

**ORIGINAL**  
**RUTLEDGE, ECENIA, PURNELL & HOFFMAN**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

RECEIVED - FPSC

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01 JAN 26 PM 4:56  
R. DAVID PRESIDENT  
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**COMMISSION CLERK**  
GOVERNMENTAL CONSULTANTS  
MARGARET A. MENDUNI  
M. LANE STEPHENS

January 26, 2004

Ms. Blanca S. Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

**HAND DELIVERY**

Re: Docket No. 030623-EI

Dear Ms. Bayo:

Enclosed herewith for filing on behalf of Florida Power & Light Company ("FPL") are the original and fifteen copies of FPL's Objections to Ocean Properties, Inc.'s Notice of Taking Depositions Duces Tecum.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me. Thank you for your assistance with this filing.

Sincerely,

RECEIVED & FILED

*th*  
FPSC-BUREAU OF RECORDS

*Martin P. McDowell for*

Kenneth A. Hoffman

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Enclosures  
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DOCUMENT NUMBER-DATE

01149 JAN 26 03

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Complaints by Southeastern Utility Services,  
Inc. on behalf of various customers, against )  
Florida Power & Light Company concerning )  
thermal demand meter error )  
\_\_\_\_\_ )

Docket No. 030623-EI

Filed: January 26, 2004

**FLORIDA POWER & LIGHT COMPANY'S  
OBJECTIONS TO OCEAN PROPERTIES, INC.'S  
NOTICE OF TAKING DEPOSITIONS  
DUCES TECUM**

Florida Power & Light Company ("FPL"), by and through its undersigned counsel, and pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.410, Florida Rules of Civil Procedure, hereby files the following Objections to the Notice of Taking Depositions *Duces Tecum* filed by Ocean Properties, Inc. in the above-referenced docket.

1. On January 8, 2004, Southeastern Utility Services, Inc. ("SUSI") filed a Re-Notice of Taking Depositions *Duces Tecum* of FPL employees Keith Herbster and Brian Faircloth. The depositions were scheduled for January 27, 2004, and attached a list of requested documents as Exhibit A to the Re-Notice.

2. In view of FPL's pending Motion to Dismiss SUSI as a Petitioner, counsel for FPL advised counsel for SUSI/Customers that FPL intended to file a Motion for Protective Order directed to SUSI's Re-Notice of Taking Deposition *Duces Tecum*. Counsel for SUSI/Customers subsequently advised counsel for FPL that the Motion for Protective Order would not be necessary as counsel for SUSI/Customers intended to file a new Cross-Notice of Taking Depositions *Duces Tecum* on behalf of one of the Petitioner Customers.

DOCUMENT NUMBER-DATE

01149 JAN 26 04

FPSC-COMMISSION CLERK

3. On January 16, 2004, a Notice of Taking Depositions Duces Tecum was filed in this docket by Ocean Properties, Inc. with a one-page attachment setting forth a list of requested documents for the depositions of Messrs. Herbster and Faircloth for January 27, 2004.

4. The Ocean Properties, Inc. Notice of Taking Depositions Duces Tecum (attached as Exhibit 1) defines the word "you" to refer to "Florida Power & Light Company, its employees; and authorized agents." There are four items of documents requested in the Ocean Properties' Notice that use the term "you" and thereby purport to require Mr. Herbster and Mr. Faircloth - - two individuals who work at FPL's Meter Test Center - - to produce requested documents on a company-wide basis. Those requests as reflected in the Ocean Properties' Notice are stated as follows:

a. All documents you relied upon when calibrating 1-V thermal demand meters.

b. All documents relating to 1-V thermal demand meters provided to you by Landis & Gyr.

c. All correspondence you have received, including e-mails, relating 1-V thermal demand meters.

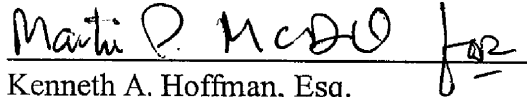
d. All documents you have regarding the accuracy of 1-V thermal demand meters.

5. FPL intends to produce at depositions the requested documents identified in paragraph 4(a) and (b) above. FPL objects to producing the requested documents identified in 4(c) and (d) at the depositions on the grounds that the requests are vague, ambiguous, overly broad, burdensome, extremely voluminous and have no time frame attached. In addition, there are no such documents in the possession of Mr. Herbster or Mr. Faircloth.

6. FPL objects to producing at depositions the remaining documents requested by Ocean Properties as set forth in Ocean Properties' Notice of Taking Deposition Duces Tecum as the remaining documents are not in the possession of Messrs. Herbster or Faircloth and are objectionable on the grounds that the requests are vague, ambiguous, overbroad, burdensome, and are not restricted by time frames.

7. Further, the requested documents objected to above are the subject of SUSI and Ocean Properties' First Request for Production of Documents to FPL filed January 8, 2004.

Respectfully submitted,



Kenneth A. Hoffman, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302  
Telephone: 850-681-6788  
Telecopier: 850-681-6515

-- and --

R. Wade Litchfield, Esq.  
Law Department  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
Telephone: 561-691-7101

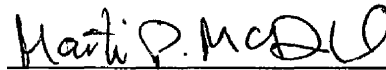
Attorneys for Florida Power & Light Company

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy true and correct copy of the foregoing was furnished by Hand Delivery this 26th day of January, 2004, to the following:

Jon C. Moyle, Jr., Esq.  
Moyle Law Firm  
The Perkins House  
118 North Gadsden Street  
Tallahassee, FL 32301

Cochran Keating, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, FL 32399-0850



\_\_\_\_\_  
Kenneth A. Hoffman, Esq.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaints by Southeastern )  
Utilities Services, Inc. on behalf )  
of various customers against )  
Florida Power and Light )  
Company concerning thermal )  
demand meter error. )

Docket No.: 030623  
Filed: January 16, 2004

**received**  
1/16/04

**OCEAN PROPERTIES, INC.**  
**NOTICE OF TAKING DEPOSITIONS DUCES TECUM**

TO: Kenneth A. Hoffman, Esquire  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
215 South Monroe Street  
Tallahassee, Florida 32301

PLEASE TAKE NOTE, THAT PURSUANT TO Florida Rule of Civil Procedure 1.310,  
Ocean Properties, Inc., hereby notices the following depositions will be taken at the times and  
locations indicated:

Keith Herbster  
Florida Power & Light Company  
9250 West Flagler Street, Room 1606  
Miami, Florida 33174  
January 27, 2004  
9:00 a.m. and

Brian Faircloth  
Florida Power & Light Company  
9250 West Flagler Street, Room 1606  
Miami, Florida 33174  
January 27, 2004  
1:00 p.m.

The deponents shall bring to this deposition copies of documents as set forth in  
Attachment A. "Documents" shall mean the original and any non-identical copies of any writing  
or record, including, but not limited to, a book, pamphlet, periodical, letter, memorandum,

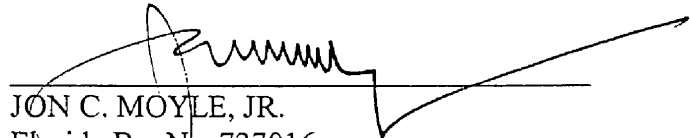


telegram, report, study, interoffice or intraoffice, handwritten or other notes, working paper, draft, application, permit, chart, paper, graph, survey, index, tape, disc, data sheet or data processing card, computer printout, or any other written, recorded, transcribed, filed or graphic matter, however produced or reproduced. "You", "your", "Company" or "FPL" refers to Florida Power and Light Company, its employees and authorized agents.

The foregoing will take place before a court reporter, notary public, or before some other officer authorized by law to take depositions. Said deposition is to be used for discovery purposes, for use at trial, or both, and will continue from day-to-day until complete.

Individuals with disabilities needing a reasonable accommodation to participate in this proceeding should contact Jon C. Moyle, Jr., Esquire at 850/681-3828. If hearing impaired, call 1/800-955-8771 (TDD) or 1/800/955-8770 (V) via Florida Relay Service for assistance.

PLEASE GOVERN YOURSELVES ACCORDINGLY.



JON C. MOYLE, JR.  
Florida Bar No. 727016  
DIANA K. SHUMANS  
Florida Bar No. 0675822  
MOYLE, FLANIGAN, KATZ, RAYMOND  
& SHEEHAN, P.A.  
The Perkins House  
118 North Gadsden Street  
Tallahassee, Florida 32301  
(850) 681-3828 (telephone)  
(850) 681-8788 (facsimile)

Attorneys for Ocean Properties, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16th day of January, 2004, a true and correct copy of the foregoing has been furnished by Hand Delivery\* and U.S. Mail to the following:

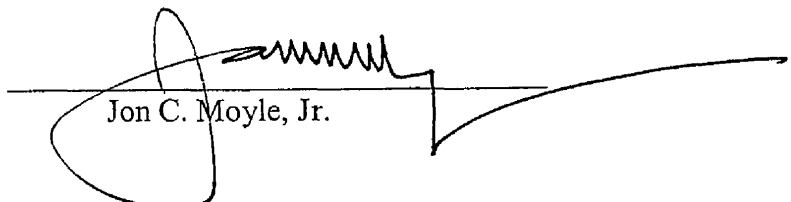
\*Cochran Keating  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Bill Walker  
Florida Power & Light Company  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301

\*Kenneth A. Hoffman  
Rutledge, Ecenia, Purnell & Hoffman  
Post Office Box 551  
Tallahassee, FL 32302-0551

R. Wade Litchfield  
Law Department  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

Daniel Joy  
785 SunTrust Bank Plaza  
1800 Second Street  
Sarasota, FL 34236

  
Jon C. Moyle, Jr.



**Exhibit A**

All documents you relied upon when calibrating 1-V thermal demand meters.

All documents relating to 1-V thermal demand meters provided to you by Landis and Gyr.

All documents relating to the thermal demand meters found on page 2 of this document.

All correspondence you have received, including e-mails, relating 1-V thermal demand meters.

All documents regarding how 1-V thermal demand meters are to be tested for accuracy.

All documents regarding the percent of scale that 1-V thermal demand are tested to determine accuracy.

All documents regarding temperature affects upon thermal demand meters.

All documents you have regarding the accuracy of 1-V thermal demand meters.