

Marguerite McLean

100160-EG

**From:** Rick D. Chamberlain [rdc\_law@swbell.net]  
**Sent:** Monday, June 07, 2010 5:08 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 100160-EG  
**Attachments:** Petition to Intervene.pdf

Please accept the attached for filing. Rick D. Chamberlain, JD, CPA Behrens, Taylor, Wheeler & Chamberlain 6 N.E. 63rd, Suite 400 Oklahoma City, OK 73105 Tel.: 405.848.1014 Fax: 405.848.3155 CIRCULAR 230 DISCLOSURE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, WE INFORM YOU THAT ANY U.S. FEDERAL TAX ADVICE CONTAINED IN THIS COMMUNICATION (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (I) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE OR (II) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.

DOCUMENT NO. DATE

04742-10 6/8/10

FPSC - COMMISSION OVER

6/8/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Proposed Modifications to Progress Energy Florida, Inc.'s Demand-Side Management Plan )  
Docket No. 100160-EG )

**PETITION TO INTERVENE OF  
WAL-MART STORES EAST, LP, AND SAM'S EAST, INC.**

Pursuant to Rules 25-22.039 and 28-106.205 of the Florida Administrative Code, Wal-Mart Stores East, LP, and Sam's East, Inc., (collectively "Walmart") hereby submit their Petition to Intervene in this proceeding. In support hereof, Walmart states as follows:

1) Name and Address of Agency. The name and address of the agency affected by this petition is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

2) Name and Address of Petitioner. The names and addresses of the Petitioners are:

Wal-Mart Stores East, LP  
Sam M. Walton Development Complex  
2001 SE 10th Street  
Bentonville, AR 72716-0550

Sam's East, Inc.  
Sam M. Walton Development Complex  
2001 SE 10th Street  
Bentonville, AR 72716-0550

3) Petitioners' Representative. The name and address of counsel for the Petitioners, authorized to receive all notices, pleadings and other communications in this docket is:

DOCUMENT NO. DATE

04742-10 6/8/10

FPSC - COMMISSION CLERK

PETITION TO INTERVENE OF  
WAL-MART STORES EAST, LP,  
AND SAM'S EAST, INC.,  
DOCKET NO. 100160-EG

---

Rick D. Chamberlain  
Behrens, Taylor, Wheeler & Chamberlain  
6 N.E. 63<sup>rd</sup> Street, Suite 400  
Oklahoma City, OK 73105  
Phone: (405) 848-1014  
Fax: (405) 848-3155  
Rdc\_law@swbell.net

4) Statement of Affected Interest. Walmart operates numerous retail

stores in Florida and are large retail customers of Progress Energy Florida, Inc. ("PEF").

As of April 2010, the presence of Walmart in Florida includes:

a)	Supercenters:	170
b)	Discount Stores:	34
c)	Neighborhood Markets:	27
d)	Sam's Clubs:	43
e)	Distribution Centers:	6

A significant number of these facilities are located in PEF's Florida service territory.

By order dated December 30, 2009, (FPSC Order No. PSC-09-0855-FOF-EG), the Commission adopted, among other things, expanded demand reduction and energy savings goals for PEFI and other regulated electric utilities. On March 30, 2010, FPUC filed its plan to effectuate these goals. The requested relief, if granted in whole or in part, may have a direct impact on the electric rates and the amounts paid for electricity by Walmart. Walmart, therefore, has an interest that will or may be affected in this proceeding and seek to intervene in order to protect those interests. Walmart's interest is unique and cannot be represented adequately by any other party.

5) Disputed Issues of Material Fact. Walmart anticipates that any disputed issues of material fact will be identified in the continuing course of these proceedings.

6) Disputed Legal Issues. Walmart anticipates that any disputed legal

**PETITION TO INTERVENE OF  
WAL-MART STORES EAST, LP,  
AND SAM'S EAST, INC.,  
DOCKET NO. 100160-EG**

---

issues will be identified in the continuing course of these proceedings.

7) Statement of Ultimate Facts Alleged. Alleged ultimate facts include, but are not limited to, the following: Should PEF's proposed demand-side management programs be approved as filed?

8) Rules and Statutes Justifying Requested Relief. The rules and statutes that entitle Walmart to intervene and participate in this proceeding include, but are not limited to:

- a) Sections 120.57, 120.569 and 366.80-85(1), Fla. Stat.; and
- b) Rules 25-22.039 and 28-106.205, F.A.C.

9) Requested Relief. Wal-Mart Stores East, LP, and Sam's East, Inc., request that they be permitted to intervene as full parties in this docket.

WHEREFORE, Wal-Mart Stores East, LP, and Sam's East, Inc., respectfully request that the Commission issue an order allowing them to intervene as full parties in this docket, and require that all parties provide the undersigned with all notices, pleadings, testimony, evidence and discovery filed in this docket.

**PETITION TO INTERVENE OF  
WAL-MART STORES EAST, LP,  
AND SAM'S EAST, INC.,  
DOCKET NO. 100160-EG**

---

Dated this 7th day of June, 2010.

Respectfully submitted,

By s/ Rick D. Chamberlain

Rick D. Chamberlain, Okla. Bar Assoc. # 11255  
BEHRENS, TAYLOR, WHEELER  
& CHAMBERLAIN  
6 N.E. 63<sup>rd</sup> Street, Suite 400  
Oklahoma City, OK 73105-1401  
Tel.: (405) 848-1014  
Fax: (405) 848-3155  
[rdc\\_law@swbell.net](mailto:rdc_law@swbell.net)

ATTORNEY FOR WAL-MART STORES EAST,  
LP, AND SAM'S EAST, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of June, 2010, a true and correct copy of the foregoing instrument has been furnished by electronic mail and/or U.S. mail, postage prepaid, to the following:

Florida Industrial Power Users Group  
Vicki G. Kaufman/Jon C. Moyle, Jr.  
c/o Keefe Law Firm, The Perkins House  
118 North Gadsden Street  
Tallahassee, FL 32301

Brickfield Law Firm  
James W. Brew/F. Alvin Taylor  
Eighth Floor, West Tower  
1025 Thomas Jefferson St., N.W.  
Washington, D.C. 20007-5201

McWhirter Law Firm  
John W. McWhirter, Jr.  
P.O. Box 3350  
Tampa, FL 33601-3350

Florida Solar Energy Industry Association  
Bruce Kershner  
231 West Bay Avenue  
Longwood, FL 32750-4125

Progress Energy Florida, Inc.  
Mr. Paul Lewis, Jr.  
106 East College Avenue, Ste. 800  
Tallahassee, FL 32301-7740

George Cavros, Esq.  
120 E. Oakland Park Blvd., Ste. 105  
Oakland Park, FL 33334

Progress Energy Service Company, LLC

PCS Phosphate – White Springs

**PETITION TO INTERVENE OF  
WAL-MART STORES EAST, LP,  
AND SAM'S EAST, INC.,  
DOCKET NO. 100160-EG**

---

John T. Burnett  
P.O. Box 14042  
St. Petersburg, FL 33733-4042  
Southern Alliance for Clean Energy  
P.O. Box 1842  
Knoxville, TN 37901

P.O. Box 300  
White Springs, FL 32096

Suzanne Brownless, PA  
Suzanne Brownless  
1975 Buford Blvd.  
Tallahassee, FL 32308

Katherine Fleming  
Jennifer Brubaker  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32395-0850

s/ Rick D. Chamberlain