

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Petition for rate increase by Florida
Power and Light Company.**

DOCKET NO. 20210015

Filed: March 26, 2021

**SOUTHERN ALLIANCE FOR CLEAN ENERGY'S
PETITION TO INTERVENE**

Pursuant to Sections 120.569, 120.57, Florida Statutes, and Rule 28-106.205, Florida Administrative Code, Southern Alliance for Clean Energy ("SACE"), through its undersigned counsel, files its Petition 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 Petitioner, authorized to receive

all notices, pleadings, and other communications in this docket is:

George Cavros
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite 105
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III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. SACE received notice of the Florida Public Service Commission's ("Commission") action through the filing of the Florida Power and Light Company ("FPL") petition for approval of a multi-year rate plan in this docket on March 12, 2021.

IV. SACE'S SUBSTANTIAL INTERESTS

5. SACE is a non-profit clean energy corporation organized under the laws of Tennessee and authorized to conduct operations in the State of Florida. The purpose of SACE, as explicitly stated 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, and recovery of costs associated with such plans, policies and systems. SACE's guiding mission is to promote responsible and equitable energy choices to ensure clean, safe, and healthy communities throughout the Southeast, including Florida. SACE has staff working in Florida to advance energy choices that best serve the economic, environmental, and public health interests of all Floridians, including SACE members. There are a substantial number of SACE members, residing in FPL's and Gulf Power Company's service territories¹, over 180 members, who are ratepayers and dedicated to

¹ Hereinafter Gulf Power Company will be included in references to "FPL."

advancing SACE's purpose and mission. To further its purpose and mission, SACE has presented experts and provided technical testimony and comments on utility rate structures, resource planning, power plant need determinations, cost recovery, energy efficiency goals and programs, utility emission profiles, solar policy design and electric vehicle ("EV") infrastructure policy design in numerous forums throughout Florida, including before the Commission. SACE has petitioned to intervene and been granted party status in numerous dockets that relate to economic and / or environmental and public health impacts to customers² and was a party in the 2016 Gulf Power Company rate case in Docket No. 20160186-EI and a signatory to the 2017 Duke Energy Florida rate case settlement agreement (the 2017 Revised and Restated Stipulation and Settlement Agreement) in Docket No. 20170183-EI).

V. STATEMENT OF AFFECTED INTERESTS

6. The multi-year rate plan, if approved, will allow FPL to raise its revenue requirement by almost \$2 billion. The revenue request is phased in over

² Dockets include: In re: Petition for approval of FPL SolarTogether program and tariff of Florida Power & Light Company: Docket No. 20200176-EI; In re: Petition for a limited proceeding to approve clean energy connection program and tariff and stipulation by Duke Energy Florida; In re: Commission Review of Numeric Conservation Goals: Docket Nos. 20190015, 16, 18, 19, 20, 21; In re: *Environmental cost recovery clause*: Docket No. 20140007, 20170007; In re: *Nuclear Cost Recovery Clause*: Docket Nos. 20090009- 20170009; *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 Nos. 20110002- 20140002; *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. 20140110; *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. 20100437-EI; and In re: *Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company*: Docket No. 20070467-EI.

several years: \$1.108 billion in 2022; \$607 million in 2023; and up to \$140 million in 2024; and up to \$140 million in 2025. Included in the revenue requirement is an almost 100 basis point increase on return on equity (“ROE”). The cost to support this additional revenue requirement will be borne by FPL customers through their power bills, including FPL customers that are SACE members.³ SACE members, as ratepayers, will be directly and substantially affected by FPL’s proposed multi-year rate plan and could be further affected economically if new fossil gas units for which the company now seeks recovery become stranded assets as the federal regulatory landscape shifts to goals or requirements for moving the electricity sector to net zero emissions by a certain date. It is not clear that FPL performed a meaningful evaluation of lower cost, lower risk demand side management alternatives or renewable energy and battery storage alternatives before making further capital investments into fossil gas infrastructure. This proceeding will provide SACE and other parties, and the Commission, the opportunity to test the prudence of investment in those and other capital projects, and expenses, prior to costs being passed on to FPL customers, including FPL customers that are SACE members.

7. In addition to economic impact, the multi-year rate plan substantially affects the purpose and mission of SACE because it includes numerous capital projects and programs that will affect resource decisions and clean energy outcomes in the state for years to come, including but not limited to FPL’s energy mix and

³ If approved, the multi-year plan will increase the residential electricity rates of Peninsular Florida FPL customers and have projected bill impacts of \$18 per month. FPL, *FPL envisions a more resilient and sustainable Florida; files details of proposed 2022-2025 rate plan with Public Service Commission*, News Release, March 12, 2021.

corresponding emission profile, fossil gas plant and infrastructure development, solar development, the number of battery storage installations, EV infrastructure and related EV adoption rates, and a hydrogen power development. FPL's continued investment in fossil gas units, for example, can detrimentally affect SACE's and its members' mission in working to ensure responsible and equitable energy choices that lead to safer and healthier communities as new fossil gas units lock-in greenhouse gas emissions and other air pollutants from these units for decades - exacerbating climate change, and poor air quality in local communities. While SACE supports investment in solar power and EV programs, it works to ensure that the program designs proposed by any utility meet the program's stated purpose by maximizing results that lead to cost-effective and equitable outcomes. Therefore, the introduction of these and other newly proposed programs and policies in the multi-year rate plan substantially affect clean energy purpose and mission of SACE and its members.

8. These are exactly the type of interests this proceeding is designed to protect for associations such as SACE. To establish standing as an association representing its members' substantial interests, an association such as SACE must demonstrate three things: (1) that a substantial number of its members are substantially affected by the agency's decisions; (2) that the intervention by the association is within the association's general scope of interest and activity; and (3) that the relief requested is of a type appropriate for an association to obtain on behalf of its members. *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So. 2d 351, 353-54 (Fla. 1982), and *Farmworker Rights*

Organization, Inc. v. Department of Health and Rehabilitative Services, 417 So. 2d 753, 754 (Fla. 1st DCA 1982), which is based on the basic standing principles established in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478, 481-82 (Fla. 2d DCA 1981). SACE satisfies all of the associational standing requirements. First, a substantial number of the SACE's members are located in the FPL service territory and receive and are billed for electricity service. Therefore, SACE members will be directly and substantially affected financially as well as through the energy choices embedded in the multi-year rate plan. Secondly, SACE has a long history of representing its members' pecuniary and clean energy interests before this Commission –including in previous rate cases. Therefore, this proceeding is well within the scope of SACE's mission. Finally, the requested relief - intervention in this rate case - that substantially affects both its members' economic and clean energy interests, is appropriate for SACE to seek on behalf its members.

9. SACE is explicitly authorized by its bylaws to represent the interests of its members in legal actions, including formal administrative actions such as in this docket. The unique interests of SACE and its members cannot be adequately represented by any other party in this docket. This petition for intervention is timely and will not unduly delay or prejudice the rights of other parties.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

- Whether the proposed ROE is commensurate with that of other enterprises having corresponding risks,
- Whether the proposed ROE leads to fair, just and reasonable rates,
- Whether the jurisdictional values for setting the rate base are appropriate,

- Whether the multi-year rate plan produces fair, just and reasonable rates,
- Whether the investments in the multi-year rate plan are prudent,
- Whether newly introduced programs are designed to meet their stated objective in a cost-effective and equitable fashion.

SACE reserves the right to add additional issues in accordance with the Commission's rules and the Order Establishing Procedure.

VII. STATEMENT OF ULTIMATE FACT

10. SACE's allegations of ultimate facts include, but are not limited to, whether FPL has met its burden of proof that it is entitled to a rate increase, and whether FPL has met its burden of proof that the proposed rate increase will result in fair, just, and reasonable rates.

VIII. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

11. 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. §§ 366.04-06, Fla. Stat.; and
- d. R. 28-106.205, F.A.C.

IX. CONFERRAL WITH OTHER PARTIES

12. Pursuant to R. 28-106.204, F.A.C., SACE has reached out to confer with the counsel of FPL, OPC, FEA, FRF, FIPUG, LULAC/ECOSWF/Florida Rising, and can represent that FEA, FRF, FIPUG, LULAC/ECOSWF/Florida Rising, take no position,

FPL takes no position pending review of the petition when filed, and SACE was not able to identify the OPC's position by the time of this filing.

X. RELIEF SOUGHT

13. WHEREFORE, SACE 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 the docket.

RESPECTFULLY SUBMITTED this 26th day of March 2021

/s/ George Cavros
George Cavros
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite
105
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(954) 295-5714

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 26th day of March, 2021 via electronic mail on:

<p>Florida Public Service Commission Shaw Stiller, Bianca Lherisson, Suzanne Brownless Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 sstiller@psc.state.fl.us blheriss@psc.state.fl.us sbrownle@psc.state.fl.us</p>	<p>Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 rehwinkel.charles@leg.state.fl.us Christensnen.patty@leg.state.fl.us</p>
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<p>Earthjustice Bradley Marshall/Jordan Luebke 111 S. Martin Luther King Jr. Blvd Tallahassee, FL 32301 Bmarshall@earthjustice.org jluebke@earthjustice.org</p>	

DATED: March 26, 2021.

/s/ George Cavros
Attorney