

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Storm protection plan cost recovery : DOCKET NO. 20210010-EI
clause. :
: Filed: March 12, 2021

**PETITION TO INTERVENE OF
WALMART INC.**

Pursuant to Sections 120.569 and 120.57 of the Florida Statutes and Rule 28-106.205 of the Florida Administrative Code, Walmart Inc. ("Walmart"), by its attorneys, respectfully petitions the Florida Public Service Commission ("Commission") for permission to intervene in the above-captioned, consolidated proceedings. In support thereof, Walmart represents to the Commission:

1. Petitioner is Walmart, 2608 SE J Street, Bentonville, AR 72716.
2. The name and address of Petitioner's attorneys are:

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Ms. Eaton is authorized to accept service of papers in this proceeding on behalf of Walmart. Walmart also requests that Mr. Naum be added to the service list. Walmart may cause to be filed

a motion for Mr. Naum to be admitted *pro hac vice* before this Commission, and subsequent to any Commission grant of such request, Walmart requests that Mr. Naum be added to the office service list as an attorney authorized to accept service of papers in this proceeding.

3. On January 4, 2021, the Commission initiated this proceeding to address storm protection plan ("SPP") cost recovery clause.

4. Walmart is a national retailer of goods and services through the United States with its principal office located at 2608 SE J Street, Bentonville, AR 72716.

5. Statement of Substantial Interest. Walmart has the privilege of providing its retail services in the State of Florida through its 231 Supercenters, 9 Discount Stores, 98 Neighborhood Markets, 46 Sam's Clubs, and 8 Distribution Centers.¹ Walmart is also a retail customer of all electric utilities in Florida, including Florida Power & Light Company ("FPL"), Gulf Power Company ("Gulf"), Duke Energy Florida, LLC ("Duke"), and Tampa Electric Company ("TECO") (collectively, "FL Electric Utilities" or "Utilities").² Walmart collectively purchases more than 1.202 billion kWh³ annually from the FL Electric Utilities. The cost of electric utility service is a significant element in the cost of operation for Walmart at multiple locations throughout the state, which could be impacted by the outcomes in this case, thus Walmart has a unique and substantial

¹ <https://corporate.walmart.com/our-story/locations/united-states/florida>

² Walmart also receives electric power from Florida Public Utilities Company ("FPUC"), but FPUC is not part of this Docket, as set forth in Docket No. 20210010-EI, Order No. PSC-2021-0083-PCO-EI (issued Feb. 17, 2021), pp. 2-3.

³ This data does not include Walmart's usage from FPUC because FPUC is not required to file a Storm Protection Plan until April 2022. *See id.*

interest in this matter. Additionally, Walmart was a signatory party to the settlement agreements approved in FPL's, Gulf's, Duke's, and TECO's 2020 SPP Dockets.⁴

6. Walmart has a substantial and vital interest in the outcome of this proceeding that cannot be adequately represented by any other party.

7. Disputed Issues of Material Fact. At this time, Walmart has not yet confirmed disputed issues of material fact as this proceeding is still in its early stage; however, Walmart anticipates that disputed issues of material fact in this proceeding may arise with respect to all issues attendant to cost recovery clauses in a regulatory environment. Other disputed issues of material fact may include the following:

- a. Whether the costs the FL Electric Utilities seek recovery from customers are reasonable?
- b. What are the final, actual SPP costs the FL Electric Utilities may recover from customers?
- c. Whether the FL Electric Utilities proposed SPP recovery clause filings ensure that costs included in the utility's base rates are not also recovered through the clause, as required by Section 366.96, F.S.?
- d. Whether the costs to be recovered from ratepayers will reflect the reasonable allocation of those costs among the classes based on cost causation principles and proper rate design?

⁴ See *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Tampa Electric Company*, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Duke Energy Florida, LLC*, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Gulf Power Company*, *In re: Review of 2020-2029 Storm Protection Plan pursuant to Rule 25-6.030, F.A.C., Florida Power and Light Company*, *In re: Storm protection plan cost recovery clause*, Docket Nos. 20200067-EI, 20200069-EI, 20200070-EI, 20200071-EI, and 20200092-EI, Order No. PSC-2020-0293-AS-EI (issued Aug. 28, 2020), pp. 4, 6, 7.

8. Disputed Legal Issues. Walmart has not yet identified or confirmed any disputed legal issues; however, Walmart reserves its right to do so.

9. Statement of Ultimate Legal Facts Alleged. The interests of Walmart as a large, multi-account customer of the FL Electric Utilities that it seeks to protect are sufficient to warrant intervention. The nature of Walmart's interest in having the Commission determine whether the FL Electric Utilities' SPP costs and resulting rates are just and reasonable is exactly the interest that this proceeding is designed to protect. Accordingly, Walmart is entitled to intervene in this Docket.

10. Rules and Statutes Justifying Relief. The rules and statutes that entitle Walmart to intervene and participate in this case include, but are not limited to, the following:

- a. Section 120.569 of the Florida Statutes;
- b. Section 120.57 of the Florida Statutes; and
- c. Section 28-106.205 of the Florida Administrative Code.

11. Requested Relief. Walmart requests that it be permitted to intervene as a full party in this proceeding.

12. Pursuant to Rule 28-106.204(3) F.A.C., Walmart conferred with the parties regarding Walmart's intervention. No party indicated an objection to Walmart's intervention.⁵

⁵ FPL, Gulf, TECO, FPUC, and DEF indicated that they do not object to, or do not take a position on, Walmart's intervention. Additionally, prospective parties, the Office of Public Counsel, Florida Industrial Power Users Group, and White Spring Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs have indicated that they do not object to Walmart's intervention.

WHEREFORE, Walmart Inc. respectfully requests that the Commission grant this Petition to Intervene and be provided with full party status in this proceeding.

Respectfully submitted,

By /s/ Stephanie U. Eaton
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Counsel to Walmart Inc.

Dated: March 12, 2021

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to the following parties this 12th day of March, 2021.

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