

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

Filed: August 14, 2014

FLORIDA POWER & LIGHT COMPANY'S OBJECTIONS TO THE MARTIN INTERVENORS' FIRST SET OF INTERROGATORIES (Nos. 1-51)

Florida Power & Light Company ("FPL"), pursuant to Rule 1.340, Florida Rules of Civil Procedure and Rule 28-106.206, Florida Administrative Code, submits the following objections to the Intervenor Martin et al.'s First Set of Interrogatories (Nos. 1-51).

**I.
GENERAL OBJECTIONS**

1. FPL objects to each and every request for documents and interrogatory that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, 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. FPL in no way intends to waive such privilege or protection. The nature of the document(s), if any, will be described in a privilege log prepared by FPL.

2. In certain circumstances, FPL may determine, upon investigation and analysis, that information responsive to certain discovery requests to which objections are not otherwise asserted is confidential and proprietary and should be produced only with provisions in place to protect the confidentiality of the information. By agreeing to provide such information in response to such request, FPL is not waiving its right to insist upon appropriate protection of confidentiality by means of a protective order or other action to protect the confidential information requested. FPL asserts its right to require such protection of any and all documents

and information that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal principles.

3. FPL is a large corporation with employees located in many different locations. In the course of its business, FPL creates numerous documents that are not subject to Florida Public Service Commission or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that not every relevant document may have been consulted in developing FPL's response. Rather, the responses to be served will provide all the information that FPL obtained after a reasonable and diligent search conducted in connection with this discovery request. To the extent that the discovery requests propose to require more, FPL objects on the grounds that compliance would impose an undue burden or expense on FPL.

4. FPL objects to each request and interrogatory to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence. Section 120.80(13)(b), Florida Statutes, prescribes the scope applicable to protests of proposed agency action as follows: "a hearing on an objection to proposed action of the Florida Public Service Commission *may only address the issues in dispute*. Issues in the proposed action which are not in dispute are deemed stipulated." (Emphasis added). Order No. PSC-14-0036-TRF-EI, which is the subject of the protests being evaluated by this Commission, is limited in scope. The only issues appropriately in dispute in the protest are the cost basis of the Non-Standard Meter Rider ("NSMR") Tariff and assessment of the related costs on the cost-causing opt-out customers who take service pursuant to the NSMR Tariff. Discovery requests that stray beyond the issues in dispute are not relevant

and do not request information or documents reasonably calculated to the discovery of admissible evidence.

5. FPL objects to each request and interrogatory to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests.

6. FPL objects to these discovery requests to the extent they call for FPL to prepare information in a particular format or perform calculations or analyses not previously prepared or performed as purporting to expand FPL's obligations under applicable law.

7. FPL objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available through normal procedures.

8. FPL objects to each and every discovery request that calls for the production of documents and/or disclosure of information from NextEra Energy, Inc. and any subsidiaries and/or affiliates of NextEra Energy, Inc. that do not deal with transactions or cost allocations between FPL and either NextEra Energy, Inc. or any subsidiaries and/or affiliates. Such documents and/or information do not affect FPL's rates or cost of service to FPL's customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, FPL is the party appearing before the Florida Public Service Commission in this docket. To require any non-regulated entities to participate in irrelevant discovery is by its very nature unduly burdensome and overbroad. Subject to, and without waiving, any other objections, FPL will respond to the extent the request pertains to FPL and FPL's rates or cost of service charged to FPL's customers. To the extent any responsive documents contain irrelevant affiliate information as well as information related to

FPL and FPL's rates or cost of service charged to its customers, FPL may redact the irrelevant affiliate information from the responsive document(s).

9. FPL objects to each and every discovery request and any instructions that purport to expand FPL's obligations under applicable law.

10. In addition, FPL reserves its right to count discovery requests and their sub-parts, as permitted under the applicable rules of procedure and the Order Establishing Procedure in this docket, in determining whether it is obligated to respond to additional discovery requests served by any party.

11. FPL expressly reserves and does not waive any and all objections it may have to the admissibility, authenticity or relevancy of the information provided in its responses.

12. Notwithstanding any of the foregoing general objections and without waiving these objections, FPL intends in good faith to respond to the discovery requests.

II. SPECIFIC OBJECTIONS

Interrogatory No. 27. FPL objects to Intervenors Martin et al.'s Interrogatory No. 27 on the ground that it seeks information that is not material or relevant to the protest being adjudicated in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. *See* General Objections, ¶4 above. Interrogatory No. 27 requests information regarding the designs, makes and models of FPL's smart meter devices and the software used to operate them. The requested information does not pertain to the cost basis of the NSMR Tariff. Rather, it relates to FPL's smart meter deployment. By Order No. PSC-14-0146-PCO-EI (dated April 1, 2014), the Commission held that the costs associated with smart meter deployment were approved in FPL's 2010 rate case order, that concerns regarding deployment should have been raised in that proceeding and that relitigation of those issues is

barred by the doctrine of administrative finality. Because Interrogatory No. 27 relates to FPL's smart meter deployment, the information requested falls outside the scope of this proceeding.

Interrogatory No. 29. FPL objects to Intervenor Martin et al.'s Interrogatory No. 29 on the ground that it seeks information that is not material or relevant to the protest being adjudicated in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Interrogatory No. 27 seeks information regarding "the average, per meter costs associated with deployment of smart meters." The information requested falls outside the scope of this proceeding. *See* General Objections ¶ 4 above, and FPL's Specific Objection to Interrogatory No. 27 above, both of which are readopted as if fully set forth herein. Additionally, FPL objects to Intervenor Martin et al.'s Interrogatory No. 29 on the ground that FPL does not track the information in the manner requested. It would be unduly burdensome for FPL to prepare information in the requested format and perform analyses of this nature, which were not previously prepared.

Interrogatory No. 30. FPL objects to Intervenor Martin, et al.'s Interrogatory No. 30 on the ground that it seeks information that is not material or relevant to the protest being adjudicated in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Interrogatory No. 30 seeks information regarding "the average installation cost per meter in the AMI Program" and the "detailed costs in accordance with the physical process of deployment." Again, the requested information does not pertain to the cost basis of the NSMR Tariff but rather to FPL's smart meter deployment. Accordingly, the information requested falls outside the scope of this proceeding. *See* General Objections ¶ 4 above, and FPL's Specific Objection to Interrogatory No. 27 above, both of which are readopted as if fully set forth herein.

Respectfully submitted this 14th day August 2014.

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**CERTIFICATE OF SERVICE
DOCKET NO. 130223-EI**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by electronic mail to the following parties on this 14th day of August, 2014, to the following:

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