

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Storm protection plan cost recovery : DOCKET NO. 20200092-EI**  
**clause. :**   
**: Filed: April 29, 2020**

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**PETITION TO INTERVENE OF  
WALMART INC.**

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Pursuant to Sections 120.569 and 120.57 of the Florida Statutes and Rules 25-22.039, 28-106.201, and 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. Williamson and Mr. Naum be added jointly to the service list. Walmart may cause to be filed a motion for either Mr. Williamson or Mr. Naum to be admitted *pro hac vice* before this Commission, and subsequent to any Commission grant of such request, Walmart requests that Mr. Williamson and Mr. Naum be added to the office service list as an attorney authorized to accept service of papers in this proceeding.

3. On March 13, 2020, the Commission initiated this proceeding to address storm protection plan 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.<sup>1</sup> Walmart is also retail customer of all of electric utilities in Florida, including Florida Power & Light Company ("FPL"), Gulf Power Company ("Gulf"), Florida Public Utilities Company ("FPUC"), Duke Energy Florida, LLC ("Duke"), and Tampa Electric Company ("TECO") (collectively, "FL Electric Utilities" or "Utilities"). Walmart collectively purchases more than 1.22 billion kWh<sup>2</sup> 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 interest in this matter.

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

<sup>2</sup> This data does not include Walmart's usage from FPUC because FPUC did not file a Storm Protection Plan.

6. Walmart has a substantial and vital interests 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 storm protection plan costs the FL Electric Utilities may recover from customers?
- c. Whether the FL Electric Utilities proposed storm protection plan 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?

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' storm protection plan costs are reasonable and appropriate 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;
- c. Section 25-22.039 of the Florida Administrative Code;
- d. Section 28-106.201 of the Florida Administrative Code; and
- e. 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. To date, no party has indicated an objection to Walmart's intervention.<sup>3</sup>

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<sup>3</sup> FPL, the Office of Public Counsel, and White Spring Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs have indicated that they do not object or take no position to Walmart's intervention. DEF stated that it does not object to Walmart's intervention subject to Walmart's demonstration of adequate standing to participate. Gulf, TECO, and FPUC have not responded to date.

**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: April 29, 2020

## 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 29<sup>th</sup> day of April, 2020.

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*/s/ Stephanie U. Eaton*  
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