

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

SEPTEMBER 21, 2004

RE: Docket No. 030623-EI - Complaints by Ocean Properties, Ltd., J.C. Penney Corp., Target Stores, Inc., and Dillard's Department Stores, Inc. against Florida Power & Light Company concerning thermal demand meter error.

Issue 1: Should FPL's motion for partial summary final order be granted?

Recommendation: No. FPL's motion for partial summary final order on issue 3 should be denied and the issue should proceed to hearing. FPL's motion for partial summary final order on issue 4, as well as the customers' alternative cross motion for partial summary final order on that issue, should also be denied. Any possible disputed issues of material fact with respect to issue 4 should proceed to hearing, after which time the parties may brief the remaining legal issue.

**APPROVED**

COMMISSIONERS ASSIGNED: Deason, Bradley, Davidson

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*Paul M. Deason*  
*J.C. Penney Corp.*  
*Judy Bradley*

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REMARKS/DISSENTING COMMENTS:

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Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open in order to proceed to hearing to resolve the protests to Order No. PSC-03-1320-PAA-EI.

**APPROVED**