

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric
conservation goals (JEA).

DOCKET NO. 20240016-EG

Commission review of numeric conservation
goals (Orlando Utilities Commission)

DOCKET NO. 20240017-EG
ORDER NO. PSC-2024-0194-PCO-EG
ISSUED: June 14, 2024

ORDER GRANTING INTERVENTION
FOR WALMART, INC.

On January 5, 2024, Docket Nos. 20240012-EG, 20240013-EG, 20240014-EG, 20240015-EG, 20240016-EG, and 20240017-EG were established to review and adopt the corresponding utility's conservation goals pursuant to Sections 366.80-366.83 and 403.519, Florida Statutes. (F.S.), known collectively as the Florida Energy Efficiency and Conservation Act (FEECA). By the Order Consolidating Dockets and Establishing Procedure, Order No. PSC-2024-0022-PCO-EG, issued January 23, 2024, the dockets were consolidated for purposes of hearing and controlling dates were established. These dockets are currently scheduled for hearing on August 6-9, 2024.

Petition for Intervention

By motion dated June 5, 2024, Walmart, Inc. (Walmart) filed a Petition to Intervene in Docket Nos. 20240016-EG and 20240017-EG. Walmart is a national retailer of goods and services throughout the United States with 232 Supercenters, 9 Discount Stores, 97 Neighborhood Markets, 46 Sam's Clubs, 2 Other Pharmacy Formats, 9 Distribution Centers, and 2 Fulfillment Centers in Florida. Walmart is also a retail customer of all of the electric utilities in Florida, including JEA and Orlando Utilities Commission (OUC). Walmart purchases more than 83 million kWh annually from JEA, and more than 38 million kWh annually from OUC. The cost of electric utility service is a significant element in the cost of operation for Walmart, which could be impacted by the outcomes in this docket. Walmart asserts that it has a unique substantial interest in this matter. No party indicated an objection to Walmart's intervention.

Standards for Intervention

Pursuant to Rule 28-106.205, F.A.C., persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding and who desire to become parties may move for leave to intervene. Motions for leave to intervene must be filed at least twenty (20) days before the final hearing, must comply with Rule 28-106.204(3), F.A.C., and must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. Intervenors take the case as they find it.

To have standing, the intervenor must meet the two-prong standing test set forth in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981). The intervenor must show that (1) he will suffer injury in fact that is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) the substantial injury is of a type or nature that the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury. The "injury in fact" must be both real and immediate and not speculative or conjectural. *International Jai-Alai Players Assn. v. Florida Pari-Mutuel Commission*, 561 So. 2d 1224, 1225-26 (Fla. 3d DCA 1990). *See also Village Park Mobile Home Assn., Inc. v. State Dept. of Business Regulation*, 506 So. 2d 426, 434 (Fla. 1st DCA 1987), *rev. den.*, 513 So. 2d 1063 (Fla. 1987) (speculation on the possible occurrence of injurious events is too remote).

Analysis and Ruling

Based on above representations, it appears that Walmart meets the standing requirements of *Agrico*. As a commercial customer within JEA's and OUC's service areas, its substantial interests will be directly affected by the Commission's decisions as to the appropriate conservation goals and programs. Walmart meets the requirements for standing and will be permitted to intervene as a party Docket Nos. 20240016-EG and 20240017-EG. Walmart takes the case as it finds it.

Based on the above representations, it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that the Motion to Intervene filed by Walmart, Inc. is hereby granted as set forth in the body of this Order. It is further

ORDERED that Walmart, Inc. takes the case as it finds it. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings, and other documents which may hereinafter be filed in this proceeding to:

Stephanie U. Eaton
Florida Bar No.: 165610
SPILMAN THOMAS & BATTLE, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
Phone: (336) 631-1062
Fax: (336) 725-4476
seaton@spilmanlaw.com

Steven W. Lee
SPILMAN THOMAS & BATTLE, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
Phone: (717) 791-2012
Fax: (717) 795-2743
slee@spilmanlaw.com

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By ORDER of Commissioner Art Graham, as Prehearing Officer, this 14th day of June,
2024.

A handwritten signature in black ink, appearing to read 'Art Graham', is written over a horizontal line.

ART GRAHAM
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.