

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.	DOCKET NO. 20240026-EI
In re: Petition for approval of 2023 depreciation and dismantlement study, by Tampa Electric Company.	DOCKET NO. 20230139-EI
In re: Petition to implement 2024 generation base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company.	DOCKET NO. 20230090-EI ORDER NO. PSC-2024-0317-PCO-EI ISSUED: August 8, 2024

ORDER GRANTING INTERVENTION
OF WALMART INC.

On April 2, 2024, Tampa Electric Company (“TECO”) filed a petition, minimum filing requirements, and testimony for an increase in base rates effective January 2025.

Petition for Intervention

Walmart Inc. (“Walmart”) filed a Petition to Intervene on August 6, 2024. Petitioner represents that it consulted with all the parties and none of them objects to Walmart’s intervention.

Walmart states it is a national retailer of goods and services throughout the United States. Walmart further states that it is a large commercial customer of TECO, owning and operating approximately 36 retail stores, a distribution center, and related facilities in TECO’s service territory. Walmart asserts that these facilities collectively consume over 140.3 kWh of electricity from TECO each year. Walmart alleges that the cost of electric service constitutes a significant element of its cost of operation. Walmart asserts that its participation in this matter is appropriate because the outcome of this proceeding could impact its costs.

Standard for Intervention

Pursuant to Rule 28-106.205, Florida Administrative Code (“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, 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 test set forth in *Agrico Chemical Company v. Department of Environmental Regulation*.¹ The intervenor must show that (1) they will suffer injury in fact which is of sufficient immediacy to entitle them to a Section 120.57, Florida Statutes, hearing, and (2) this substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury.² The second deals with the nature of the injury.³ The "injury in fact" must be both real and immediate and not speculative or conjectural.⁴

Analysis & Ruling

Based on a review of the materials provided by Walmart, it appears that Walmart meets the two-prong standing test established in *Agrico*. With respect to the first prong, Walmart is a commercial customer of TECO whose cost for electric service allegedly constitutes a significant element of its cost of operation. Walmart faces the prospect of paying higher electricity base rates going forward. With respect to the second prong, this proceeding is designed for the very purpose of determining base rates that customers like Walmart will be required to pay. Therefore, Walmart meets the requirements for individual standing and will be permitted to intervene as a party in this proceeding.

Based on the foregoing, it is

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Petition to Intervene 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:

¹ *Agrico Chem. Co. v. Dep't of Envtl. Regulation*, 406 So. 2d 478, 481–82 (Fla. 2d DCA 1981).

² *Id.* at 482.

³ *Id.*

⁴ *Int'l Jai-Alai Players Ass'n v. Fla. Pari-Mutuel Comm'n*, 561 So.2d 1224, 1225–26 (Fla. 3d DCA 1990); *see also Vill. Park Mobile Home Ass'n, Inc. v. State Dep't of Bus. Regulation*, 506 So.2d 426, 434 (Fla. 1st DCA 1987), *rev. den.*, 513 So.2d 1063 (Fla. 1987) (noting speculation on the possible occurrence of injurious events was too remote).

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Stephanie U. Eaton, Esq.
Florida Bar No. 165610
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
Telephone: (336) 631-1062
E-mail: SEaton@SpilmanLaw.com

Steven W. Lee (as Qualified Representative)
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
Telephone: (717) 791-2012
Fax: (717) 795-2743
SLee@SpilmanLaw.com

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 8th day of August, 2024.



GARY F. CLARK
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.

CMM

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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. 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.