

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for declaratory statement regarding the inspection, repair and replacement of meter enclosures for smart meter analytical tool, by Florida Power & Light Company

Docket No. 130160-EI

Filed: July 1, 2013

OFFICE OF PUBLIC COUNSEL'S MOTION FOR AN ADMINISTRATIVE HEARING ON FLORIDA POWER & LIGHT COMPANY'S PETITION FOR DECLARATORY STATEMENT REGARDING THE INSPECTION, REPAIR AND REPLACEMENT OF METER ENCLOSURES FOR SMART METER ANALYTICAL TOOL

The Office of Public Counsel ("OPC"), by and through J.R. Kelly, Public Counsel, on behalf of the Citizens of the State of Florida, pursuant to Sections 120.569, 120.57 and Rules 28-106.201 and 28-106.204, Florida Administrative Code (F.A.C.), moves for an evidentiary hearing on Florida Power & Light Company's (FPL) petition for declaratory statement regarding the inspection, repair and replacement of meter enclosures for Smart Meter Analytical tool:

1. On June 6, 2013 FPL filed their petition for declaratory statement with the Commission. In the petition, FPL requests 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-11-0914-DS-EI.

2. The Public Service Commission (PSC) published in notice on June 7, 2013 receipt of FPL's petition for declaratory statement and acknowledgment of submittal to the Florida Administrative Register (FAR). On June 10, 2013 FAR published FPL's petition for declaratory statement in the Florida Administrative Weekly.

3. OPC filed its Notice of Intervention in this proceeding on June 27, 2013, pursuant to Section 350.0611, Florida Statutes. The PSC acknowledged OPC's Notice of Intervention on June 28, 2013.

4. The Public Counsel believes that the relief sought by FPL's petition may adversely affect the rights and obligations of its customers and that declaratory statement may be inappropriate.

5. The purpose of declaratory statement is for a substantially affected person to seek the agency's opinion as to the applicability of an order of the agency, as it applies to the petitioner's particular set of circumstances. Section 120.565(1), Florida Statutes. FPL cites three orders (Order No. 18893, Order No. PSC-95-0131-FOF-EI, and Order No. PSC-11-0194-DS-EI). These orders appear to provide that the individual customers are not responsible for replacing meters caused by FPL's own actions.

6. As the Public Counsel reads the FPL petition, it appears that the declaratory statement request is less of an effort to seek clarification or resolution of a doubt (as to its circumstances) and more of an effort to reconsider a prior order that recognized customers should be held harmless in implementation of the FPL Smart Meter Program.

7. In Order No. PSC-11-0194-DS-EI at 6, the Commission noted that:

FPL 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.

Therefore, 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 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 Nos. 18893 and PSC 95-0131-FOF-EI.

8. In the instant petition, FPL is asking the Commission to allow it to impose on individual customers the costs of repairing/replacing meter housings necessitated by smart meter installation and/or incompatibility:

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.

9. The Public Counsel requests a hearing on FPL's request to overturn the obligation of FPL to replace the smart meter housings pursuant to Order No. PSC-11-0194-DS-EI, which Order was issued April 13, 2011 prior to the filing of FPL's last rate case on March 19, 2012. Furthermore, the Public Counsel asks the Commission to determine if FPL's request and the facts and circumstances in it constitute changed circumstances, such that the basis for authorizing the smart meter implementation costs to be borne by FPL's customers in the manner approved in the 2010 rate case orders may no longer be valid.

WHEREFORE, in accordance with the Notice and as set out herein, on behalf of the customers of FPL, OPC respectfully requests a hearing on FPL's petition for declaratory statement.

Respectfully submitted,

J. R. Kelly
Public Counsel



Charles J. Rehwinkel
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330
rehwinkel.charles@leg.state.fl.us

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 130160-EI

I HEREBY CERTIFY that a copy of the foregoing Office of Public Counsel's MOTION FOR A HEARING ON FLORIDA POWER AND LIGHT'S DECLARATORY STATEMENT REGARDING SMART METER ENCLOSURES has been furnished by electronic mail and/or U.S. Mail to the following parties on this 1st day of July 2013 to the following:

Kathryn Cowdery
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Kenneth M. Rubin
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

Kenneth Hoffman
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1858



Charles J. Rehwinkel
Deputy Public Counsel