

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of Storm Protection Plan, : DOCKET NO. 20220050-EI
pursuant to Rule 25-6.030, F.A.C., Duke : :
Energy Florida, LLC. : Filed: May 31, 2022

**PETITION TO INTERVENE OF
WALMART INC.**

Pursuant to Sections 120.569 and 120.57 of the Florida Statutes and Rules 25-22.039, 28-106.201, and 28-106.205 of the Florida Administrative Code, Walmart Inc. ("Walmart"), by its attorneys, respectfully petitions the Florida Public Service Commission ("Commission") for permission to intervene in the above-captioned proceeding. In support thereof, Walmart represents to the Commission:

1. Petitioner is Walmart, 2608 SE J Street, Bentonville, AR 72716.
2. The name and address of Petitioner's attorneys are:

Stephanie U. Eaton
Florida 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
Steven W. Lee
SPILMAN THOMAS & BATTLE, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
Phone: (717) 795-2741
Fax: (717) 795-2743
dwilliamson@spilmanlaw.com
slee@spilmanlaw.com

Ms. Eaton is authorized to accept service of papers in this proceeding on behalf of Walmart. Walmart also requests that Mr. Williamson and Mr. Lee be added jointly to the service list. Walmart may cause to be filed a motion for either Mr. Williamson or Mr. Lee to be admitted *pro hac vice* before this Commission, and subsequent to any Commission grant of such request, Walmart requests that Mr. Williamson and Mr. Lee be added to the office service list as an attorney authorized to accept service of papers in this proceeding.

3. On March 3, 2020, the Commission initiated this proceeding pursuant to Rule 25-6.030, Florida Administrative Code entitled to address the Section 366.96 of the Florida Statutes entitled "Storm protection plan cost recovery." Rule 25-6.030, Florida Administrative Code, requires each public utility to file

a Transmission and Distribution Storm Protection Plan (Storm Protection Plan) that covers the utility's immediate 10-year planning period. Each utility must file, for Commission approval, an updated Storm Protection Plan every 3 years.

4. On April 11, 2022, Duke Energy Florida, LLC ("DEF" or "Company") filed its Petition for Approval of the 2023-2032 Storm Protection Plan ("Petition") and supporting testimony, and Walmart received notice of the Commission's action through DEF's filing.

5. Walmart is a national retailer of goods and services through the United States with its principal office located at 2608 SE J Street, Bentonville, AR 72716.

6. Statement of Substantial Interest. Walmart has the privilege of providing its retail services in the State of Florida through its 232 Supercenters, nine Discount Stores, 98 Neighborhood Markets, 46 Sam's Clubs, two Other Pharmacy Formats, nine Distribution Centers, and two Fulfillment Centers.¹ Walmart is also retail customer of DEF. Walmart purchases more

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

than 279 million kWh annually from DEF. The cost of electric utility service is a significant element in the cost of operation for Walmart at multiple locations throughout the state, which could be impacted by the outcome in this case, thus Walmart has a unique and substantial interest in this matter.

7. Walmart has a substantial and vital interests in the outcome of this proceeding that cannot be adequately represented by any other party.

8. Disputed Issues of Material Fact. At this time, Walmart anticipates that disputed issues of material fact in this proceeding may include the following:

- a. Whether the programs and projects included in DEF's Storm Protection Plan are consistent with Rule 25-6.030, F.A.C.?
- b. Whether the programs and projects included in DEF's Storm Protection Plan will reduce restoration costs and outage times associated with extreme weather conditions?
- c. Whether the programs and projects in DEF's Storm Protection Plan are feasible, reasonable, and practical?
- d. Whether the estimated annual jurisdictional revenue requirements for each year of the Storm Protection Plan are reasonable?
- e. Whether the estimated rate impacts for the first three years of the Storm Protection Plan are reasonable?
- f. Whether DEF has adequately addressed implementation alternatives that could mitigate rate impacts of its Storm Protection Plan?
- g. Whether the Storm Protection Plan as proposed reflects a reasonable projection of costs in light of projected benefits?

- h. Whether anticipated benefits of the Storm Protection Plan are reasonably balanced among the customer classes of the Company?
- i. Whether costs of the Storm Protection Plan are proposed to be recovered from ratepayers in a manner that reflects cost causation in the allocation and design of those rates?

9. Disputed Legal Issues. Walmart has not yet identified or confirmed any disputed legal issues, and Walmart has not completed its analysis of DEF's Petition and testimony; however, Walmart reserves its right to do so.

10. Statement of Ultimate Legal Facts Alleged. The interests of Walmart as a large, multi-account customer of the Company that it seeks to protect are sufficient to warrant intervention and include whether DEF's proposed plan and related costs are reasonable and in the public interest. Walmart anticipates that it will identify other issues of ultimate legal fact throughout the course of this proceeding.

11. Rules and Statutes Justifying Relief. As set forth within, Walmart is entitled to intervene in this docket. The rules and statutes that entitle Walmart to intervene and participate in this case include, but are not limited to, the following:

- a. Section 120.569 of the Florida Statutes;
- b. Section 120.57 of the Florida Statutes;
- c. Section 366.04 of the Florida Statutes;
- d. Section 366.041 of the Florida Statutes;
- e. Section 366.06 of the Florida Statutes;
- f. Section 366.96 of the Florida Statutes;
- g. Section 25-22.039 of the Florida Administrative Code;

- h. Section 28-106.201 of the Florida Administrative Code; and
- i. Section 28-106.205 of the Florida Administrative Code.

12. Requested Relief. Walmart requests that it be permitted to intervene as a full party in this proceeding.

13. Pursuant to Rule 28-106.204(3) F.A.C., Walmart conferred with the parties regarding Walmart's intervention. No party has indicated an objection to Walmart's intervention.²

² DEF has indicated that it has no position with respect to Walmart's intervention. Office of Public Counsel, Florida Industrial Power Users Group, and White Spring Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs have indicated that they have no objection with respect to Walmart's intervention.

WHEREFORE, Walmart Inc. respectfully requests that the Commission grant this Petition to Intervene and be provided with full party status in this proceeding.

Respectfully submitted,

By /s/Stephanie U. Eaton
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
Steven W. Lee
SPILMAN THOMAS & BATTLE, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
Phone: (717) 795-2741
Fax: (717) 795-2743
dwilliamson@spilmanlaw.com
slee@spilmanlaw.com

Counsel to Walmart Inc.

Dated: May 31, 2022

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 31st day of May, 2022.

Jacob Imig
Theresa Tan
Walter Trierweiler
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd., Room 110
Tallahassee, FL 32399-0850
jimig@psc.state.fl.us
ltan@psc.state.fl.us
wtrierwe@psc.state.fl.us

Richard Gentry
Anastacia Pirrello
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
gentry.richard@leg.state.fl.us
pirrello.anastacia@leg.state.fl.us

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

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

James W. Brew
Laura Wynn Baker
Stone Mattheis Xenopoulos & Brew, PC
1025 Thomas Jefferson Street, NW
Suite 800 West
Washington, DC 20007-5201
jbrew@smxblaw.com
lwb@smxblaw.com

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

/s/ Stephanie U. Eaton

Stephanie U. Eaton