

**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: December 9, 2020**

AMENDED POST-HEARING BRIEF OF WALMART INC.

Walmart Inc. ("Walmart"), by its attorneys, respectfully submits this Amended Post-Hearing Brief to the Florida Public Service Commission ("PSC" or "Commission") pursuant to Commission Order No. PSC-2020-0324-PCO-EI in the above-referenced proceeding. On November 17-18, 2020, the Commission conducted a Hearing on a Petition for a limited proceeding to approve Duke Energy Florida, LLC's ("DEF" or "Company") new Clean Energy Connection Program ("CEC Program"), Tariff, and Stipulation ("DEF's Petition"). Walmart actively participated in the Hearing and caused to be admitted into the evidentiary record the October 2, 2020, Direct Testimony and two (2) Exhibits of Steve W. Chriss, Walmart's Director of Energy Services, Hearing Exhibit Nos. 10 and 11.

I. INTRODUCTION

Walmart believes it is in the public interest for the Commission to approve DEF's CEC Program and accompanying Tariff and Stipulation filed July 1, 2020. As stated in the Petition, Walmart, Southern Alliance for Clean Energy ("SACE"), and Vote Solar signed a Stipulation with DEF supporting the proposed CEC Program. Walmart believes the CEC Program, as proposed by DEF, is designed to fully and fairly value solar resources, maximize opportunities for participation in the CEC Program -- including opportunities for low-income customers, small businesses, and

governmental entities -- and bring the lowest cost solar resources to customers over the life of the Program. In fact, 87.3% of the CEC Program's projected savings flow to the general body of DEF customers. As such, the CEC Program and Tariff are in the public interest, and the Stipulation represents a fair, just, and reasonable resolution of issues that otherwise would have been litigated in this Docket.

II. ISSUES AND POSITIONS¹

Issue 1: Should the Commission approve the Stipulation for approval of the Duke Energy Florida, LLC, Clean Energy Connection Program and Tariff, when taken as a whole, as in the public interest?

Walmart's Position: Yes. The Commission should approve the Stipulation, DEF's CEC Program, and Tariff, as filed on July 1, 2020, because, when taken as a whole, approval of DEF's CEC Program and Tariff is in the public interest.

Issue 2: Is DEF's proposed CEC tariff an appropriate mechanism to seek approval for the construction of 749 MW of new solar generation facilities?

Walmart's Position: Yes. The proposed CEC Tariff meets DEF's system needs, as set forth in the Stipulation and DEF's Testimony and Exhibits filed in this Docket, and further provides significant economic and environmental benefits to all of DEF's customers with fair, just, and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools, and families.

¹ Additional issues are added because the "parties have agreed that the first two full paragraphs under Section XIV, titled Rulings, on page 17 of Order No. PSC-2020-0430-PHO-EI be stricken, and that the issues identified by Public Counsel in their prehearing statement submitted October 26th with added." Nov. 17, 2020 Hearing Transcript ("Tr.") at 35, lines 18-23.

Issue 3: Does DEF's proposed CEC Program and tariff give any undue or unreasonable preference or advantage to any person or locality or subject the same or any undue or unreasonable prejudice or disadvantage in any respect, contrary to Section 366.03, Florida Statutes?

Walmart's Position: No. The CEC Program and Tariff provide significant economic and environmental benefits to all of DEF's customers with fair, just, and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools, and families.

Issue 4: Should the Commission allow recovery of all costs and expenses associated with DEF's proposed CEC Program in the manner proposed by DEF?

Walmart's Position: Yes. The proposed CEC Tariff meets DEF's system needs, as set forth in the Stipulation and Testimony and Exhibits filed in this Docket by signatories to the Stipulation, and further provides significant economic and environmental benefits to all of DEF's customers with fair, just, and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools, and families.

Issue 5: Should the Commission approve DEF's proposed CEC Program and associated tariff, Rate Schedule CEC-1, which is the same tariff attached to the Direct Testimony of Lon Huber filed July 1, 2020?

Walmart's Position: Yes. The proposed CEC Tariff meets DEF's system needs, as set forth in the Stipulation and Testimony and Exhibits filed in this Docket by signatories to the Stipulation, and further provides significant economic and environmental benefits to all of DEF's customers with fair, just, and reasonable rates while concurrently meeting the enormous demand for solar power from businesses, local governments, schools, and families.

Issue 6: Should this docket be closed?

Walmart's Position: Yes, if the Stipulation, CEC Program, and Tariff are approved as submitted on July 1, 2020.

III. ARGUMENT

The Commission should approve the Stipulation, DEF's CEC Program, and Tariff, as filed on July 1, 2020, because, when taken as a whole, approval of DEF's CEC Program and Tariff is in the public interest as set forth in Testimony and Exhibits filed by the parties to the Stipulation, which Walmart incorporates by reference. Specifically with respect to Walmart, through the Direct Testimony and Exhibits of Mr. Chriss, entered into the Record on November 18, 2020, Walmart addressed Walmart's support for DEF's CEC Program and the Stipulation attached as Exhibit A to DEF's Petition. Further, during cross-examination by other parties and the Commission, and in re-direct examination, Mr. Chriss expounded upon his Direct Testimony, as set forth below.

During cross-examination, Mr. Chriss explained that he relied upon DEF Exhibit TGF-1, which "does . . . point out the costs, but it also points out the benefits [of the CEC Program]."² As Mr. Chriss further explained:

[T]he Commission really needs to look at the 30-year part of [the Program] and make its determination based on that.

Both for participants and non-participants, there are years that may be positive, there are years that may be negative, and there are going to be factors that influence that in any one year. But ultimately, over the course of the 30 years, the projections that . . . I understand Duke to have make per this exhibit are that there will be net benefit both to all customers as well as participating customers, who are also in that body of all customers.³

Commissioner Polmann asked Mr. Chriss, from Walmart's perspective, what parts of the CEC Program are in the public interest, to which Mr. Chriss explained as follows:

First overall, I mean, we think the program, as a whole, is in the public interest. And that's a combination of the opportunities and risks taken on by the customers. It's how it's treated across the term of the program for nonparticipants. And then as

² Nov. 18, 2020 Hearing Tr. at 271, lines 19-21.

³ *Id.* at 271, line 21 through 272, line 7.

we get into the actual functioning and operation of the program, there are some really interesting aspects of it that really reflect, I think, a smart balance between creating opportunities for all customers, but having structures that, you know, still try and reflect in the best way possible within Florida regulatory structures to represent underlying costs and benefits.

[T]he Duke program, and then [Florida Power and Light] SolarTogether before it, are still fairly unique nationally in terms of [how the] programs are structured. You know, the only other program that Walmart participate in that has opportunity and access for all customer classes is Xcel's Renewable Connect Program in Colorado. And that's a 50-megawatt program, and that's for 50 megawatts for all participants. And this is a far larger program and a far greater opportunity for all customer classes.

The Florida programs are unique in that they provide the low-income opportunities. That's one that's really a unique and, I think, very positive characteristic of the Duke program, and then SolarTogether before it as well, and, you know really drives an opportunity for low-income customers to access renewables.

The other pieces of it that are -- that I think really help to drive the public interest determination are that it's a program that really is responsive and ... flexible to meet the needs of customers as they work through times like the pandemic.

Most programs require some sort of long-term commitment, usually at least 10 years. This program, you know, has a month-to-month opportunity for it so that if a customer does have financial difficulties, or has trouble, they can drop.

Obviously, the cost of dropping is that if you reenter the program, you restart on the credit schedule. So if you are on and off, on and off, you will never see a bill benefit from it. The bill benefit really comes if you, as a customer ... can stay on for long periods of time ... that's a real unique piece of it.

One of the things that has come up through discussions with my counterparts of other retailers during the pandemic is, you know, a lot of them had to shut down operations. They had to close buildings. You know, they had a lot of things come up that the way programs have been structured in other states, you know, over the past few years really wouldn't comport well with. Whereas, these programs really provide that flexibility, and really work through good times and bad.

So there is a lot of really cool aspects of the Duke program and, you know, the SolarTogether Program before it, that show leadership both from the utility as well as the Commission in approving the program.

[I]f this program is approved, the Florida Commission will have approved 2,250 megawatts worth of customer facing programming, which is far greater than any other state in the country at this point.

So I think there is a lot of good that comes from approval of this program, both for customers ... that participate, customers who do not participate, for the Florida environment, for the development of solar, and really moving the grid towards a decarbonized state, which is one of our goals.⁴

When asked by Commissioner Polmann about what he meant in his Direct Testimony by recommending that the CEC Program, Stipulation, and Tariff are "in the public interest," Mr. Chriss provided the following explanation:

[A]s we say that we recommend that the Commission find it's in the public interest, what we are saying is that we recommend that the Commission, upon examination of all of the evidence in the case, everything that's been presented, find that, as a whole, having this program, or a rate structure, or [a return on equity], anything within the context of the entire regulatory paradigm, having -- making this decision versus another decision means that all customers, the utility and its shareholders, and any other interest you wish to consider are better off.⁵

Mr. Chriss concluded his testimony by explaining that when Walmart meets its sustainability goals, that benefits the Florida public "because ultimately, [Walmart is] helping to deliver cleaner power to the grid overall ... [and is] able to leverage [its] scale to help with that."⁶

IV. CONCLUSION

WHEREFORE, in light of all evidence presented at the Hearing, including Walmart's Direct Testimony and Exhibits, and live testimony at the Hearing on November 18, 2020, Walmart respectfully requests that the Commission approve DEF's CEC Program and Tariff as presented by the Stipulation, without modification.

⁴ *Id.* at 295, line 16 through 299, line 3.

⁵ *Id.* at 299, line 8 through 300, line 19.

⁶ *Id.* at 303, lines 3-10.

Respectfully submitted,

By /s/ Stephanie U. Eaton

Stephanie U. Eaton (FL State Bar No. 165610)
SPILMAN THOMAS & BATTLE, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
Phone: (336) 631-1062
Fax: (336) 725-4476
seaton@spilmanlaw.com

Derrick Price Williamson
Barry A. Naum
SPILMAN THOMAS & BATTLE, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
Phone: (717) 795-2741
Fax: (717) 795-2743
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com

Counsel to Walmart Inc.

Dated: December 9, 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 9th day of December, 2020.

Matthew R. Bernier
Duke Energy Florida
106 East College Avenue, Suite 800
Tallahassee, FL 32301
matthew.bernier@duke-energy.com
flregulatorylegal@duke-energy.com

Dianne M. Triplett
Duke Energy Florida, LLC
299 First Avenue North
St. Petersburg, FL 33701
Dianne.Triplett@Duke-Energy.com

Bianca Lherisson
Shaw Stiller
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd., Room 110
Tallahassee, FL 32399-0850
blheriss@psc.state.fl.us
sstiller@psc.state.fl.us

J. R. Kelly
Charles Rehwinkel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
kelly.jr@leg.state.fl.us
rehwinkel.charles@leg.state.fl.us

Bradley Marshall
Jordan Luebkemann
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, FL 32301
bmarshall@earthjustice.org
jluebkemann@earthjustice.org

Katie Chiles Ottenweller
Vote Solar
838 Barton Woods Road NE
Atlanta, GA 30307
katie@votesolar.org

George Cavros
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Suite 105
Fort Lauderdale, FL 33334
george@cavros-law.com

Jon C. Moyle, Jr., Esquire
Karen A. Putnal, Esquire
c/o Moyle Law Firm
118 North Gadsden Street
Tallahassee FL 32301
jmoyle@moylelaw.com
kputnal@moylelaw.com

/s/ Stephanie U. Eaton

Stephanie U. Eaton