

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-14-0504-PHO-EI
ISSUED: September 23, 2014

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on September 5, 2014 in Tallahassee, Florida, before Commissioner Lisa Polak Edgar, as Prehearing Officer.

APPEARANCES:

KENNETH M. RUBIN and MARIA J. MONCADA, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408,
On behalf of Florida Power & Light Company (FPL).

J.R. KELLY and CHARLES J. REHWINKEL, ESQUIRES, Office of the Public Counsel c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400,
On behalf of Office of Public Counsel (OPC).

ENNIS LEON JACOBS, JR., ESQUIRE, P. O. Box 1101, Tallahassee, Florida 32302,
On behalf of Marilynne Martin, et al. (Martin).

NATHAN A. SKOP, ESQUIRE, 420 N.W. 50th Boulevard, Gainesville, Florida 32607,
On behalf of Daniel R. and Alexandria Larson (Larsons).

RACHEL GARIBAY-WYNNBERRY, 3342 Yonge Avenue, Sarasota, Florida 34235,
Pro Se (GW).

SUZANNE BROWNLESS and MARTHA BARRERA, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

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. Order No. PSC-13-0469-TRF-EI, issued on October 14, 2013, suspended the proposed tariff pending further investigation.

Order No. PSC-14-0036-TRF-EI, issued on January 14, 2014, denied the tariff but gave FPL the option of filing for administrative approval a revised tariff on or before January 17, 2014, containing three adjustments: 1) extended recovery period for up-front system and communication costs from three to five years; 2) reduction in the number of customer care employees from four to one after year two; and 3) elimination of meter reading lead position after year two. FPL filed a revised tariff meeting these conditions on January 17, 2014.

On February 4, 2014, Marilynne Martin (Martin), on behalf of herself and 19 other FPL customers, timely requested a formal evidentiary hearing on the tariff as did Lucy Ahn (Ahn) and another group of approximately 100 FPL customers. OPC's notice of intervention in the docket had been previously acknowledged on September 24, 2013, by Order No. PSC-13-0437-PCO-EI. Daniel R. and Alexandria Larson (Larsons) filed to intervene on March 31, 2014, and were granted intervention by Order No. PSC-14-0177-PCO-EI, issued on April 18, 2014.

Order No. PSC-14-0104-PCO-EI establishing procedure was issued on February 18, 2014, and has been subsequently modified by Order No. PSC-14-0123-PCO-EI, issued on March 7, 2014, and Order No. PSC-14-0270-PCO-EI, issued on May 29, 2014. On February 21, 2014, FPL filed motions to dismiss those portions of the Ahn and Martin petitions raising health and safety issues associated with smart meters. On February 28, 2014 both the Ahn and Martin petitioners filed responses in opposition to FPL's motions to dismiss. Orders Nos. PSC-14-0145-FOF-EI and PSC-14-0146-FOF-EI, issued on April 1, 2014, granted in part and denied in part FPL's motions to dismiss. Motions for reconsideration of these orders were filed by both the Ahn and Martin petitioners on April 11, 2014, and subsequently denied by Order No. PSC-14-0261-FOF-EI, issued on May 23, 2014. Prehearing statements were filed by FPL, Larsons, OPC, Martin and Commission staff on August 15, 2014. On August 27, 2014, counsel for the Ahn petitioners filed a Notice of Withdrawal.

On September 10, 2014, an Order to Show Cause was issued requiring any member of the Ahn petitioners to file a prehearing statement in compliance with Order No. PSC-14-0104-PCO-EI, issued on February 18, 2014, or show cause why they should not be dismissed as parties from this proceeding. On September 15, 2014, Rachel Garibay-Wynnberry (GW) filed a compliant prehearing statement and Motion to Accept Prehearing Statement Out of Time and To Excuse Attendance at the Prehearing Conference. No objections to the motion were filed.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 366.03, 366.041, 366.05, 366.06, 366.07 and Rules 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

(1) When confidential information, other than prefiled testimony and exhibits, is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

(2) When confidential prefiled testimony and exhibits are used in the hearing, the Commissioners and Commission staff will have confidential copies available for their use in the hearing room. The party intending to use the confidential prefiled testimony or exhibits shall prepare sufficient copies for use by the witness. All other parties are

responsible for providing their own copy of the confidential prefiled testimony and exhibits.

(3) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the witness' exhibit(s) may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
+Robert A. Onsgard	FPL	1-11
+J. Terry Deason	FPL	1, 3, 8, 11
Marilynne Martin	Martin	1-11
<u>Rebuttal</u>		
Robert A. Onsgard	FPL	1-11
J. Terry Deason	FPL	1, 3, 8, 11

VII. BASIC POSITIONS

FPL: The Commission should affirm its determination that it is appropriate for FPL to recover the incremental costs associated with providing electric service to customers who choose optional, non-standard meter service reflected in Order No. PSC-14-0036-TRF-EI (“Tariff Order 14-0036”), dated January 14, 2014. More specifically, the Commission should affirm its decision that FPL customers who choose to receive electric service through the non-standard meter should pay the Enrollment Fee of \$95 and a Monthly Surcharge of \$13 for this optional service as more fully outlined in the body of the approved tariff.

Smart meters are now FPL’s standard service offering. However, a very small percentage of FPL’s customers have indicated their preference for receiving electric service through a non-standard meter. During deployment, some customers were placed on a postpone list and some prevented FPL access to install the smart meter. During that timeframe, these customers were temporarily allowed to retain their non-standard meters at no charge. Following the completion of the residential and small business smart meter deployment, FPL sought approval from the Commission for a cost-based NSMR Tariff to allow customers to make a choice to opt-out of the smart meter. That optional program requires FPL to incur additional incremental capital and O&M costs that FPL would not otherwise incur but for the NSMR offering. FPL should be allowed to recover the costs associated with this optional non-standard service from the customers electing this non-standard meter service rather than from the general

body of FPL's customers. FPL therefore filed its Petition for Approval of the NSMR in August 2013 ("Petition") and obtained Commission approval to implement the NSMR Tariff in January 2014, under which FPL would recover the projected incremental costs associated with providing this optional service.

Upon substantial completion of smart meter activation and deployment, FPL undertook a comprehensive analysis of the additional costs it expected to incur to develop and maintain the processes and staffing required to serve NSMR customers. Additionally, FPL projected that 12,000 customers would participate in the NSMR Tariff based on data available at the time FPL filed its Petition. Consistent with long-standing Commission policy, FPL has ensured that the NSMR Tariff is cost based and is strictly limited to only those costs that FPL would not have incurred but for the activities associated with serving customers who choose optional non-standard meter service. This cost-based approach also ensures that the general body of customers – the more than 99% of FPL's customers who accept standard meter service – does not subsidize the very small number of customers who choose non-standard service.

Based on the incremental costs to serve the projected 12,000 customers, FPL developed the NSMR Tariff comprised of two components: \$105 Enrollment Fee and \$16 Monthly Surcharge. The Enrollment Fee is designed to recover a significant portion of the up-front and one-time costs which are more fixed in nature. The Monthly Surcharge is designed to recover those costs which tend to recur on a monthly basis and any remaining unrecovered up-front and one-time costs. The Commission modified some of the staffing levels and also extended the period of recovery from three years to five years for all up-front system and communication costs to better align the recovery period to the rate base depreciation period. This resulted in a reduction of the Enrollment Fee from \$105 to \$95 and the Monthly Surcharge from \$16 to \$13. FPL agreed to these reductions because, although the originally submitted costs are supported by FPL's comprehensive analysis, the reduced charges still send customers the proper price signals.

For these reasons, and those set forth more fully in FPL's Petition and pre-filed testimony, the Commission should affirm Tariff Order 14-0036 requiring NSMR customers to pay the incremental cost incurred in providing optional, non-standard meter service through the payment of a \$95 Enrollment Fee and a \$13 Monthly Surcharge.

OPC:

As the statutory representative of all of FPL's customers, the Public Counsel is limiting its participation in this case to the advocacy of certain general principles that the Commission should follow when evaluating the competing presentations by FPL and the other Intervenors. Adherence to these principles will ensure that all customers are treated fairly. The Public Counsel submits that any tariff the Commission approves for customers to take service through a meter other than a

“Smart Meter” should be reasonably cost-based and not impose unwarranted costs on any FPL customers, including those who are being served through the “Smart Meter.” The opt-out tariff should be a genuine alternative, in the sense that it should not be structured, priced, or promoted in a manner that is designed to artificially discourage potentially interested customers from choosing it. At the same time, so that customers who accept the standard tariff for “Smart Meters” are not required to bear costs that FPL would not incur but for the offering of the optional meter, the opt-out tariff should reasonably recover any necessary costs that are separate from and incremental to those that are associated with the standard tariff. The Commission should consider terms and conditions that are fair to all and which impose the least cost on subscribers. The Commission should also insure that all customers are reasonably made aware of the costs and terms and conditions of any tariff approved as a result of this Docket.

GW: Rachel Garibay-Wynnberry adopts the basic position of Marilynne Martin, et al.

LARSONS: The FPL Non-Standard Meter Rider (“NSMR”) tariff should be denied by the Commission because: (a) the tariff allows FPL to recover advanced costs for “assumed” site visits that FPL may not actually perform rather than charging site visits to individual customers when a site visit is actually required; (b) the tariff permits advanced cost recovery not specifically authorized under Florida law; (c) the tariff charges are duplicative to costs already recovered in base rates; (d) the tariff charges are not fair, just, and reasonable; (e) the tariff fails to account for the cost savings (including ROE) to FPL customers from not having to install a smart meter for those customers that opting-out under the NSMR tariff; and (f) the tariff is discriminatory to the extent that it does not treat all FPL customers equally because it fails to recover the same NSMR costs from business customers that do not have a smart meter installed.

The Commission should stay implementation of any NSMR tariff and deny recovery any related costs until such time as FPL delivers the cost savings it promised to FPL customers when seeking approval of FPL’s Advanced Metering Infrastructure (“AMI”) program. It is inherently unjust to allow FPL to earn a Return of Equity (“ROE”) on capital invested for smart meters when FPL has failed to deliver the promised cost savings promised to FPL customers. It is equally unjust to allow FPL to implement the NSMR tariff when FPL has failed to deliver the promised cost savings to FPL customers. The Commission issued Order No.: PSC-10-1053-FOF-EI (In re: Petition for increase in rates by Florida Power & Light Company; Docket 080677-EI) authorizing the recovery of costs for FPL’s Advanced Metering Infrastructure (“AMI”) program based upon the substantial projected savings presented by FPL witness Santos.¹ Table 13 of this Order summarized the FPL projected savings and expenses associated with the

¹ See FPSC Order No.: PSC-10-1053-FOF-EI at 96-97.

AMI program.² Witness Santos testified that beginning in 2013, the net O&M savings from the AMI program would exceed \$30 million annually.³ As of the most recent FPL rate case, the AMI savings projected by FPL in Table 13 had not materialized.

As a general proposition, the Larsons agree that NSMR tariff customers should pay a nominal monthly fee that is fair, just, and reasonable. In turn, FPL has a duty to minimize the monthly cost and implementation of any NSMR tariff should be denied until FPL delivers the cost savings it promised to FPL customers when seeking approval of FPL's AMI program. FPL should not be allowed to profit when FPL has failed to deliver the promised AMI cost savings to FPL customers now subject to the proposed NSMR.

MARTIN: The proposed Non-standard Meter Rider (“NSMR”) in this docket should be denied because it imposes unfair and discriminatory rates on customers of Florida Power & Light (“FPL”) who decline the installation of a smart meter at their service address. The NSMR tariff charges are based on purported incremental costs that are not cost-based, and also are arbitrary and speculative. The methodology and underlying inputs for the calculation of purported incremental costs for the NSMR are significantly flawed, and, as proposed in this docket, do not support a detailed, thoughtful rate analysis, and are not consistent with historical tariff requirements by the Commission. The NSMR terms proposed by FPL in this matter represent a punitive policy towards consumers seeking a legitimate alternative to measuring electric service by smart meters. In addition, the tariff introduces unnecessary challenges into the Commission's oversight responsibility due to confusion and contradiction over assumptions and calculations of miscellaneous service charges assimilated into the recent settlement setting FPL's base rates, in the context of the full deployment of AMI meters.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE 1: **Is it appropriate for customers who receive service through a non-standard meter to bear the cost of that service?**

POSITIONS:

² Id. at 95.

³ Id. at 96.

FPL: Yes. FPL has chosen to offer an optional non-standard meter service to customers who do not wish to accept smart meter service. In order to serve this small number of customers, FPL incurs incremental capital and O&M costs that it would not otherwise incur. It is long-standing Commission policy that the cost-causer should bear responsibility for those costs associated with an optional non-standard service. (Onsgard, Deason)

OPC: The Public Counsel submits that any tariff the Commission finally approves for customers to take service through a meter other than a “Smart Meter” should be reasonably cost-based and not impose unwarranted costs on any FPL customers, including those who are being served through the “Smart Meter.”

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: No. FPL customers who receive service through a non-standard meter should not bear the cost of that service until FPL delivers the cost savings it promised to FPL customers when seeking approval of FPL’s AMI program. FPL should not be allowed to profit when FPL has failed to deliver the promised cost savings to FPL customers now subject to the proposed NSMR.

MARTIN: No. The terms of the proposed non-standard meter rider are discriminatory, arbitrary and biased toward FPL, specifically:

- a. The charges for these and other FPL non-standard services are NOT cost based today;
- b. The existing service charges for smart meter customers do not reflect the new operating costs and conditions which FPL asserts are the result of the full implementation of the AMI/smart meter program;
- c. The tariff represents an arbitrary and capricious decision by FPL to impose surcharges for this non-standard meter service, in contract with decisions and rational to integrate other non-standard services into base rates and not impose a surcharge;
- d. The proposed tariff adopts an arbitrary and capricious method of implementation, when contrasted with the more customer centric and rigorous process by which FPL adopted Rule 25-6.115, Florida Administrative Code; and
- e. The purported incremental costs which are stated to support the tariff cannot pass legal scrutiny.

STAFF: No position at this time.

ISSUE 2: **What are the appropriate staffing levels for the customer care employees and the meter reading lead position functions to enroll and serve customers on the NSMR tariff?**

POSITIONS:

FPL: FPL projected incremental costs associated with customer care employees by multiplying the projected call volume for the enrollment process by the estimated cost per call (20,880 calls x \$6.21 per call). Similarly, FPL projected the incremental cost for meter reading leads based on cost per transaction, assuming six transactions could be completed per hour (\$5.99 per transaction x 2 work requests = \$11.98 per NSMR customer). FPL did not calculate the incremental costs for these functions based on fixed staffing levels. FPL's cost analysis supports these incremental costs. FPL nevertheless accepts the Commission's recommendation to lower the estimated costs for these functions based on their staffing level assumptions which were: one meter reading lead position for the first two years; and four customer care employees for the first two years and one customer care employee for the next three years. (Onsgard)

OPC: The Public Counsel submits that any tariff the Commission finally approves for customers to take service through a meter other than a "Smart Meter" should be reasonably cost-based and not impose unwarranted costs on any FPL customers, including those who are being served through the "Smart Meter." Costs recovered through the opt-out tariff should be limited to necessary costs, reasonable in amount, that are separate from and incremental to those associated with the standard tariff. Underlying assumptions regarding staffing levels should – at a minimum – adhere to this principle.

GW: Rachel Garibay-Wynnberry adopts the position of Marylyne Martin, et al.

LARSONS: The staffing levels proposed by FPL in support of the NSMR tariff are excessive, inflate the cost associated with providing service under the NSMR, duplicate the cost of service already recovered under existing rates and should be denied.

MARTIN: Intervenors believe there is insufficient support for any additional staffing levels, a key component of the incremental costs put forth to justify the NSMR. Therefore the NSMR should be denied. FPL is undergoing a very fluid transition of customer support procedures in the scope and nature of services necessary to serve customers who decline a smart meter. Given the assumptions on these specific costs and services woven into FPL's existing base rates, it is inappropriate to assess these costs outside of a detailed rate review for these processes for all customers.

STAFF: No position at this time.

ISSUE 3: **Are the various cost components and their amounts FPL included in developing the charges for the NSMR tariff appropriate? If not, what cost**

components and their associated amounts, if any, should be excluded from the calculations?

POSITIONS:

FPL: Yes, each cost component included in developing the NSMR Tariff is appropriate. FPL has undertaken a comprehensive analysis of the net incremental costs it has incurred and expects to incur to develop and maintain the infrastructure necessary to serve customers who choose to receive service through a non-standard meter. The identified costs are incremental, meaning the costs would not have been incurred but for the customers' choice of a non-standard meter. (Onsgard, Deason)

OPC: The Public Counsel submits that any tariff the Commission finally approves for customers to take service through a meter other than a "Smart Meter" should be reasonably cost-based and not impose unwarranted costs on any FPL customers, including those who are being served through the "Smart Meter." Costs recovered through the opt-out tariff should be limited to necessary costs, reasonable in amount, that are separate from and incremental to those associated with the standard tariff. Underlying assumptions regarding cost components and their dollar values should – at a minimum – adhere to this principle.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: No. The costs for "assumed" site visits that FPL may not actually perform should be properly removed from the FPL Enrollment Fee. The advanced cost recovery of this speculative charge is not specifically authorized under Florida law and represents the majority of the FPL Enrollment Fee. Such costs are more appropriately billed directly to individual customers when a site visit is actually performed. Granting FPL advanced cost recovery of such speculative site visits is contrary to Florida law and represents a "multi-million dollar giveaway" to FPL who has failed to deliver the promised \$30 million of annual AMI cost savings to FPL customers. Additionally, the avoided cost of not having to install a smart meter, and associated ROE & depreciation, should be offset from the NSMR charges for customers who keep their existing analog meters under the NSMR tariff. Finally, the NSMR tariff charges that are duplicative to costs already recovered in base rates should be removed from the NSMR tariff.

MARTIN: In addition to the views raised in Issue 1, Intervenors contend that: (i) upfront capital costs for system upgrades related to the NSMR (approximately \$2 million) are more than offset by cost avoidance of operational costs related to the AMI program, and avoided smart meter acquisition costs for NSMR customers; and (ii) upfront costs of marketing and customer engagement are not supported given the active engagement of NSMR customers prior to the tariff through the postponement list.

STAFF: No position at this time.

ISSUE 4: **Is the requirement for a manual monthly meter reading by FPL reasonable and justified or should customers be offered alternatives (e.g., self-read or estimated billing options) to ensure fair and reasonable rates are established and costs to FPL are minimized?**

POSITIONS:

FPL: Yes, the requirement for manual monthly meter reads is reasonable and justified, and customers should not be offered self-read options. Requiring monthly meter reads is consistent with the Commission's meter reading and billing rules. Additionally, accurate and timely meter reading is a fundamental responsibility for all utilities to properly bill customers. From an operational perspective, estimated readings or customer self-reads cannot be relied upon for accurate meter reading. They require subsequent manual meter readings to true up the accounts which result in over or under billings that adversely impact either the customer or the Company. Also, many customers would not be willing or able to conduct self-reads. (Onsgard)

OPC: No position.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: No. Since its inception in 1925, FPL has read customer meters in the course of providing reliable electric service to its customers. Historically, the cost of reading meters has been included in electric base rates. The proposed NSMR tariff is discriminatory to the extent that it does not treat all FPL customers equally because it fails to recover the same NSMR costs from business customers that do not have a smart meter installed. Such costs of reading meters are already included in base rates. Furthermore, FPL has failed to deliver the promised \$30 million of annual AMI cost savings to FPL customers. Accordingly, NSMR tariff customers should be offered alternatives (e.g., self-read or estimated billing options) to ensure fair and reasonable rates are established and costs to FPL customers are minimized.

MARTIN: No. There are reasonable alternatives to manual, monthly meter readings by FPL personnel which would mitigate operational costs for this service, and not result in any significant billing or customer service challenges, or additional costs for FPL should the NSMR be offered. In order to significantly mitigate costs, FPL should develop a customer self-read program, using existing procedures, or by utilizing state-of-the-art best practices and technology.

STAFF: No position at this time.

ISSUE 5: **Should customers with several non-standard meters at the same property location pay multiple enrollment fees? If not, what is appropriate enrollment fee?**

POSITIONS:

FPL: Yes. The same per-meter Enrollment Fee should apply to customers with several non-standard meters at the same property location. The NSMR Enrollment Fee is based on an average cost per customer, with all customers treated consistently within the group. It would not be appropriate to apply different Enrollment Fee criteria for customers who might have multiple meters at the same location, just as it would not be appropriate to have higher rates for a geographically isolated opt-out customer. (Onsgard)

OPC: The Public Counsel submits that any tariff the Commission finally approves for customers to take service through a meter other than a “Smart Meter” should be reasonably cost-based and not impose unwarranted costs on any FPL customers, including those who are being served through the “Smart Meter.” Costs to be recovered through the opt-out tariff should be limited to necessary costs, reasonable in amount, that are separate from and incremental to those associated with the standard tariff. Tariff provisions relating to multiple meters at the same location should – at a minimum – adhere to this principle.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: No. The Enrollment Fee is the fundamental problem with the NSMR tariff. Granting FPL advanced cost recovery of speculative costs within the enrollment fee is contrary to Florida law and represents a “multi-million dollar giveaway” to FPL who has failed to deliver the promised \$30 million of annual AMI cost savings to FPL customers. Accordingly, customers with several non-standard meters at the same property should not be required to pay multiple enrollment fees, any enrollment fee should be substantially reduced by removing speculative costs which may never be incurred by FPL for customers keeping their existing meters, and any enrollment fee should be denied by this Commission until such time as FPL delivers the promised \$30 million of annual AMI cost savings to FPL customers. Allowing FPL to recover multiple enrollment fees from customers with several non-standard meters at the same property would represent a windfall profit for FPL. FPL should not be allowed to profit when FPL has failed to deliver the promised cost savings to FPL customers now subject to the proposed NSMR.

MARTIN: No. Should it be accepted, the proposed tariff relies on the principle that where this non-standard service imposes incremental costs, then the cost causer should pay those incremental costs. However, in this instance, FPL suggests penalties

rather than recovery of incremental costs. The rationale suggested by FPL is discriminatory, and arbitrary. An appropriate enrollment fee should be defined by the actual incremental capital and operational costs to reach the single service location, and marginal costs to transition each customer meter to the new support environment, which is likely very similar to previous meter practices, along with any additional, variable costs to configure the non-standard meters for the process going forward to read or maintain the meters. The idea of penalizing customers with a full enrollment fee for each meter contradicts reasonable ratemaking principles.

STAFF: No position at this time.

ISSUE 6: **Are there any cost savings associated with the NSMR program that have not been used in accounting for the NSMR charges? If so, what are the sources of such savings, and what and how should the amounts be reflected in the NSMR calculations?**

POSITIONS:

FPL: FPL has determined that non-standard meters avoid costs associated with smart meter communication failures in the amount of approximately \$0.07 per month per smart meter. This cost avoidance was not reflected in FPL's incremental cost study. FPL also has identified additional costs resulting from multiple activities (primarily in the Customer Advocacy area) that were not included in the NSMR Tariff. The incremental costs associated with these activities far outweigh the \$0.07 per month associated with smart meter communication failures. Thus, the NSMR Tariff should not be changed from the amounts approved in Tariff Order 14-0036. (Onsgard)

OPC: No position.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: Yes. The avoided cost of not having to install a smart meter, and associated ROE & depreciation, should be offset from the NSMR charges for customers who keep their existing analog meters under the NSMR tariff. Additionally, the NSMR tariff charges that are duplicative to costs already recovered in base rates should be removed from the NSMR tariff.

MARTIN: Yes. The Commission staff identified a number of potential cost savings available in providing the non-standard meter service, however, Intervenor suggest there are additional opportunities. The obvious cost savings are: (i) one-time reduction in operating costs resulting from any salvage value of non-standard meters removed in the AMI program; (ii) the savings resulting from avoidance of costs to buy, install, and configure smart meters, and, costs of storage for data

generated by a smart meter for these customer; and (iii) incremental maintenance, configuration and upkeep required for the underlying network and services needed only for the smart meters operation, and avoided for NSMR customers.

STAFF: No position at this time.

ISSUE 7: **What is the appropriate projection of the number of FPL customers who may subscribe to the NSMR tariff for purposes of deriving the NSMR charges?**

POSITIONS:

FPL: Though actual participation rates have been significantly lower, the appropriate projection of NSMR customer for purposes of deriving the current NSMR Tariff charges is 12,000. (Onsgard)

OPC: No position.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: The appropriate projection should be the number of customers that FPL projected in its original NSMR tariff filing plus the total number of existing business customers that do not currently have a smart meter installed.

MARTIN: The appropriate projection for FPL should consider the UTC list and the postponement list (total of 36,000) and it should avoid a negative selection approach. The projection of potential NSMR enrollees, derived by FPL is significantly flawed. Industry standard procedures would have prompted FPL to survey the captive audience (the postponement list and the UTC list) to assess willingness to pay for the NSMR, and to get reactions to various levels of fees. The customer preferences expressed in this survey should have weighed heavily in FPL's analysis to reach an objective policy in the public interest. FPL purported to survey utilities from other states which implemented a postponement process and then transferred customers from the postponement list to an opt-out program. There are any number of variables and assumptions which were a part of the programs in other states which cannot be duplicated in FPL's programs, or where FPL's approach differed.

STAFF: No position at this time.

ISSUE 8: How should the NSMR charges, if any, be designed?

POSITIONS:

FPL: The NSMR charges should consist of two components: an Enrollment Fee and a Monthly Surcharge. The Enrollment Fee is designed to recover a portion of the up-front and one-time costs, with the balance of those costs being spread over time. The Enrollment Fee also should send the appropriate price signal to inform customers of the costs associated with their meter option choice. The Monthly Surcharge is designed to recover those costs which tend to recur on a monthly basis and any remaining unrecovered up-front and one-time costs. (Onsgard, Deason)

OPC: The Public Counsel submits that any tariff the Commission finally approves for customers to take service through a meter other than a “Smart Meter” should be reasonably cost-based and not impose unwarranted costs on any FPL customers, including those who are being served through the “Smart Meter.” The opt-out tariff should be a true alternative, in the sense that it should not artificially discourage customers from selecting the non-standard tariff. Tariff rate design should – at a minimum – adhere to this principle.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: The NSMR charges should reflect a nominal monthly fee that is fair, just, and reasonable. In turn, FPL has a duty to minimize the monthly cost and implementation of any NSMR tariff should be denied until FPL delivers the promised \$30 million of annual cost savings to FPL customers when it previously sought approval of FPL’s AMI program. FPL should not be allowed to profit when FPL has failed to deliver the promised AMI cost savings to FPL customers now subject to the proposed NSMR. The avoided cost of not having to install a smart meter, and associated ROE & depreciation, should be offset from the NSMR charges for customers who keep their existing analog meters under the NSMR tariff. Additionally, the NSMR tariff charges that are duplicative to costs already recovered in base rates should be removed from the NSMR tariff.

MARTIN: The Commission should require FPL to resolve the ambiguity between FPL’s rationale to impose charges for the NSMR tariff versus other non-standard services where a surcharge was not imposed. Only where a clear justification is presented for requiring a surcharge for this service, and where clear, measurable and meaningful incremental costs are identified should the Commission authorize recovery of charges which are not recovered or accounted for presently in base rates. Finally, because of the significance of the initial enrollment fee, the NSMR charges should reflect a clear distinction between facts driving the enrollment prior to and at the launch of the NSMR, versus the circumstance in future enrollments after the launch.

STAFF: No position at this time.

ISSUE 9: **What additional information, if any, should FPL be required to file in its annual smart meter progress reports?**

POSITIONS:

FPL: FPL will include in its annual smart meter progress reports the following information regarding NSMR: actual participation rates, actual costs associated with the operation and administration of the program, and actual revenues received in the form of customer Enrollment Fees and Monthly Surcharge payments. (Onsgard)

OPC: The Commission should require FPL to disclose the number of customers subscribing to the tariff as finally approved and should require FPL to report all costs associated with maintaining such tariff on a basis sufficient to determine if any price adjustments are warranted.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: The total number of FPL customers, the total number of FPL customers enrolled under the NSMR tariff, the total number of NSMR tariff customers who have retained their original analog meter, the total number of smart meters deployed with FPL's service territory, the total number of FPL customers that do not have a smart meter installed, the number of annual smart meter failures, total smart meter failures to date, and any other information that the Commission deems appropriate.

MARTIN: Disclosure of projected and actual costs for the entire project should always be disclosed. Intervenors propose that the Commission should establish a disclosure and reporting regimen to facilitate proper regulatory oversight, combined in collaboration with OPC, with additional measures of accountability.

STAFF: No position at this time.

ISSUE 10: **Are FPL's proposed terms and conditions of the NSMR tariff appropriate? If not, what changes should be made?**

POSITIONS:

FPL: Yes, the terms and conditions contained in FPL's NSMR Tariff are appropriate. (Onsgard)

OPC: The Public Counsel submits that any tariff the Commission finally approves for customers to take service through a meter other than a "Smart Meter" should be

reasonably cost-based and not impose unwarranted costs on any FPL customers, who are being served through the “Smart Meter.” Tariff terms and conditions should – at a minimum – be established consistent with this principle.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: No. Customers should not be forced to accept FPL’s proposed terms and conditions for the NSMR tariff until FPL delivers the promised \$30 million of annual cost savings to FPL customers when seeking approval of FPL’s AMI program.

MARTIN: No. The NSMR tariff should be reasonably cost-based and cannot discriminate against any FPL customers by imposing ill-defined, unwarranted costs. Incremental costs related to the NSMR can only be determined after FPL’s Cost of Service is finalized to include the efficiencies and savings anticipated by the initiation of the AMI program. Cost-based rates for the NSMR cannot be determined without this new cost of service regimen in place, which as presently proposed, is absent. In addition, the terms and conditions need to include the appropriate credits when services for which incremental costs are allocated are not performed, such as when FPL fails to perform an actual meter reading and issues a bill, or FPL replaces the non-communicating meter with a smart meter on a temporary basis. Further, the avoided costs of not having to install a smart meter, and associated ROE and depreciation, should be offset from the NSMR charges for customers who keep their existing analog meters under the NSMR tariff. Additionally, the NSMR tariff charges that are duplicative to [sic] costs already recovered in base rates should be removed from the NSMR tariff. Finally, the advance cost recovery of the speculative costs within the enrollment fee, particularly on sites with multiple non-communicating meters, is not specifically authorized under Florida law and should be removed as they are more appropriately billed to individual FPL customers when a site visit is required.

STAFF: No position at this time.

ISSUE 11: **Based on the resolution of the previous issues, what are the appropriate NSMR charges?**

POSITIONS:

FPL: The data analyzed by FPL supports NSMR charges of \$105 for the Enrollment Fee and \$16 for the Monthly Surcharge. Notwithstanding these facts, FPL accepts the Commission’s monetary modifications resulting in the approved Enrollment Fee of \$95 and the approved Monthly Surcharge of \$13. (Onsgard, Deason)

OPC: The Public Counsel submits that any tariff the Commission finally approves for customers to take service through a meter other than a “Smart Meter” should be reasonably cost-based and not impose unwarranted costs on any FPL customers, who are being served through the “Smart Meter.” Tariff terms and conditions should – at a minimum – be established consistent with this principle.

GW: Rachel Garibay-Wynnberry adopts the position of Marilynne Martin, et al.

LARSONS: The NSMR charges should reflect a nominal monthly fee that is fair, just, and reasonable. In turn, FPL has a duty to minimize the monthly cost and implementation of any NSMR tariff should be denied until FPL delivers the promised \$30 million of annual cost savings to FPL customers when it previously sought approval of FPL’s AMI program. It is inherently unjust to allow FPL to earn a Return of Equity (“ROE”) on capital invested for smart meters when FPL has failed to deliver the promised cost savings promised to FPL customers. It is equally unjust to allow FPL to implement the NSMR tariff when FPL has failed to deliver the promised cost savings to FPL customers. The avoided cost of not having to install a smart meter, and associated ROE & depreciation, should be offset from the NSMR charges for customers who keep their existing analog meters under the NSMR tariff. Additionally, the NSMR tariff charges that are duplicative to costs already recovered in base rates should be removed from the NSMR tariff. Finally, the advance cost recovery of the speculative costs within the enrollment fee is not specifically authorized under Florida law and should be removed as they are more appropriately billed to individual FPL customers when a site visit is required.

MARTIN: Intervenors hold that the calculation of fair and reasonable charges for the NSMR requires a complete and thorough analysis, as detailed in earlier positions and FPL’s petition the NSMR tariff should be denied and/or deferred pending further review.

STAFF: No position at this time.

ISSUE 12: **Should this docket be closed?**

POSITIONS:

FPL: No position.

OPC: No position.

GW: No position.

LARSONS: No position.

MARTIN: No position.

STAFF: No position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Robert A. Onsgard	FPL	RAO-1	FPL's original proposed tariff filed August 21, 2013
Robert A. Onsgard	FPL	RAO-2	FPL's revised tariff filed January 17, 2014
Robert A. Onsgard	FPL	RAO-3	Florida Public Service Commission Staff Briefing dated February 11, 2013
Robert A. Onsgard	FPL	RAO-4	Cost analysis (Exhibit B to Petition for Approval of Optional Non-Standard Meter Rider filed August 21, 2013)
Robert A. Onsgard	FPL	RAO-5	FPL Energy News, May 2014, including NSMR Tariff communication to all customers
J. Terry Deason	FPL	JTD-1	J. Terry Deason Curriculum Vitae
Marilynne Martin	Martin	MM-1	Resume of Marilynne Martin
Marilynne Martin	Martin	MM-2	Non-Standard Meter Capital Avoidance Analysis
Marilynne Martin	Martin	MM-3	National Action Plan Communications Plan Umbrella Action Guide
<u>Rebuttal</u>			
Robert A. Onsgard	FPL		

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
J. Terry Deason	FPL	

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

FPL and the Martin petitioners entered into a stipulation on September 5, 2014 to extend the discovery deadline to September 17, 2014 for the filing of FPL's responses to the Martin petitioner's Interrogatories Nos. 52-60 and Production of Documents Requests Nos. 1-13. No objections having been heard, this stipulation is approved.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

None.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

XIV. RULINGS

Each FPL witness will take the stand once at the beginning of the hearing and present a six minute summary of their combined direct and rebuttal testimonies. Ms. Martin shall be allowed a three minute summary of her direct testimony. Opening statements shall be limited to five minutes per party.

It is therefore,

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 23rd day of September, 2014.



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

SBr

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.