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-VIA ELECTRONIC FILING -

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

Re: Docket No. 130223-EI

Dear Ms. Stauffer:

I enclose for electronic filing in the above docket Florida Power & Light Company's ("FPL") testimony and exhibits of witness Robert A. Onsgard and testimony and exhibit of witness J. Terry Deason. This filing consists of two submittals:

- This letter, along with the testimony and exhibits of Robert Onsgard (document 1 of 2); and
- The testimony and exhibit of J. Terry Deason (document 2 of 2)

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

Sincerely,

s/ Kenneth M. Rubin
Kenneth M. Rubin

Enclosures

cc: Counsel for Parties of Record (w/encl.)
Marilynne Martin

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
FLORIDA POWER & LIGHT COMPANY
DIRECT TESTIMONY OF J. TERRY DEASON
DOCKET NO. 130223-EI
MAY 21, 2014

1 **Q. Please state your name and business address.**

2 A. My name is Terry Deason. My business address is 301 S. Bronough Street, Suite
3 200, Tallahassee, FL 32301.

4 **Q. By whom are you employed and what position do you hold?**

5 A. I am a Special Consultant for the Radey Law Firm, specializing in the fields of
6 energy, telecommunications, water and wastewater, and public utilities generally.

7 **Q. Please describe your educational background and professional experience.**

8 A. I have thirty-seven years of experience in the field of public utility regulation
9 spanning a wide range of responsibilities and roles. I served a total of seven years
10 as a consumer advocate in the Florida Office of Public Counsel (OPC) on two
11 separate occasions. In that role, I testified as an expert witness in numerous rate
12 proceedings before the Florida Public Service Commission (Commission). My
13 tenure of service at OPC was interrupted by six years as Chief Advisor to Florida
14 Public Service Commissioner Gerald L. Gunter. I left OPC as its Chief Regulatory
15 Analyst when I was first appointed to the Commission in 1991. I served as
16 Commissioner on the Commission for sixteen years, serving as its Chairman on two
17 separate occasions. Since retiring from the Commission at the end of 2006, I have
18 been providing consulting services and expert testimony on behalf of various
19 clients. These clients have included public service commission advocacy staff and
20 regulated utility companies, before commissions in Arkansas, Florida, Montana,
21 New York and North Dakota. I have also testified before various legislative
22 committees on regulatory policy matters. I hold a Bachelor of Science Degree in
23 Accounting, summa cum laude, and a Master of Accounting, both from Florida

1 State University.

2 **Q. For whom are you appearing as a witness?**

3 A. I am appearing as a witness for Florida Power & Light Company (FPL or the
4 Company).

5 **Q. What is the purpose of your testimony?**

6 A. The purpose of my testimony is to discuss the history and rationale used by the
7 Commission in setting cost-based rates and to provide my perspective on certain
8 policy issues concerning FPL's optional non-standard meter rider. I also address
9 the propriety of applying the "cost-causer" principle to FPL's Non-Standard Meter
10 Rider (NSMR) tariff.

11 **Q. Are you sponsoring any exhibits?**

12 A. Yes. I am sponsoring Exhibit JTD-1, which is my curriculum vitae.

13 **Q. Please summarize your testimony.**

14 A. The Commission has a long and consistent history of setting rates based upon a
15 regulated utility's cost of providing service and setting rates to minimize subsidies
16 among customers. Inherent in the Commission's policy is the concept that the cost-
17 causer should pay the costs that they impose for the services they demand and the
18 options they choose. The Commission's policy is consistent with sound regulatory
19 principles and achieves purposes established by Chapter 366, Florida Statutes.
20 FPL's optional non-standard meter rider adheres to this policy and establishes an
21 appropriate and fair manner to recover the costs from customers choosing to avail
22 themselves of this optional service.

1 **Q. What is the statutory basis for the Commission’s policy concerning cost-based**
2 **rates?**

3 A. Actually there are several different statutory provisions which apply. First is
4 Section 366.041(1), Florida Statutes, which authorizes the Commission to consider
5 a number of factors to fix just, reasonable, and compensatory rates. Prominent
6 among these is “the cost of providing such service and the value of such service to
7 the public.” This section continues by establishing a fundamental and important
8 caveat in the fixing of rates: “provided that no public utility shall be denied a
9 reasonable rate of return upon its rate base in any order entered pursuant to such
10 proceeding.” Second is Section 366.06(1), Florida Statutes, which sets out with
11 more specificity the manner in which the Commission is to set rates. This section
12 establishes that rates are to be set on the actual cost of property (less depreciation)
13 which is used and useful in providing service to the public. This clearly establishes
14 Florida as a cost-based jurisdiction. This section also gives direction in setting rates
15 for customer classes:

16 In fixing fair, just, and reasonable rates for each customer class, the
17 commission shall, to the extent practicable, consider the cost of
18 providing service to the class, as well as the rate history, value of
19 service, and experience of the public utility; the consumption and
20 load characteristics of the various classes of customers; and public
21 acceptance of rate structures.

1 **Q. Are there other statutory provisions which give further direction in the setting**
2 **of cost-based rates?**

3 A. Yes, there are at least three. First is Section 366.03, Florida Statutes, which sets
4 forth the general duties of a public utility. Among these duties is this requirement:
5 “No public utility shall make or give any undue or unreasonable preference or
6 advantage to any person or locality, or subject the same to any undue or
7 unreasonable prejudice or disadvantage in any respect.” This is commonly referred
8 to as a non-discrimination requirement. The requirement to set non-discriminatory
9 rates is further discussed in Section 366.81, Florida Statutes. This section is part of
10 the Florida Energy Efficiency and Conservation Act (FEECA). While recognizing
11 that there are various means and technologies that can be used to increase energy
12 efficiency and conservation, the Legislature requires that the rates designed to
13 recover FEECA costs be non-discriminatory: “Accordingly, in exercising its
14 jurisdiction, the commission shall not approve any rate or rate structure which
15 discriminates against any class of customers on account of the use of such facilities,
16 systems, or devices.” While this is part of FEECA, the principle established here is
17 equally applicable to FPL’s optional non-standard meter rider and is very
18 instructive. Also instructive to the correct manner of setting non-discriminatory
19 cost-based rates is Section 366.051, Florida Statutes. This section pertains to
20 cogeneration and small power production. In fixing rates for power purchased by
21 public utilities from cogenerators or small power producers, the Legislature
22 endorses the concept of incremental costs as the appropriate cost standard. This
23 incremental cost approach is fundamental to the full avoided cost concept required

1 in the statute, which is defined as: “the incremental costs to the utility of the
2 electric energy or capacity, or both, which, but for the purchase from cogenerators
3 or small power producers, such utility would generate itself or purchase from
4 another source.” The principle established here is equally applicable to FPL’s
5 optional non-standard meter rider, such that the rider should cover the incremental
6 costs of providing this optional service to those customers wishing to avail
7 themselves of it.

8 **Q. Please summarize how all of the statutory provisions you have identified are**
9 **applicable and instructive to the Commission’s consideration of FPL’s optional**
10 **non-standard meter rider.**

11 A. Florida is a cost-based jurisdiction and uses costs to set rates for both standard and
12 non-standard services. Costs are further used to determine whether rates are
13 compensatory, which is another statutory requirement. The standard to determine
14 whether rates are compensatory is a measure of earnings as a percent of rate base
15 (costs). When rates are not compensatory in the aggregate, overall rates will have
16 to be adjusted on a going forward basis. In addition to being compensatory, rates
17 must be non-discriminatory, with no individual customers or group or class of
18 customers receiving preferential treatment. A measure of non-discrimination is
19 whether rates cover the costs of customers’ service. When rates are non-
20 compensatory or do not cover a customer’s cost, there is discrimination against
21 other customers who ultimately must subsidize the below-cost rates. This cross-
22 subsidization is the natural result of some rates being below cost and the
23 requirement that overall rates be compensatory in the aggregate. Stated differently,

1 if a cost causer is not paying the costs they cause they are being subsidized by other
2 customers who must make up the difference in their rates. And finally, the
3 appropriate means to determine whether a rate is covering costs is to use an
4 incremental cost approach. In the case of FPL's optional non-standard meter rider,
5 if the rate covers the incremental costs of providing the optional service, the rates
6 can be judged to be compensatory without an undue burden being shifted to other
7 customers. If the rates do not cover incremental costs, the rates would not be
8 compensatory and the general body of customers would pay increased rates to make
9 up for the shortfall. The resulting inherent cross subsidy would be unfair and could
10 be unduly discriminatory.

11 **Q. Has the Commission adopted rules consistent with these statutory**
12 **requirements?**

13 A. Yes, Rule 25-6.0437, F.A.C., dealing with cost of service load research; Rule 25-
14 6.064, F.A.C., dealing with contribution-in-aid-of-construction (CIAC) for new or
15 upgraded facilities; and Rule 25-6.078, F.A.C., dealing with the installation of
16 underground facilities, are three such rules.

17 **Q. Please explain how these rules are relevant.**

18 A. To better enable it to meet its statutory directives to fix rates that are cost-based and
19 non-discriminatory, the Commission requires utilities to use cost of service studies
20 so that the Commission can evaluate rates charged to the various customer classes
21 to ensure those rates are equitable and reflective of the costs of serving each group
22 or class of customer. Rule 25-6.0437, F.A.C., acknowledges this and sets forth the
23 requirements for the research which supports these cost of service studies: "The

1 primary purpose of this rule is to require that load research that supports cost of
2 service studies used in ratemaking proceedings is of sufficient precision to
3 reasonably assure that tariffs are equitable and reflect the true costs of serving each
4 class of customer.”

5
6 These same statutory directives are reflected in the Commission’s rule requiring
7 CIAC in situations where customers seek service beyond what is considered
8 standard. Utilities must calculate an amount of CIAC to charge those customers so
9 that the incremental costs of providing the requested services do not burden the
10 general body of customers. Rule 25-6.064, F.A.C., states: “The purpose of this rule
11 is to establish a uniform procedure by which investor-owned electric utilities
12 calculate amounts due as contributions-in-aid-of-construction (CIAC) from
13 customers who request new facilities or upgraded facilities in order to receive
14 electric service....” The rule further establishes that utilities cannot waive the
15 CIAC (without a reduction in its rate base) unless “the Commission determines that
16 there is a quantifiable benefit to the general body of ratepayers commensurate with
17 the waived CIAC.” This reinforces the requirement that costs imposed by some
18 customers should not be a burden to other customers when there are not offsetting
19 benefits.

20
21 Rule 25-6.078, F.A.C., is very similar to Rule 25-6.064, F.A.C., and specifically
22 addresses the cost differential between standard overhead service and optional
23 underground service. Once again, the purpose is to take an incremental cost

1 approach such that the incremental costs imposed by those customers seeking
2 underground service are not inappropriately shifted to the general body of
3 customers.

4 **Q. Can you provide examples of cases in which the Commission adhered to its**
5 **rules and policies to set rates so that the cost causers are charged for the costs**
6 **that they cause?**

7 A. Yes. There are two good examples, one involving a general rate proceeding and
8 one involving CIAC outside of a general rate proceeding. The general rate
9 proceeding case is Docket No. 080317-EI, Petition for a rate increase by Tampa
10 Electric Company (TECO). In this case, TECO was seeking rates to cover the
11 additional costs of a same-day or Saturday reconnect as opposed to the standard
12 next-day reconnect. The Commission found that the costs of providing the optional
13 same-day reconnect and the optional Saturday reconnect were higher and that a
14 higher rate was appropriate to place the costs on the cost causer. Order No. PSC-
15 09-0283-FOF-EI states:

16 Based on the record evidence, we find that TECO incurs additional
17 costs to provide same day or Saturday reconnection; these costs
18 exceed the normal connection fee which provides for next day
19 service. The charges for special services provided for the benefit
20 of a single customer should reflect those additional costs.

21 * * *

22 To the extent possible, rates should be designed to collect the costs
23 from the cost causer. Thus, based on the record evidence, we find

1 **Q. Has the Commission recently reaffirmed the principle that in these**
2 **situations it is appropriate for the cost causer to bear the costs of an**
3 **optional service?**

4 A. Yes. In a decision issued on April 23, 2014 in Order No. PSC-14-0191-
5 FOF-EI, Docket No. 130290-EI, the Commission relied upon Order No.
6 PSC-05-1033-PAA-EI in a case involving CIAC and reaffirmed that
7 “...Rule 25-6.064, F.A.C., reflects our ‘long-standing policy that, where
8 practical, the person who ‘causes’ costs to be incurred should bear the
9 burden of those costs.’ ”

10 **Q. What are the policy considerations relevant to cost-based rates in general and**
11 **FPL’s optional non-standard meter rider?**

12 A. Cost-based rates serve many functions and should adhere to many regulatory
13 principles. As I earlier discussed, rates should be non-discriminatory among
14 individual customers or customer groups or classes. A good measure of this is
15 whether the rates cover the costs which either individual customers or customer
16 groups or classes cause. And particularly in regard to optional services, an
17 appropriate way to make this analysis is to approach it on an incremental cost basis.
18 Under this approach, if the rate for an optional service covers its incremental cost, it
19 can be judged to be compensatory and non-discriminatory. This is true for FPL’s
20 optional non-standard meter rider as well.

21
22 Appropriately set cost-based rates also serve the function of generating sufficient
23 revenues to cover all operating costs and provide a reasonable return on a regulated

1 utility's rate base. As I earlier discussed, this goes directly to the requirement that
2 rates be compensatory.

3

4 In addition to being compensatory and non-discriminatory, there is another
5 important policy consideration. I refer to it as the requirement to send appropriate
6 price signals to customers. What we in the regulatory community commonly refer
7 to as rates or tariffs are correctly perceived by consumers as prices. And just as
8 prices in the non-regulated world send signals to consumers to either decrease or
9 increase their consumptive demand, this purpose is also important for regulated
10 utilities and their customers. When rates are appropriately set based on costs,
11 customers receive the correct price signals to adjust their demand for services
12 accordingly. When rates (prices) are set below costs, the signal sent to customers
13 prompts an inappropriate increase in their consumption and results in an
14 inappropriate increase in the overall costs of providing service. Likewise, when
15 rates (prices) are set above costs, there is an inappropriate signal sent to customers
16 to curtail services demanded. This can cause a decrease in revenues and
17 contributions to fixed costs, such that overall rates may have to be increased. In the
18 long run, neither scenario benefits customers.

19 **Q. So it is important that customers receive the correct price signal when**
20 **considering whether to choose the option of a non-standard meter?**

21 A. Yes, definitely. If no price signal or one below incremental cost is sent, customers
22 will have incorrect pricing information upon which to make their decision. This
23 could result in an inefficient subscription level of non-standard meters with the true

1 costs being shifted to the general body of customers. The structure of the pricing
2 signal is also important.

3 **Q. Please explain what you mean by the structure of the pricing signal.**

4 A. FPL's optional non-standard meter rider has two basic components: an up-front fee
5 referred to as the Enrollment Fee; and a recurring fee referred to as the Monthly
6 Surcharge. As these names indicate, these two components are designed to recover
7 two different types of costs. The Enrollment Fee is designed to recover a
8 significant portion of the up-front costs which are more fixed in nature. The
9 Monthly Surcharge is designed to recover those costs which tend to recur on a
10 monthly basis and any remaining unrecovered upfront costs. It is important that the
11 Enrollment Fee be designed to recover a significant portion of the fixed costs with a
12 reasonable degree of certainty and that an appropriate price signal be sent. If too
13 much of the up-front costs were to be inappropriately included in the recurring
14 monthly fee, a distorted price signal would be sent with insufficient information for
15 customers to make an informed purchasing decision. This could also place the
16 ultimate recovery of all of the up-front costs in jeopardy. The end result would be
17 an enrollment level that inappropriately shifts cost responsibility from the cost
18 causer to the general body of customers. Likewise, if the up-front costs included in
19 the Enrollment Fee are too large, there could be an unintended impediment for
20 customers choosing the non-standard meter option.

21 **Q. What did the Commission decide in its Order No. PSC-14-0036-TRF-EI?**

22 A. FPL initially requested a \$105 Enrollment Fee and a \$16 Monthly Surcharge. The
23 Commission modified some of the staffing levels and also extended the period of

1 recovery from three years to five years for all up-front system and communication
2 costs to better align the recovery period to the rate base depreciation period. This
3 resulted in a reduction of the Enrollment Fee from \$105 to \$95 and the Monthly
4 Surcharge from \$16 to \$13. But more importantly, the Commission reaffirmed its
5 policy that the cost-causer should be required to pay for the incremental costs they
6 cause by availing themselves of the option to have a non-standard meter. This is
7 consistent with the Commission's long-held policy to base rates on costs while
8 minimizing cross subsidies among customers.

9 **Q. Do these revised rates continue to send the appropriate price signals to**
10 **customers?**

11 A. Yes. The revised rates are based upon incremental costs (as adjusted by the
12 Commission) and accordingly should send the appropriate price signals.

13 **Q. What is your recommendation to the Commission?**

14 A. I recommend that the Commission reconfirm the decision it reached in its Order
15 No. PSC-14-0036-TRF-EI. In this order, the Commission stated: "We find that the
16 option to opt-out from the standard smart meter will require FPL to incur
17 incremental costs, which would appropriately be borne by the cost causer and not
18 the general body of ratepayers." This finding is consistent with the applicable
19 statutes and rules which I earlier discussed. It is also consistent with previous
20 decisions of the Commission and is consistent with sound regulatory policy, which
21 I also previously discussed.

22 **Q. Does this conclude your testimony?**

23 A. Yes, it does.

Terry Deason*



Special Consultant (Non-Lawyer)*

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Practice Areas:

- Energy, Telecommunications, Water and Wastewater and Public Utilities

Education:

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- Florida State University, B.S., 1975, Accounting, summa cum laude
- Florida State University, Master of Accounting, 1989

Professional Experiences:

- Radey Thomas Yon & Clark, P.A., Special Consultant, 2007 - Present
- Florida Public Service Commission, Commissioner, 1991 - 2007
- Florida Public Service Commission, Chairman, 1993 - 1995, 2000 - 2001
- Office of the Public Counsel, Chief Regulatory Analyst, 1987 - 1991
- Florida Public Service Commission, Executive Assistant to the Commissioner, 1981 - 1987
- Office of the Public Counsel, Legislative Analyst II and III, 1979 - 1981
- Ben Johnson Associates, Inc., Research Analyst, 1978 - 1979
- Office of the Public Counsel, Legislative Analyst I, 1977 - 1978
- Quincy State Bank Trust Department, Staff Accountant and Trust Assistant, 1976 - 1977

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- National Association of Regulatory Utility Commissioners (NARUC), 1993 - 1998,
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Member, Committee on Electricity
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- National Association of Regulatory Utility Commissioners (NARUC), 1991 - 2004,
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- National Association of Regulatory Utility Commissioners (NARUC), 1995 - 1998,
Member, Committee on Utility Association Oversight
- National Association of Regulatory Utility Commissioners (NARUC) 2002 *Member,*
Rights-of-Way Study
- Nuclear Waste Strategy Coalition, 2000 - 2006, *Board Member*
- Federal Energy Regulatory Commission (FERC) South Joint Board on Security
Constrained Economic Dispatch, 2005 - 2006, *Member*
- Southeastern Association of Regulatory Utility Commissioners, 1991 - 2006, *Member*
- Florida Energy 20/20 Study Commission, 2000 - 2001, *Member*
- FCC Federal/State Joint Conference on Accounting, 2003 - 2005, *Member*
- Joint NARUC/Department of Energy Study Commission on Tax and Rate
Treatment of Renewable Energy Projects, 1993, *Member*
- Bonbright Utilities Center at the University of Georgia, 2001, *Bonbright Distinguished Service
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- Eastern NARUC Utility Rate School - Faculty Member

