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June 6, 2013

-VIA HAND DELIVERY -

Ms. Ann Cole
 Division of the Commission Clerk and
 Administrative Services
 Florida Public Service Commission
 2540 Shumard Oak Blvd.
 Tallahassee, FL 32399-0850

130160 - EI

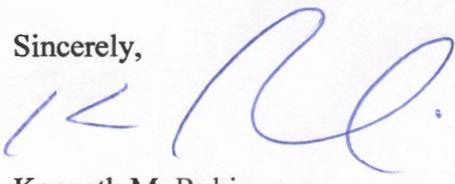
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 COMMISSION
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**Re: Florida Power & Light Company's Petition for Declaratory Statement
 Regarding the Inspection, Repair and Replacement of Meter
 Enclosures for Smart Meter Analytical Tool**

Dear Ms. Cole:

Enclosed for filing please find an original and seven (7) copies of Florida Power & Light Company's ("FPL") Petition for Declaratory Statement, along with a CD containing the Petition in Microsoft word format.

If you should have any questions, please do not hesitate to contact me at (561) 691-2512 or ken.rubin@fpl.com.

Sincerely,


Kenneth M. Rubin

COM _____ Enclosures
 AFD _____
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DOCUMENT NUMBER-DATE
 03113 JUN -6 2
 FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 130160-EI

Filed: June 6, 2013

PETITION FOR DECLARATORY STATEMENT

Florida Power & Light Company ("FPL" or the "Company"), by and through undersigned counsel, and pursuant to Section 120.565, Florida Statutes, 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"), 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 Order No. PSC-11-0194-DS-EI entered in Docket No. 110033-EI on April 13, 2011 ("Order No. PSC-11-0194-DS-EI"). More specifically, FPL petitions the Commission for a declaratory statement that FPL's repair and/or replacement of a small number of customer-owned meter sockets and bases ("meter enclosures" or "enclosures") in conjunction with the further validation and refinement of a predictive tool that allows for the proactive identification of probable future smart meter communications failures caused by conditions within the customer-owned enclosures is consistent with Order No. 18893, Order No. PSC-95-0131-FOF-EI and Order No. PSC-11-0194-DS-EI. 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.

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FPSC-COMMISSION CLERK

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

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3. The Commission Orders on which this declaratory statement is sought are Order No. 18893, Order No. PSC-95-0131-FOF-EI, and Order No. PSC-11-0194-DS-EI.

BACKGROUND

4. Because this Petition seeks a declaratory statement regarding three Commission Orders with background dating to the mid-1970s, an historical perspective is important to establish a clear understanding of the subject Orders and the reasoning that supports this Petition for Declaratory Statement.

5. 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 on May 20, 1975 which included five specific directives, the fifth 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.”¹

¹“Meter socket and base” is another term used to describe a meter enclosure.

6. In Docket No. 870225-EI, FPL sought relief from the fifth directive discussed in the preceding paragraph. 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.” 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.”

7. In response to a similar request in Docket No. 941205-EI asking for relief from the obligation to provide instrument transformer enclosures to industrial customers, the Commission in Order No. PSC-95-0131-FOF-EI agreed and found 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.”

8. 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. That objective is entirely consistent with, and in fact is supported by, the declaratory statement sought by this Petition.

9. Subsequent to the entry of Order Nos. 18893 and PSC-95-0131-FOF-EI, FPL followed a policy whereby it no longer repaired, maintained, or replaced meter enclosures. Instead, the meter enclosures were 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.

10. Consistent with the Orders addressed in the preceding paragraph, FPL filed a Petition for Declaratory Statement in January 2011 that resulted in the Commission's issuance of Order No. PSC-11-0194-DS-EI on April 13, 2011. In that Order, the Commission found "that individual customers whose meter enclosures were being repaired or replaced in conjunction with the installation of the smart meters should not individually bear the expenses associated with that repair or replacement, and that charging those costs to the program as a whole is not inconsistent with Order Nos. 18893 and PSC 95-0131-FOF-EI."

11. The three 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.

The most recent of these Orders also reflects the Commission's position that customers whose meter enclosures are repaired or replaced in certain instances in conjunction with the smart meter deployment – part of a larger utility program that benefits the general body of customers – should not individually bear the expenses associated with that repair or replacement, and that charging these costs to the program is in harmony with Commission precedent. The declaratory statement sought by this Petition is consistent with these principles.

RELIEF REQUESTED

12. FPL requests that the Commission enter a declaratory statement concerning the appropriate application of Order No. 18893, Order No. PSC-95-0131-FOF-EI and Order No. PSC-11-0194-DS-EI to FPL's planned project to further validate and refine a predictive tool the Company is developing to identify probable future smart meter communications failures likely to be caused by conditions within the customer-owned enclosure. The meter enclosure conditions referred to include but are not limited to corrosion, broken meter blocks and loose connections. FPL believes that the referenced Orders authorize the Company to inspect, repair or replace a small number of customer-owned enclosures on a one time basis at no cost to the individually affected customers, when those enclosures are inspected, repaired or replaced in conjunction with the further validation and refinement of the predictive tool described herein.

13. In accordance with the principles discussed in Orders 18893, PSC-95-0131-FOF-EI and PSC-11-0194-DS-EI, customers will continue to own their meter enclosures and will retain the obligation to maintain, repair and replace them as necessary. FPL will not assert any

ownership or other interest in the customer-owned enclosures by virtue of its inspection, repair or replacement of this equipment in connection with the further validation and refinement of the predictive tool. In short, customer-owned meter enclosures will remain the property and responsibility of the customer.

14. The opportunity to undertake this project arose in conjunction with FPL's smart meter deployment. The meters regularly transmit encrypted usage and equipment diagnostic data back to the Company, but during the deployment phase the Company determined that a number of installed meters stopped communicating. Upon inspection it was determined that several of these meters had experienced heat damage caused by problems within the customer-owned meter enclosure. The smart meter team ultimately identified a data pattern that was generally occurring in the pre-failure communications from the meter.

15. With this information in hand, FPL identified a small number of FPL smart meters in the field displaying the communications data pattern described in the preceding paragraph. Inspections and analyses of these meters and the customer-owned meter enclosures housing the meters showed that in 70% of the cases studied, damage within the customer-owned meter enclosure was causing overheating that in turn was causing the communications failure and the probable ultimate failure of the meter itself. However, due to the size of the original sample, the margin of error was estimated to be plus or minus 15%.

16. In light of these findings, FPL proposes to study a statistically significant random population of approximately 400 deployed smart meters displaying the data patterns that precede the communications failure, along with the enclosures housing those meters. Through this process, FPL hopes to validate and potentially increase the predictive capabilities of the tool.

17. This project, which must include repair and/or replacement and analyses on a small number of customer-owned enclosures, is an example of another customer and system

benefit of FPL's smart meter deployment. The anticipated end product – an accurate, predictive tool that can be used by the utility to help customers identify and prevent problems before they occur - will serve as another way to leverage the new smart meter technology in a beneficial manner. Successful development and validation of this tool may in many cases provide FPL with the ability to notify a customer about a prospective malfunction within the customer's meter enclosure. If the customer then takes appropriate action it could prevent further damage both to the customer's equipment and the smart meter.² This work involving the customer-owned enclosures is being undertaken to further validate and refine the predictive tool for the benefit of the system as a whole and for other customers now and in the future.

18. FPL requests a declaratory statement affirming that the individually affected customers whose enclosures will be inspected and where necessary repaired and/or replaced pursuant to this study should not bear the costs associated with the repair or replacement of those enclosures, and that it is appropriate for those costs to be borne by the project. Specifically, a random sample of such enclosures will be inspected and where necessary repaired or replaced by FPL in conjunction with the study. Further, FPL requests a declaratory statement reaffirming that notwithstanding this project, the enclosures remain at all times the property of the individual customers who maintain the sole obligation to repair or replace their enclosures consistent with the principles addressed in Order No. 18893, Order No. PSC-95-0131-FOF-EI and Order No. PSC-11-0194-DS-EI.

² A damaged meter enclosure in which the smart meter is displaying the identified data pattern will lead to the ultimate communications failure of the meter and/or damage to the meter itself. The Commission clearly has jurisdiction over certain aspects of the Company's metering devices, including smart meters, as evidenced by Order No. PSC-10-0153-FOF-EI issued on March 17, 2010, in Docket Nos. 080677-EI and 090130-EI approving FPL's smart meter deployment. Additionally, the Florida Administrative Code is replete with rules confirming the Commission's jurisdiction over certain aspects of metering devices, including but not limited to Rules 25-6.022, 25-6.049, 25-6.050, 25-6.052, 25-6.056, 25-6.058, 25-6.059 and 25-6.060, Florida Administrative Code. See also §366.05, Florida Statutes.

19. This project 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 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. The declaratory statement requested by FPL in this Petition is consistent with these orders. FPL fully supports the principle that the meter enclosures it intends to inspect and where necessary repair or replace in conjunction with its further validation and refinement of the predictive tool described herein shall remain the property of the individually affected customers who will maintain the sole obligation to repair or replace their enclosures in the future if said enclosures need to be repaired or replaced due to obsolescence or wear.

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

20. 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"). In that Order the Commission found FPL's AMI project prudent and specifically indicated that the project should not be delayed. The smart meter project, which successfully installed more than 4.5 million smart meters nine months ahead of schedule, provided the foundation for FPL to receive a \$200 million Department of Energy Smart Grid Grant that has helped fund the implementation of FPL's smart grid initiative.

21. 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. That benefit has been advanced by the principles addressed in Order

No. PSC-11-0194-DS-EI, and will be further advanced by the granting of the declaratory statement sought in this Petition.

22. As stated above, FPL plans to affirmatively inspect and where necessary repair or replace approximately 400 randomly selected meter enclosures on a one time basis at no cost to the customer. FPL plans to complete the field work no later than the first quarter of 2014. Thereafter FPL will finalize its analyses of all of the data received through this process. Once that has been accomplished, and depending on the results achieved through FPL's further analyses and refinements of the predictive tool, FPL's plan is to continue to analyze the smart meter transmissions on a regular basis and notify customers whose meter transmissions are indicative of conditions caused by meter enclosure failure. Successful development and validation of the tool may in many cases allow FPL to notify its customers of a prospective failure within the customer's equipment. The customer would then have the opportunity to make repairs before there is an actual failure of the meter enclosure resulting in loss of power and/or damage to other components or property of the customer, or to the meter itself. Those customers will have the sole responsibility to take appropriate actions to repair and/or replace their enclosures as necessary.

23. The tool being tested by FPL - with its predictive capabilities allowing for proactive identification and the need for repairs before more significant problems develop - is expected to continue to support the Company's high reliability, customer satisfaction, and safety standards.

DECLARATORY STATEMENT SOUGHT FROM THE COMMISSION

24. In light of the foregoing, FPL seeks a declaratory statement that individual customers whose meter enclosures will be inspected, repaired or replaced for a limited period of time in conjunction with the further validation of the predictive tool, as more fully described

above, should not individually bear the expenses associated with inspection or necessary repair or replacement, and that such action is consistent with Order No. 18893, Order No. PSC 95-0131-FOF-EI, and Order No. PSC-11-0194-DS-EI. FPL further requests a declaratory statement that notwithstanding FPL's inspection of a small number of meter enclosures and, where appropriate, repair and/or replacement of those customer-owned meter enclosures in connection with this project, the goal of which is to provide customers with the information necessary to potentially prevent or at least mitigate the impacts associated with a meter enclosure failure, individual customers participating in this project maintain ownership of the meter enclosures and related equipment and retain the sole obligation to inspect, repair and where necessary to replace their meter enclosures once this project has been completed, consistent with Order No. 18893, Order No. PSC 95-0131-FOF-EI, and Order No. PSC-11-0194-DS-EI.

Respectfully submitted this 6th day of June, 2013.

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