

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-14-0518-PCO-EI
ISSUED: September 29, 2014

ORDER ON MOTION TO COMPEL

The Martin Intervenors' (Martin) First Request for Production of Documents to Florida Power & Light Company (FPL) No. 2 served on September 3, 2014, requests that FPL produce: "Any internal guidelines or transcripts utilized by the Company's customer service personnel to respond to customers declining installation of a smart meter or requesting placement on the postponement list." On September 17, 2014, FPL served its response in which it produced page 44 partially excerpted and the entire page 45 of its 59 page *Energy Smart Florida: Customer Information Guide* (Guide). FPL objected to the remainder of the *Guide* as being non-responsive to Martin's request.

On September 24, 2014, Martin filed a Motion to Compel production of the complete *Guide* on the ground that the information sought was relevant and clearly and reasonably calculated to lead to the discovery of admissible evidence on the issue of the cost of the strategic planning and design of FPL's transition to smart meters. Martin argues that its request encompasses "all information on the process utilized by FPL as customers were making the decision to accept or reject the offer of a new meter."

The bulk of the information contained in the *Guide* withheld by FPL consists of a series of broad questions and answers concerning smart meters, e.g., what type of data does the smart meter collect; how does the smart meter transmit that information to FPL; what does FPL intend to do with the data collected, etc. With one exception discussed below, the information withheld by FPL is general information about smart meters for use with both the media and customers making inquiries about smart meters, not information given to "customers declining installation of a smart meter" or a customer "requesting placement on the postponement list." I do not find this type of general information to be responsive to Martin's discovery request and therefore deny Martin's request to compel its disclosure.

However, page 50 of the *Guide* addresses the issue of "Customers Removing the Meter" and asks "Am I permitted by law to remove the smart meter and return it to FPL and replace it with a UL Listed analog meter? Can I hire someone other than FPL to remove the smart meter and return it to FPL and replace it with an analog or electro-mechanical meter?" I find that this question and its response do fall within Martin's production of documents request as it specifically addresses an issue associated with a customer who does not want a smart meter. Therefore, with regard to the first two paragraphs of page 50 of the *Guide*, Martin's request to compel is granted.

On September 26, 2014, FPL reconsidered its position with regard to the excerpted portion of page 44 and the entire page 50 and provided this information to all parties via

electronic mail. While I consider the excerpted material contained on page 44 and the last paragraph of page 50 to be information of the general type not included within the scope of Martin's request, and would not require its production, FPL is, of course, free to do so voluntarily. With the voluntary disclosure of page 50 and all of page 44, FPL is now in full compliance with this order.

Based on the foregoing, it is

ORDERED that the Martin Intervenor's Motion to Compel is hereby partially granted as discussed in the body of this order.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 29th 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.

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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

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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.