

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition for Increase in Rates )  
By Gulf Power Company ) DOCKET NO. 130140-EI  
\_\_\_\_\_) FILED: AUGUST 30, 2013

**PETITION TO INTERVENE OF WAL-MART STORES EAST, LP  
AND SAM'S EAST, INC.**

Wal-Mart Stores East, LP and Sam's East, Inc. ("Walmart"), pursuant to Chapters 120 and 366, Florida Statutes,<sup>1</sup> and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code ("F.A.C."), hereby petitions to intervene in the above-styled docket. In summary, Walmart is an internationally renowned retail merchant, supplying groceries and many other retail goods to millions of customers throughout Florida, the United States, and the World. Worldwide, Walmart employs more than 2.2 million associates. Walmart is also a major retail customer of Gulf Power, purchasing electricity from Gulf to operate its stores and distribution facilities in Northwest Florida. As one of Gulf's largest retail customers, Walmart's substantial interests will be determined by the Commission's actions in this docket, and accordingly, Walmart is entitled to intervene in this proceeding.

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<sup>1</sup> All references herein to the Florida Statutes are to the 2012 edition thereof.

In further support of its Petition to Intervene, Walmart Stores states as follows.

1. The name, address, and telephone number of the Petitioner are as follows:

Wal-Mart Stores East, LP and Sam's East, Inc.  
Attn: Steve W. Chriss  
2001 SE 10<sup>th</sup> St.  
Bentonville, AR 72716-5530  
Telephone (479) 204-1594  
Facsimile (479) 273-6851.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright, Attorney at Law  
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3. The agency affected by this Petition to Intervene is:

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

4. Walmart operates 24 retail stores in Gulf Power Company's service territory. Walmart requires adequate, reasonably priced electricity in order to serve its customers and conduct its business.

5. Statement of Affected Interests. In this docket, the Commission will decide whether to approve Gulf's request for a

general rate increase. Gulf initiated this docket by filing a Test Year Notification on May 9, 2013, and subsequently filed its petition, testimony, Minimum Filing Requirements, and other exhibits seeking total base rate increases of \$74,393,000 per year on July 12, 2013. The Commission will necessarily have to decide whether any rate increases are justified, and if so, the Commission will also have to approve the rates and charges that would enable Gulf to recover any authorized increase in Gulf's base rate revenues from customers. As one of Gulf's largest retail customers, Walmart needs safe, adequate, and reasonably priced electricity in order to serve its customers and conduct its business. Accordingly, Walmart's substantial interests will be affected by any action that the Commission takes in this docket.

6. Walmart's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect against. 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), rev. denied, 415 So. 2d 1359 (Fla. 1982). In this matter, Walmart is a major customer of Gulf Power, and any rate increase will immediately and adversely affect Walmart's substantial interests by increasing Walmart's cost of doing business. Therefore, the interests that Walmart seeks to protect are of sufficient immediacy to warrant intervention, and the nature of its interests in having the Commission set rates for Gulf Power's retail electric service that are fair, just, reasonable, and not unduly discriminatory are exactly the interests that this proceeding is designed to protect. This is a general rate case, and Walmart seeks to protect its substantial interests as those interests will be determined by the Commission's decisions determining Gulf's rates.

8. Disputed Issues of Material Fact. Walmart believes that the disputed issues of material fact in this proceeding will include, but will not be limited to, the issues listed below. Walmart expects that, as in all rate cases, numerous additional, specific issues will be identified and developed as this docket progresses.

Issue: What are the appropriate jurisdictional values of Gulf's Plant in Service, Accumulated Depreciation, and Rate Base for setting Gulf's rates to be effective following the conclusion of this proceeding?

Issue: What are the appropriate jurisdictional values of

Gulf's operation and maintenance expenses for setting Gulf's rates in this case?

Issue: What is the appropriate capital structure for Gulf for the purpose of setting Gulf's rates in this case?

Issue: What is the appropriate rate of return on equity for Gulf for the purpose of setting Gulf's rates in this case?

Issue: What are the appropriate cost rates for other sources of capital in Gulf's capital structure?

Issue: What are the appropriate levels of sales and other billing determinants to be used to set Gulf's rates to be effective following this proceeding?

Issue: How should Gulf's costs of providing retail electric service be allocated to Gulf's retail customer classes?

Issue: What are the appropriate rates to be charged by Gulf for its services to each customer class?

Issue: What is the appropriate amount to be included in Gulf's base rates for accrual to Gulf's storm reserve?

Walmart reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this case.

9. Statement of Ultimate Facts Alleged. It is Gulf Power Company's burden to prove that it is entitled to any rate relief, and to meet that burden, Gulf must prove that its existing rates

and charges are not fair, just, and reasonable, i.e., Gulf must prove that its current rates are not sufficient to enable it to provide safe, adequate, reliable service while recovering its legitimate costs and attracting adequate capital to operate its business. As a major retail customer of Gulf Power, Walmart needs safe, adequate, and reasonably priced electricity to serve its customers and carry on its business, and Walmart's substantial interests will be determined by the Commission's decisions in this docket. Accordingly, Walmart is entitled to intervene herein.

10. Statutes and Rules That Entitle Walmart to Relief. The applicable statutes and rules that entitle Walmart to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.05(1), 366.06(1)&(2), and 366.07, Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

11. Statement Explaining How the Facts Alleged By Walmart Entitle Walmart to the Relief Requested. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over Gulf's rates and the Commission's statutory mandate to ensure that the rates that Gulf charges to

its retail customers, including Walmart, are fair, just, and reasonable. Therefore, the Commission's substantive regulatory statute entitles Walmart to have the Commission determine and fix retail rates for Gulf Power Company that are fair, just, and reasonable. The facts alleged here by Walmart demonstrate (a) that the Commission's decisions herein will determine Gulf's rates and charges to be imposed and collected after the conclusion of this case, (b) that Walmart's substantial interests in having adequate electric service at fair, just, and reasonable rates will be directly impacted and determined by the Commission's decisions regarding Gulf's rates and charges, and (c) accordingly, that these statutes provide the basis for the relief requested by Walmart in its Petition to Intervene.

12. Statement Regarding Agency Action and Rule 28-106.201(2), F.A.C. As Gulf noted in its petition for increased rates (page 10, note 4), this case involves original proceedings pursuant to Chapter 366, Florida Statutes, and accordingly, it does not involve reversal or modification of any action proposed by the Commission. Accordingly, Walmart agrees with Gulf's observation that subsection (c) and portions of subsections (e), (f) and (g) of Rule 28-106.201(2), F.A.C., are not applicable either to Gulf's petition or to Walmart's petition to intervene. As set forth above, Walmart believes that, as in all general base rate cases before the Commission, there will be numerous disputed

issues of material fact to be decided in this case. Walmart has identified a number of those issues in summary form and intends to take positions with respect to individual issues as appropriate, and consistent with the Order Establishing Procedure.

#### **CONCLUSION**

Walmart is a major commercial customer of Gulf Power Company, and Walmart needs safe, reliable, and reasonably priced electric service to serve its customers and conduct its business. Walmart seeks to intervene in this general rate case docket to protect its substantial interests in having the Commission set rates for Gulf Power Company that are fair, just, reasonable, and not unduly discriminatory. The interests that Walmart seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by this proceeding, and accordingly, Walmart is entitled to intervene in this docket.



**RELIEF REQUESTED**

**WHEREFORE**, Wal-Mart Stores East, LP and Sam's East, Inc. respectfully request the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on Walmart's representatives indicated in paragraph 2 above.

Respectfully submitted this 30th day of August, 2013.



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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic Mail this 30th day of August, 2013 to the following:

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