

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Increase in) Docket No. 160186-EI
Rates by Gulf Power Company.)
_____) SERVED: March 1, 2017

**WAL-MART STORES EAST, L.P.'S AND SAM'S EAST, INC.'S
EXPLANATION AND COMMENTS IN SUPPORT OF NEW ISSUE 105.A**

Wal-Mart Stores East, L.P. and Sam's East, Inc. (collectively referred to as "Wal-Mart"), pursuant to directions from Commission Staff, hereby submits these comments in support of the inclusion of New Issue 105.A in this case.

BACKGROUND

Walmart's proposed New Issue 105.A raised the substantive issue of whether Gulf should be required to participate in a collaborative stakeholder process with the goal of developing additional energy supply options as an economic development measure. The issue presented in Walmart's Prehearing Statement is as follows:

WALMART'S PROPOSED NEW ISSUE 105.A:

Should the Commission require Gulf to initiate a stakeholder process involving Gulf and its customers with the purpose of collaboratively developing additional energy supply options for Gulf and its customers, with particular emphasis on renewable energy measures and initiatives?

Walmart's position on this issue reflects the testimony of Walmart's witness, Steve A. Chriss, Walmart's Director of Energy and Strategy Analysis, filed in this docket on January 13, 2017.

Accordingly, all Parties have been on notice that Walmart has raised this issue since that date.

Walmart: Yes. The Commission should require Gulf to initiate a stakeholder process with the purpose of developing and proposing to the Commission additional energy supply options, with particular emphasis on renewable measures. Additional renewable energy measures and programs will promote economic development in Gulf's service area for the benefit of all customers and will further promote sustainable economic growth and enhanced energy independence for Florida. Gulf should be directed to begin the collaborative process with interested customers and customer parties within 60 days following the Commission's order in this case, and Gulf should report on proposed new energy supply options within six months following the issuance of the Commission's order. (Chriss)

Gulf has stated that it objects to the issue. Other intervenor parties, including the Citizens of the State of Florida, the Florida Industrial Power Users Group, and the Sierra Club, support the inclusion of Walmart's Issue 105.A.

EXPLANATION AND COMMENTS IN SUPPORT OF ISSUE 105.A

In short, parties are free to raise issues in proceedings before the Commission, and any party wishing to keep an issue from being considered by the Commission - in this context, Gulf Power Company - has the burden of demonstrating that it should not be included.

Thus, the questions here are akin to those raised by a motion to dismiss: whether a utility can conduct a collaborative stakeholder process with the goal of promoting economic development and the State's renewable energy policies and goals,

whether any other party - e.g., Gulf Power - could propose an issue or a stakeholder process of this type, and whether the Florida PSC has the jurisdiction to require Gulf to enter into such a process to serve these goals.

Walmart respectfully submits that the answers to each of the foregoing questions is in the affirmative. Section 120.57(1)(b), Florida Statutes, provides in pertinent part as follows:

(b) All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the presiding officer's recommended order, and to be represented by counsel or other qualified representative.

As a full party to this docket, with its intervention authorized by Commission Order No. PSC-17-0013-PCO-EI, Walmart is entitled to raise issues.

Economic development measures are clearly within the Commission's substantive jurisdiction in rate cases. Indeed, Walmart's proposed Issue 105.A is every bit as appropriate in this case as Gulf's proposed new economic development tariff styled as its Extra-Large Business Incentive Rider, which is addressed in Issue 93.

The Commission plainly has the jurisdiction to require a utility to participate in collaborative processes to address matters within the Commission's jurisdiction - here the Commission's authority to promote the public interest by promoting

economic development pursuant to Section 366.01, Florida Statutes, and the Commission's authority to promote renewable energy pursuant to Sections 366.81, 366.82, 366.91, and 366.92, Florida Statutes. To suggest otherwise would be contrary to good public policy and the public interest.

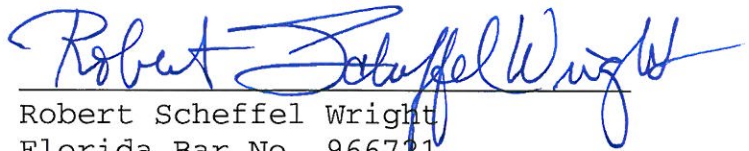
That the Commission has the authority to approve such processes in a rate case is demonstrated by the Commission's recent approval of the settlement between and among Florida Power & Light Company and other intervenor parties in Docket No. 160021-EI, in which the Commission approved, as part of a settlement that was incorporated into the Commission's approval thereof, a provision requiring FPL and other parties to request a Commission workshop aimed at developing an opt-out pilot program relative to certain energy efficiency measures, programs, and charges. In re: Petition for Rate Increase by Florida Power & Light Company, Docket No. 160021-EI, Order No. PSC-16-0560-AS-EI at 5, 29. There is no substantive difference between a workshop and a collaborative process.

Finally, due process must be satisfied, but in this instance, it is clear that due process has been fully satisfied by virtue of the fact that Walmart properly raised the issue in Mr. Chriss's testimony filed herein on January 13, 2017,

WHEREFORE, the Commission should include Walmart's proposed New Issue 105.A in this docket. For similar jurisprudential and

public policy reasons, the Commission should also include the issues raised by the Office of Public Counsel, New Issue 1.A, and by the Florida Industrial Power Users Group in this case.

Respectfully submitted this 1st day of March, 2017.



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CERTIFICATE OF SERVICE

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