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September 24, 2014

Carlotta S. Stauffer
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RE: Docket No. 130223-EI

Dear Ms. Stauffer:

Please find enclosed for electronic filing in the above-referenced docket the Motion to Compel of Intervenors, filed on behalf of intervenors Shari R. Anker, Alexandra Ansell, Stephanie & Peter J. Austin, Martha Babson, William G. & Margo A. Bigelow, Kathleen Bolam, Patricia DeNunzio, Jeri E. Friedman, George Fuller, Cathy & Mario Grippi, Shirley D. Jackson, Jamie & Douglas Lehman, Marilynne Martin, Victor J. Rohe, Sandra L. Smart, and David E. Watkins.

Please feel free to contact me at (850) 222-1246, or at email address: ljacobs50@comcast.net should you have any questions related to this filing.

Sincerely

/s/ Ennis Leon Jacobs, Jr.

Ennis Leon Jacobs, Jr.
Attorney for Shari R. Anker, Alexandra Ansell, Stephanie
& Peter J. Austin, Martha Babson, William G. & Margo A.
Bigelow, Kathleen Bolam, Patricia DeNunzio, Jeri E.
Friedman, George Fuller, Cathy & Mario Grippi, Shirley D.
Jackson, Jamie & Douglas Lehman, Marilynne Martin,
Victor J. Rohe, Sandra L. Smart, and David E. Watkins

cc: Counsel for all parties of record (w/encl/)

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: September 24, 2014

INTERVENORS MARILYNNE MARTIN, ET. AL.
MOTION TO COMPEL

Intervenors Shari R. Anker, Alexandra Ansell, Stephanie & Peter J. Austin, Martha Babson, William G. & Margo A. Bigelow, Kathleen Bolam, Patricia DeNunzio, Jeri E. Friedman, George Fuller, Cathy & Mario Grippi, Shirley D. Jackson, Jamie & Douglas Lehman, Marilynne Martin, Victor J. Rohe, Sandra L. Smart, and David E. Watkins (“Intervenors Martin et. al.”), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-14-0104-PCO-EI, issued February 18, 2014, as amended by Order No. PSC-14-0270-PCO-EI, issued May 29, 2014, submit this Motion to Compel for a full response by Florida Power & Light (“FPL”, or “Company”) to Intervenors Martin et. al.’s First Request for Production of Documents No. 2, and as reasons therefore state:

ARGUMENT

FPL objects to responding to Intervenors Martin et. al.’s First Request for Production of Documents No. 2. See FPL’s general and specific Objections to Intervenors Martin et. al.’s First Request for Production of Documents No. 2 attached hereto as Exhibits. The Company provided a partial, redacted response. Intervenors Martin et. al. seek to make available to the Commission the full response to POD No. 2.

As the Commission has previously recognized, the scope of discovery under the Florida Rules of Civil Procedure is liberal. Rule 1.280(b)(1), Florida Rules of Civil Procedure, provides:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party...

The core issues in this docket go to the operational elements of FPL's transition to smart meters, and specifically the measurement and allocation of costs related to the implementation of smart meters, as well as the servicing of customers who declined to accept the smart meters. Key to this discussion is the question of the calculation of incremental costs, and whether such costs were optimized by the strategic planning and design of this transition by management. Intervenors Martin et. al., through their discovery requests, have expressly sought to inform the Commission on this issue. Applying the applicable standard, the information sought by Intervenors Martin et. al. is relevant to the subject matter of the issues in this proceeding and thus clearly and reasonably calculated to lead to the discovery of admissible evidence.

The specific request in question goes directly to this area of inquiry by seeking information on the process utilized by FPL as customers were making the decision to accept or reject the offer of a new meter.

Intervenors Martin et. al. Request for Production No. 2 is not vague or ambiguous, nor is it overly broad or burdensome. *See First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Ass'n, Inc.*, 545 So.2d 502, 503

(Fla. 4th DCA 1989)(“it is incumbent upon [the objecting party] to quantify for the trial court the manner in which such discovery might be overly broad or burdensome. They must be able to show the volume of documents, or the number of man-hours required in their production, or some other quantitative factor that would make it so.”). Indeed the request of Intervenors Martin et. al. is readily available and narrowly tailored to the issues in this case.

CONCLUSION

Intervenors Martin et. al. are in need of the information requested in the above-referenced discovery to properly prepare their case for hearing and respectfully request that the Commission grant their Motion to Compel for a full response to Request for Production of Documents No. 2.

Dated this 24th day of September, 2014.

Respectfully submitted,

/s/ Ennis Leon Jacobs, Jr.
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CERTIFICATE OF SERVICE

I CERTIFY that a copy hereof has been furnished by email this 24th day of September, 2014, to:

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/s/ Ennis Leon Jacobs, Jr.
Ennis Leon Jacobs, Jr.

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

DOCKET NO. 130223-EI

EXHIBIT "A"

FPL General Objections to Request for Productions

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: September 17, 2014

**FLORIDA POWER & LIGHT COMPANY'S OBJECTIONS AND RESPONSES
TO INTERVENORS MARTIN ET AL.'S SECOND SET OF INTERROGATORIES
(Nos. 52-60) AND FIRST REQUEST FOR PRODUCTION (Nos. 1-13)**

Florida Power & Light Company ("FPL"), pursuant to Rules 1.340 and 1.350, Florida Rules of Civil Procedure and Rule 28-106.206, Florida Administrative Code, submits the following objections and responses to Intervenors Martin et al.'s Second Set of Interrogatories (Nos. 52-60) and First Request for Production (Nos. 1-13).

**I.
INTERROGATORIES**

A. 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.

B. Answers to Interrogatories

Martin et al.'s Second Set of Interrogatories (Nos. 52-60). Attached hereto are FPL's answers to Interrogatories Nos. 52 through 60 of Intervenor Martin et al.'s Second Set of Interrogatories consistent with its objections, together with the affidavit of the person providing the answers.

II. REQUEST FOR PRODUCTION

A. Objections

1. FPL adopts and incorporates by reference, as though fully restated herein, all objections listed in Florida Power & Light Company's Objections to Intervenor Martin et al.'s

First Request for Production (Nos. 1-13) dated September 10, 2014. FPL's responses are without waiver of those prior objections.

B. Responses to Request for Production

Martin et al.'s First Request for Production (Nos. 1-13). Attached hereto are FPL's responses to Request Nos. 1 through 13 of Intervenor Martin et al.'s First Request for Production, consistent with FPL's previously filed objections.

Respectfully submitted this 17th day September 2014.

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By: *s/ Maria J. Moncada* _____
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**In re: Petition for approval of optional non-
standard meter rider, by Florida Power &
Light Company.**

DOCKET NO. 130223-EI

EXHIBIT "B"

FPL Specific Objections to Request for Production No. 2

Pages 1-43, 46-59 and portions of page 44 of this document are not responsive to Martin, et al.'s First Request for Production of Documents No. 2 and have been redacted.

Opt Out

Opt Out

Response to customers who want an opt-out option

We appreciate your contacting us. Please know that we are evaluating the concerns that you have expressed and need some time to determine the best long-term solution.

What I can do for you now is [put a hold on the installation of a smart meter at your property / remove the smart meter at your property]

The Florida Public Service Commission held a workshop Sept. 20 to evaluate smart meter-related issues. We support the PSC's continuing assessment of the concerns expressed by some customers and we will work cooperatively with the Commission.

Rest assured that we are committed to working with the PSC to arrive at a long-term solution that serves the best interests of all customers. We respect your point of view and want you to be happy with the service we provide.

If asked:

What does the PSC have jurisdiction over?

I can't speak to the PSC's jurisdiction and would recommend that you check the PSC's website for more information (www.psc.state.fl.us).

[Redacted]

[Redacted]

[Redacted]

[Redacted]

RTQ for use with media and customers on a reactive basis

Is FPL considering an opt-out option?

The features and benefits of the smart meters and other "smart grid" technologies are highly appealing to the vast majority of customers. These state-of-the art technologies are consistent with the country's efforts to modernize the grid. They enhance service reliability and let you see how much electricity you're using by the hour so you can better manage your usage and monthly bills. They will enable us to predict where some outages may occur so we can prevent them, and they work with other components on the grid to help us detect outages in the system. These are just some of the ways they will help us improve our service to you.

A very small number of customers have raised concerns based on misleading claims and rumors circulating on the internet. When a customer contacts us with a unique concern, we take it very seriously. We listen carefully and work with them. Once they learn the facts and fully understand the benefits of this new technology, most customers are fine with it.

However, as a courtesy to customers who continue to have unique concerns, we can put a hold on the installation of the smart meter while we work to determine the best long-term solution. We care about our customers and want them to be happy with the service we provide.

Regarding claims that federal legislation requires utilities to offer an opt-out option

There is no federal legislation that requires utilities to offer customers the option to opt out of smart meters. Claims that opt-out is provided for in the Energy Policy Act of 2005 misinterpret the law and are incorrect.

Response to county resolutions

We're aware of the action by [name of governing body]. [Use talk points re: PSC assessment if needed.]

What is FPL's position on opt-out?

- **We pride ourselves on being low-cost while delivering high value. It is a part of our culture, we have a history of operating in that fashion and it's why we're ranked in the top 10 percent of all utilities nationwide in operating efficiency. Smart meters support that approach.**
 - Smart meters are an essential element of modernizing the grid to provide long-term benefits to all customers.
 - Better outage prevention
 - Faster outage identification that speeds restoration
 - Cost efficiencies to keep bills low
 - More information, control and convenience for customers
- **Opt-out is counter to our proven approach of providing the most cost-efficient service.**