

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of optional non-standard meter rider, by Florida Power & Light Company.

DOCKET NO. 130223-EI  
ORDER NO. PSC-14-0123-PCO-EI  
ISSUED: March 7, 2014

ORDER GRANTING MOTION TO WAIVE TIME FOR FINAL COMMISSION ACTION,  
DENYING REQUEST TO SUSPEND IMPLEMENTATION OF TARIFF, AND  
MODIFYING ORDER ESTABLISHING PROCEDURE

On August 21, 2013, Florida Power & Light Company (FPL) filed a petition for approval of an optional Non-Standard Meter Rider (NSMR) tariff. The tariff would be available to customers who elect to keep their non-communicating meters (meter) in lieu of the standard communicating smart meters. By Order No. PSC-14-0036-TRF-EI, issued January 14, 2014, the Commission rejected the proposed tariff, but allowed FPL to file a revised tariff for administrative approval that addressed the deficiencies identified during the January 7, 2014, Agenda Conference. On January 17, 2014, the Utility filed its revised non-meter rider tariff.

Subsequently, on February 4, 2014, the Commission Clerk received two protests from two separate groups of FPL customers who either presently refuse the installation of a smart meter on their residence, or intend to refuse the installation of these meters in the future (Protestors). In general, these individuals are opposed to the installation of smart meters, and in this instance, are opposed to a tariff that would require them to pay any additional costs for retaining a non-communicating meter.

On February 18, 2014, we issued Order Establishing Procedure No. PSC-14-0104-PCO-EI, establishing the hearing procedures to govern this docket including the controlling dates. It is important to note that the controlling dates in that order were established to comply with the statutory deadline pursuant to Section 366.06(3), Florida Statutes (F.S.), which states that the Commission shall take final Commission action in the docket and enter its final order within 12 months of the commencement date for final agency action. As such, a final order was required by law to be issued by August 21, 2014.

On February 21, 2014, FPL filed separate motions to dismiss each of the Protestors' petitions in part or in full. These will be addressed at a later date.

On February 25, 2014, FPL filed a Motion for Limited Waiver of Time for Final Commission Action (Motion). In its Motion, FPL agrees to waive the 12-month time frame established in Section 366.06(3), F.S., and requests that the Commission instead take final action in this matter no later than December 31, 2014. FPL states that the extension would result in a more focused and orderly litigation, and that no party would be prejudiced by the limited waiver proposed in the Motion.

In its Motion, FPL states that it has attempted to contact all parties regarding their position on FPL's Motion. Ms. Marilyn Martin, the qualified representative for the first group of customers, supports FPL's Motion. The Office of Public Counsel has taken no position and does not object to the motion. Mr. Nicholas Jones, the attorney representing the second group of customers, filed a response in opposition to the motion on February 28, 2014. Mr. Jones notes that the subject tariff is scheduled to go into effect in June and that, even though the proceeds of the tariff will be placed in escrow pending a final decision in this docket, allowing the tariff to go into effect could create a hardship for his clients, as could an extension of the hearing schedule. Mr. Jones also requests that the tariff implementation be suspended during the pendency of this docket.

Order No. PSC-14-0036-TRF-EI provided that if FPL filed a revised tariff within 10 days of the Commission vote, then the revised tariff would become effective when FPL notified Commission staff that the billing system changes had been implemented, on or about April 1, 2014. In the event a timely protest was filed, the Order provided that the revised tariff would remain in effect, subject to refund, pending the resolution of the protest. Further, Section 366.06(3), F.S., provides that new rates may be implemented, subject to refund, eight months from the commencement of the proceedings.

Having considered the arguments of all the parties, FPL's Motion for Limited Waiver of Time appears reasonable, and it is hereby granted. Further, the protections afforded in Order No. PSC-14-0036-TRF-EI and Section 366.06, F.S., ensure that no parties will be prejudiced by granting the extension of time. Mr. Jones' request to suspend operation of the tariff is contrary to the provisions of Order No. PSC-14-0036-TRF-EI and the statutory requirements of Section 366.06(3), F.S. These provisions protect the customers' interests and prevent regulatory lag. The requested tariff suspension is therefore denied.

Accordingly, it is necessary to modify the Order Establishing Procedure issued on February 18, 2014 to establish new controlling dates. As such, Section VIII of the Order shall be modified and the following due dates are hereby established to govern the key activities of this case:

Utility's testimony and exhibits	May 21, 2014
Intervenor's testimony and exhibits	June 25, 2014
Staff's testimony and exhibits, if any	July 2, 2014
Rebuttal testimony and exhibits	July 28, 2014
Prehearing Statements	August 15, 2014
Discovery Deadline	September 4, 2014
Prehearing Conference	September 5, 2014
Hearing	September 23-24, 2014

Transcripts	October 1, 2014
Briefs, if any	October 20, 2014

Based on the foregoing, it is

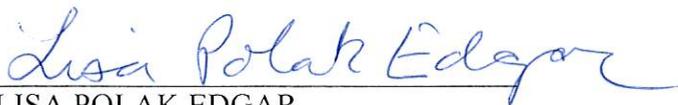
ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Florida Power & Light Company's Motion for Limited Waiver of Time for Final Commission Action is hereby granted. It is further

ORDERED that the request to suspend implementation of the tariff is denied. It is further

ORDERED that Order No. PSC-14-0104-PCO-EI is modified as set forth in the body of this order. It is further,

ORDERED that Order No. PSC-14-0104-PCO-EI is reaffirmed in all other respects.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 7th day of March, 2014.



LISA POLAK EDGAR  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MTL

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and

time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.