

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

FEBRUARY 1, 2005

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: 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?

Recommendation: Staff interprets Rule 25-6.052, Florida Administrative Code, as requiring that the demand portion of the meters be accurate throughout the range of values between 25% and 100% of full scale. Rule 25-6.052 establishes the method for testing the accuracy of the watthour portion of these meters by reference to Rule 25-6.058, Florida Administrative Code. Rule 25-6.058(3)(a) provides the specific method for determining error for the watthour portion of the meters. Staff recommends that the testing already performed by FPL is appropriate to determine whether or not the meters subject to this docket pass or fail the accuracy requirements of the Commission's rules.

Staff makes the following specific recommendations on the eligibility for refunds for each meter subject to this docket:

MODIFIED

Issue 1 was approved with the clarifications and modifications made at the conference.

COMMISSIONERS ASSIGNED: Deason, Bradley, Davidson

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Judy Bradley
J. Deason
Charles M. Davidson

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

01165 FEB-1 05

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- Meter #1V7166D failed the accuracy requirement for only the watthour portion of the meter. It was appropriately tested and, based on the undisputed test results, is eligible to receive a refund.
- Meter #1V5871D showed evidence of physical damage (bent maximum demand indicator). Based on record evidence, as discussed in the analysis portion of staff's January 20, 2005 memorandum; this meter is eligible to receive a refund.
- Meter #1V5774D does not require further testing. It was tested at 40% of full scale and found to be slightly underregistering. Based on the test results, this meter is not eligible to receive a refund.
- The remaining eleven meters subject to this docket (#1V52093, #1V7179D, #1V52475, #1V5216D, #1V7001D, #1V5192D, #1V5025D, #1V7019D, #1V7032D, #1V5887D, #1V5159) were tested at 80% of full scale and failed the accuracy requirements of Rule 25-6.052(a) for the demand portion of the meters. These meters are eligible to receive a refund.

Issue 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?

Recommendation: To calculate the appropriate refunds for overregistration by the demand portion of these meters, staff recommends a procedure, set forth in detail in the analysis portion of staff's January 20, 2005 memorandum, by which the demand error at the customer's average load is estimated by using the linear relationship determined by the demand errors at two points on the meter scale.

To calculate the appropriate refunds for overregistration by the watthour portion of these meters, the procedure specified in Rule 25-6.058(3)(a) is the appropriate method. Using the percent error as determined by Rule 25-6.058(3)(a), an adjusted bill would be calculated in a manner similar to that outlined in Steps 6 through 9 of the procedure recommended herein to calculate refunds for overregistration by the demand portion of the meter.

APPROVED

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Issue 3: Should the customers in this docket be treated the same way in which FPL treated other, similarly situated customers, for the purposes of determining the percentage of meter overregistration error?

Recommendation: Customers in this docket have been treated in the same manner as similarly situated customers; FPL calculated refunds for Customers and similarly situated customers based on a 12-month refund period and the higher of: (1) the meter test point error; or (2) an error calculated by comparing billing records before and after replacement of the meter. Customers in this docket disputed FPL's use of a 12-month refund period and chose to litigate this matter. The "higher of" method requested by Customers goes beyond the requirements of the Commission's rules, which require that the determination of amounts billed in error shall be based on the results of a meter test. Customers cannot now claim entitlement to a benefit to which they were never entitled under the Commission's rules and which they chose to reject.

APPROVED

Issue 4: What rate schedule should be applied in calculating customer refunds?

Recommendation: The proper rate schedule to be used to calculate refunds is the schedule under which the customer would have been billed, had the meter registered accurately.

APPROVED

Issue 5: Pursuant to Rule 25-6.103, Florida Administrative Code, what is the period for which refunds should apply?

Recommendation: The refund period for all meters except Meter #1V5871D (Target - Sarasota), Meter #1V5192D (Target - Bradenton), and Meter #1V7001D (Target - Boynton Beach) should be the twelve billing months prior to replacement of the meter. The refund period for Meter #1V5871D should be all billing months from May 1997 through August 2002. The refund period for Meter #1V5192D should be all billing months from December 1996 through November 2002. The refund period for Meter #1V7001D should be all billing months from December 1993 through November 2002.

MODIFIED

The refund period for all meters will be the twelve billing months prior to replacement

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Issue 6: What interest rate should be used to calculate customer refunds?

Recommendation: The Commission should apply the interest rate provisions of Rule 25-6.109, Florida Administrative Code, to calculate appropriate refunds.

APPROVED

Issue 7: Did the sun or radiant heat affect the accuracy of any of the meters subject to this docket? If so, how do such effects impact the determination of which meters are eligible for a refund of the amount of any refund due?

Recommendation: There is no evidence that the sun or radiant heat affected the accuracy of any other meters subject to this docket. Therefore, there is no impact on the determination of which meters are eligible for a refund or the amount of any refund.

APPROVED

Issue 8: What is the appropriate customer refund for each thermal demand meter subject to this docket that tests outside the prescribed tolerance limits?

Recommendation: For the thirteen meters identified in Issue 1 as being eligible for refunds, the Commission should order refunds to be calculated consistent with staff's recommendations in Issues 2-7. Four of the meters should be re-tested as described in Issue 2 before refund calculations can be made. Refunds should be completed within 30 days of the issuance date of the Commission's final order.

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Issue 9: Should this docket be closed?

Recommendation: The docket should be closed after the time for filing an appeal has run.

APPROVED