

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Duke Energy
Florida, LLC.

DOCKET NO. 20240025-EI
ORDER NO. PSC-2024-0256-PCO-EI
ISSUED: July 22, 2024

ORDER GRANTING PETITION TO INTERVENE
OF WALMART, INC.

Duke Energy Florida, LLC (DEF) filed its Petition for Rate Increase, minimum filing requirements (MFRs), and testimony on April 2, 2024. DEF filed its MFRs based on projected test years from January 1 to December 31, 2025; January 1 to December 31, 2026; and January 1 to December 31, 2027. By Order No. PSC-2024-0092-PCO-EI, issued April 11, 2024, a final administrative hearing was scheduled for August 12 – 16, 2024. August 19 – 23, 2024, were also reserved for the continuation and conclusion of this hearing, if necessary.

On July 8, 2024, DEF and the Office of Public Counsel (OPC) filed a Joint Motion to Suspend Procedural Schedule. DEF and OPC represented in the Motion that they had reached an agreement in principle to resolve all issues in this docket, and requested that the Commission suspend all pending hearings, deadlines, and other matters in this docket. By Order No. PSC-2024-0234-PCO-EI, issued July 11, 2024, the Motion was granted. All pending discovery and scheduled hearings, including both the prehearing and final hearing, are currently suspended.

Petition for Intervention

On July 11, 2024, Walmart, Inc. (Walmart) filed a Petition to Intervene in this proceeding. Walmart is a national retailer of goods and services throughout the United States with its principal office in Bentonville, Arkansas. Walmart states that it purchases over 280 million kWh of electricity annually from DEF for the distribution center, 73 retail stores, and related facilities it owns and operates in DEF's service territory. Walmart further represents that because the cost of electric utility service is a significant element of its cost of operation in Florida, and the outcome of this proceeding could impact that cost, its substantial interests are affected such that it has standing to intervene. Walmart represents that it has contacted the parties regarding its intervention and that it has been authorized to represent that the Florida Retail Federation supports the Petition, and the remaining parties either have no objection or take no position. No written objections have been filed as of this date and the time for doing so has expired.

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) (speculation on the possible occurrence of injurious events is too remote).

Analysis & Ruling

Based on the representations in its Petition, Walmart satisfies the two-prong standing test in *Agrico*. As to the first prong, Walmart is a commercial customer of DEF and the rates it pays for electric utility service will be directly impacted by the base rate increases at issue in this proceeding. Regarding the second *Agrico* prong, this docket is designed to determine the base rate that customers such as Walmart will be required to pay. Because the allegations in its Petition satisfy the requirements of *Agrico*, Walmart is granted intervention as set forth herein. Pursuant to Rule 28-106.205, F.A.C., Walmart takes the case as it finds it.

Based on the above representations, it is

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

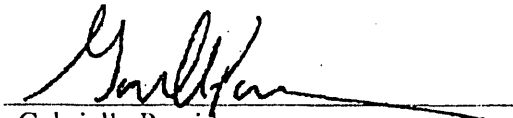
ORDERED that Walmart, Inc. takes the case as it finds it. It is further

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:

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By ORDER of Commissioner Gabriella Passidomo, as Prehearing Officer, this 22nd day
of July, 2024.



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

SPS

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.