

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).	DOCKET NO. 20190015-EG
In re: Commission review of numeric conservation goals (Gulf Power Company).	DOCKET NO. 20190016-EG
In re: Commission review of numeric conservation goals (Florida Public Utilities Company).	DOCKET NO. 20190017-EG
In re: Commission review of numeric conservation goals (Duke Energy Florida, LLC).	DOCKET NO. 20190018-EG
In re: Commission review of numeric conservation goals (Orlando Utilities Commission).	DOCKET NO. 20190019-EG
In re: Commission review of numeric conservation goals (JEA).	DOCKET NO. 20190020-EG
In re: Commission review of numeric conservation goals (Tampa Electric Company).	DOCKET NO. 20190021-EG ORDER NO. PSC-2019-0186-PCO-EG ISSUED: May 23, 2019

ORDER GRANTING INTERVENTION

On January 15, 2019, Docket Nos. 20190015-EG, 20190016-EG, 20190017-EG, 20190018-EG, 20190019-EG, 20190020-EG, and 20190021-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, known collectively as the Florida Energy Efficiency and Conservation Act (FEECA). By the Order Consolidating Dockets and Establishing Procedure, Order No. PSC-2019-0062-PCO-EG, issued on February 18, 2019, the dockets were consolidated for purposes of hearing and controlling dates were established. The dockets are currently scheduled for hearing from August 12, 2019, through August 16, 2019.

Petition for Intervention

By motion filed on April 26, 2019, Walmart Inc. (Walmart or Company) requested permission to intervene in all seven dockets in this proceeding. Walmart is a national retailer of

goods and services throughout the United States. Walmart provides retail services in the State of Florida through its 223 Supercenters, 10 Discount Stores, 75 Neighborhood Markets, 48 Sam's Clubs, and 8 Distribution Centers. Walmart is thereby a retail customer of electric utilities in Florida, including Florida Power & Light Company, Gulf Power Company, Florida Public Utilities Company, Duke Energy Florida, LLC, Orlando Utilities Commission, JEA, and Tampa Electric Company. Walmart asserts that it collectively purchases more than 1.5 billion kWh annually from the electric utilities who are parties to this proceeding. Walmart contends that the cost of electric utility service is a significant element in the cost of operation for the Company's locations throughout Florida, which could be impacted by the outcome of this proceeding.

Walmart claims that it has established aggressive and significant renewable energy goals, including the aspirational goal to be supplied by 100 percent renewable energy. Walmart's sustainability goals for 2025 include sourcing half of its global energy needs from renewable sources and reducing emissions in its operations by 18 percent. Walmart provides that the principal issues to be addressed in this proceeding fall squarely within the Company's goals and interests. Thus, Walmart submits that the Company has a unique and substantial interest in the outcome of this proceeding, and that the Company's interests cannot be adequately represented by any other party. Walmart further provides that its interest in having the Commission set reasonable, appropriate, and cost-effective numeric conservation goals and in having the Commission determine other reasonable and appropriate provisions relating to the achievement of those goals are of the nature that this proceeding is designed to protect.

Walmart provided that, in accordance with Rule 28-106.204(3), Florida Administrative Code (F.A.C.), it has conferred with the parties to this proceeding regarding the Company's petition and that all parties take no position on 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 Association 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).

Decision

Based on Walmart's representations, it appears that the Company satisfies the two-prong test established in Agrico. Walmart's status as a large retail customer of the electric utilities who are parties to this proceeding, along with the Company's statements regarding the impact of the outcome of this proceeding on its cost of operation, appears to satisfy prong one. Walmart's assertion that the principal issues to be addressed in this proceeding fall squarely within the Company's goals and interests appears to satisfy prong two. Therefore, Walmart's standing in this proceeding has been established.

Based on the foregoing, it is

ORDERED by Commissioner Donald J. Polmann, 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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20190020-EG, 20190021-EG

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By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 23rd day
of May, 2019.



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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.

AJW/MAD

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.