

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: August 20, 2004


MOTION FOR LEAVE TO LATE-FILE REBUTTAL TESTIMONY

Ocean Properties, Target, JC Penney, and Dillards ("Customers") hereby file this motion for leave to late file rebuttal testimony. As grounds for their motion, Customers state:

1. On August 18, 2004, Customers filed the rebuttal testimony of George Brown and Bill Gilmore.
2. Mr. Gilmore prepared rebuttal testimony directed to the direct testimony of Commission staff witness Sidney W. Matlock. On August 19, 2004, the undersigned reviewed the rebuttal testimony filed by Mr. Gilmore, and realized that Mr. Gilmore's rebuttal testimony inadvertently omitted his rebuttal to Mr. Matlock's testimony.
3. Attached hereto as Exhibit A is Mr. Gilmore's rebuttal testimony that was inadvertently omitted from his rebuttal testimony filed on August 18, 2004.
4. The undersigned represents that he was in possession of Mr. Gilmore's rebuttal of Mr. Matlock's testimony on August 18, 2004, that Exhibit A is a true and correct copy of this testimony, that the failure to append this testimony to the testimony filed on August 18, 2004, was inadvertent, and that this testimony has not been altered in any way since August 18, 2004.
5. Customers submit that they have sought correction of this oversight immediately upon discovery thereof. Furthermore, Customers submit that granting this motion will not substantially

prejudice any party to this proceeding and will provide the Commission with a more complete record upon which to make its determination regarding the issues raised in this docket.

6. Counsel for Customers has conferred with opposing counsel and is authorized to represent that FPL opposes this motion and that Commission staff takes no position on this motion.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to those listed below with an asterisk and the remainder by U.S. Mail without an asterisk this day the 18th day of August, 2004.


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Sidney W. Matlock Rebuttal

What is the purpose of this testimony?

The purpose of this testimony is to rebut the direct testimony of Sidney W. Matlock, filed on August 2, 2004.

Mr. Matlock testifies that FPSC Rules require that adjustments to customers bills necessitated by inaccurate metering equipment must be made “fairly and reasonably.”

(Page 2, lines 5-7). Do you agree with this testimony?

Yes.

Do you agree that the recommendations made by Mr. Matlock in his testimony meet his “fair and reasonable” requirement.

No. In his testimony, Mr. Matlock addresses three main topics: 1) the proper process of determining whether a specific meter is entitled, by rule, to receive a refund (including the appropriate test point); 2) the proper process of determining the amount of refund per billing period; and briefly, 3) how to determine if a multi-year refund is warranted. I will address each of these topics below.

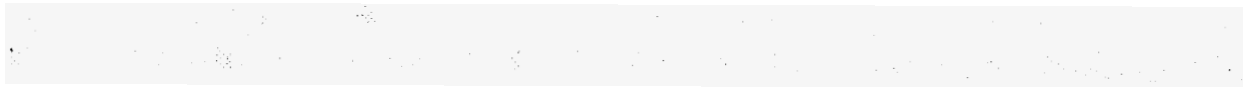
1) Whether a Specific Meter is Entitled to Receive a Refund - Appropriate Test Point

Mr. Matlock correctly identifies Rule 25-6.052(2)(a) as the rule that specifies accuracy requirements for thermal demand meters. This rule provides that the performance of a thermal demand meter is acceptable when its full scale error does not exceed 4 percent “when tested at any point between 25 percent and 100 percent of full scale value.” (Page 3, lines 20-22). Mr. Matlock also testifies that “[t]he magnitude of the test point appears to directly affect whether the meter is determined to be within the accuracy limits established by the Commission.” (Page 5, line 25 - page 6, line 1). There can be no dispute that for the meters in this docket, this last

1 statement is absolutely true. However, as discussed below, Mr. Matlock fails to recognize the
2 significance, and interdependence, of these two statements.

3 Mr. Matlock proposes that the proper point at which to test a thermal demand meter
4 should be “based on the peak kW usage experienced on that meter in the preceding 12 months.”
5 (Page 6, lines 5-6), and that the full-scale error determined at this test point should be used to
6 determine refund eligibility. There are several problems with this proposal. First, it provides
7 FPL with an incentive to game the system. As Mr. Matlock recognizes (page 4, line 19 - page 5,
8 line 4), a 3.5 scale meter must over-register by more than 33.6 kW (4% of 840 kW) and a 7 scale
9 meter must register by more than 67.2 kW (4% of 1680 kW) to exceed allowable tolerance. So,
10 for two customers each with the same peak kW usage in the preceding 12 months, and each with
11 a 50 kW per month demand over-registration (about \$450/month), and one customer with a 3.5
12 scale meter and one customer with a 7 scale meter, the deciding factor for refund eligibility is not
13 the true accuracy of the meter (50 kW over-registration), but rather is the scale of the meter that
14 FPL has chosen to install. In this example, one customer receives a refund and one does not –
15 even though they both are over-billed at about \$450/month. FPL, and all other electric utilities
16 desiring to avoid having to make demand refunds, can simply use meters with very high full-
17 scale values and virtually guarantee the elimination of out of tolerance conditions. This seems to
18 be neither fair nor reasonable.

19 Second, it confuses the concepts of full-scale meter accuracy and the test point at which
20 this accuracy is determined. Full-scale meter accuracy, as recognized by Mr. Matlock, can be
21 stated in terms of kilowatts, and is determined by the full-scale of the meter. Full scale accuracy
22 may be determined at any test point, but, as demonstrated by the meters in this docket, only
23 indicates the accuracy of the meter at that particular test point. Thus, a meter tested at a percent



1 of full scale equal to a customer's peak demand only demonstrates compliance with Rule 25-
2 6.052(2)(a) if this test also indicates that the meter would test within allowable tolerances within
3 the full-scale range specified.

4 Third, and most importantly, based on his testimony regarding the relationship between
5 full-scale accuracy and the percent of full scale at which the meter is tested, the method proposed
6 by Mr. Matlock to determine the appropriate test point violates the requirements of Rule 25-
7 6.052(2)(a). Rule 25-6.052(2)(a) requires that thermal demand meters be accurate to within 4 %
8 of full scale "*when tested at any point between 25 percent and 100 percent of full scale.*" The
9 plain language of this Rule indicates that a meter's performance must be within the allowable
10 tolerance when tested anywhere within this range of full-scale values. If the full-scale accuracy
11 of meters subject to this rule is independent of the test point (i.e., full-scale accuracy is constant
12 over this range), then the selection of the test point is immaterial because the full-scale error
13 found in a test at 25% of full scale will also be found if the same meter is tested at 50%, 75%, or
14 100% of full scale. When this condition applies the meter error, as a percent of applied load,
15 varies over the range of the meter and is at a minimum at meter full scale.

16 If, however, the full-scale accuracy of these meters is dependent upon the test point (i.e.,
17 full-scale accuracy varies over this test range), then the selection of the test point is critical.
18 When full scale accuracy is dependent upon the test point, it is the selection of the test point, not
19 the actual full-scale accuracy of the meter, which determines whether a meter registers within or
20 outside of allowable tolerance. For example, if a meter has a 2% full-scale error when tested at
21 25% of full scale, a 4% full-scale error when tested at 50%, a 6% full-scale error when tested at
22 75%, and an 8% full-scale error when tested at 100% (an example which is entirely consistent
23 with the conclusions stated in Mr. Matlock's testimony), then this meter is within allowable



1 tolerance only if it is tested at less than 50% of full scale. When this condition applies, the meter
2 error, as a percent of applied load, is approximately constant over the meter's range (e.g., for a
3 2% full scale error at 25% of full scale, the test point error determined from applied load is
4 constant - $2/25 = 4/50 = 6/75 = 8/100$).

5 Mr. Matlock proposes that the meters in this docket be tested for accuracy at a single
6 point (percentage of full-scale) that is representative of each customer's actual peak demand and
7 that the full scale error found at this test point be used to determine a customer's eligibility for a
8 refund. He makes these recommendations with the full knowledge that, for the meters in this
9 docket, full-scale accuracy is dependent upon the percent of full scale at which the meter is
10 tested. Nonetheless, he recommends that meters that have been tested at 80% of full scale, and
11 demonstrated full-scale accuracy outside of allowable tolerance, not be eligible for refunds. This
12 ignores the simple fact that these meters have already been demonstrated not to comply with
13 Rule 25-6.052(2)(a).

14 Moreover, what Mr. Matlock proposes is clearly contrary to the plain language of Rule
15 25-6.052(2)(a). The effect of Mr. Matlock's proposal would be to have the Commission rewrite
16 the last clause of Rule 25-6.052(2)(a) to state: "when tested at any point between 25 percent and
17 100 percent of full-scale value, even if that meter's registration exceeds four percent of full scale
18 when tested at other points between 25 percent and 100 percent of full-scale value."

19 For the meters in this docket, there can be no dispute that the tested full-scale meter
20 accuracy is dependent upon the percent of full scale at which a meter is tested. Therefore, the
21 only way to satisfy the requirements of Rule 25-6.052(2)(a) is to test these meters at the highest
22 practicable percent of full scale. Only by testing at this point can it be determined that a meter is
23 within allowable tolerance "when tested at **any** point between 25 percent and 100 percent of full-

1 scale value.” Furthermore, it is only at this test point that the error actually felt by the customer is
2 the same as full-scale error.

3 As a practical matter, it will be necessary to test at a percentage slightly less than full
4 scale so that there is meter scale available to determine if over-registration is occurring. Thus,
5 the appropriate test point for meters in this docket is at least 80% of full scale. It should also be
6 noted that FPL’s test procedure calls for all its thermal demand meters to be tested and re-
7 calibrated, if required, at the same test point. Therefore, testing at the maximum practicable
8 percentage of full scale also best ensures that these meters are accurate over their entire
9 operational range. Finally, applying Mr. Matlock’s methodology (as represented in his Exhibit
10 SWM-2) at a minimum test point of 80%, his analysis would result in a full scale meter error for
11 the Target Sarasota, meter no. 1V5871D, also being out of tolerance (as Mr. Brown’s rebuttal
12 testimony demonstrates, there are also other reasons why this meter is properly subject to
13 refund).

14 2) Method for Calculating Refund

15 Mr. Matlock correctly recognizes that Commission rules do not specify a method for
16 determining a refund for demand over-registration. He also correctly recognizes that using the
17 full-scale error determined by the meter test as a basis for refunds is not fair to customers (page
18 10, lines 3-11). He also is correct that calculating a refund based on the test point error provides
19 a better estimate of the actual impact to the customer from meter over-registration. In summary,
20 while I believe that this portion of Mr. Matlock’s testimony is reasonable, I believe that the
21 methodology identified in Mr. Brown’s direct testimony, which is based on the use of actual
22 billing data, provides the best methodology to put these customers in the position they would
23 have been in but for the meter error.

1 3) Refund Period

2 I note that Mr. Matlock has correctly identified the appropriate PSC Rule governing
3 refund periods. However, I also note that Mr. Matlock has not expressed any conclusion
4 regarding what is the appropriate refund period, when this rule is applied, for the meters in this
5 docket.

6 **Mr. Matlock concludes his testimony by recommending that the Commission determine**
7 **refund eligibility by retesting the meters in this docket using the customers' historic 12-**
8 **month peak demand as the test point, and that the Commission calculate refunds by**
9 **retesting these meters at the average billing demands from the complete billing cycles**
10 **contained in the refund period, and basing the refund on the test point percent error. Do**
11 **you agree with this testimony?**

12 No. With regard to refund eligibility, Mr. Matlock's recommendation is inconsistent
13 with both the letter and spirit of Rule 25-6.052(2)(a). Moreover, it requires the Commission to
14 ignore meter test data conclusively demonstrating that the meters in this docket exceed the
15 allowable tolerance specified in this Rule.

16 With regard to refund calculation, the observed change in demand registration that has
17 occurred following replacement of the 1V thermal demand meters in this docket provides the
18 best information related to actual demand over-registration, and should be the basis for refund
19 calculations.

20 **Does this conclude your testimony?**

21 Yes it does.

22