

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost
recovery clause and generating
performance incentive factor.

Docket No: 20250001-EI

PETITION TO INTERVENE BY
SOUTHERN ALLIANCE FOR CLEAN ENERGY

Pursuant to sections 120.569, 120.57(1), Florida Statutes, and Rule 28-106.205, Florida Administrative Code, Southern Alliance for Clean Energy (“SACE”), through its undersigned attorney, petitions for leave to intervene in the above-captioned proceeding, and in support thereof states:

1. The name and address of the agency affected by this Petition is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

2. The name and address of Petitioner is:

Southern Alliance for Clean Energy
P.O. Box 1842
Knoxville, TN 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:

William C. Garner
Law Office of William C. Garner, PLLC
3425 Bannerman Road
Unit 105, No. 414
Tallahassee, FL 32312
(850) 320-1701 (tel)
(850) 792-6011
bgarner@wcglawoffice.com

4. Petitioner is a not-for-profit corporation that advocates for energy plans, policies, and systems that best serve the environmental, public health, and economic interest of communities in the Southeastern United States, including Florida, and regularly monitors activities and participates in proceedings at the Florida Public Service Commission. Petitioner received notice of the Florida Public Service Commission's ("Commission") action in this matter by reviewing the Commission Clerk's open dockets linked on the agency's web site on January 2, 2025.

5. Intervenor's Substantial Interests. SACE is a non-profit clean energy corporation organized under the laws of the State of Tennessee and is 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 Southeastern United States, including Florida. As part of that mission, SACE seeks opportunities to promote the use of clean energy at the most reasonable cost to end-use customers.

6. SACE has staff in Florida working to advance these goals. In addition, there are more than 13,000 SACE members residing in Florida, across service territories of several public utilities, including Florida Power & Light Company ("FPL"), Duke Energy Florida ("DEF"), and Tampa Electric Company ("TECO"), and dedicated to promoting low-cost, low-risk, clean energy solutions to encourage clean, safe, and economically and environmentally responsible energy choices.

7. To further its missions, SACE has presented experts and provided technical testimony in numerous forums throughout Florida, including before the Florida Public Service Commission. SACE has been granted intervenor status by this Commission in numerous proceedings, including most recently in: *In re: Commission review of numeric conservation goals*

(consolidatea) Docket Nos. 20240012, -13, -14, -16, -17 -EG¹; *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*, Docket No. 20230001-EI²; *In re: Petition for rate increase by Duke Energy Florida, LLC*, Docket No. 20240025-EI³, and *In re: Review of Storm Protection Plan, pursuant to Rule 25-6.030, F.A.C., Florida Power & Light Company*, Docket No. 20220051-EI⁴

8. Statement of Affected Interests. The Commission's actions in this docket will necessarily affect the bills that FPL, DEF and TECO customers will pay in 2025 and 2026, including those customers who are SACE members. These companies have filed or will file testimony and exhibits in this proceeding that include requests for recovery of purchased power costs, and potential generation performance incentive factor ("GPIF") rewards. The filings include or will include GPIF performance data and proposed factors addressing rewards or penalties, fuel cost adjustments and purchased power true-ups for 2024, actual-estimated fuel cost and purchased power adjustments for 2025, and projected fuel cost factors for 2026. In this proceeding, all fuel and purchased power costs will be reviewed for reasonableness, prudence and consistency with Commission rules. Commission orders issued in this docket will necessarily affect the rates and bills of FPL, DEF and TECO customers, including those that are SACE members. SACE seeks on behalf of its members to scrutinize the utilities' fuel cost recovery plans and any other plan or program established in this proceeding by which costs are recovered, and to advocate for outcomes that best align with the economic interests and policy preferences of its members.

9. These are the type of interests this proceeding is designed to protect because the purpose of proceeding coincides with the substantial interests of SACE and its members, and

¹ See, Order No. PSC-2024-0139-PCO-EG

² See, Order No. PSC-2023-0106-PCO-EI

³ See, Order No. PSC-2024-0150-PCO-EI

⁴ See, Order No. PSC-2022-0214-PCO-EI

SACE meets the three-pronged test to qualify for associational standing on behalf of its members. *Ameristeel Corp. v. Clark*, 691 So. 2d 473 (Fla. 1997); *Agrico Chemical Co. v. Department of Environmental Regulation*, 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).

10. First, as stated above, a substantial number of SACE's members reside in the service territories and are customers of the utilities participating in this matter. These SACE members are therefore individually impacted in a substantial way by the FPSC's decisions in this proceeding, as their economic interests are affected, as well as their policy preferences in favor of clean energy outcomes.

11. Second, SACE is explicitly authorized by its bylaws to represent its interests and the interests of its members in legal actions, including formal administrative actions such as these, and the subject matter of this docket is well within the scope of interests and activities of SACE. Indeed, Article II of the SACE bylaws states the following:

It shall be the purpose of SACE to perform educational research and programs concerning the environment, public health, and economic impacts of the energy use and policy in the Southeast; *and to advocate for energy plans, policies, and systems that best serve the environmental, public health, and economic interest, including recovery of costs associated with such plans, policies and systems, of communities in the Southeast.*

...

The organization may engage in education, advocacy, litigation and all other legal means to further the mission of SACE. The organization may engage in such activities that occur or have an impact outside of the geographical scope of the Southeast if such activities will further the mission of SACE.

(emphasis added).

12. Third, and finally, 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 pursuant to Rule 28-106.205, F.A.C.

14. Disputed Issues of Material Fact. SACE anticipates that assertions of material facts will be in dispute in these proceedings. However, at this time, SACE cannot identify all disputed issues of material fact because it has not yet had the opportunity to review and receive discovery responses from the parties and has not fully reviewed all the filings, many of which have not yet been filed by the utility parties.

16. SACE anticipates that the disputed issues of material fact in these proceedings will include, but are not limited to, the following, and reserves the right to identify additional issues of material fact as they arise:

- a. Whether the 2024 fuel and purchased power true-up requests are reasonable and prudent;
- b. Whether the 2025 actual/estimated fuel and purchased power cost recovery requests are reasonable and prudent; and
- c. Whether the 2026 projected fuel and purchased power costs and fuel factors are reasonable and prudent.
- d. Whether the companies' reported results applying the Generating Performance Incentive Factor are correct.

17. Disputed Legal Issues. SACE anticipates that issues of law may be in dispute during these proceedings. SACE reserves the right to dispute assertions of law as they arise during the proceedings.

18. Statement of Ultimate Facts Alleged. FPL, DEF and TECO have the burden to prove that their fuel and purchased power cost recovery requests are reasonable, prudent, consistent with Commission rules and Orders, and are in the public interest. SACE reserves the

right to determine after a full review of the filings and discovery requests what are the ultimate allegations of facts.

19. Laws Entitling Petitioner to Relief. 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. Rule 28-106.201, F.A.C.
- e. Rule 28-106.205, F.A.C.

23. Prayer for Relief. The Southern Alliance for Clean Energy respectfully requests that the Commission enter an Order granting it leave to intervene in the above-named matter as a full party and further requests an Order directing parties to provide the undersigned with all pleadings, testimony, exhibits, evidence, and discovery filed in this matter.

24. Statements Required by Rule 28-106.204(3), Florida Administrative Code. The above-captioned matters are not subject to the proposed agency action procedure. Therefore, it is premature at this time to state whether SACE supports or opposes the Commission's preliminary action. Pursuant to Rule 28-106.204(3), Florida Administrative Code, undersigned has conferred with counsel for all other parties of record, and no party has expressed opposition to this Petition. Specifically, FPSC staff, FPL, DEF, TECO, FPUC, OPC, FIPUG, PCS, and Nucor have each indicated they take no position on the Petition.

RESPECTFULLY SUBMITTED this 12th day of August, 2025.

/s/ William C. Garner

William C. Garner, FL Bar No. 577189
bgarner@wcglawoffice.com
Law Office of William C. Garner, PLLC
3425 Bannerman Road
Unit 105, No. 414
Tallahassee, FL 32312
Telephone (850) 329-5478
Mobile (850) 320-1701
Fax (850) 792-6011

*Counsel for Petitioner Southern Alliance for Clean
Energy*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this
12th day of August, 2025, via electronic mail on:

Ryan Sandy
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399
rsandy@psc.state.fl.us

Kenneth A. Hoffman
Florida Power and Light Company
134 W. Jefferson Street
Tallahassee, FL 32301
ken.hoffman@fpl.com

Maria Moncada, David Lee
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408-0420
maria.moncada@fpl.com
david.lee@fpl.com

Jon C. Moyle, Jr.
c/o Moyle Law Firm
118 North Gadsden Street
Tallahassee FL 32301
(850) 681-3828
(850) 681-8788
jmoyle@moylelaw.com

Mike Cassel
Florida Public Utilities Company
208 Wildlight Avenue
Yulee, FL 32097
mcassel@fpuc.com

Walt Trierweiler, Patty Christensen,
Charles Rehwinkel, Mary Wessling, Octavio
Ponce, Austin Watrous
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
trierweiler.walt@leg.state.fl.us
christensen.patty@leg.state.fl.us
Rehwinkel.charles@leg.state.fl.us
Wessling.mary@leg.state.fl.us
Ponce.octavio@leg.state.fl.us
Watrous.austin@leg.state.fl.us

J. Wahlen, M. Means, V. Ponder
Ausley McMullen
Tampa Electric Company
P.O. Box 391
Tallahassee, FL 32302
jwahlen@ausley.com
mmeans@ausley.com
vponder@ausley.com

Matthew R. Bernier, Robert Pickels,
Stephanie A. Cuello
106 E. College Avenue, Suite 800
Tallahassee FL 32301
matthew.bernier@duke-energy.com
stephanie.cuello@duke-energy.com
Robert.Pickels@duke-energy.com
FLRegulatoryLegal@duke-energy.com

Ms. Paula K. Brown
Tampa Electric Company
Post Office Box 111
Tampa, Florida 33601
regdept@tecoenergy.com

Michelle D. Napier, Jowi Baugh
Florida Public Utilities Company
1635 Meathe Drive
West Palm Beach, FL 33411
mnapier@fpuc.com
jbaugh@chpk.com

Beth Keating
Gunster, Yoakley & Stewart, P.A.
Florida Public Utilities Company
215 South Monroe Street, Suite 601
Tallahassee, FL 32301
bkeating@gunster.com

P. J. Mattheis/M. K. Lavanga/J. R. Briscar
Stone Mattheis Xenopoulos & Brew, PC
NUCOR
1025 Thomas Jefferson St. NW, Suite 800
West
Washington DC 20007
(202) 342-0800
(202) 342-0807
jrb@smxblaw.com
mkl@smxblaw.com
pjm@smxblaw.com

James W. Brew, Laura Wynn Baker,
Sarah B. Newman
c/o Stone Law Firm
PCS Phosphate-White Springs
1025 Thomas Jefferson Street NW
Suite 800 West
Washington DC 20007
jbrew@smxblaw.com
lwb@smxblaw.com
sbn@smxblaw.com

/s/ William C. Garner
Attorney