Sarasota, Florida 34230

Florida Rising, Inc.
10800 Biscayne Blvd.,
Suite 1050
Miami, FL 33161

3. The names and addresses of counsel for Petitioners, authorized to receive all notices, pleadings, and other communications in this docket are:

Bradley Marshall
Jordan Luebke
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, Florida 32301
(850) 681-0031 (tel)
(850) 681-0020 (fax)
bmarshall@earthjustice.org
jluebke@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 a search of the open dockets on the Commission’s website.

IV. THE INTERVENORS’ SUBSTANTIAL INTERESTS

5. LULAC Florida is part of the largest and oldest Hispanic civil rights organization in the United States, which advances the economic condition, educational attainment, political influence, housing, health, and civil rights of Hispanic Americans through community-based programs operating through local councils across the nation. The articles of incorporation for the organization state that “educating the public on issues related to the environment . . . [and] economic empowerment” are central to LULAC’s mission. Reducing this rate hike will reduce the high-energy burdens on the Hispanic community, implicating LULAC’s interest in the economic condition of its members and the Hispanic population of Florida, including those located in FPL’s territory.

6. In addition to addressing the economic concerns of its members, LULAC has focused on environmental issues to advance its mission. LULAC has established multiple environmental health and protection programs, as well as adopted positions on energy security

and climate change in its National Policy Platform. Stopping unneeded fossil-fuel generation is key to this mission. Non-renewable energy generation releases harmful pollutants into the air that have a direct effect on the health of nearby individuals. LULAC has recognized that Hispanic communities are often disproportionately affected by the health effects resulting from non-renewable energy-related pollution. Similarly, the pollutants released by non-renewable energy generation facilities are direct contributors to global climate change. In a resolution passed by LULAC, the organization has recognized the disproportionate effect of climate change on Hispanic communities and has resolved to address climate change as part of its mission. LULAC has an acute interest in halting FPL's unnecessary investments in fossil-fuel infrastructure. As these investments have bypassed the state's Power Plant Siting Act process, the proper review of the prudence of these investments is in this case. LULAC believes that FPL's investments fall far short of meeting the prudence requirements of the Commission.

7. LULAC currently has members and leadership in Florida working towards these energy and environment-focused goals, including working to address our generating infrastructure and related economic and environmental concerns. LULAC has a substantial number of members in FPL's service territory which will be substantially affected by the outcome of this proceeding as FPL ratepayers, and was granted intervention against FPL in the Energy Efficiency Act goal-setting process. Order Granting Intervention, *In re: Commission review of numeric conservation goals (Florida Power & Light Company)*, Docket No. 20190018-EG, Order No. PSC-2019-0293-PCO-EG (Fla. P.S.C. July 25, 2019).

6. ECOSWF has over 100 members consisting of business entities, other organizations, and individuals living in southwest Florida that reside in FPL's service territory and are FPL customers. ECOSWF was organized for the purpose of conserving the natural

resources of Southwest Florida, implement energy efficiency improvements and alternatives, and to engage in actions in the furtherance of energy conservation and alternative energy source development. In this docket, FPL is requesting a large rate increase to cover investments in fossil-fuel generation that have not been approved through Florida's Power Plant Siting Act. The Commission will decide in this docket whether those investments were prudent, and in doing so, should take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, the need for fuel diversity and supply reliability, whether the investments were the most cost-effective alternatives available, whether the power generated by the fossil-fuel plants contained the least risk of all alternatives, and the Commission must consider whether the conservation measures taken by or reasonably available to FPL could have mitigated the need for those plants, and may consider other matters within its jurisdiction which it deems relevant. FPL is seeking to recover the costs, and a return on investment, from ratepayers, including ECOSWF's members, which will affect ECOSWF members' substantial interests. A substantial number of ECOSWF's members live in FPL's service area and are customers receiving electricity service from FPL and will be substantially affected by the outcome of this proceeding as FPL ratepayers.

7. ECOSWF has been granted intervention in FPL need determination proceedings before based on its members' substantial interests as FPL ratepayers. *In re: Petition for determination of need for Glades Power Park Units 1 and 2 electrical power plants in Glades County, by Florida Power & Light Company*, Order No. PSC-07-0238-PCO-EI (Fla. P.S.C. Mar. 16, 2007); *In re: Petition for determination of need for Okeechobee Clean Energy Center Unit 1, by Florida Power & Light Company*, Order No. PSC-15-0494-PCO-EI (Fla. P.S.C. Oct. 22, 2015).

8. Florida Rising is a membership-based organization dedicated, under their articles of incorporation, to building “broader multiracial movements with individuals from historically marginalized communities to seize power and govern to advance social, economic, and racial justice.” Florida Rising has thousands of members in FPL’s service territory that are FPL customers that will face higher electricity rates and thus higher bills to pay for FPL’s unneeded investments in fossil-fuel infrastructure. Beyond advocating for economic equity, which will be a key issue in FPL’s rate case, Florida Rising is also committed to climate justice and pushing for a regenerative future and a just transition that puts frontline communities as the center of energy policy, disaster response, food policy, and all climate change initiatives. A substantial number of Florida Rising’s members live in FPL’s service area and are customers receiving electricity service from FPL and will be substantially affected by the outcome of this proceeding as FPL ratepayers.

9. In furtherance of the mission of Florida Rising, its members have participated in several dockets before the Commission, most recently by presenting comments in Docket No. 202000181-EU, *In re: Proposed amendment of Rule 25-17.0021, F.A.C., Goals for Electric Utilities*. Members of Florida Rising, on behalf of its predecessor organizations,¹ have advocated for years before the Commission, including by presenting or filing comments in Docket No. 20190018-EG, *In re: Commission review of numeric conservation goals (Florida Power & Light Company)*, and Docket No. 20200219-EI, *In re: Petition to initiate emergency rulemaking to prevent electric utility shutoffs, by League of United Latin American Citizens, Zoraida Santana, and Jesse Moody*.

¹ Florida Rising was formed in 2020 through the merger of New Florida Majority and Organize Florida.

V. STATEMENT OF AFFECTED INTERESTS

10. In the above-captioned proceeding, the Commission will determine whether to grant FPL's petition to raise its rates and whether to allow FPL to recover funds – and profits – for its investments in fossil-fuel infrastructure that have never been reviewed by the Commission. The proposed rate increase will result in substantial bill increases to LULAC's, ECOSWF's, and Florida Rising's members. The proposed rate hike will further increase the energy burden already suffered by low-income customers in FPL's territory, and will negatively impact LULAC's, ECOSWF's, and Florida Rising's members in FPL's service territory.

11. The substantial interest of members of LULAC, ECOSWF, and Florida Rising are affected in this case because the Commission's order will determine the rates their members pay in FPL's service territory. Thus, the Commission's order will directly affect the mission of LULAC, ECOSWF, and Florida Rising members and their pecuniary interests.

12. As ratepayers, LULAC's, ECOSWF's, and Florida Rising's members are affected by the construction of unneeded power plants that FPL will be seeking to recover investments for through this proceeding. LULAC, ECOSWF, and Florida Rising believe that before the Commission decides any of these investments have been prudent, FPL should be required to meaningfully evaluate alternatives such as energy efficiency, cost-effective renewable energy, demand-side management and conservation – strategies that are grossly underutilized in Florida's energy portfolio – and that the Commission and the interested public should have the opportunity to examine and provide testimony on FPL's evaluation of these strategies. Failure to require a rigorous assessment of such strategies will result in unnecessary premiums for fossil fuel generation for Florida's ratepayers, including LULAC's, ECOSWF's, and Florida Rising's members.

13. Moreover, LULAC, ECOSWF, Florida Rising, and their members rely on these proceedings to provide the Commission with expert testimony and opinion about the value and prudence of the investments FPL has been making in fossil-fuel infrastructure.

14. These are the type of interests this proceeding is designed to protect because the purpose of this case coincides with the substantial interests of LULAC, ECOSWF, Florida Rising and their 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).

15. LULAC, ECOSWF, and Florida Rising are authorized to represent their interests and the interests of their members in legal actions, including formal administrative actions such as this. The subject matter of this docket is well within the scope of interest and activities of LULAC, ECOSWF, and Florida Rising, and the relief requested is the type of relief appropriate for these organizations to receive on behalf of their members. The rights and interests of LULAC, ECOSWF, and Florida Rising and their 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.

16. LULAC's, ECOSWF's, and Florida Rising's intervention is timely. R. 28-106.205, F.A.C.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

17. LULAC, ECOSWF, and Florida Rising cannot at this time provide a complete statement of disputed issues of fact as discovery has not started and FPL has not filed the

minimum filing requirements or any pre-filed testimony as of the filing of this petition. It is expected that disputed issues of fact include, but are not limited to, the following:

- a. Whether FPL's proposed return on equity is reasonable.
- b. Whether FPL's quality of service warrants a performance incentive increasing the return on equity.
- c. Whether FPL's proposed equity to debt ratio is reasonable.
- d. Whether FPL's continued investments in fossil-fuel infrastructure are prudent.
- e. Whether the other investments FPL seeks to recover have been prudent.
- f. Whether FPL's requested rate increase is fair, just, and reasonable.
- g. Whether FPL has proven any financial need for rate relief.
- h. Whether FPL's projected revenues and forecasts are appropriate.

VII. STATEMENT OF ULTIMATE FACT

18. LULAC, ECOSWF, and Florida Rising cannot at this time provide a complete statement of ultimate facts to be proven because discovery has not started and the minimum filing requirements have not been filed. LULAC's, ECOSWF's, and Florida Rising's allegations of ultimate facts include, but are not limited to, that FPL's requested rate increase is unjust, unreasonable, and unjustly discriminatory, and includes recovery for investments in fossil-fuel infrastructure and other infrastructure that were not prudent.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

19. 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. §§ 366.03-06, Fla. Stat.;
- d. R. 28-106.201, F.A.C.; and
- e. R. 28-106.205, F.A.C.

IX. CONSULTATION WITH OTHER PARTIES

31. Pursuant to Rule 28-106.204(3), F.A.C., LULAC, ECOSWF, and Florida Rising have conferred with counsel for FPL and for the Office of Public Counsel (“OPC”) regarding this petition. Both OPC and FPL advised that they take no position on this petition.

X. RELIEF SOUGHT

32. WHEREFORE, LULAC, ECOSWF, and Florida Rising respectfully request that the Commission enter an order granting them leave to intervene in the above-styled docket as full parties, and further requests parties to provide the undersigned with all pleadings, testimony, evidence, and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 19th day of February, 2021.

/s/ Bradley Marshall
Florida Bar No. 0098008
bmarshall@earthjustice.org
Jordan Luebke
Florida Bar No. 1015603
jluebke@earthjustice.org
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, Florida 32301
(850) 681-0031
(850) 681-0020 (facsimile)

*Counsel for League of United Latin
American Citizens of Florida,
Environmental Confederation of Southwest
Florida, and Florida Rising*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 19th day of February, 2021, via electronic mail on:

<p>Biana Lherisson Jennifer Crawford Shaw Stiller Suzanne Brownless Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 blheriss@psc.state.fl.us jcrawfor@psc.state.fl.us sstiller@psc.state.fl.us sbrownle@psc.state.fl.us</p>	<p>Kenneth Hoffman 134 West Jefferson St. Tallahassee, FL 32301-1713 ken.hoffman@fpl.com</p>
<p>John T. Burnett Ken Rubin Florida Power & Light Co. 700 Universe Blvd. Juno Beach, FL 33408-0420 john.t.burnett@fpl.com ken.rubin@fpl.com</p>	<p>Parry A. Christensen Charles Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 christensen.patty@leg.state.fl.us rehwinkel.charles@leg.state.fl.us</p>

DATED this 19th day of February, 2021.

/s/ Bradley Marshall
Attorney