

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Duke Energy Florida, LLC's Petition
for a limited proceeding to approve Clean
Energy Connection Program and Tariff and
Stipulation

DOCKET NO. 20200176-EI

**LEAGUE OF UNITED LATIN AMERICAN CITIZENS'
MOTION TO COMPEL DISCOVERY RESPONSES FROM WALMART, INC.**

Pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C.) and Rule 3.180, Florida Rules of Civil Procedure, the Florida League of United Latin American Citizens of Florida ("LULAC"), by and through the undersigned counsel, moves the Florida Public Service Commission ("Commission") to compel discovery responses from Walmart, Inc. ("Walmart"), and in support thereof states the following:

Walmart has intervened in this proceeding to support the Clean Energy Connection program ("CEC program" or "the program") proposed by Duke Energy Florida ("Duke"), contending that such program is in the public interest. Prehearing Statement of Walmart at 2. Walmart has sponsored a witness who maintains this, and also that the Stipulation at issue is "a fair, just, and reasonable compromise among the parties to the Stipulation." Pre-filed Direct Testimony of Steve W. Chriss at 7 (lines 5-7). Moreover, Walmart stated that "the parties to the Stipulation engaged in discussions with DEF to secure improvements to the planned CEC Program and Tariff," and explained that it "works with its utility partners to develop useable commercial and industrial programs." *Id.* at 5 (lines 8-11), 8 (lines 12-13). Walmart stands to make tens of millions of dollars guaranteed by the general body of ratepayers, including LULAC's members, from the approval of this program. Since Walmart is asking that LULAC's

members' bills increase to make payments to Walmart—and insists that it is in the public interest to do so—it is only fair to ask how much Walmart stands to make.

LULAC propounded discovery on Walmart, attached Exhibit 1, Interrogatories, and Exhibit 2, Request for Production of Documents, to discover Walmart's financial interest in the program, its role in the formation of the program and Stipulation, and the circumstances under which the program and Stipulation—which Walmart maintains was the result of an adversarial process, was a fair compromise, and is in the public interest—came to be. *See* Video of Prehearing Conference at timestamp 58:30, available at http://psc-fl.granicus.com/MediaPlayer.php?view_id=2&clip_id=3295 (counsel for Walmart maintains that the legal standard applied to settlements should apply to the Stipulation because the parties were adversarial).

Walmart refuses to disclose this information, which LULAC is entitled to by law. *See* Exh. 3, Walmart's responses to Interrogatories; Exh. 4, Walmart's responses to Request for Production of Documents. Therefore, LULAC respectfully requests an order compelling the following interrogatory answers and production of documents: interrogatory 1, interrogatory 2, interrogatory 4, interrogatory 5, interrogatory 6, request for production of documents 1, request for production of documents 2, and request for production of documents number 3.

1. **Walmart failed to answer Interrogatories numbered 1, 2, 5, and 6.** The information sought in these interrogatories are directly relevant to whether the Stipulation was adversarial in nature, whether the Stipulation was a “fair, just, and reasonable” compromise of the parties, and the credibility and/or bias of Walmart as a party and their sponsored witness to this proceeding based on what it stands to gain financially or otherwise if the CEC Program and Tariff is approved.

2. Walmart has sponsored a witness in a proceeding, and pursuant to the Florida Evidence Code, “Any party . . . may attack the credibility of a witness by . . . [s]howing that the witness is biased.” Fla. Stat. § 90.608 (2020). The Florida Administrative Code also supports such form of impeachment, stating that “[e]ach party shall have the right to impeach any witness.” 28-106.213(3), F.A.C. How the Stipulation came to be; whether Walmart was actually adversarial; whether the Stipulation was specifically crafted to financially benefit Walmart at the expense of Duke’s other customers, like the members of LULAC; and how much Walmart stands to benefit financially from the Stipulation goes directly to whether the Stipulation is indeed in the public interest and goes to the bias and credibility of Walmart’s sponsored witness.

3. Moreover, Walmart’s objection on the basis that “settlement discussions, including documents exchanged in furtherance of settlement negotiations, are confidential among settling parties” is without merit and unsupported by Florida law.

- a. Under Florida law, there are two potential privileges that apply to settlement negotiations, neither of which apply here, notwithstanding and without waiving LULAC’s claim that the Stipulation in this matter should not be considered a “settlement” in the standard legal sense. The mediation privilege in the Mediation Confidentiality and Privilege Act requires that communications pursuant to a mediation shall be confidential. Fla. Stat. § 44.405 (2020). The Stipulation in the present case was not the result of a mediation within the scope of this Act. *See* Fla. Stat. § 44.402 (2020).
- b. Section 90.408, Florida Statutes, prohibits admissibility of offers to settle or statements made in negotiations “to prove liability or absence of liability” or the value of a claim. In the present case, LULAC is not seeking this evidence

to prove liability, absence of liability, or the value of a claim, as this administrative matter is not a liability claim, thus making section 90.408 inapplicable. Moreover, the purpose of section 90.408 is to prohibit *all* evidence of a settlement from being transmitted to a jury, including the existence of an offer to settle or a settlement itself. *See Saleeby v. Rocky Elson Const., Inc.*, 3 So. 3d 1078, 1086 (Fla. 2009). The present case is further distinguishable because the Stipulation itself is public as part of Duke's initial filing.

4. Walmart should not be allowed to claim the work-product privilege for the information sought, as said information was not prepared to defend against or in furtherance of litigation, within the definition of this privilege. To the extent Walmart claims any such information is proprietary confidential business information, such a claim is not a valid objection to discovery, but, if valid, merely requires that the information not be publicly release pursuant to a non-disclosure agreement by the receiving party. *See* § 366.093(2), Florida Statutes; Order Establishing Procedure at 4, Order No. PSC-2020-0324-PCO-EI. If such information is bona fide confidential business information, LULAC requests this information be disclosed confidentially pursuant to a mutually agreeable non-disclosure agreement.

5. Furthermore, if Walmart were to claim that the information sought in Interrogatories 5 and 6 are trade secrets, the trade secret privilege "is not absolute," and this information can be disclosed over an objection following: (1) a determination of whether the information sought actually constitutes a trade secret; (2) if the requested production constitutes a trade secret, a determination whether there is a reasonable necessity for the production; and (3) if production is ordered, the trial court must set forth its findings. *Sea Coast Fire, Inc. v.*

Triangle Fire, Inc., 170 So. 3d 804, 807-08 (Fla. 3d DCA 2014); *Keller v. Healthcare-IQ, Inc.*, 230 So. 3d 955, 959-60 (Fla. 2d DCA 2017). Here, the information LULAC seeks are not trade secrets,¹ but rather, are financial projections based on Duke’s proposed program for Walmart, i.e., how much Walmart stands to benefit financially from the program. Furthermore, there is a reasonable necessity for the production. Walmart is sponsoring a witness and asserts that this program is in the public interest. Without knowing if and how much Walmart stands to benefit financially from this program, a full assessment of Walmart’s possible bias is not possible. Furthermore, how much a company like Walmart is being paid by Duke’s general body of customers is key to determining whether Duke’s proposed program is in the public interest.

6. **Walmart refuses to disclose the information requested in Interrogatory number 4** absent the signing of a non-disclosure agreement, even though LULAC is simply seeking confirmation of information that is already public. Duke, in response to an interrogatory, provided the subscription size of the large commercial subscribers. Exh. 5, Duke’s corrected responses to LULAC’s First Set of Interrogatories. There are six large commercial subscribers (customers 19, 20, 22, 23, 27, and 30). All have a subscription size equivalent to 71 percent of usage. *Id.* Customer 19 is the largest commercial subscriber, with a subscription of 84,980 kW (no other commercial customer subscription size comes close). *Id.* The assumed

¹ Section 688.002, Florida Statutes, defines a trade secret as “information, including a formula, pattern, compilation, program, device, method, technique, or process that: . . . derives independent economic value. . . from not being generally known [and is] the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Fla. Stat. § 688.002(4) (2020). Put another way, a trade secret “is a process or device for continuous use in the operation of the business. Generally[,] it relates to the production of goods, as, for example, a machine or formula for the production of an article. It may, however, relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other concessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.” § 506.1 Trade secret privilege—Generally, 1 Fla. Prac., Evidence § 506.1 (2020 ed.)

capacity factor is 28%. Pre-filed Testimony of Matthew G. Stout at 12, line 9. This subscription would be expected to yield 208,581,710.4 kWh.² Since this is expected to meet 71 percent of usage, the customer would consume 293,777,057 kWh per year. Walmart, in its petition to intervene, states that it uses more than 290 million kWh annually from Duke. Petition to Intervene of Walmart at 2. No other commercial customer's subscription even comes close to meeting this usage – Walmart must be customer 19, and therefore must have a subscription size of 84,980 kW. LULAC is simply seeking Walmart confirm this public information, confirmation that would not hurt Walmart's commercial interests. To the extent Walmart can claim harm by being associated with the promotion of this program, such claims have been waived by Walmart publicly supporting this program and sponsoring a witness to testify that such program is in the public interest.

7. Walmart failed to disclose documents in response to LULAC's Request for Production of Documents number 1. To the extent the Commission grants LULAC's Motion to Compel responses to its Interrogatories, the Commission should correspondingly grant this request for production of documents.

8. Walmart failed to disclose documents in response to LULAC's Request for Production of Documents numbers 2 and 3. For all of the reasons stated in paragraphs 1, 2, 3, 4, and 5 of this Motion, these items should be produced. In addition to other objections, Walmart objects to a request for "any analyses of the costs or benefits of the Clean Energy Connection program" with an objection that the request is "not reasonably calculated to lead to admissible evidence in this Docket." Exh. 4 at 4. If an analysis of the costs and benefits of the

² 84,980 x 24(hours) x 365.25(days) x 0.28 (capacity factor).

program at issue is not relevant to determining whether the program is lawful or in the public interest, then nothing is.

LULAC certifies that it has made a good-faith effort via emails dated November 2nd, November 4th, and November 5th, 2020, to resolve or narrow the issues in this Motion with counsel for Walmart, Ms. Stephanie Eaton, prior to the filing of this Motion, but was unable to do so. Walmart opposes the filing of this motion. On the afternoon of November 5th, 2020, counsel for LULAC attempted to confer with the other parties regarding their position on this motion via email, but admittedly did not give them much time to respond given the need to resolve this matter before the hearing scheduled for November 17th. Counsel for the Office of Public Counsel advised that they do not object to the motion. Counsel for Duke and Vote Solar advised that they object and oppose the motion. As of the time of filing, counsel for LULAC had not been advised of the positions of FIPUG and the Southern Alliance for Clean Energy.

RESPECTFULLY SUBMITTED this 5th day of November, 2020

/s/ Bradley Marshall
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*Counsel for League of United Latin
American Citizens of Florida*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 5th day of November, 2020, via electronic mail on:

<p>Florida Public Service Commission Shaw Stiller Bianca Lherisson Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 sstiller@psc.state.fl.us, blheriss@psc.state.fl.us</p>	<p>Duke Energy Florida, LLC Dianne M. Triplett Dianne.Triplett@duke-energy.com 299 1st Avenue North St. Petersburg, FL 33701 T: (727) 820-4692 F: (727) 820-5519 Matthew R. Bernier Matt.Bernier@duke-energy.com FLRegulatoryLegal@duke-energy.com 106 E. College Avenue, Ste. 800 Tallahassee, FL 32301 T: (850) 521-1428 F: (850) 521-1437</p>
<p>Office of the Public Counsel c/o The Florida Legislature J.R. Kelly/Charles J. Rehwinkel 111 W. Madison Street, Room 812 Tallahassee FL 32399 (850) 488-9330 kelly.jr@leg.state.fl.us; Rehwinkel.charles@leg.state.fl.us</p>	<p>Walmart Inc. Stephanie U. (Roberts) Eaton SPILMAN THOMAS & BATTLE, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 seaton@spilmanlaw.com; Derrick Price Williamson SPILMAN THOMAS & BATTLE, PLLC 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 P: (717) 795-2741 F: (717) 795-2743 dwilliamson@spilmanlaw.com bnaum@spilmanlaw.com</p>
<p>Florida Industrial Power Users Group Jon C. Moyle, Jr. , Karen A. Putnal Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, Florida 32301 T: (850) 681-3828, F: (850) 681-8788 jmoyle@moylelaw.com; kputnal@moylelaw.com mqualls@moylelaw.com</p>	<p>Vote Solar Katie Chiles Ottenweller GA Bar No. 918668 838 Barton Woods Road SE Atlanta, GA 30307 katie@votesolar.org Phone: 706.224.8017</p>
<p>Southern Alliance for Clean Energy George Cavros 120 E. Oakland Park Blvd., Suite 105 Fort Lauderdale, Florida 33334 (954) 295-5714 george@cavros-law.com</p>	

DATED this 5th day of November, 2020.

/s/ Bradley Marshall
Attorney

Exhibit 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Duke Energy Florida, LLC’s Petition
for a limited proceeding to approve Clean
Energy Connection Program and Tariff and
Stipulation

DOCKET NO. 20200176-EI

**LEAGUE OF UNITED LATIN AMERICAN CITIZENS’
FIRST SET OF INTERROGATORIES (NOS. 1-20) TO WALMART INC.**

Pursuant to Rule 28-106.206, F.A.C., Florida Rule of Civil Procedure 1.340 and Order No. PSC-2020-0324-PCO-EG Establishing Procedure, Walmart Inc. (“Walmart”) is required to answer the following interrogatories in writing and under oath, and shall serve such answers upon the attorneys for League of United Latin American Citizens of Florida (LULAC) within twenty days of service hereof.

INSTRUCTIONS

1. The term “Walmart Inc.,” “Walmart,” “Respondent,” “you,” or “yours” refers to the entity to whom these interrogatories are directed, and includes all employees, agents, servants, attorneys, contractors, and representatives of said entity.
2. The terms “referring” and “relating” as used herein shall mean constituting, containing, concerning, indicating, alluding to, responding to, connected with, commenting on, in respect to, discussing, describing, reflecting, analyzing, projecting, embodying, identifying, stating, dealing with, or in any way pertaining to.
3. The words “document” and “documents” shall have the same meaning given to them under the Florida Rules of Civil Procedure.

4. "Communications" means any correspondence, contact, discussion or exchange between any two or more persons, including, but not limited to, documents, telephone conversations, face-to-face conversations, e-mails, meetings, and conferences.
5. "Person" shall mean the plural as well as the singular and includes any natural person, and any firm, agency, company, corporation, association, partnership, the government, or other form of legal entity.
6. "Identify" as used herein shall mean: a) the name, position, current address, and telephone number of the person identified; or b) the author, addressee, description/title, and the date of any document identified.
7. "Program" as used herein shall mean the Clean Energy Connection program proposed by Duke Energy Florida, LLC in connection with this docket.

INTERROGATORIES

1. On page 8, lines 12-13 of Mr. Chriss's testimony, Mr. Chriss explains that "the parties to the Stipulation engaged in discussions with DEF in order to secure improvements to the planned CEC Program and Tariff." Please explain the nature of these "discussions," including who initiated the discussions and why, and please identify any documents showing how the parties to the Stipulation were able to "secure improvements" from Duke Energy Florida, LLC ("Duke").
2. On pages 5-6 of Mr. Chriss's testimony, Mr. Chriss references Walmart's participation in utility partnerships to "develop useable commercial and industrial programs," including participating in the development of Florida Power & Light Company's SolarTogether Program. Please explain whether Walmart was involved in the development of Duke's Program. If so, please describe the role and extent Walmart played in the development,

including who initiated the discussions and why, the date discussions were initiated, the period of time over which communications were had, and any other specific actions taken toward participating in the development of the Program.

3. In its Petition to Intervene, Walmart explained that it purchases more than 290 million kWh annually from Duke Energy Florida. Please provide how many kWh Walmart has purchased from Duke for each of the last five years.
4. Please explain whether Walmart has preregistered to participate in the Program. If so, please provide the size of the subscription, and please explain how many kWh are projected to be produced annually by that subscription size. Please provide how this compares to Walmart's total kWh annually purchased from Duke as a percent (for example, whether it is expected to cover 100%, 50%, or some other number of Walmart's electricity consumption).
5. If the Program is approved, please detail how much, on net, Walmart expects to pay or receive as a bill credit each year for participating in the Clean Energy Connection program throughout the life of the Program. Please identify any documents containing this information.
6. Please provide Walmart's expected return on investment in the Program; specifically, a comparison of how much Walmart expects, on net, to pay during the beginning years of the Program to how much Walmart expects to receive as a bill credit, on net, during the later years of the Program. For example, if Walmart, during the first five years of the Program, expects to pay \$100,000 on net to participate, and during the next 26 years of the Program, expects to receive as a bill credit, on net, \$20 million, Walmart would expect to receive a 200 to 1 return on its investment.

7. Please identify all of the other “[u]tility partnerships” (as that term is used on page 5, line 8 of Mr. Chriss’s testimony) that Walmart participates in and provide Walmart’s expected return on investment for each partnership. Please identify any document containing this information.
8. On page 5, line 4 of Mr. Chriss’s testimony, Mr. Chriss references “[c]ontracting for on-site resources.” Please explain whether Walmart has contracted for on-site resources within Duke’s service territory in Florida. If Walmart has not contracted for on-site resources within Duke’s service territory in Florida, please explain why Walmart has not done so. If Walmart has contracted for on-site resources within Duke’s service territory in Florida, please provide the amount of such resources, in terms of kW and/or kWh, for which Walmart has contracted.
9. Please explain whether Walmart has contracted for on-site resources outside Duke’s service territory in Florida. If Walmart has not contracted for on-site resources outside Duke’s service territory in Florida, please explain why Walmart has not done so. If Walmart has contracted for on-site resources outside Duke’s service territory in Florida, please provide the amount of such resources in, terms of kW and/or kWh, for which Walmart has contracted.
10. Please provide the total amount of “on-site resources,” in terms of kW and/or kWh, for which Walmart has contracted nationwide.
11. Please explain how the Program factors into Walmart’s consideration of whether to contract for “on-site resources” within Duke’s service territory in Florida.
12. Prior to the development of the Program, please explain whether Walmart had any plans to contract for “on-site resources” within Duke’s service territory in Florida. Please

explain whether those plans have changed as a result of the development of the Program, and why they have changed.

13. On page 7, lines 16-19, of Mr. Chriss's testimony, Mr. Chriss explains that the "CEC program is a voluntary community solar program." Please explain whether it is Walmart's understanding that Duke ratepayers who do not volunteer to participate in the Program will pay at all for the Program, and please explain the basis for this belief. If it is Walmart's understanding that non-participants will pay for the Program, please explain how much Walmart believes non-participants will pay for the Program, and please explain the basis for this belief.
14. On page 8, lines 6-7, of Mr. Chriss's testimony, Mr. Chriss explains the allocation of projected savings. Please explain whether it is Walmart's belief that the bill credits to participants are related to the "\$533 million in projected savings," and please explain the basis for that belief.
15. On page 12, lines 3-4, of Mr. Chriss's testimony, Mr. Chriss states that "Walmart believes that the parties' Stipulation in this Docket represents a fair, just, and reasonable resolution of issues." Please explain whether Walmart believes prefiled exhibit TGF-1 represents the Summary of the Clean Energy Connection Program Revenue Requirements, Subscription Fees, and Bill Credits. If not, please explain why not. If Walmart believes exhibit TGF-1 does represent the summary of the program revenue requirements, fees, and credits, please answer the following questions based on exhibit TGF-1:
 - a. Is it Walmart's understanding that in the year 2022, participants in the Clean Energy Connection program will, on net, contribute approximately \$100,000

towards the costs of the program, while the general body of ratepayers will contribute approximately \$21,600,000? If not, please explain all bases for your understanding.

- b. Is it Walmart's understanding that in the year 2023, participants in the Clean Energy Connection program will, on net, contribute approximately \$500,000 towards the costs of the program, while the general body of ratepayers will contribute approximately \$59,200,000? If not, please explain all bases for your understanding.
- c. Is it Walmart's understanding that in the year 2024, participants in the Clean Energy Connection program will, on net, contribute approximately \$800,000 towards the costs of the program, while the general body of ratepayers will contribute approximately \$84,200,000? If not, please explain all bases for your understanding.
- d. Is it Walmart's understanding that in the year 2025, participants in the Clean Energy Connection program will, on net, contribute approximately \$200,000 towards the costs of the program, while the general body of ratepayers will contribute approximately \$73,700,000? If not, please explain all bases for your understanding.
- e. Is it Walmart's understanding that in the year 2026, participants in the Clean Energy Connection program will, on net, receive a bill credit of approximately \$500,000 from the program, while the general body of ratepayers will contribute approximately \$61,600,000 towards the costs of the program, including the

\$500,000 bill credit to participants? If not, please explain all bases for your understanding.

- f. Is it Walmart's understanding that in the year 2027, participants in the Clean Energy Connection program will, on net, receive a bill credit of approximately \$1,200,000 from the program, while the general body of ratepayers will contribute approximately \$29,700,000 towards the costs of the program, including the \$1,200,000 bill credit to participants? If not, please explain all bases for your understanding.
 - g. Is it Walmart's understanding that in the year 2028, participants in the Clean Energy Connection program will, on net, receive a bill credit of approximately \$2,100,000 from the program, while the general body of ratepayers will contribute approximately \$4,200,000 towards the costs of the program, including the \$2,100,000 bill credit to participants? If not, please explain all bases for your understanding.
16. Based on exhibit TGF-1, is it Walmart's understanding that participants in the Program will, on net, receive approximately \$290,600,000 in bill credits from the year 2021-2053? If so, is it Walmart's understanding that these bill credits will be recovered through Duke's fuel and purchased power cost recovery clause from the general body of ratepayers? Please explain your answer.
17. Is it Walmart's understanding that benefits to the general body of customers, as reflected on Exhibit TGF-1, are dependent on assumed system net fuel benefits, emissions benefits, and system benefits? If so, is it Walmart's understanding that if those benefits do not materialize as anticipated, the benefits to the general body of customers will

decrease but the bill credits to participants will not be impacted? Please explain your answer and identify any documents supporting your answer.

18. Based on exhibit TGF-1, is it Walmart's understanding that the Program's administrative costs are \$16.8 million (nominal)? Also based on that exhibit, is it Walmart's understanding that participants' net contributions to the costs of the program are \$1.6 million (calculated by adding up years 2022-2025, where participants, on net, through subscription fees, contribute to the cost of the program)? Please explain your answer.
19. Does Walmart contend that participants in the Program meaningfully (defined here to be more than 1%) contribute to the cost of the program? If so, please explain all bases for this contention and identify all documents supporting this contention.
20. Does Walmart contend that the Clean Energy Connection program is fair, just, and reasonable to the general body of ratepayers? If so, please explain all bases for this contention and identify all documents supporting this contention.

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF _____)

Before me, the undersigned authority, personally appeared _____
_____, who, as Walmart Inc.'s personal representative,

() is personally known to me, or

() produced _____ as identification and being duly
sworn, deposes and says that the foregoing answers to Interrogatory Nos. 1-20 of League of
United Latin American Citizens' First Set of Interrogatories to Walmart Inc. in Docket No.
20200176-EI are true and correct to the best of his/her knowledge, information, and belief.

Print Name

Date

Notary Public
State of Florida

My commission expires:

Exhibit 2

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Duke Energy Florida, LLC’s Petition
for a limited proceeding to approve Clean
Energy Connection Program and Tariff and
Stipulation

DOCKET NO. 20200176-EI

**LEAGUE OF UNITED LATIN AMERICAN CITIZENS’ FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS (NOS. 1-4) TO WALMART, INC.**

Pursuant to Rule 28-106.206, F.A.C., Florida Rule of Civil Procedure 1.350, and Order No. PSC-2020-0324-PCO-EG Establishing Procedure, League of United Latin American Citizens of Florida (“LULAC”), requests that Walmart, Inc. (“Walmart”) produce documents at the Offices of Earthjustice, 111 South Martin Luther King Jr. Blvd., Tallahassee, FL 32301, within twenty days of service of this request.

INSTRUCTIONS

1. The term “Walmart, Inc.,” “Walmart,” “Respondent,” “you,” or “yours” refers to the entity to whom this interrogatory is directed, and includes all employees, agents, servants, attorneys, contractors, and representatives of said entity.
2. The terms “referring” and “relating” as used herein shall mean constituting, containing, concerning, indicating, alluding to, responding to, connected with, commenting on, in respect to, discussing, describing, reflecting, analyzing, projecting, embodying, identifying, stating, dealing with, or in any way pertaining to.
3. The words “document” and “documents” shall have the same meaning given to them under the Florida Rules of Civil Procedure, and includes all drafts that you have in your possession.

4. "Communications" means any correspondence, contact, discussion or exchange between any two or more persons, including, but not limited to, documents, telephone conversations, face-to-face conversations, e-mails, meetings, and conferences.
5. "Person" shall mean the plural as well as the singular and includes any natural person, and any firm, agency, company, corporation, association, partnership, the government, or other form of legal entity.
6. Please indicate which documents or group of documents are produced in response to each particular request.

DOCUMENTS TO PRODUCE

1. Please provide all documents identified in response to LULAC's First Set of Interrogatories to Walmart.
2. Please provide copies of all communications with Duke Energy Florida, LLC ("Duke") regarding the proposed Clean Energy Connection program, specifically including, but not limited to, all communications regarding the "Stipulation" that Walmart, Duke, and other parties signed in connection with this program, any communications Duke sent Walmart describing the Clean Energy Connection program, and any communications between Walmart and Duke toward the development of the Clean Energy Connection program.
3. Please provide all documents in Walmart's possession relating to any analyses of the costs or benefits of the Clean Energy Connection program.
4. On pages 5-6 of Mr. Chriss's testimony, Mr. Chriss references Walmart's "participation" in utility "partnerships." Please provide all documents related to Walmart's participation in these utility partnerships, specifically including Walmart's agreements to participate in these partnerships.

Exhibit 3

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for a limited proceeding to : **DOCKET NO. 20200176-EI**
approve clean energy connection program :
and tariff and stipulation, by Duke Energy :
Florida, LLC. : **Filed: November 2, 2020**

**WALMART INC.'S RESPONSES AND OBJECTIONS TO
LEAGUE OF UNITED LATIN AMERICAN CITIZENS'
FIRST SET OF INTERROGATORIES (NOS. 1-20)**

Walmart Inc. ("Walmart") by and through its undersigned counsel, pursuant to Rule 1.350, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, and the Florida Public Service Commission's ("Commission") Order Establishing Procedure PSC-2020-0324-PCO-EI hereby serves their Responses and Objections to League of United Latin American Citizens' ("LULAC") First Set of Interrogatories (Nos. 1-20) to Walmart.

GENERAL OBJECTIONS

1. Walmart objects to Definitions No. 1 and No. 5 because they are overly broad and irrelevant to the extent they make a request for discovery of information or documents to entities other than those involved in the instant regulatory proceeding.
2. Walmart objects to each discovery request that calls for information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. Walmart in no way intends to waive such privilege or protection. Walmart objects to LULAC's instructions to the extent they purport to require Walmart to provide more information, with respect to withheld privileged documents, than required under applicable rules and law.

3. Walmart objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. Walmart in no way intends to waive claims of confidentiality.

4. Walmart objects to each discovery request that seeks information not relevant to this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Walmart expressly reserves, and does not waive, any and all objections to the admissibility, authenticity or relevancy of the information provided in its responses to the discovery requests.

INTERROGATORIES

Walmart incorporates by reference all of the foregoing General Objections into its Specific Objections set forth below as though fully stated herein.

1. On page 8, lines 12-13 of Mr. Chriss's testimony, Mr. Chriss explains that "the parties to the Stipulation engaged in discussions with DEF in order to secure improvements to the planned CEC Program and Tariff." Please explain the nature of these "discussions," including who initiated the discussions and why, and please identify any documents showing how the parties to the Stipulation were able to "secure improvements" from Duke Energy Florida, LLC ("Duke").

RESPONSE: Walmart objects to this Interrogatory on the grounds that settlement discussions, including documents exchanged in furtherance of settlement negotiations, are confidential among settling parties. Further, Walmart objects to the extent this Interrogatory seeks privileged and/or work product information that is not discoverable pursuant to Fla. R. Civ. P. 1.280 and F.S. 366.093. The primary issue in this Docket is whether the Stipulation, as filed, is in the public interest, and

communications and/or documents generated in the negotiations leading up to the execution of the Stipulation are not reasonably calculated to lead to admissible evidence in this Docket and, therefore, Walmart objects to production of the same.

2. On pages 5-6 of Mr. Chriss's testimony, Mr. Chriss references Walmart's participation in utility partnerships to "develop useable commercial and industrial programs," including participating in the development of Florida Power & Light Company's SolarTogether Program. Please explain whether Walmart was involved in the development of Duke's Program. If so, please describe the role and extent Walmart played in the development, including who initiated the discussions and why, the date discussions were initiated, the period of time over which communications were had, and any other specific actions taken toward participating in the development of the Program.

RESPONSE: Walmart objects to this Interrogatory on the grounds that settlement discussions, including documents exchanged in furtherance of settlement negotiations, are confidential among settling parties. Further, Walmart objects to the extent this Interrogatory seeks privileged and/or work product information that is not discoverable pursuant to Fla. R. Civ. P. 1.280 and F.S. 366.093. The primary issue in this Docket is whether the Stipulation, as filed, is in the public interest, and communications and/or documents generated in the negotiations leading up to the execution of the Stipulation are not reasonably calculated to lead to admissible evidence in this Docket and, therefore, Walmart objects to production of the same.

3. In its Petition to Intervene, Walmart explained that it purchases more than 290 million kWh annually from Duke Energy Florida. Please provide how many kWh Walmart has purchased from Duke for each of the last five years.

RESPONSE: Walmart states that it has purchased the following kWh amounts from Duke for each of the last five full calendar years: 2015 – 283,000,000, 2016 – 295,000,000, 2017 – 307,000,000, 2018 – 313,000,000, and 2019 – 297,000,000.

4. Please explain whether Walmart has preregistered to participate in the Program. If so, please provide the size of the subscription, and please explain how many kWh are projected to be produced annually by that subscription size. Please provide how this compares to Walmart's total kWh annually purchased from Duke as a percent (for example, whether it is expected to cover 100%, 50%, or some other number of Walmart's electricity consumption).

RESPONSE: Walmart will provide this confidential response upon execution of a Non-Disclosure Agreement.

5. If the Program is approved, please detail how much, on net, Walmart expects to pay or receive as a bill credit each year for participating in the Clean Energy Connection program throughout the life of the Program. Please identify any documents containing this information.

RESPONSE: Walmart objects to this Interrogatory on the grounds that settlement discussions, including documents exchanged in furtherance of settlement negotiations, are confidential among settling parties. Further, Walmart objects to

the extent this Interrogatory seeks privileged and/or work product information that is not discoverable pursuant to Fla. R. Civ. P. 1.280 and F.S. 366.093. In addition, Walmart objects to this Interrogatory to the extent that it is irrelevant to this Docket and is, therefore, not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b). The primary issue in this Docket is whether the Stipulation, as filed, is in the public interest, and communications and/or documents generated in the negotiations leading up to the execution of the Stipulation are not reasonably calculated to lead to admissible evidence in this Docket and, therefore, Walmart objects to production of the same. Moreover, this Interrogatory seeks information that is commercially sensitive; if this Interrogatory regarding commercially sensitive documents is not withdrawn, absent other valid grounds for objection, Walmart will file a Motion for Protective Order pursuant to Fla. R. Civ. P. 1.280(c).

6. Please provide Walmart's expected return on investment in the Program; specifically, a comparison of how much Walmart expects, on net, to pay during the beginning years of the Program to how much Walmart expects to receive as a bill credit, on net, during the later years of the Program. For example, if Walmart, during the first five years of the Program, expects to pay \$100,000 on net to participate, and during the next 26 years of the Program, expects to receive as a bill credit, on net, \$20 million, Walmart would expect to receive a 200 to 1 return on its investment.

RESPONSE: Walmart objects to this Interrogatory on the grounds that settlement discussions, including documents exchanged in furtherance of settlement

negotiations, are confidential among settling parties. Further, Walmart objects to the extent this Interrogatory seeks privileged and/or work product information that is not discoverable pursuant to Fla. R. Civ. P. 1.280 and F.S. 366.093. In addition, Walmart objects to this Interrogatory to the extent that it is irrelevant to this Docket and is, therefore, not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b). The primary issue in this Docket is whether the Stipulation, as filed, is in the public interest, and communications and/or documents generated in the negotiations leading up to the execution of the Stipulation are not reasonably calculated to lead to admissible evidence in this Docket and, therefore, Walmart objects to production of the same. Moreover, this Interrogatory seeks information that is commercially sensitive; if this Interrogatory regarding commercially sensitive documents is not withdrawn, absent other valid grounds for objection, Walmart will file a Motion for Protective Order pursuant to Fla. R. Civ. P. 1.280(c).

7. Please identify all of the other "[u]tility partnerships" (as that term is used on page 5, line 8 of Mr. Chriss's testimony) that Walmart participates in and provide Walmart's expected return on investment for each partnership. Please identify any document containing this information.

RESPONSE: Walmart objects to this Interrogatory request for "Walmart's expected return on investment for each partnership" because it is irrelevant to this Docket, is not likely reasonably calculated to lead to the discovery of admissible

evidence pursuant to Fla. R. Civ. P. 1.280(b). Moreover, this Interrogatory seeks information that is commercially sensitive; if this Interrogatory regarding commercially sensitive documents is not withdrawn, absent other valid grounds for objection, Walmart will file a Motion for Protective Order pursuant to Fla. R. Civ. P. 1.280(c). Without waiving its objections, Walmart states that other utility partnerships in which Walmart is involved are as follows:

Alabama Power – Alabama Solar A Solar Farm

Salt River Project – Renewable Energy Offering

Xcel-Public Service Company of Colorado – Renewable*Connect

Florida Power & Light – SolarTogether

Georgia Power – C&I REDI Program

Evergy Kansas – Renewables Direct

PNM – Solar Direct

Black Hills Energy (SD & WY) – Renewable Ready

Avista Energy (WA) – Solar Select

Puget Sound Energy (WA) – Schedule 139

8. On page 5, line 4 of Mr. Chriss's testimony, Mr. Chriss references "[c]ontracting for onsite resources." Please explain whether Walmart has contracted for on-site resources within Duke's service territory in Florida. If Walmart has not contracted for on-site resources within Duke's service territory in Florida, please explain why Walmart has not done so. If Walmart has contracted for on-site resources within Duke's service territory

in Florida, please provide the amount of such resources, in terms of kW and/or kWh, for which Walmart has contracted.

RESPONSE: Walmart objects to this Interrogatory request because it is irrelevant to this Docket, seeks commercially sensitive information, and is not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b).

9. Please explain whether Walmart has contracted for on-site resources outside Duke's service territory in Florida. If Walmart has not contracted for on-site resources outside Duke's service territory in Florida, please explain why Walmart has not done so. If Walmart has contracted for on-site resources outside Duke's service territory in Florida, please provide the amount of such resources in, terms of kW and/or kWh, for which Walmart has contracted.

RESPONSE: Walmart objects to this Interrogatory request because it is irrelevant to this Docket, seeks commercially sensitive information, and is not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b).

10. Please provide the total amount of "on-site resources," in terms of kW and/or kWh, for which Walmart has contracted nationwide.

RESPONSE: Walmart objects to this Interrogatory request because it is irrelevant to this Docket, seeks commercially sensitive information, and is not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b).

11. Please explain how the Program factors into Walmart's consideration of whether to contract for "on-site resources" within Duke's service territory in Florida.

RESPONSE: Walmart objects to this Interrogatory request because it is irrelevant to this Docket, seeks commercially sensitive information, and is not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b).

12. Prior to the development of the Program, please explain whether Walmart had any plans to contract for "on-site resources" within Duke's service territory in Florida. Please explain how whether those plans have changed as a result of the development of the Program, and why they have changed.

RESPONSE: Walmart objects to this Interrogatory request because it is irrelevant to this Docket, seeks commercially sensitive information, and is not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b).

13. On page 7, lines 16-19, of Mr. Chriss's testimony, Mr. Chriss explains that the "CEC program is a voluntary community solar program." Please explain whether it is Walmart's understanding that Duke ratepayers who do not volunteer to participate in the Program will pay at all for the Program, and please explain the basis for this belief. If it is Walmart's understanding that non-participants will pay for the Program, please explain how much Walmart believes non-participants will pay for the Program, and please explain the basis for this belief.

RESPONSE: Walmart objects to this Interrogatory as it is better directed at Duke, the author of the Program at issue in this Docket. Without waiving its objection, Walmart states that it is its understanding that Duke's modeling shows that non-participants will pay some costs and receive some benefits, and that the Company expects that over the life of the Program, the benefits will exceed the costs for non-participating customers. As Duke's witnesses have testified, non-participants will realize \$2.9 billion in savings over the life of the Program, and participants will pay 104.9% of fixed revenue requirements associated with the Program.

14. On page 8, lines 6-7, of Mr. Chriss's testimony, Mr. Chriss explains the allocation of projected savings. Please explain whether it is Walmart's belief that the bill credits to participants are related to the "\$533 million in projected savings," and please explain the basis for that belief.

RESPONSE: Walmart objects to this Interrogatory as it is better directed at Duke, the author of the Program at issue in this Docket, and to its witness, Thomas G. Foster, the author of Exhibit TGF-1. Without waiving its objection, Walmart states that the information sought by this Interrogatory is contained in DEF's Exhibit TGF-1, which Exhibit speaks for itself.

15. On page 12, lines 3-4, of Mr. Chriss's testimony, Mr. Chriss states that "Walmart believes that the parties' Stipulation in this Docket represents a fair, just, and reasonable resolution of issues." Please explain whether Walmart believes prefiled exhibit TGF-1 represents the Summary of the Clean Energy Connection Program Revenue Requirements, Subscription Fees, and Bill Credits. If not, please explain why not. If Walmart believes exhibit TGF-1 does represent the summary of the program revenue requirements, fees, and credits, please answer the following questions based on exhibit TGF-1:
- a. Is it Walmart's understanding that in the year 2022, participants in the Clean Energy Connection program will, on net, contribute approximately \$100,000 towards the costs of the program, while the general body of ratepayers will contribute approximately \$21,600,000? If not, please explain all bases for your understanding.
 - b. Is it Walmart's understanding that in the year 2023, participants in the Clean Energy Connection program will, on net, contribute approximately \$500,000 towards the costs of the program, while the general body of ratepayers will

contribute approximately \$59,200,000? If not, please explain all bases for your understanding.

- c. Is it Walmart's understanding that in the year 2024, participants in the Clean Energy Connection program will, on net, contribute approximately \$800,000 towards the costs of the program, while the general body of ratepayers will contribute approximately \$84,200,000? If not, please explain all bases for your understanding.
- d. Is it Walmart's understanding that in the year 2025, participants in the Clean Energy Connection program will, on net, contribute approximately \$200,000 towards the costs of the program, while the general body of ratepayers will contribute approximately \$73,700,000? If not, please explain all bases for your understanding.
- e. Is it Walmart's understanding that in the year 2026, participants in the Clean Energy Connection program will, on net, receive a bill credit of approximately \$500,000 from the program, while the general body of ratepayers will contribute approximately \$61,600,000 towards the costs of the program, including the \$500,000 bill credit to participants? If not, please explain all bases for your understanding.
- f. Is it Walmart's understanding that in the year 2027, participants in the Clean Energy Connection program will, on net, receive a bill credit of approximately \$1,200,000 from the program, while the general body of ratepayers will contribute approximately \$29,700,000 towards the costs of the program,

including the \$1,200,000 bill credit to participants? If not, please explain all bases for your understanding.

- g. Is it Walmart's understanding that in the year 2028, participants in the Clean Energy Connection program will, on net, receive a bill credit of approximately \$2,100,000 from the program, while the general body of ratepayers will contribute approximately \$4,200,000 towards the costs of the program, including the \$2,100,000 bill credit to participants? If not, please explain all bases for your understanding.

RESPONSE: Walmart objects to this Interrogatory as it is better directed at Duke, the author of the Program at issue in this Docket, and to its witness, Thomas G. Foster, the author of Exhibit TGF-1. Without waiving its objection, Walmart states that DEF's Exhibit TGF-1, which Walmart believes represents the Summary of the Clean Energy Connection Program Revenue Requirements, Subscription Fees, and Bill Credits, speaks for itself. Further, Duke's Rebuttal Testimony from witnesses Foster and Huber project \$2.9 billion net savings for non-participating customers, while participants shall be responsible for 104.9% of the fixed revenue requirements through such subscription fees.

16. Based on exhibit TGF-1, is it Walmart's understanding that participants in the Program will, on net, receive approximately \$290,600,000 in bill credits from the year 2021-2053? If so, is it Walmart's understanding that these bill credits will be recovered through Duke's fuel and purchased power cost recovery clause from the general body of ratepayers? Please explain your answer.

RESPONSE: Walmart objects to this Interrogatory as it is better directed at Duke, the author of the Program at issue in this Docket, and to its witness, Thomas G. Foster, the author of Exhibit TGF-1. Without waiving its objection, Walmart states that DEF's Exhibit TGF-1 speaks for itself, and based on Exhibit TGF-1, participants are projected to receive \$290,600,000 net cost subscription fees over thirty years, subject to the solar resources producing at Duke's projected levels. Participants shall be responsible for 104.9% of the fixed revenue requirements through such subscription fees. Further, participants take the risk that the resources do not meet projections, and as such, the bill credits would be lower.

17. Is it Walmart's understanding that benefits to the general body of customers, as reflected on Exhibit TGF-1, are dependent on assumed system net fuel benefits, emissions benefits, and system benefits? If so, is it Walmart's understanding that if those benefits do not materialize as anticipated, the benefits to the general body of customers will decrease but the bill credits to participants will not be impacted? Please explain your answer and identify any documents supporting your answer.

RESPONSE: Walmart objects to this Interrogatory as it is better directed at Duke, the author of the Program at issue in this Docket, and to its witness, Thomas G. Foster, the author of Exhibit TGF-1. Without waiving its objection, Walmart states that DEF's Exhibit TGF-1 speaks for itself, and based on Exhibit TGF-1, benefits reflected in Exhibit TGF-1 are dependent on assumed net fuel benefits, emissions benefits, and system benefits, as well as on the solar resources producing at the

levels projected by the Company. Actual production different than the production that is projected will change the values for both participants and non-participants.

18. Based on exhibit TGF-1, is it Walmart's understanding that the Program's administrative costs are \$16.8 million (nominal)? Also based on that exhibit, is it Walmart's understanding that participants' net contributions to the costs of the program are \$1.6 million (calculated by adding up years 2022-2025, where participants, on net, through subscription fees, contribute to the cost of the program)? Please explain your answer.

RESPONSE: Walmart objects to this Interrogatory as it is better directed at Duke, the author of the Program at issue in this Docket, and to its witness, Thomas G. Foster, the author of Exhibit TGF-1. Without waiving its objection, Walmart states that it understands that the Program's administrative costs are \$16.8 million for the thirty years of the Program on a nominal basis per DEF witness Foster.

19. Does Walmart contend that participants in the Program meaningfully (defined here to be more than 1%) contribute to the cost of the program? If so, please explain all bases for this contention and identify all documents supporting this contention.

RESPONSE: Walmart objects to this Interrogatory as it is better directed at Duke, the author of the Program at issue in this Docket, and to its witness, Thomas G. Foster, the author of Exhibit TGF-1. Without waiving its objection, Walmart states that it has not conducted an independent projection of the Program's economics; however, pursuant to Exhibit TGF-1, participants will pay \$2.2 billion nominal of

subscription fees and take on the production risk of the solar resources. Such payments represent 104.9% of the fixed revenue requirements associated with the Program.

20. Does Walmart contend that the Clean Energy Connection program is fair, just, and reasonable to the general body of ratepayers? If so, please explain all bases for this contention and identify all documents supporting this contention.

RESPONSE: Yes. The reasons are set forth in the Company's Petition for a Limited Proceeding to Approve the Program, Tariff and Stipulation and Direct Testimony of Thomas G. Foster, with Exhibits, filed on July 1, 2020, the Company's Rebuttal Testimony filed October 19, 2020, as well as in Walmart's Petition to Intervene filed on September 25, 2020, and Walmart's Direct Testimony and Exhibits filed on October 2, 2020.

Respectfully submitted this 2nd day of November, 2020.

By /s/Stephanie U. Eaton
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Counsel to Walmart Inc.

DECLARATION

I sponsored the Answers to Interrogatory Nos. 3, 4, 7, and 13-20, from League of United Latin American Citizens' First Set of Interrogatories to Walmart Inc. in Docket No. 20200176-EI, and that the responses are true and corrected based on my personal knowledge.

Under penalties of perjury, I declare that I have read the foregoing declaration and answers identified above, and that the facts stated therein are true.

A handwritten signature in black ink, consisting of a stylized, cursive 'S' followed by a long horizontal line that tapers to the right.

Signature

Steve W. Chriss

Date: November 2, 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 2nd day of November, 2020.

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/s/Stephanie U. Eaton

Stephanie U. Eaton

Exhibit 4

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for a limited proceeding to : **DOCKET NO. 20200176-EI**
approve clean energy connection program :
and tariff and stipulation, by Duke Energy :
Florida, LLC. : **Filed: November 2, 2020**

**WALMART INC.'S RESPONSES AND OBJECTIONS TO
LEAGUE OF UNITED LATIN AMERICAN CITIZENS'
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-4)**

Walmart Inc. ("Walmart") by and through its undersigned counsel, pursuant to Rule 1.350, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, and the Florida Public Service Commission's ("Commission") Order Establishing Procedure PSC-2020-0324-PCO-EI hereby serves their Responses and Objections to League of United Latin American Citizens' ("LULAC") First Request for Production of Documents (Nos. 1-4) to Walmart.

GENERAL OBJECTIONS

1. Walmart objects to Definitions No. 1 and No. 5 because they are overly broad and irrelevant to the extent they make a request for discovery of information or documents to entities other than those involved in the instant regulatory proceeding.
2. Walmart objects to each discovery request that calls for information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. Walmart in no way intends to waive such privilege or protection. Walmart objects to LULAC's instructions to the extent they purport to require Walmart to provide more information, with respect to withheld privileged documents, than required under applicable rules and law.

3. Walmart objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. Walmart in no way intends to waive claims of confidentiality.
4. Walmart objects to each discovery request that seeks information not relevant to this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Walmart expressly reserves, and does not waive, any and all objections to the admissibility, authenticity or relevancy of the information provided in its responses to the discovery requests.

DOCUMENTS REQUESTED

Walmart incorporates by reference all of the foregoing General Objections into its Specific Objections set forth below as though fully stated herein.

1. Please provide all documents identified in response to LULAC's First Set of Interrogatories to Walmart.

RESPONSE: Walmart objects to this Request on the grounds that settlement discussions, including documents exchanged in furtherance of settlement negotiations, are confidential among settling parties. Further, Walmart objects to the extent this Request seeks privileged and/or work product information that is not discoverable pursuant to Fla. R. Civ. P. 1.280 and F.S. 366.093. Further, Walmart objects to this Request to the extent that the corresponding Interrogatories are irrelevant to this Docket and are, therefore, not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b). The Florida Rules of Civil Procedure do not require Walmart to prepare documents in response to discovery requests, and to the extent

the Interrogatories or these Requests do so, Walmart objects to the same. Further, the primary issue in this Docket is whether the Stipulation, as filed, is in the public interest, and communications and/or documents generated in the negotiations leading up to the execution of the Stipulation are not reasonably calculated to lead to admissible evidence in this Docket and, therefore, Walmart objects to production of the same. Without waiving its objections, Walmart states that documents referenced in its responses to LULAC's Interrogatories -- the Duke Energy Florida, LLC ("DEF")'s Petition for a Limited Proceeding to Approve the Program, Tariff and Stipulation, and Direct Testimony of Thomas G. Foster, with Exhibits, filed on July 1, 2020, Walmart's Petition to Intervene filed on September 25, 2020 and Walmart's Direct Testimony, with Exhibits, filed on October 2, 2020 -- are all equally accessible to the parties to this Docket via the Commission's website. Further, Walmart provided references to other source material for Mr. Chriss' testimony in footnotes to Walmart's filed Direct Testimony.

2. Please provide copies of all communications with Duke Energy Florida, LLC ("Duke") regarding the proposed Clean Energy Connection program, specifically including, but not limited to, all communications regarding the "Stipulation" that Walmart, Duke, and other parties signed in connection with this program, any communications Duke sent Walmart describing the Clean Energy Connection program, and any communications between Walmart and Duke toward the development of the Clean Energy Connection program.

RESPONSE: Walmart objects to this Request on the grounds that settlement discussions, including documents exchanged in furtherance of settlement negotiations, are confidential among settling parties. Further, Walmart objects to the extent this Request seeks privileged and/or work product information that is not discoverable pursuant to Fla. R. Civ. P. 1.280 and F.S. 366.093. The primary issue in this Docket is whether the Stipulation, as filed, is in the public interest, and communications and/or documents generated in the negotiations leading up to the execution of the Stipulation are not reasonably calculated to lead to admissible evidence in this Docket and, therefore, Walmart objects to production of the same.

3. Please provide all documents in Walmart's possession relating to any analyses of the costs or benefits of the Clean Energy Connection program.

RESPONSE: Walmart objects to this Request on the grounds that settlement discussions, including documents exchanged in furtherance of settlement negotiations, are confidential among settling parties. Further, Walmart objects to the extent this Request seeks privileged and/or work product information that is not discoverable pursuant to Fla. R. Civ. P. 1.280 and F.S. 366.093. The primary issue in this Docket is whether the Stipulation, as filed, is in the public interest, and communications and/or documents generated in the negotiations leading up to the execution of the Stipulation are not reasonably calculated to lead to admissible evidence in this Docket and, therefore, Walmart objects to production of the same.

4. On pages 5-6 of Mr. Chriss's testimony, Mr. Chriss references Walmart's "participation" in utility "partnerships." Please provide all documents related to Walmart's participation in these utility partnerships, specifically including Walmart's agreements to participate in these partnerships.

RESPONSE: Walmart objects to this Interrogatory request for "Walmart's expected return on investment for each partnership" because it is irrelevant to this Docket and is not likely reasonably calculated to lead to the discovery of admissible evidence pursuant to Fla. R. Civ. P. 1.280(b). Moreover, this Request seeks information that is commercially sensitive; if this Request for commercially sensitive documents is not withdrawn, absent other valid grounds for objection, Walmart will file a Motion for Protective Order pursuant to Fla. R. Civ. P. 1.280(c). Without waiving its objections, Walmart states that it provided a list of other utility partnerships in response to LULAC's Interrogatory No. 7.

Respectfully submitted this 2nd day of November, 2020.

By /s/Stephanie U. Eaton
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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 2nd day of November, 2020.

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/s/Stephanie U. Eaton

Stephanie U. Eaton

Exhibit 5

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to approve
Clean Energy Connection Program and Tariff and
Stipulation by Duke Energy Florida, LLC

Docket No. 20200176-EI
Served: October 14, 2020

**DUKE ENERGY FLORIDA, LLC’S CORRECTED RESPONSE
TO LEAGUE OF UNITED LATIN AMERICAN CITIZENS’
FIRST SET OF INTERROGATORIES (NOS. 1-8)**

Duke Energy Florida, LLC (“DEF”), responds to League of United Latin American Citizens’ (“LULAC”) First Set of Interrogatories to DEF (Nos. 1-8) as follows:

INTERROGATORIES

1. Please identify the Industrial, Commercial, and Education customers that have preregistered to participate in the Clean Energy Connection program. For each customer so identified, please provide a) their subscription size; b) the percent the subscription size represents of their electricity usage; and c) the lifetime net billing credits the customer should expect to receive from their subscription (equivalent of the number represented on Exhibit No. TGF-1, row “Participant Net Distribution (Payment),” column “Nominal Total”).

Response:

Please see chart below. For customer privacy, their names have not been included.

Customer #	Sector	Subscription Size (kW)	% of usage	Lifetime Credits (\$)
1	Local Government	522	40%	216,634
2	Local Government	1,226	39%	508,800
3	Local Government	5,279	40%	2,190,826
4	Local Government	11,409	40%	4,734,824
5	Local Government	321	40%	133,218
6	Local Government	343	40%	142,348
7	Local Government	2,960	41%	1,228,423
8	Local Government	4,080	40%	1,693,232
9	Local Government	215	40%	89,227
10	Local Government	2,610	42%	1,083,170
11	Local Government	27,542	40%	11,430,145
12	Local Government	1,748	40%	725,434
13	Local Government	11,387	40%	4,725,694
14	Local Government	56	1%	23,240
15	Local Government	128	40%	53,121
16	Local Government	2,649	41%	1,099,356
17	Local Government	2,426	41%	1,006,809

18	School	133,994	71%	55,608,554
19	Commercial	84,980	71%	35,267,362
20	Commercial	6,363	71%	2,640,695
21	Industrial	105,785	63%	43,901,599
22	Commercial	20,592	71%	8,545,840
23	Commercial	17,631	71%	7,317,002
24	Industrial	58	6%	24,070
25	School	6,753	71%	2,802,548
26	School	80,943	69%	33,591,975
27	Commercial	565	71%	234,479
28	School	5,020	68%	2,083,339
29	Healthcare	22,037	71%	9,145,527
30	Commercial	2,131	71%	884,382

2. Please identify and describe any agreements DEF reached with any signatories to the “Stipulation” filed as Exhibit A to the Petition seeking approval of the Clean Energy Connection Program in this docket, which are related to this docket (including any party’s participation in this docket), but that are not reflected in the “Stipulation.”

Response:

Other than the Stipulation, DEF does not have any other agreements with the signatories.

3. Please identify all inducements or agreements parties were offered or agreed to in order to sign the “Stipulation” that are not reflected in the “Stipulation.”

Response:

None.

4. Please identify any agreement, whether written or verbal or any other format, that DEF has with any party to intervene in this docket in support of the Clean Energy Connection Program.

Response:

None.

5. Please describe all bases for DEF’s assumed emissions costs assumed in this docket. Please clarify what, if any, portion of the “Emissions” revenue requirements identified on Exhibit No. TGF-1 are from currently existing laws, rules, or regulations, and please identify those existing laws, rules, and regulations.

Response:

DEF’s assumed emissions costs include the following elements:

- SO2 Costs
- NOX Costs
- CO2 Costs
- Reagents (list below)
- Byproducts (Gypsum and Ash)
- Lime
- Ammonia

Reagents for Crystal River

Reagent	Application
50% Urea Liquor	NOx Control
Dibasic Acid	Scrubber Performance Additive
Hydrated Lime (Ca(OH ₂))	SO ₃ Control
Limestone (CaCO ₃)	SO ₂ Control
MerControl 8034PLUS	Mercury Control
Powdered Activated Carbon	Mercury Control

DEF compiles all the costs, other than the CO₂, into an aggregate cost for environmental control. All these costs were related to existing regulations. The retirement of SO₂ allowances are required under Title IV of the Clean Air Act Amendments of 1990 (the acid rain rule). The reagents shown are all required to meet the terms of the Crystal River 4 and 5 Title V permit. These derive from the NSPS rules for NO_x and SO_x emissions and the MATS rule of 2015. Ammonia is used at the combined cycle facilities for the reduction of NO_x emissions. These emissions are limited in compliance with the Title V permits of the various facilities and are set to meet standard either derived from the NSPS or from ambient air quality standards. We offset the costs of the emissions control through the sale of ash and gypsum from Crystal River Units 4 and 5 to be used in building materials.

In the course of this review, DEF identified that the emissions total does include costs projected for DEF NO_x allowance requirements under the Cross-State Air Pollution Protection Rule. This rule is no longer applicable to Florida emissions. DEF recognizes that this would reduce the CPVRR savings to customers by \$279 thousand (vs. a total of \$533 million). This value would not materially change the economic benefits as filed in DEF’s petition.

DEF also calculates a proxy cost of carbon which creates an explicit price for the anticipated cost of carbon regulations. This price is equivalent to a requirement for carbon allowance purchases or a carbon tax. While the precise form of future carbon regulations is uncertain, DEF continues to forecast that regulations limiting greenhouse gas emissions, especially carbon dioxide emissions, will be a part of the mid to long-term future. These

costs are broken out in DEF's exhibits (see DEF exhibit BMHB-3) so that the project value is visible both with and without the impact of the carbon price.

6. Please describe what the row “Total Gen. Body of Customers Net RevReqs (fav) unfav” on Exhibit TGF-1 represents.

Response:

This row represents a \$465.1M CPVRR net benefit to the general body of customers. It also shows nominal total (~\$2.8 billion) and annual net benefits to the general body of customers. This represents the net benefit to the general body of customers considering all Program revenue requirements (fixed and variable) as well as savings due to the program (fixed and variable). As can be seen in the lines above, the Program Subscription fees cover more (104.9%) than the total fixed revenue requirements of the Program. Additionally, it can be seen on the exhibit that the Total Variable Revenue Requirement impact at ~\$1.3 billion favorable is significantly greater than the Participant Bill Credits at ~\$901 million. In total it reflects ~87.3% of the total Program benefit going to the general body of customers.

7. Please clarify whether the “84.2” in column “2024” in row “Total Gen. Body of Customers Net RevReqs (fav) unfav” in Exhibit TGF-1 represents that in the year 2024, revenue requirements for the general body of customers is expected to increase by \$84.2 million dollars as compared to if this program did not exist. If so, please describe how this amount will be collected from the general body of ratepayers.

Response:

The total nominal net revenue requirement favorable to the general body of customers over the life of the program is projected to be \$2.9B. The \$84.2M shown in the year 2024 reflects the projected nominal net revenue requirement applicable to the general body of customers for that particular year. As stated in the testimony of Witness Foster, DEF proposes to recover base recoverable costs through base rates. The monthly difference between the levelized subscription fees and the actual base revenue requirements, including the revenue requirements allocated to the general body of customers, will be reflected as base rate recoverable costs or benefits and included within DEF’s earnings surveillance reports. At the time of DEF’s next base rate case during which the solar projects are in service, DEF will include revenue related to the projected levelized subscription fees from participants and the projected base revenue requirements will be included for recovery via base rates. The bill credits will be charged to the fuel clause and netted against the fuel savings achieved by the CEC Program.

8. If there were no subscription fees or bill credits (as in, Clean Energy Connection was not a subscription based program), but the program otherwise still went forward as presented by DEF, please identify, by year, how the row “Total Gen. Body of Customers Net RevReqs (fav) unfav” on Exhibit TGF-1 would differ from the current row on Exhibit TGF-1.

Response:

DEF has not performed this analysis. As provided for in the CEC stipulation, DEF acknowledges that the CEC Program will allow it to accelerate the amount of solar generation on its system.

AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY OF _____

I hereby certify that on this _____ day of _____, 2020, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared LON HUBER, who is personally known to me, and he acknowledged before me that he provided the answers to Interrogatory Number 1-4, from LULAC's FIRST SET OF INTERROGATORIES TO DUKE ENERGY FLORIDA, LLC (NOS. 1-8) in Docket No. 20200176-EI, and that the responses are true and correct based on his personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this _____ day of _____, 2020.

Lon Huber

Notary Public
State of North Carolina, at Large

My Commission Expires:

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF PINELLAS

I hereby certify that on this _____ day of _____, 2020, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared GEOFF FOSTER, who is personally known to me, and he acknowledged before me that he provided the answers to Interrogatory Numbers 6-8, from LULAC's FIRST SET OF INTERROGATORIES TO DUKE ENERGY FLORIDA, LLC (NOS. 1-8) in Docket No. 20200176-EI, and that the responses are true and correct based on his personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this _____ day of _____, 2020.

Geoff Foster

Notary Public
State of Florida, at Large

My Commission Expires:

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF PINELLAS

I hereby certify that on this _____ day of _____, 2020, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared BENJAMIN BORSCH, who is personally known to me, and he acknowledged before me that he provided the answers to Interrogatory Number 5, from LULAC's FIRST SET OF INTERROGATORIES TO DUKE ENERGY FLORIDA, LLC (NOS. 1-8) in Docket No. 20200176-EI, and that the responses are true and correct based on his personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this _____ day of _____, 2020.

Benjamin Borsch

Notary Public
State of Florida, at Large

My Commission Expires:
