

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Commission Review of Numeric Conservation Goals (Florida Power & Light Company) ) DOCKET NO. 130199-EI  
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In Re: Commission Review of Numeric Conservation Goals (Duke Energy Florida, Inc.) ) DOCKET NO. 130200-EI  
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In Re: Commission Review of Numeric Conservation Goals (Tampa Electric Company) ) DOCKET NO. 130201-EI  
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In Re: Commission Review of Numeric Conservation Goals (Gulf Power Company) ) DOCKET NO. 130202-EI  
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In Re: Commission Review of Numeric Conservation Goals for JEA ) DOCKET NO. 130203-EI  
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In Re: Commission Review of Numeric Conservation Goals for Orlando Utilities Commission ) DOCKET NO. 130204-EI  
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In Re: Commission Review of Numeric Conservation Goals for Florida Public Utilities Company ) DOCKET NO. 130205-EI  
) FILED: MARCH 14, 2014  
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**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 dockets. In summary, Walmart is an international retail

<sup>1</sup> All references herein to the Florida Statutes are to the 2013 edition.

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 retail customer of all of the major electric utilities in Florida, including Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company, Gulf Power Company, JEA, and OUC, as well as having stores in the Marianna and Fernandina Beach service areas of Florida Public Utilities Company (FPUC) and in the service areas of many other Florida municipal and cooperative utilities. As one of the largest retail electricity consumers in Florida, Walmart's substantial interests will be determined by the Commission's actions in these dockets, and accordingly, Walmart is entitled to intervene.

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: Kenneth E. Baker  
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Telephone (479) 204-0404  
Facsimile (479) 273-6851.

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

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Dee, LaVia & Wright, P.A.  
1300 Thomaswood Drive  
Tallahassee, Florida 32308  
Telephone (850) 385-0070  
Facsimile (850) 385-5416.

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 approximately 314 retail stores in Florida, including many stores served by FPL, Duke, Tampa Electric, Gulf Power, JEA, and OUC, as well as two stores served by FPUC. Statewide, Walmart used approximately 1.5 billion kWh of electrical energy in 2013. Walmart requires adequate, reasonably priced electricity in order to serve its customers and conduct its business, as well as fair and equitable treatment with respect to its energy conservation and renewable energy initiatives.

5. Statement of Affected Interests. In this docket, the Commission will decide what the subject utilities' energy conservation goals will be and other issues related to how those goals will be met. As one of the largest consumers of retail electricity in Florida, Walmart needs safe, adequate, and

reasonably priced electricity in order to serve its customers and conduct its business. Additionally, Walmart is committed to long-term energy sustainability, including energy conservation and the use of renewable energy resources. Inasmuch as these proceedings will determine the subject utilities' energy conservation goals and other aspects of the programs available to meet those goals, and will also determine the utilities' rates that would be charged to support certain energy conservation measures, Walmart's substantial interests will be affected by any actions that the Commission takes in these proceedings.

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 these dockets, an intervenor must demonstrate that its substantial interests will be affected or determined by the proceedings. 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). Of particular relevance to these dockets, Walmart is a retail customer of the seven utilities whose numeric energy conservation goals will be determined in these dockets, and the

Commission's decisions will immediately affect Walmart's substantial interests by impacting Walmart's rates and by determining what energy conservation measures and programs Walmart can and will use to promote energy conservation in Florida. The interests that Walmart seeks to protect through its intervention are of sufficient immediacy to warrant intervention, and the nature of its interests in having the Commission set reasonable and appropriate numeric conservation goals and in having the Commission determine other reasonable and appropriate provisions for the achievement of those goals, are exactly the interests that this proceeding is designed to protect.

8. Disputed Issues of Material Fact. Walmart believes that the disputed issues of material fact in these dockets will include, but will not be limited to, the issues listed below. (These issues track the issue list distributed by the Commission Staff for the March 5, 2014 issue identification conference, including additional issues discussed at that meeting.) Walmart expects that, as in most Commission proceedings, additional issues will be identified and developed as these dockets progress.

**ISSUE 1:** Are the Company's proposed goals based on an adequate assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems, pursuant to Section 366.82(3), F.S.?

**ISSUE 2:** Do the Company's proposed goals adequately reflect the costs and benefits to customers participating in the measures, pursuant to Section 366.82(3)(a), F.S.?

- ISSUE 3:** Do the Company's proposed goals adequately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions, pursuant to Section 366.82(3)(b), F.S.?
- ISSUE 4:** Do the Company's proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems, pursuant to Section 366.82, F.S.?
- ISSUE 5:** Do the Company's proposed goals adequately reflect the costs imposed by state and federal regulations on the emission of greenhouse gases, pursuant to Section 366.82(3)(d), F.S.?
- ISSUE 6:** What cost-effectiveness test or tests should the Commission use to set goals, pursuant to Section 366.82, F.S.?
- ISSUE 7:** What residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the Company for the period 2015-2024?
- ISSUE 8:** What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the Company for the period 2015-2024?
- ISSUE 9:** Should the Company's existing Solar Pilot programs be extended and, if so, should any modifications be made to them? (FPL's alternate wording for Staff's Issue 9.)
- ISSUE 10:** What goals, if any, should be established for increasing the development of demand-side renewable energy systems, pursuant to Section 366.82(2), Florida Statutes?
- ISSUE 11:** In determining the Company's goals, what, if any, provisions should the Commission make or impose to address potential free ridership by program participants? (Alternate wording of SACE Issue 17.)
- ISSUE 12:** Did the Company provide a complete assessment of the achievable potential of all available energy savings measures, including demand-side renewable energy systems?

**ISSUE 13**: Should the Commission permit customers to satisfy their energy conservation requirements by implementing, at the customer's own expense, energy conservation, demand-side management, or energy efficiency measures, or combinations thereof, and thereby be eligible to opt out of the requirements of Section 366.82, Florida Statutes? (Alternate wording of FIPUG Issue 23.)

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. 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 reasonable and appropriate numeric conservation goals and in having the Commission determine other reasonable and appropriate provisions relating to the achievement of those goals, are exactly the interests that this proceeding is designed to protect. Accordingly, Walmart is entitled to intervene in these dockets.

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), 366.80-366.82, Florida Statutes, and Rules 25-22.039 and 28-106.205, F.A.C.

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 the energy conservation goals and programs of the seven utilities that are the subject of the seven dockets in which Walmart seeks to intervene. The facts alleged here by Walmart demonstrate (a) that the Commission's decisions herein will determine the subject utilities' rates and charges to be imposed and collected in connection with meeting their conservation goals, (b) that the Commission's decisions will also determine other provisions applicable to the utilities' energy conservation and renewable energy programs and goals, and (c) that Walmart's substantial interests will be impacted and determined by the Commission's actions, including the impacts of those decisions on Walmart's rates and on Walmart's access to energy conservation measures and programs. Accordingly, these statutes provide the basis for the relief requested by Walmart, namely intervention in these dockets.

12. Statement Regarding Agency Action and Rule 28-106.201(2), F.A.C. 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 believes that subsection (c) and portions of subsections (e), (f) and (g) of Rule 28-



106.201(2), F.A.C., are not applicable to Walmart's petition to intervene. As set forth above, Walmart believes that, as in other energy conservation dockets conducted by the Commission over the years, 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.

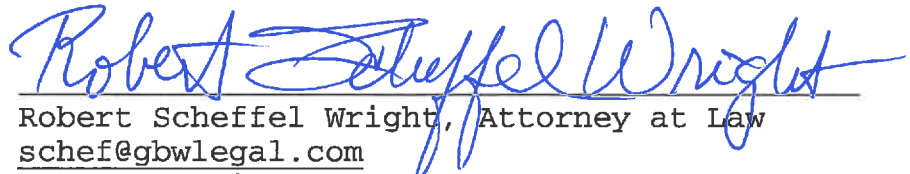
#### **CONCLUSION**

Walmart is a substantial consumer of retail electricity service in Florida, and a commercial customer of the seven utilities that are the subject of the dockets in which Walmart seeks to intervene, FPL, Duke, Tampa Electric, Gulf Power, JEA, OUC, and FPUC. The interests that Walmart seeks to protect via its intervention and participation in these dockets are immediate and of the type to be protected by these proceedings, and accordingly, Walmart is entitled to intervene in these proceedings.

**RELIEF REQUESTED**

**WHEREFORE**, Walmart 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 14th day of March, 2014.



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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 14th day of March, 2014 to the following:

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