



Kenneth M. Rubin
 Senior Attorney
 Florida Power & Light Company
 700 Universe Boulevard
 Juno Beach, FL 33408-0420
 (561) 691-2512
 (561) 691-7135 (Facsimile)
 Ken.Rubin@fpl.com

RECEIVED FPSC
 11 JAN 19 PM 1:28
 COMMISSION
 CLERK

January 19, 2011

-VIA HAND DELIVERY -

110033-#1

Ms. Ann Cole
 Commission Clerk
 Florida Public Service Commission
 2540 Shumard Oak Blvd.
 Tallahassee, FL 32399-0850

Re: Florida Power & Light Company's Petition for Declaratory Statement

Dear Ms. Cole:

Enclosed for filing in the above docket is an original and seven (7) copies of Florida Power & Light Company's Petition for Declaratory Statement.

Also included herewith is a CD containing electronic files of FPL's Petition for Declaratory Statement.

If there are any questions regarding this transmittal, please contact me at 561-691-2512

Sincerely,

Kenneth M. Rubin

Enclosures

- COM _____
- APA _____
- ECR _____
- GCL _____
- RAD _____
- SSC _____
- ADM _____
- OPC _____
- CLK _____

(opt) CD containing FPL's petition for Declaratory Statement

DOCUMENT NUMBER-DATE
 00435 JAN 19 =
 FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: FPL's Petition for Declaratory)
Statement Regarding the Repair and)
Replacement of Meter Enclosures)
for Smart Meters)

Docket No. 110033-EI

Filed: January 19, 2011

PETITION FOR DECLARATORY STATEMENT

Florida Power & Light Company ("FPL" or the "Company"), by and through undersigned counsel, and pursuant to Section 120.565, Fla. Stat., and Rule 28-105.002, Florida Administrative Code (F.A.C.), hereby petitions the Florida Public Service Commission ("Commission") for a declaratory statement regarding Order No. 18893 entered in Docket No. 870225-EI on February 22, 1988 ("Order No. 18893"), and Order No. PSC-95-0131-FOF-EI entered in Docket No. 941205-EI on January 26, 1995 ("Order No. PSC-95-0131-FOF-EI"), and more specifically the appropriate application of said Orders to FPL's particular set of circumstances related to smart meter installations. In support of this Petition, FPL states as follows:

INTRODUCTION

1. FPL is an investor-owned utility subject to the jurisdiction of the Commission pursuant to Chapter 366 of the Florida Statutes. FPL's headquarters are located at 700 Universe Boulevard, Juno Beach, Florida 33408.

2. Any pleading, motion, notice, order or other document required to be served upon the petitioners or filed by any party to this proceeding should be served upon the following individuals:

DOCUMENT NUMBER-DATE
00435 JAN 19 =
FPSC-COMMISSION CLERK

Kenneth M. Rubin
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
Ken.Rubin@fpl.com
561-691-2512
561-691-7135 (fax)

Kenneth A. Hoffman
Vice President, Regulatory Relations
State Regulatory Relations
Florida Power & Light Company
215 S Monroe St
Tallahassee, FL 32301
Ken.Hoffman@fpl.com
850-521-3919
850-521-3939 (fax)

3. The Commission Orders on which this declaratory statement is sought are Order No. 18893 and Order No. PSC-95-0131-FOF-EI.

RELIEF REQUESTED

4. FPL requests that the Commission enter a declaratory statement concerning the appropriate application of Order No. 18893 and Order No. PSC-95-0131-FOF-EI to FPL's ongoing installation of smart meters. FPL believes that the plain language of the referenced Orders authorizes the Company to repair or replace customer meter sockets and bases ("meter enclosures") at no cost to the individually affected customers when those meter enclosures need to be repaired or replaced in order to allow for the safe and efficient system-wide installation of the new smart meters.

5. As FPL installs the smart meters, in a very small percentage of cases (less than 0.4%) the Company encounters situations where meter enclosures are functional prior to the removal of the existing electromechanical meter and may have continued to function without a problem for many years to come, but during the course of the change-out the existing meter enclosure needs to be repaired or replaced in order to safely and efficiently install the new smart meter in a manner that will help to assure safe and reliable service to the customer. The need to repair or replace the affected meter enclosures occurs in two distinct situations. First, during the course of the meter change-out the existing functional meter enclosure is damaged and must be

repaired or replaced in order to safely and efficiently install the new smart meter in a manner that will help to assure safe and reliable service to the customer into the future. In the second scenario, the Company cannot say with certainty that the existing functional meter enclosure is clearly damaged by the removal of the existing meter or the installation of the new smart meter. However, as a result of the meter change-out there is enough doubt about the continued viability of the existing meter enclosure that the Company exercises its judgment and errs on the side of repairing or replacing the meter enclosure. This action is taken as part of the system wide installation of smart meters and represents an effort to avoid a situation where the individual customer experiences problems with the meter and/or meter enclosure within a relatively short time following the change-out. Accordingly, the Company does not believe that the individual customer should be responsible for the costs associated with this work.

6. This stands in contrast to the general situation contemplated by Order No. 18893 and Order No. PSC-95-131-FOF-EI, the principles of which will remain relevant for individual instances in which meter enclosures must be repaired or replaced due to obsolescence or wear or when new customers initially install meter enclosures, similar to any other component on the customer's side of the meter. In fact, the meter enclosures repaired or replaced by FPL in conjunction with the smart meter installations remain or become the property of the individual customers, and those customers maintain the continuing obligation to repair or replace the meter enclosures in the future if said meter enclosures need to be repaired or replaced due to obsolescence or wear, consistent with Order No. 18893 and Order No. PSC-95-131-FOF-EI.

7. FPL is installing smart meters across its entire residential and small/medium commercial customer base, and the individual meter enclosures in question are being repaired or replaced to facilitate this process and not because of obsolescence or wear of the previously

functional meter enclosures. As a result, FPL requests a declaratory statement affirming that the individually affected customers whose meter enclosures must be repaired or replaced in conjunction with this program should not bear the costs associated with the repair or replacement.

BACKGROUND

8. Because this Petition seeks a Declaratory Statement on two Commission Orders with background dating back to the mid-1970s, an historical perspective is important to establish a clear understanding of the subject Orders and the reasoning that supports FPL's Petition for a Declaratory Statement.

9. On February 12, 1974, the Commission instituted proceedings in Docket No. 73632-EU (CI) and thereafter directed each regulated electric utility (except Reedy Creek Utilities Company, Inc.) to adhere to certain practices with respect to providing underground distribution service, and to develop uniform methods for determining the costs associated with providing an underground system. In an effort to facilitate this process, the Commission entered Order No. 6674 (entered May 20, 1975) which included 5 specific directives, the 5th of which states in pertinent part as follows: "Each utility is hereby directed that the meter socket and base should be provided at no cost to the contractor."

10. In Docket No. 870225-EI, FPL sought relief from the 5th directive discussed in the preceding paragraph. More specifically, FPL's Petition requested authority to require individual customers to provide their own meter enclosures and to individually bear the costs associated with procuring and maintaining their meter enclosures. FPL represented in its Petition that it had experienced substantial customer growth following the entry of Commission Order No. 6674 in 1975 and that, as a result, the utility was incurring substantial costs to acquire,

provide and maintain the meter enclosures. Arguing that such expenses should be included in the new customers' costs to install electrical facilities during construction, FPL asserted in its Petition that "[R]elieving FPL of the obligation to provide self-contained meter enclosures at no cost will appropriately shift the cost responsibility for self-contained meter enclosures to the new customer." (Emphasis added)

11. On February 22, 1988, the Commission entered Order No. 18893 granting FPL's request, and thereby relieved FPL of the obligation to provide and/or replace meter enclosures when the customer's structure was initially wired and when the meter enclosure had to be replaced due to obsolescence or wear. In so ruling, the Commission found as follows:

"This policy [of requiring the utility to provide, repair or replace the meter enclosure], which was instituted some 13 years ago, was predicated upon our concern at that time that investor-owned utilities (except Reedy Creek Utilities Company) use uniform methods in determining costs for providing underground electric systems. We now find this practice to be inconsistent with the ratemaking principle that those persons creating a cost be responsible for its payment. Since self-contained meter enclosures are not part of the utility function, but simply house the meter itself, their costs should be borne by the customer when the structure is initially wired for electric service or when it must be replaced due to obsolescence or wear. The burden of maintaining and repairing the enclosures must likewise rest with the customer. This is consistent with good ratemaking principles and provides consistency with FPL's tariff."

12. Because FPL's filing in Docket No. 870225-EI inadvertently omitted a similar request relative to industrial customers' instrument transformer enclosures, FPL filed a petition in Docket No. 941205-EI asking the Commission to relieve FPL from the obligation to provide instrument transformer enclosures to industrial customers. Adopting the reasoning that supported its decision in the context of the residential and small commercial customer setting, the Commission in Order No. PSC-95-0131-FOF-EI granted FPL's request and wrote as follows:

“These instrument transformer enclosures should be provided by the customer for the same reasons stated in Docket No. 870225-EI for self-contained meter enclosures. Instrument transformer meter enclosures are not part of the utility function, but simply house the meter itself. As such, it is appropriate for customers to provide these enclosures and meter sockets since it is more closely related with construction of the customer’s building. We therefore find that such costs shall be borne by the customer when the structure is initially wired for electric service or when it must be replaced due to obsolescence or wear, and not by the general body of ratepayers.”

13. Order PSC-95-0131-FOF-EI concluded by explaining that the long term objective would be for the utility to no longer own or maintain any meter enclosures. However, the Commission also wrote: “Due to the gradual nature of this process, base rates will not be adjusted at this time. Any adjustment to base rates made necessary by a declining investment in meter enclosures, and a declining level of maintenance expenditures and depreciation, shall be addressed during future rate case proceedings.”

14. The two Orders on which FPL seeks a Declaratory Statement make clear the following:

- (a) individual customers bear the costs associated with initial installation of the meter enclosure;
- (b) individual customers bear the costs associated with repair or replacement of the meter enclosure when repair or replacement is required due to obsolescence or wear; and
- (c) the utility should no longer be in the business of owning or maintaining meter enclosures.

15. Subsequent to the entry of Order No. 18893 and Order No. PSC-95-0131-FOF-EI, FPL implemented and followed a policy whereby it no longer repaired, maintained, or replaced meter enclosures. Instead, the meter enclosures were now treated as customer-owned facilities, consistent with the referenced orders, and each individually affected customer was financially

responsible for the installation, repair and/or replacement of his or her meter enclosure when that repair or replacement was required due to obsolescence or wear. FPL supports the principles established in Order No. 18893 and Order No. PSC-95-0131-FOF-EI and believes that they continue to be relevant and appropriate. FPL's request for a declaratory statement simply seeks the Commission's acknowledgement that repair or replacement of the otherwise functional meter enclosures in connection with the installation of the new smart meters at no cost to the individually affected customers is consistent with the principles established in Order No. 18893 and Order No. PSC-95-0131-FOF-EI.

SUBSTANTIAL EFFECT ON FPL AND FPL'S SMART METER AND SMART GRID PROGRAMS UNDER THE PARTICULAR SET OF CIRCUMSTANCES

16. In order to support the development of Smart Grid technologies and align itself with recent federal legislation, FPL has focused on smart meter solutions for several years. In so doing, FPL actively supports the deployment of smart grid technologies consistent with the Energy Independence and Security Act of 2007 (EISA 2007) and the American Recovery and Revitalization Act of 2009 (ARRA). Smart meters serve as the initial step in the development of the Company's smart grid initiative and support the established federal policy to modernize the electric infrastructure. FPL's smart meter project includes the deployment of state-of-the-art integrated solid-state smart meters to the approximately 4,400,000 residential and small/medium business customers it serves.

17. FPL began the process of replacing approximately 4,400,000 electromechanical meters with the new smart meters through two separate pilot programs initiated in 2007 and 2008. Each of the pilot programs involved the installation of approximately 50,000 smart meters. Thereafter, the smart meter rollout commenced in earnest in September of 2009.

18. FPL's smart meter project was reviewed and approved by the Commission in FPL's 2009 rate case, as reflected in Order No. PSC-10-0153-FOF-EI, issued on March 17, 2010, in Docket Nos. 080677-EI and 090130-EI ("Order No. PSC-10-0153-FOF-EI"). The smart meter project provided the foundation for FPL to apply for a Department of Energy ("DOE") Smart Grid Grant which ultimately resulted in FPL obtaining \$200 million in grant funds from the DOE to be used in the implementation of FPL's smart grid initiative.

19. In Order No. PSC-10-0153-FOF-EI, the Commission found FPL's AMI project prudent and specifically indicated that the project should not be delayed. Consistent with that portion of the Commission's Order, FPL has continued the rollout of the program through the systematic installation of smart meters.

20. FPL's efforts to support federal and state energy policy and to effectively and efficiently carry out the Commission's Order regarding the installation of smart meters and the implementation of the smart grid have been undertaken for the benefit of all FPL customers and for the system as a whole.

21. In more than 99.6% of the installations completed to date, FPL has been able to remove the existing electromechanical meter and safely and efficiently install the new smart meter in the existing meter enclosure. However, in a very small percentage of cases (less than 0.4%), the meter change-out has created two different sets of issues. In some cases, the otherwise functional meter enclosure has been damaged in the course of performing this work and therefore requires repair or replacement. Alternatively, while performing the change-out, FPL exercises its judgment that the previously functional meter enclosure which, but for FPL's smart meter installation would otherwise have been left undisturbed, would need to be repaired or replaced in order to allow for the safe and efficient installation of the new smart meter in a

manner that would assure the greatest degree of safety and reliability into the future.

22. Standard meter enclosures housing the traditional electromechanical meters found throughout the FPL system are clearly not obsolete, as evidenced by the fact that in more than 99.6% of the cases those meter enclosures have been perfectly safe and appropriate receptacles for the new smart meters. Additionally, the very small percentage of meter enclosures that must be repaired or replaced are not being repaired or replaced due to wear, as evidenced by the fact that prior to the change-out those meter enclosures were functional and would likely have remained so for any number of years into the future, but for the act of FPL pulling out the old electromechanical meter to install the new smart meter. In short, the meter enclosures in question have not been repaired or replaced due to obsolescence or wear, but instead to permit for the safe and efficient installation of smart meters in a manner that will assure the greatest degree of safety and reliability into the future. As a result, the costs associated with this work fall outside the criteria established in Order No. 18893 and Order No. PSC-95-0131-FOF-EI and should not be borne by the individual customers whose meter enclosures have been repaired or replaced in connection with the installation of the smart meters.

23. The efficiencies to be gained through the use of smart meters can best be achieved through a systematic and methodical process by which all electromechanical meters in a given geographic area are replaced with the new smart meters. Otherwise, the system will be left with both geographic and data gaps, thereby compromising the benefits otherwise available through the use of this new technology. Leaving holes in the system of smart meters will result in incomplete data being provided to the utility, create economic and other inefficiencies, and will increase the costs of installing the smart meters and implementing the program as a whole. Such a “hit or miss” approach to installing the smart meters (based upon the condition of individual

meter enclosures) would also result in individual electromechanical meters being left in place, thereby preventing the utility from maximizing the reduction in O&M expenditures associated with the program. These holes in the system would be created where individual customers whose meter enclosures must be repaired or replaced to implement the smart meter program, but not due to obsolescence or wear, failed or refused to repair or replace meter enclosures necessitated by the meter change-out. This would, in turn, prevent FPL from safely replacing the existing electromechanical meter with the new smart meter. In short, individual customers' failure or refusal to repair or replace meter enclosures in a very tiny percentage of cases, where the need to replace the meter enclosure is not due to obsolescence or wear of the equipment, would have a serious and disproportionate impact on the program as a whole with a corresponding negative impact on FPL's general body of customers.

24 In light of the foregoing, as FPL encounters meter enclosures that must be repaired or replaced in order to allow FPL to safely install the smart meter in a manner that will provide for the greatest degree of safety and reliability into the future, FPL has, to date, undertaken the needed work in order to effectively and efficiently implement the program. This process has allowed FPL to implement its smart meter program in an orderly, methodical, economical and efficient fashion without leaving the geographic and data gaps discussed above.

25. At this stage of the project, FPL has been required to repair or replace meter enclosures in less than 0.4% of its change-outs in order to safely and efficiently install the new smart meters. Although FPL cannot represent that the meter enclosure repairs and replacements performed to date represent a statistically reliable sample of what will be found as the rollout continues, the Company offers these figures to demonstrate what it has encountered in the course of installing more than one million meters.

26. The affected meter enclosures are not being repaired or replaced due to obsolescence or wear, and as a result the costs associated with those repairs and replacements should not be borne by the individually affected customers. Rather, the meter enclosures in question are being repaired or replaced as a result of the unique situation created by FPL's implementation of its system-wide smart meter program. FPL respectfully submits that the costs in question should be borne by the smart meter project as a whole and not by the individually impacted customers.

27. In Schedule C-8 of its 2009 Rate Case MFRs, FPL identified a variance from the Commission Benchmark attributed to the first year of the full scale deployment of the Automated Metering Infrastructure ("AMI") program to take place in 2010. Included was \$1.5 million for the repair and replacement of unsafe meter conditions encountered during deployment and installation.¹ FPL continues to believe that this is the appropriate treatment of the enumerated expenses associated with meter enclosure repair and replacements necessitated by the installation of the smart meters. After installation of the smart meter, customer responsibility for the meter enclosure immediately resumes, and FPL will not assume or assert ownership of the new meter enclosures. FPL respectfully submits that because the costs related to the necessary repair and/or replacement of meter enclosures associated with smart meter installations is part of the overall smart meter implementation plan that benefits the general body of customers, and the repairs and replacements have not been necessitated by obsolescence or wear, those costs should remain in base rates, and individual customers should not be required to pay the costs associated with this work.


¹ See FPL's responses to SFHHA's 10th Set of Interrogatories, No. 283, and SFHHA's 10th Request for Production of Documents, No. 102.

DECLARATORY STATEMENT SOUGHT FROM THE COMMISSION

28. In light of the foregoing, FPL seeks a declaratory statement that individual customers whose meter enclosures must be repaired or replaced in conjunction with the installation of the smart meters, as more fully described above, should not individually bear the expenses associated with that repair or replacement, and that charging the costs to the program as a whole is not inconsistent with Order No. 18893 and Order No. PSC 95-0131-FOF-EI.

Respectfully submitted this 19th day of January, 2011.

Kenneth A. Hoffman
Vice President, Regulatory Relations
State Regulatory Relations
Kenneth M. Rubin
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard (LAW/JB)
Juno Beach, Florida 33408-0420
Telephone: (561) 691-2512
Facsimile: (561) 691-7135 (facsimile)
ken.rubin@fpl.com

By: 
Kenneth M. Rubin
Fla. Bar # 349038