

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern)
Utilities Services, Inc. on behalf)
of various customers against) Docket No.: 030623
Florida Power and Light) Filed: June 18, 2004
Company concerning thermal)
demand meter error.)

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COMMISSION
CLERK

MOTION FOR RECONSIDERATION

Southeastern Utility Services, Inc. ("SUSI"), pursuant to Rule 25-22.0376, Florida Administrative Code, files SUSI's Motion for Reconsideration of the Public Service Commission Order Dismissing SUSI as a Petitioner and Denying FPL's Motion to Strike entered on June 11, 2004, and as grounds therefore states:

1. SUSI, along with Ocean Properties, Ltd., J.C. Penney Corp., Dillard's Department Stores, Inc., Target Stores, Inc. filed its Petition for Formal Administrative Hearing on December 10, 2003. FPL responded on January 5, 2004, and moved to dismiss SUSI as a party, arguing that SUSI lacked standing as a party. The portion of FPL's motion seeking to dismiss SUSI as a party was granted on June 11, 2004.

2. An informal meeting was held with the parties and Staff on June 17, 2004, to discuss the scope of the upcoming formal administrative hearing, presently scheduled for September 28,

CMP
COM 3 2004. Among other things, there was much discussion at the meeting about the issues to be tried.
CTR Also discussed, as set reflected by the Notice of Informal Meeting, was SUSI's request that a generic
ECR docket be established and SUSI's allegation of a violation of PSC 25-6.052(4)(c). A copy of the
GCL
OPC notice of Informal Meeting and a copy of SUSI's letter of May 28, 2004, are attached hereto as
MMS Exhibits A and B, respectively.
RCA

3. SUSI believes that the meeting concluded with the following understanding: While

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this case would address the specific thermal demand meters identified in the Petition for Formal Administrative Hearing, it will also address certain generic issues. The resolution of generic issues will be of import to claims and issues that are not necessarily set forth in this docket and would likely impact parties that are not parties to this docket.

4. The Commission has identified the standard of review on reconsideration as:

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Steward Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959), citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted 'based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review.' Steward Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974).

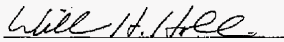
In re: Review of Florida Power Corporation's Earnings, Including Effects of Proposed Acquisition of Florida Power Corporation by Carolina Power & Light. Docket No. 000824-EI; Order No. PSC-01-2313-PCO-EI, November 26, 2001.

5. Given the results of the informal conference held on June 17, 2004, SUSI believes certain issues will be decided that will have application beyond this docket. For example, an issue to be decided in this docket, as articulated by staff and found in the Order Establishing Procedure attached hereto as Exhibit C, is: "Pursuant to Rules 25-6.058 and 25-6103, Florida Administrative Code, what is the appropriate method of calculating customer refunds for those thermal meters which

test outside prescribed tolerance limits?"¹ Resolution of this issue, and potentially others not yet identified, will affect SUSI's substantial interests. SUSI respectfully asserts that this issue and its impact upon SUSI was not fully considered by the Commission in rendering the Order for which SUSI now seeks reconsideration.

For the reasons set forth above, SUSI respectfully requests that the Order Dismissing SUSI As a Petitioner and Denying FPL's Motion to Strike be reconsidered as to SUSI and that SUSI be allowed to participate in Docket No. 03-0623-EI as a party.

Respectfully submitted this 21st day of June, 2004.



Jon C. Moyle, Jr.

Fla. Bar No. 0727016

William H. Hollimon

Fla. Bar No. 0104868

Moyle Flanigan Katz Raymond & Sheehan, P.A.

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Attorney for Petitioners

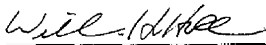
¹ While SUSI considers the details of its business arrangement with customers confidential, proprietary and protected as trade secrets, SUSI's compensation is affected by the amount of refund a SUSI client receives.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Reconsideration was served by U.S. Mail this 21st day of June, 2004, on the following:

W. Cochran Keating, Esq.
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Kenneth Hoffman, Esq.
Rutledge, Ecenia, Purnell, and Hoffman, P.A.,
P.O. Box 551
Tallahassee, FL 32302



Jon C. Moyle, Jr.

ORIGINAL

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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-M-E-M-O-R-A-N-D-U-M-

COMMISSION
CLERK

DATE: June 15, 2004
TO: All Parties of Record
FROM: Cochran Keating, Senior Attorney, Office of the General Counsel *WCK*
RE: Docket No. 030623-EI - Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error

Via Electronic Mail

Please note that the staff of the Florida Public Service Commission will conduct an informal meeting in the above-referenced docket at the following time and place:

1:30 p.m., Thursday, June 17, 2004
Florida Public Service Commission
Room 154, Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida

The purpose of this meeting is to discuss the scope of the issues to be addressed in this proceeding. As a starting point for discussion, the parties should refer to the tentative list of issues set forth in the Order Establishing Procedure issued June 9, 2004, in this docket. If either party wishes to propose revisions to the tentative issue list, that party should provide its proposed revisions by e-mail to staff and the other party by 5:00 p.m., Wednesday, June 16, 2004.

CMP _____ In addition, please be prepared to discuss the informal complaint filed by Southeastern
COM _____ Utility Services, Inc., on May 28, 2004, in terms of whether and to what extent the issues raised
CTR _____ in that complaint are fundamental to resolving the issues in this proceeding and should be
addressed in this proceeding.

ECR _____ Please feel free to call me at (850)413-6193 if you have any questions about this matter.

GCL _____

OPC _____

MMS _____ *WCK*

RCA _____

SCR _____ 1\030623\m2.wck.doc

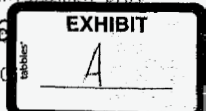
SEC _____ *1*

OTH _____

DOCUMENT NUMBER-DATE

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PPSC-CC



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JON C. MOYLE, JR.
E-mail: jmoylejr@moylclaw.com

May 28, 2004

VIA HAND-DELIVERY

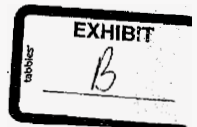
Mr. Sid Matlock
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: CUSTOMER COMPLAINT AGAINST FLORIDA POWER & LIGHT CO.

Dear Mr. Matlock:

On behalf of Walgreens, Inc., Big Lots, Chateaufeu Inn One Inc., and Pep Boys (hereafter referred to as "Customers"), Southeastern Utility Services, Inc. (SUSI), through its undersigned counsel, files this Complaint against Florida Power & Light Company (FPL) pursuant to Rule 25-22.032, Florida Administrative Code (F.A.C.). SUSI is authorized, on behalf of Customers, to witness the removal and testing of Customers' meters and to negotiate on their behalf. Customers' metered accounts are protected under the Florida Public Service Commission's ("FPSC") Rule of Referee, Rule 25-6.060, F.A.C.

Rule 25-6.052(4)(a), F.A.C., requires electric utilities to submit their meter testing procedures for approval by the FPSC prior to using the procedures to assess the accuracy of meters. Pursuant to this rule, FPL has obtained approval of a testing plan. Consistent with the approved testing plan, FPL tested thermal demand meters in accordance with FPL's thermal test board set up data. A copy of the thermal test board set up data is attached as Exhibit A. The test board set up data reflects that meters will be tested at either 40% or 80% of the full scale of the meter on 1U type and 44% to 100% on 4L type. Importantly, if an electric utility proposes to change the approved testing procedure, Rule 25-6.052(4)(c), F.A.C., requires the electric utility



Mr. Sid Matlock
May 28, 2004
Page 2 of 4

to submit its changed testing procedure to the FPSC and obtain the FPSC's approval prior to using the changed procedure to test meter accuracy.¹

On December 9, 10 and 11, 2003, FPL violated Rule 25-6.052(4)(c) by testing Customers' meters using changed procedures which were not previously submitted to and approved by the FPSC, as required by that rule. Specifically, FPL tested Customers' meters at average customer load, rather than pursuant to its approved testing procedures or at 80% of full scale, a figure previously agreed upon by FPL and SUSI.² The unapproved change in testing procedure used by FPL on December 9, 10, and 11, 2003, which employed average customer load, enabled FPL to test Customers' meters at a significantly lower load, thereby minimizing any error as a percent of full scale. Upon information and belief, the change in meter testing procedure was deliberately designed to subvert the approved testing process, prevent true assessment of the accuracy of these meters, and reduce FPL's potential liability for erroneous meters.

Clinton Williams of the FPSC and George Brown and Bill Gilmore of SUSI witnessed the subject tests FPL conducted in December 2003. Prior to the testing, SUSI protested the changed test procedure both to FPL and to the FPSC, but the protests were disregarded, and have been disregarded on at least two other occasions during which SUSI presented Customers' meters for testing.³ FPL's representative, David Bromley, has suggested that the change in testing procedure was in response to the recent PAA issued in docket no. 030623-EI.⁴ However, in fact, the referenced PAA recognized that testing all meters at 80% of full scale is appropriate for meters in dispute between SUSI and FPL.⁵

¹ Rule 25-6.052(4)(c), F.A.C., provides: "Any changes to a previously approved test procedure must be submitted to the Commission's Division of Electric and Gas for approval."

² The Commission's PAA of November 19, 2003, recognizes that SUSI and FPL had agreed to test meters at 80% of full scale. Moreover, as set forth in FPL document 305 TDM, a copy of which is attached as Exhibit C, FPL and SUSI agreed "that all witness tests would be conducted at 80% of full scale, regardless of the full-scale value (high or low).

³ Specifically, on March 30, 2004, SUSI made a second request to FPL to test Customers' meters according to FPL's approved test procedures or at 80% of full scale. FPL again refused to accede to SUSI's request. On April 14, 2004, FPL scheduled testing of additional 1U and 4L meters, to be witnessed by SUSI and the FPSC. SUSI again protested the use of the average customer load testing procedure to test the accuracy of the meters, and requested testing of Customers' meters according to FPL's approved test procedures or at 80% of full scale. FPL reiterated that testing at average customer load was the only method it would use to test any meters presented by SUSI for testing.

⁴ Mr. Bromley's reference was to Order No. PSC-03-1320-PAA-EI, issued November 19, 2003, by the FPSC.

⁵ The PAA (Order No. PSC-03-1320-PAA-EI) states on pages 5-6: "FPL and SUSI have agreed to test the meters at the single point of 80% of full scale....This method is consistent with Rule 25-6.052(2)(a) as a reasonable means to determine whether a meter is inaccurate and whether a customer should receive a refund." As further noted in the Staff Recommendation of October 9, 2003, "[t]esting at 80% of full scale would be at or above most customers' actual demands and would therefore be a fair point for determining the meter error experienced by customers who formerly used Type 1V meters." October 9, 2003, Staff Recommendation re: Docket No. 030623-EI, p.6. To this



David Bromley told SUSI's representatives that FPL would revert back to the approved procedures for its annual testing that is reported to the FPSC. Moreover, in a letter to SUSI's counsel dated February 20, 2004, FPL's counsel suggested that FPL intended to use this revised testing procedure on all meters submitted by SUSI for testing. A copy of this letter is attached as Exhibit C. Given these statements and actions by FPL's representatives, FPL's use of the changed, unapproved testing method to test Customers' meters, FPL violates Rule 25-6.052(4)(c) in that its changes have not been approved.⁶ Certain FPL documents contain a recommendation by David Bromley that suggests if the new changed method is used it is likely less errors will be reported than if testing at 80% of full scale. A copy of this document is attached as Exhibit C. Another FPL document states: "Similar to the 4N, we do not want the 1V meters to become a population that fails. Therefore, we are removing approximately 1/2 this year and the remainder next year." FPL indicates that these meters will be retained for six months. A copy of this document is attached as Exhibit D. This raises questions in SUSI's mind about how these meters were tested. Since thermal demand meters are essentially the same, except for the voltage and amperage of each class, how could one entire class of thermal demand meters fail as a class, yet another class pass?

For these reasons, SUSI respectfully requests the FPSC to open a generic docket to investigate all meter-testing procedures of FPL, including actions FPL may have pursued to minimize the degree or frequency of error of its thermal demand meters. SUSI also asks the PSC to take appropriate action against FPL for violating rule 25-6.052(4)(c) and prevent further violation of this rule.⁷ SUSI also respectfully requests the FPSC to take appropriate expeditious action to protect thermal demand meters from destruction. Finally, SUSI requests that FPL be ordered to perform tests of all thermal demand meters requested by SUSI as close to full-scale as practical, but under no circumstances at less than 80% of full-scale, consistent with an agreement reached between SUSI and FPL.⁸

Additionally, at the agenda conference on October 21, 2003, Commission Chairman Jaber suggested that a workshop to investigate meter testing and refund procedures would be appropriate. Chairman Jaber indicated that as issues with meter rules had been identified, steps to consider the meter rule should be taken in "the very, very near future". SUSI believes that such a workshop should be scheduled promptly, unless made part of a generic meter docket.

end, the Staff Recommendation states: "[t]he single point error determined by testing the meter at 80% of full scale should be used in calculating any refund." October 9, 2003, Staff Recommendation re: Docket No. 030623-EI, p.4.

⁶ SUSI recently made a public records request of FPL's approved meter testing procedures. No documents were provided by the FPSC reflecting it had even considered, much less approved, FPL's changes in how it tests thermal demand meters.

⁷ SUSI is unaware of the FPSC recently approving any change to FPL meter testing procedures. Any change would likely affect SUSI and its clients' substantial interests, and SUSI would ask that it be provided with a clear point of entry in any matter in which FPL seeks PSC approval of a change in its meter testing procedures.

⁸ It should be noted that SUSI's representatives previously have been asked at what point of full-scale it believes meters should be tested to obtain a fair and reasonable assessment of meter accuracy. SUSI always has contended that the highest point of full-scale will give the most accurate test. SUSI believes that its view is consistent with the reasoning FPSC staff adopted in approving the method of testing 1V meters at 80% of full scale.

Mr. Sid Matlock
May 28, 2004
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If there is any additional information you may need, please do not hesitate to contact me.

Respectfully,
N

Jon C. Moyle, Jr.
Moyle Flanigan Katz Raymond & Sheehan, P.A.
118 North Gadsden Street
Tallahassee, FL 32312
Attorney for Southeastern Utilities Services, Inc.

Cc: William A. Gilmore, SUSI
George Brown, SUSI
Roland Floyd, FPSC
Cochran Keating, FPSC
Ken Hoffman, Counsel for FPL

Attachments: Exhibit A - Thermal Test Board Setup
Exhibit B - 02/20/04 Letter from K. Hoffman to J. Moyle
Exhibit C - FPL Doc. 000305 TDM / Bromley Recommendation
Exhibit D - FPL Doc. 000159 TDM

FC

THERMAL TEST BOARD SET UP DATA

SELF-CONTAINED METERS

FORM NUMBER	FULL SCALE KW HIGH/LOW	FULL CURRENT COILS IN SERIES	PHASE ANGLE DEGREES	VOLTS SELECTOR	STARTOR CONTROLS	AMPERAGE SELECTOR	TEST KW TO MUT	VOLTMETER READING	AMMETER READING	STANDARD KW	STANDARD SCALE	STANDARD FACTOR	
											INDICATION	HIGH/LOW	
1S	12	1	0	120	ABC	FOO	100	19.2/9.6	120	4.0	.48	66.67	.144
2S	72	1	0	240	FOR	FOO	100	38.4/19.2	120	3.0	.48	66.67	.288
2S	48	1	0	240	FOR	FOO	100	38.4/19.2	120	3.0	.48	66.67	.288
12S	48	2	0	120	FOF	FOO	100	19.2	120	4.0	.48	66.67	.288
12S	112	2	0	277	FOF	FOO	100	49.86	120	4.5	.54	76	.665
12S(G)	96/48	2	0	240	FOF	FOO	100	44.3	120	4.0	.48	66.67	.665
15S	96/48	2	0	240	FRF	FOO	100	36	120	3.75	.45	62.5	.576
14S	72/36	4	0	120	FRF	FOO	100	32	120	3.33	.4	55.56	.576
14S	168/83	4	0	277	FRF	FOO	100	77.56	120	3.5	.42	88.33	1.3295
16S	72 MA 36	3	0	120	FFF	FOO	100	36	120	5.00	.6	83.33	.432
16S	108 MA 54	3	0	277	FFF	FOO	100	83.1	120	5.0	.6	83.33	.997
16S	144 MA 72	3	0	240	FFF	FOO	100	72	120	5.00	.6	83.33	.864

* STANDARD FACTOR IS A NUMBER WHEN MULTIPLIED BY THE READING THE THERMAL STANDARD WILL RESULT IN THE READING OF A METER UNDER TEST (M.U.T.). THE METER UNDER TEST MUST BE 100% ACCURATE.

THE STANDARD FACTOR IS USED AS FOLLOWS: A GROUP OF 3-PHASE - 4W - 120V - WYE - FORM 14S METERS ARE TESTED AT 64 KW FOR A STANDARD READING OF 55.56.

THE BOARD CONTROLS ARE SET AS INDICATED IN THE ABOVE TABLE. AT THE END OF THE LOAD-TEST PERIOD (ONE HOUR) THE STANDARD INDICATES 60.5 AND THE M.U.T.'S INDICATE 62.5 KW. CALCULATE THE % FULL SCALE ERROR OF THE M.U.T.'S

M.U.T.'S READINGS FOR 100% = 60.5 X STANDARD FACTOR = 60.5 (64/55.56) = 60.5 X 1.152 = 69.78 KW

% FULL SCALE ERROR = $\frac{\text{M.U.T. KW} - \text{KW FOR 100\%}}{\text{M.U.T. FULL SCALE KW}} \times 100 = \frac{62.5 - 60.5}{72} \times 100 = + 2.78\%$

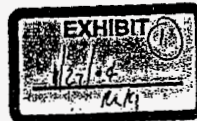
*NOTE: DO NOT ADJUST METER WITHIN +OR- 2%.

*NOTE: DO NOT DIVIDE BY THE "FULL SCALE" WHEN TESTING ELECTRONIC METER.

STD-LAB
10/16/97

EXHIBIT

A



THERMAL TEST BOARD SET UP DATA

INSTRUMENT TRANSFORMER RATED METERS

L	FORM	FULL	FULL	PHASE	VOLTS	STARTOR	AMPERAGE	TEST KW	VOLTMETER	AMMETER	STANDARD	STANDARD	STANDARD
		SCALE	CURRENT	ANGLE								SCALE	FACTOR
BOL	NUMBER	KW	COILS IN	SELECTOR	SELECTOR	CONTROLS	SELECTOR	TO MUT	READING	READING	KW	INDICATION	HIGH/LOW
						ABC							
N	3S	1	1	0	120	FOO	5	91.45	120	3.75	.45	62.5	0.0072
2W	3S	2/1.	1	0	240	FOO	5	1.8/9	120	3.75	.45	62.5	0.0144
3W	4S	2/1.	1	0	240	FOR	5	1.8/9	120	3.75	.45	62.5	0.0144
R	5S	2	2	0	120	FOF	5	1.8/9	120	3.75	.45	62.5	0.0144
X	5S	2	2	0	120	FOF	5	1.8/9	120	3.75	.45	62.5	0.0144
S	5S	4	2	0	240	FOF	5	3.6/1.8	120	3.75	.45	62.5	0.0288
U	6S	3/1.5	4	0	120	FRF	5	2.4/1.2	120	2.5	.8	41.67	0.0288
Y	6S	3/1.5	4	0	120	FRF	5	2.4/1.2	120	2.5	.8	41.67	0.0288
V	6S	7/3.5	4	0	277	FRF	5	5.64/2.77	120	2.5	.8	41.67	0.0664
Z	8S	2/1.	2	0	120	FRF	5	1.8/9	120	3.75	.45	62.5	0.0144
T	8S	4/2.	2	0	240	FRF	5	3.6/1.8	120	3.75	.45	62.5	0.0288
TOU	9S	6	3	0	120	FFF	5	3.6/1.8	120	5.0	.8	83.33	0.0216
TOU	9S	12	3	0	240	FFF	5		120	5.0	.8	83.33	0.0432
TOU	9S	12	3	0	277	FFF	5	8.31/4.15	120	5.0	.8	83.33	0.0498

* STANDARD FACTOR IS A NUMBER WHEN MULTIPLIED BY THE READING THE THERMAL STANDARD WILL RESULT IN THE READING OF A METER UNDER TEST (M.U.T.). THE METER UNDER TEST MUST BE 100% ACCURATE.

THE STANDARD FACTOR IS USED AS FOLLOWS: A GROUP OF 3-PHASE - 4W - 120V - WYE - FORM 14S METERS ARE TESTED AT 64 KW FOR A STANDARD READING OF 55.56.

THE BOARD CONTROLS ARE SET AS INDICATED IN THE ABOVE TABLE. AT THE END OF THE LOAD-TEST PERIOD (ONE HOUR) THE STANDARD INDICATES 50.5 AND THE M.U.T.'S INDICATE 62.5 KW. CALCULATE THE % FULL SCALE ERROR OF THE M.U.T.'S

M.U.T.'S READINGS FOR 100%=50.5 X STANDARD FACTOR=50.5 (64/55.56)=50.5 X 1.152 = 58.18 KW

$$\% \text{ FULL SCALE ERROR} = \frac{\text{M.U.T. KW} - \text{KW FOR 100\%}}{\text{M.U.T. FULL SCALE KW}} \times 100 = \frac{62.5 - 58.18}{72} \times 100 = +6.0\%$$

*NOTE:DO NOT ADJUST METER WITHIN +OR- 2%.

*NOTE:DO NOT DIVIDE BY THE "FULL SCALE" WHEN TESTING ELECTRONIC METER.

STD-LAB
10/18/97

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

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MARGARET A. MENDUNI
M. LANE STEPHENS

February 20, 2004

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

Re: Testing of Thermal Demand Meters

Dear Jon:

I am advised by FPL that George Brown has requested FPL to remove and test a number of thermal demand meters, primarily 1U thermal demand meters, but has expressed an objection to FPL's intention to test such meters utilizing the most recent 24 months average kw demand. FPL's methodology will result in a meter test that conforms with the requirements of Rule 25-6.052(2)(a), Florida Administrative Code. As in the past, Mr. Brown may attend any meter test for an FPL customer that he or his company has been authorized by the customer to represent.

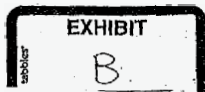
Sincerely,

Kenneth A. Hoffman

KAH/ml

FPL\moyle.feb16ltr

12.



MOYLE, PLANAGAN, KATZ,
RAYMOND & SHEPHERD P.A.

FEB 23 2004

Rutledge



Recommendation by Dave Bromley to change the Witness Test – Test Procedure:

Recommendation:

Change the Witness Test – Test Procedure to evaluate the meter accuracy and the meter percent error the same way, using the customer's 24 month averaged demand as the value at which to perform the thermal demand test.

Current Situation:

Currently, the thermal demand meters are either tested at 40% or 80% of their full-scale value. For the 1V meters, there are two demand scales a 3.5 full scale and a 7.0 full scale. In order to facilitate bulk testing of the meters, the high scale and low scale meters are mixed on the ganged test fixture (max. 18, normally 12 meters). For the same value of energy running through all meters, the low scale meters will test at 80% full scale and the high scale meters will test at 40% full-scale value.

The percent accuracy is calculated as:

$$\text{Percent Meter Accuracy} = \frac{(\text{meter under test (kW)} - \text{reference meter (kW)})}{\text{full scale meter value}} \times 100\%$$

The percent meter accuracy is also used to determine the billing refund if the thermal demand tests above 4.0%.

ANSI C12.1 and the FAC support this method of determining the percent accuracy as explained above, but neither document clearly defines a method of adjusting the billing if a meter fails the test.

ANSI C12.1 says that the thermal meter accuracy test must be conducted at a value that is between 25% - 100% of full scale of the meter. Recently, FPL agreed that all witness test meters would be conducted at 80% full scale, regardless of the full-scale value (high or low).

The PSC:

At the past PSC hearing, the PSC Staff recommended a new method of determining the amount of refund if a thermal demand meter should test as *over-registering*, only for the 1V meters under that docket. The percent meter accuracy would still be determined by the method explained above. The recommended method would be to retest the demand portion of the meter at the highest and lowest values billed during the past 24 months and use a standard percent error calculation:

$$(\text{meter under test} / \text{reference meter}) \times 100\% = \text{percent error}$$

This would produce two test results, representing the percent error at the highest and lowest billed demand and these values would be averaged to determine the percent over-registration that would be refunded.

Example using Dave's Recommendation:

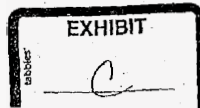
- Step 1. Determine the customer's average demand registration over the past 24 months.
- Step 2. Divide that demand value by the transformer ratio at that installation to find the percent of full scale that represents. Ideally this should be between 40% and 80% full scale.
- Step 3. Test the meter at this calculated value.
- Step 4. Calculate the percent meter accuracy of the meter, if it exceeds 4.0% accuracy (say 4.2%), calculate the refund at that same value as the percent meter accuracy.

Impact:

Fewer meters might be tested at a time due to separating the high and low scale meters, grouping them and testing them at their average load value. This will increase the time for testing for MTC and the witnesses.

Fewer meters will fail the test than at 80% full-scale.

Testing at the customers' average load more accurately represents the thermal meters' operating point.



1. Determine the number of years or time span for applicable refunds of overbilled customer accounts.

Refer to 25-6.103(1)

Rate class adjustment - consistent with current practices; for fast meters refer to 25-6.103(1)

2. Determine agreed causes for thermal meters to over register.

The same type of causes meters to over and under register

2 types of errors - measurement errors and dial setting inaccuracies (0 adjustment and full load adjustment)

3. Determine a method to validate that a meter change indicates a before and after energy pattern change, and the most representative time period to determine the degree of error.

This is not contemplated by the rules - rules refer to the use of the meter test to determine error

For 1V purposes/settlement purposes FPL used new meter history vs. same months in previous year(s)

4. Interpretation of various PSC rules pertaining to backbilling undercharges.

Rate class adjustment - For fast meters refer to 25-6.103(1)

5. Protocol for meter removal and testing.

The meters referenced above were part of the first group of 1V meters identified by Mr. Brown to be tested under F.A.C. 25-6.060 Meter Test - Referee. The boxes were transported to FPL's Meter Test Center via FEDEX. These eight meter boxes were accidentally opened because they were not recognized as meters subject to the "meter test - referee" rule. Approximately 1 week prior to the scheduled meter test for the first group of 1V meters (a total of 21 meters), FPL realized that 8 of the 21 meters scheduled for witnessed meter testing had not been accounted for by the Meter Test Center. After conducting a search, 1 meter was located in a supervisors office and the other 7 meters were located in storage bins, used to store all of the other non-referee 1V meters. All eight of these meters still had the uniquely numbered seal intact that was placed on the rear lugs of the meter at the time it was removed. Once located, these meters were immediately placed in a locked, secured room with the other meters to be witnessed. FPL has taken measures to assure that future boxes containing meters tested under F.A.C. 25-6.060 are more clearly marked and identified.

6. Discuss the reaction of thermal demand meters when exposed to solar radiant heating.

Refrigerator door - when cooled, demand meter exceeded appropriate measuring point

50 1V meter sample

100 1V meter sample

No other meter showed problem similar to Refrigerator Door problem

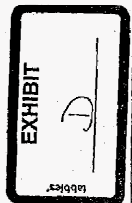
7. Have FPL disclose the purpose and process of changing 1U thermal demand meters.

Similar to the 4N, we do not want the 1V meters to become a population that fails

Therefore, we are removing approx. 1/2 this year and the remainder next year

We are planning to retain these meters for 6 months

000159 TDM



BEFORE THE PUBLIC SERVICE COMMISSION

In re: 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
ORDER NO. PSC-0581-PCO-EI
ISSUED: June 9, 2004

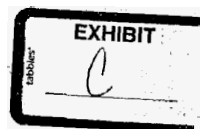
ORDER ESTABLISHING PROCEDURE

I. Case Background

The Commission opened Docket No. 030623-EI to address complaints made by Southeastern Utility Services, Inc. (SUSI) against Florida Power and Light Company (FPL) on behalf of six commercial retail electric customers concerning 28 individual accounts. By Proposed Agency Action Order No. PSC-03-1320-PAA-EI (PAA Order), issued November 19, 2003, the Commission attempted to resolve these complaints. SUSI, the commercial customers, and FPL protested the Commission's order. Accordingly, this matter has been scheduled for a formal evidentiary proceeding.

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III. Governing Provisions

Formal hearing proceedings before the Florida Public Service Commission are governed by Chapter 120, Florida Statutes, and Chapters 25-22, 25-40, and 28-106, Florida Administrative Code. To the extent provided by Section 120.569(2)(g), Florida Statutes, the Florida Evidence Code (Chapter 90, Florida Statutes) shall apply. To the extent provided by Section 120.569(2)(f), Florida Statutes, and unless otherwise modified by the Prehearing Officer, the Florida Rules of Civil Procedure shall apply.

Rule 28-106.211, Florida Administrative Code, specifically provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case. This Order is issued pursuant to that authority. The scope of this proceeding shall be based upon the issues raised by the parties up to and during the prehearing conference, unless modified by the Commission.

IV. Issue Identification / Tentative Issues

A list of the issues identified thus far in this proceeding is attached to this order as Appendix A. Prefiled testimony, exhibits, and prehearing statements shall address the issues set forth in the appendix.

V. Filing Procedures

A. General

In accordance with Rule 25-22.028, Florida Administrative Code, parties shall submit the original document and the appropriate number of copies to the Division of the Commission Clerk and Administrative Services for filing in the Commission's docket file. Filing may be made by mail, hand delivery, or courier service. Please refer to the rule for the requirements of filing on diskette for certain utilities. Filings pertaining to this docket should identify the assigned docket number and should be addressed to:

Director, Division of the Commission Clerk and Administrative Services
 Florida Public Service Commission
 2540 Shumard Oak Boulevard
 Tallahassee, Florida 32399-0850

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B. Document Identification

Unless modified by the Prehearing Officer for good cause shown, each page of every document produced pursuant to requests for production of documents shall be identified individually through the use of a Bates Stamp or other equivalent method of sequential identification. Parties should number their produced documents in an unbroken sequence through the final hearing. An example of the typical sequential identification format is as follows:

[company initials] 000001

C. Public Access to Records

All files at the Commission shall be open to public inspection, unless otherwise prohibited by law, regulation or court order, or when upon motion and order the Commission or Prehearing Officer otherwise has the authority or discretion to prohibit public inspection. All hearings shall be open to the public unless prohibited by law, regulation, or court order or unless closed by order of the Commission or the Prehearing Officer for good reason.

The Division of the Commission Clerk and Administrative Services shall make available for public inspection upon reasonable request during the regular business hours of the Commission all of the public records of the Commission, as defined by Chapter 119, Florida Statutes, subject to any privilege or confidential treatment of those records. The Commission Clerk may charge a fee to recover reasonable costs of copying as specified by Section 119.07(1)(a), Florida Statutes.

D. Ex Parte Communications Prohibition

Pursuant to Section 350.042, Florida Statutes, a party or counsel for a party shall not initiate any oral or written communication with a Commissioner pertaining to a matter before the Commission unless prior consent of all other parties or their counsel has been obtained. Copies of all pleadings or correspondence filed with the Commission by any party shall be served upon all other parties or their counsel.

All parties are cautioned to follow the requirements of Rule 25-22.033, Florida Administrative Code, relating to disclosure of meetings between parties, their representatives, and Commission staff.

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VI. Prefiled Testimony, Exhibits, & Exhibit Identification

Each party shall prefile, in writing, all testimony and exhibits that it intends to sponsor. An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of the Commission Clerk and Administrative Services, by 5:00 p.m. on the date due. A copy of all prefiled testimony and exhibits shall be served by regular mail, overnight mail, or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

Testimony shall be typed on 8 inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

When a witness supports his or her prefiled testimony with one or more exhibits, each exhibit submitted shall:

- (1) have been previously produced except for good cause shown;
- (2) be identified individually through some method of sequential identification (See (4)(c) below), with the pages numbered sequentially within each attached exhibit;
- (3) be attached to that witness testimony when filed; and
- (4) have the following in the upper right-hand corner of each page:
 - (a) the docket number;
 - (b) the witness name;
 - (c) the word Exhibit followed by a blank line for the exhibit number;
 - (d) the word Page followed by a blank line for the page number and the word of followed by a blank line for the total number of pages in the exhibit; and
 - (e) the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL
J. Doe Exhibit No. _____, Page ____ of ____
Cost Studies for Minutes of Use by Time of Day

All known exhibits shall be marked for identification at the prehearing conference. If a demonstrative exhibit or other demonstrative tools are to be used at hearing, they must also be identified by the time of the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits

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may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially.

VII. Discovery Procedures

A. General

Discovery shall be conducted in accordance with the provisions of Chapters 120, 366, and 367, Florida Statutes, Rules 25-22, 25-40, and 28-106, Florida Administrative Code, and the Florida Rules of Civil Procedure (as applicable), as modified herein or as may be subsequently modified by the Prehearing Officer.

When discovery requests are served and the respondent intends to request clarification of the discovery request, such request for clarification shall be made within ten calendar days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

The hearing in this docket is currently set for September 28, 2004. Unless subsequently modified by the Prehearing Officer, the following shall apply:

- (1) Discovery shall be completed by September 14, 2004. ✓
- (2) Discovery requests shall be served by e-mail, fax, hand delivery, or overnight mail.
- (3) All interrogatories, requests for admissions, and requests for production of documents shall be numbered sequentially in order to facilitate their identification.
- (4) Discovery requests shall be numbered sequentially within a set.
- (5) Subsequent discovery requests shall continue the sequential numbering system.
- (6) Discovery responses shall be served within 20 calendar days (inclusive of mailing) of receipt of the discovery request and shall be followed by hard copy within 2 calendar days if served electronically.
- (7) For good cause shown, additional time for mailing shall be afforded at the Prehearing Officer's discretion.
- (8) Discovery requests and responses shall also be served on staff.

Pursuant to Rule 28-106.206, Florida Administrative Code, unless subsequently modified by the Prehearing Officer, the following shall apply:

- (1) Interrogatories, including all subparts, shall be limited to 250.
- (2) Requests for production of documents, including all subparts, shall be limited to 100.

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(3) Requests for admissions, including all subparts, shall be limited to 75.

B. Confidential Information Provided Pursuant to Discovery

Confidential information, and requests that information be deemed confidential, shall be governed by Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. In response to discovery requests, parties may need to provide information that another party in this proceeding deems, or may deem, confidential. When the submitting party is aware that such information may be deemed confidential, the submitting party shall notify the other party prior to submitting the information, which shall be submitted with an accompanying Notice of Intent to Request Confidential Classification. This procedure is to ensure conformance with this Commission's rules regarding the handling and continued confidential treatment of such information pending a formal ruling by the Commission.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending: (i) a formal ruling on such request by the Commission; or (ii) return of the information to the person providing the information. Information that has not been made a part of the evidentiary record in the proceeding, shall be returned to the party providing it within: (i) one week of the hearing where no determination of confidentiality has been made; or (ii) the time period set forth in Section 366.093, Florida Statutes, where a determination of confidentiality has been made.

C. Depositions

Parties may conduct discovery by means of deposition. While parties may have a designated corporate representative present at a deposition, each party shall ensure that individuals other than its attorney and a corporate representative shall not be present at the depositions of any other witnesses in this docket. This prohibition shall apply to depositions conducted in person, by telephone, or by any other applicable means.

VIII. Motions

Motions shall be determined pursuant to Chapters 120 and 366, Florida Statutes, Chapters 25-22, 25-40, and 28-106, Florida Administrative Code, and the Florida Rules of Civil Procedure (as applicable), as modified herein. The Prehearing Officer retains authority to adjust any time frames regarding motions for good cause shown.

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IX. Settlements & Stipulations

The Commission shall be notified promptly of all settlements, stipulations, agency orders, or any other action terminating a matter before the Commission. A copy of such settlement, stipulation, agency order, or any other document reflecting an action terminating a matter before the Commission shall be filed with the Commission.

X. Telephonic/Electronic Proceedings

Where technically feasible, when all parties are in agreement, and subject to the explicit approval of the Presiding Officer, or as appropriate, the Prehearing Officer, parties may appear at administrative Commission hearings or prehearings via the use of telephonic, video, or other electronic means in lieu of appearing in person.

XI. Prehearing Procedures

A. Prehearing Statements

All parties in this docket and staff shall file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of the Commission Clerk and Administrative Services by 5:00 p.m. on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission.

Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position.

Prehearing statements shall set forth the following information in the sequence listed below:

- (1) The name of all known witnesses that may be called by the party and the subject matter of their testimony.
- (2) A description of all known exhibits that may be used by the party (including individual components of a composite exhibit) and the witness sponsoring each.
- (3) A statement of the party's basic position in the proceeding.
- (4) A statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.

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- (5) A statement of each question of law the party considers at issue and the party's position on each such issue.
- (6) A statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.
- (7) A statement of issues to which the parties have stipulated.
- (8) A statement of all pending motions or other matters the party seeks action upon.
- (9) ~~A~~ statement identifying the party's pending requests or claims for confidentiality.
- (10) A statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.
- (11) Any objections to a witness qualifications as an expert. Failure to identify such objection may result in restriction of a party's ability to conduct voir dire.

B. Attendance at Prehearing Conference

Pursuant to Rule 28-106.209, Florida Administrative Code, a prehearing conference will be held August 30, 2004, at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida. Unless excused by the Prehearing Officer for good cause shown, or in accordance with the Prehearing Officer's approval of appearance by electronic means under Section X, each party (or designated representative) shall personally appear at the prehearing conference. Failure of a party (or that party's representative) to appear shall constitute waiver of that party's issues and positions, and that party may be dismissed from the proceeding.

C. Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate each of the following:

- (1) The party was unable to identify the issue because of the complexity of the matter.
- (2) Discovery or other prehearing procedures were not adequate to fully develop the issue.
- (3) Due diligence was exercised to obtain facts touching on the issue.
- (4) Information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue.
- (5) Introduction of the issue would not be to the prejudice or surprise of any party.

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Specific reference shall be made to the information received and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain no position at this time prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

D. Expectations of Parties at Prehearing Conference

A draft prehearing order shall be circulated to the parties by the Commission's legal staff prior to the prehearing conference. To maximize the efficiency at the prehearing conference for the Commission and the parties, parties shall be prepared to:

- (1) define and limit, if possible, the number of issues;
- (2) determine the parties' positions on the issues;
- (3) determine what facts, if any, may be stipulated;
- (4) dispose of any motions or other matters that may be pending; and
- (5) consider any other matters that may aid in the disposition of this case

XII. Hearing Procedures

A. General

As provided by Sections 120.569 and 120.57, Florida Statutes, formal hearings will be held before the full Commission or assigned panel of Commissioners. The Commission will give notice of a hearing in a manner consistent with Chapters 120, 350, and 366, Florida Statutes. All hearings shall be transcribed, and the transcripts shall become part of the record. All witnesses shall present testimony that is sworn or affirmed and shall be subject to cross-examination. Unless authorized by the Presiding Officer for good cause shown, parties shall not conduct discovery during cross-examination at the hearing.

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B. Attendance at Hearing

Unless excused by the Presiding Officer for good cause shown, or in accordance with approval of appearance by electronic means under Section X, each party (or designated representative) shall personally appear at the hearing. Failure of a party, or that party's representative, to appear shall constitute waiver of that party's issues, and that party may be dismissed from the proceeding.

Likewise, all witnesses are expected to be present at the hearing unless excused by the Presiding Officer upon the staff attorney's confirmation prior to the hearing date of the following:

- (1) All parties agree that the witness will not be needed for cross examination.
- (2) All Commissioners assigned to the panel do not have questions for the witness.

In the event a witness is excused in this manner, his or her testimony may be entered into the record as though read following the Commission's approval of the proposed stipulation of that witness testimony.

C. Evidence

As provided by Sections 120.569 and 120.57, Florida Statutes, the Commission may consider the Florida Evidence Code (Chapter 90, Florida Statutes) as a guide, but may rely upon any evidence of a type commonly relied upon by a reasonably prudent person in the conduct of their affairs.

D. Use of Confidential Information at Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093(2), Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, at the hearing shall adhere to the following:

- (1) Any party intending to use confidential documents for which no prior ruling has been made must be prepared to present their justifications to the Commission for a ruling at the hearing.
- (2) Any party wishing to use proprietary confidential business information shall notify the Prehearing Officer and all parties of record by the time of the

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- a
- prehearing conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. Such notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven-day requirement described above shall be grounds to deny the party the opportunity to present evidence that is proprietary confidential business information.
- (3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Division of the Commission Clerk and Administrative Services confidential files.

XIII. Post-Hearing Procedures

A. Bench Decision

The Commission (or assigned panel of Commissioners) may render a bench decision at the time of the hearing or render a decision without any post hearing submissions by the parties, as deemed appropriate. Such a determination may be with or without the oral or written recommendation of the Commission staff, at the Commission's (or assigned panel's) discretion.

B. Statements of Issues & Positions and Briefs

If the Commission (or assigned panel) does not make a bench decision at the hearing, it may allow each party to file a post-hearing statement of issues and positions. In such event, a summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position. However, the position must be reduced to no more than 50 words. If a post-hearing statement is required and a party

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fails to file in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time, unless modified by the Presiding Officer.

XIV. Controlling Dates

The following dates have been established to govern the key activities of this case:

- | | |
|---|----------------------|
| (1) Direct testimony and exhibits (all) | July 12, 2004 ✓ |
| (2) Staff testimony and exhibits, if any | August 2, 2004 ✓ |
| (3) Rebuttal testimony and exhibits (all) | August 16, 2004 ✓ |
| (4) Prehearing Statements | August 23, 2004 ✓ |
| (5) Prehearing Conference | August 30, 2004 ✓ |
| (6) Discovery Cutoff | September 14, 2004 ✓ |
| (7) Hearing | September 28, 2004 ✓ |
| (8) Briefs | October 26, 2004 ✓ |

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In addition, all parties should be on notice that the Prehearing Officer may exercise his discretion to schedule additional prehearing conferences or meetings of the parties as deemed appropriate. Such meetings will be properly noticed to afford the parties an opportunity to attend.

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Based upon the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 9th day of June, 2004

/s/ Charles M. Davidson
CHARLES M. DAVIDSON
Commissioner and Prehearing Officer

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

(SEAL)

WCK

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 of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, 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.

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Appendix A

Tentative Issues List

- Do meter this _____, exceed the accuracy requirement*
1. Pursuant to Rule 25-6.052, Florida Administrative Code, what is the appropriate method of testing the accuracy of the thermal demand meters subject to this docket?
 2. Pursuant to Rules 25-6.058 and 25-6.103, Florida Administrative Code, what is the appropriate method of calculating customer refunds for those thermal meters which test outside the prescribed tolerance limits?
 3. Pursuant to Rule 25-6.103, Florida Administrative Code, what is the period for which refunds should apply?
 4. What interest rate should be used to calculate customer refunds?

*1 + 2: is the testing to demonstrate
out-of-tolerance test*

*the correct test for determining
what the amount of the refund is*

*whether one good test is the
appropriate range combined w one bad test
in the appropriate range is
a good meter or a bad meter.*