June 3, 2021

To the Commissioners and Staff of the Florida Public Service Commission:

I am writing to you on behalf of the Better Jobs Coalition (BJC) to request that the PSC suspend a recent rate settlement with Duke Energy Florida (DEF) until such time as the Commission can definitively determine whether the company has improperly charged customers $300 million in executive compensation costs that, by law, should have been charged to shareholders.

We have engaged counsel to prepare our formal filing, which we expect to be ready in the coming weeks, but we are concerned that, absent immediate review, this violation may be ongoing. As such, we believe this matter demands urgent and immediate attention and we encourage you to act now.

According to Duke's statements following the Florida settlement, the average residential customer will realize an initial increase of 3 to 4 percent with an additional increase of 1 to 2 percent in each of the following two years. Nonresidential customers will realize an initial increase of 1 to 6.5 percent with similar subsequent increases.

These same customers are currently charged the highest rates of Florida's investor-owned utilities and, based on public filings by other investor-owned utilities to date, will continue to have the highest rates in the state for the duration of the settlement approved earlier this month.

We believe approval of these increases should be suspended. Further, we note that Duke customers may in fact be entitled to refunds.

For context, if evidence shows a $300 million overcharge to customers over the past 10 years, we believe this would necessitate negating the entirety of Duke Energy Florida's recent $195 million rate settlement as well as refunding an additional $100 million-plus to Duke customers in Florida.

As you will recall, we wrote to the Commission in an April 30, 2021 letter in which we alerted you to the potential lack of compliance with PSC orders on Duke Energy Florida executive compensation.

As we wrote in that letter, BJC research indicates a potential discrepancy in compliance with PSC's orders concerning executive pay. In 2010, PSC ordered that incentive compensation be removed from the rate base for Progress Energy Florida (PEF), which through a subsequent merger, became DEF. At the time of the PSC order, the utility's bonuses and other incentive payments had a combined annual value of more than $32 million. In response to the order, PEF committed to a series of financial adjustments to reflect the PSC's wishes that shareholders, not ratepayers, bear the responsibility for executive bonuses and other forms of incentive compensation.

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To see how the order was complied with by DEF, BJC conducted a review of 11 years of Progress Energy and Duke Energy monthly surveillance reports. While adjustments were recorded for other parts of the 2010 order – for example, adjustments dealing with Officers and Directors liability insurance and parent company debts – we could find no line-item adjustments for incentive compensation.

We believe that the monthly surveillance reports provide a necessary tool for the PSC to protect ratepayers when it comes to investor-owned utilities. We are interested to know whether the PSC affirmatively reviews monthly surveillance reports and whether the PSC has identified line-item adjustments for incentive compensation.

Please be aware that our interest in ensuring that utility customers are treated fairly and within the law is neither new nor confined to Florida. Our organization advocates for free markets, fairness, and competitiveness in other states as well.

With respect to Duke Energy specifically, we provided an expert witness in a Duke Energy case before the Indiana Utility Regulatory Commission concerning the operations of the company's IGCC power plant in Edwardsport, Indiana, and whether certain fuel costs should be charged to ratepayers instead of shareholders. That same witness conducted the executive compensation review which is the basis of our current request to you.

Instances of mismanagement have been highly publicized and include recent examples ranging from its historic coal ash spill in North Carolina, to its proposed sale of a stake in its Indiana operations to foreign interests, to its history of failed nuclear projects in Florida, and to its IGCC power plant in Edwardsport, Indiana. It is possible that these examples, and others, have cost Duke customers billions of dollars in rates and negatively impacted the value of the company.

In the meantime, we encourage the Florida Public Service Commission to exercise its authority and push the "pause" button on a settlement that will increase customer bills when substantive questions have been raised about whether those rate increases should in fact be rate decreases.

Sincerely,

Rick Enstrom
Chairman, Better Jobs Coalition

cc: The Honorable Ron DeSantis
The Honorable Wilton Simpson
The Honorable Chris Sprowls
Mr. Richard Gentry