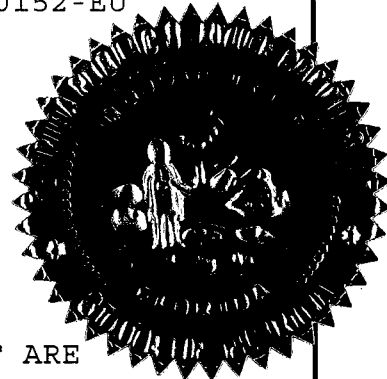


1 BEFORE THE
2 FLORIDA PUBLIC SERVICE COMMISSION

3 DOCKET NO. 050152-EU

4 In the Matter of:

5 Proposed revisions to Rule 25-6.049,
6 F.A.C., Measuring Customer Service.



7
8 ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
9 A CONVENIENCE COPY ONLY AND ARE NOT
10 THE OFFICIAL TRANSCRIPT OF THE HEARING,
11 THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

11 PROCEEDINGS: HEARING

12 BEFORE: COMMISSIONER J. TERRY DEASON
13 COMMISSIONER ISILIO ARRIAGA
14 COMMISSIONER MATTHEW M. CARTER, II

14 DATE: Wednesday, September 6, 2006

15 TIME: Commenced at 9:30 a.m.
16 Concluded at 11:43 a.m.

16 PLACE: Betty Easley Conference Center
17 Room 148
18 4075 Esplanade Way
19 Tallahassee, Florida

19 REPORTED BY: LINDA BOLES, RPR, CRR
20 Official Commission Reporter
21 (850) 413-6734

1 PARTICIPATING:

2 KENNETH HOFFMAN, ESQUIRE, Rutledge Law Firm, P. O.
3 Box 551, Tallahassee, Florida 32302-0551, appearing on behalf
4 of Florida Power & Light Company, Progress Energy Florida, Gulf
5 Power and Tampa Electric.

6 PATRICK M. BRYAN, ESQUIRE, 700 Universe Boulevard,
7 Juno Beach, Florida 33408-0420, appearing on behalf of Florida
8 Power & Light Company.

9 JAMES D. BEASLEY, ESQUIRE, Ausley & McMullen, Post
10 Office Box 391, Tallahassee, 32302, appearing on behalf of
11 Tampa Electric Company.

12 RUSSELL BADDERS, ESQUIRE, Beggs & Lane Law Firm,
13 P.O. Box 12950, Pensacola, Florida 32591-2950, appearing on
14 behalf of Gulf Power Company.

15 JOHN T. BURNETT, ESQUIRE, Progress Energy Service
16 Company, LLC, Post Office Box 14042, St. Petersburg, Florida
17 33733-4042, appearing on behalf of Progress Energy Florida.

18 MARC MAZO, Power Check Consultants, 14252 Puffin
19 Court, Clearwater, Florida 33762, appearing on behalf of Power
20 Check Consultants.

21 LAWRENCE HARRIS, ESQUIRE, and KATHERINE FLEMING,
22 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak
23 Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf
24 of the Florida Public Service Commission Staff.

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

NUMBER:	ID.	ADMTD.
1 Staff Composite Exhibit	8	8

CERTIFICATE OF REPORTER

36

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMISSIONER DEASON: Call the hearing to order.

Could I have the notice read, please.

MR. HARRIS: Yes, sir. Pursuant to notice issued July 7th, 2006, this time and place has been set for a rule hearing in Docket Number 050152-EU, Proposed Amendments to Rule 25-6.049, measuring customer service.

COMMISSIONER DEASON: Okay. Take appearances.

MR. BRYAN: Patrick Bryan on behalf of Florida Power & Light Company.

MR. HOFFMAN: Good morning, Commissioners. My name is Kenneth A. Hoffman, also appearing on behalf of Florida Power & Light Company.

MR. BEASLEY: Good morning, Commissioners. I'm James D. Beasley representing Tampa Electric Company.

MR. BADDERS: Good morning, Commissioners. I'm Russell Badders on behalf of Gulf Power Company.

MR. BURNETT: Good morning, Commissioners. John Burnett on behalf of Progress Energy Florida.

MR. HARRIS: And Lawrence Harris and Katherine Fleming on behalf of the Commission.

COMMISSIONER DEASON: Mr. Harris, do we have telephone participation hooked up at this point?

MR. HARRIS: Yes.

COMMISSIONER DEASON: Okay. If we could have those

1 that are on the telephone identify themselves, please.

2 MR. MAZO: Good morning, Commissioners. This is
3 Marc Mazo from Power Check Consultants.

4 COMMISSIONER DEASON: Okay. Good morning. Okay.
5 Any other, any other folks joining us by telephone? Okay.
6 Apparently not.

7 Mr. Harris, we have a preliminary matter we need to
8 discuss?

9 MR. HARRIS: Yes, sir. It's my understanding that
10 Commissioner Arriaga is running late. Given whatever your
11 preference is to move on with this hearing, the two of you
12 could either continue and Commissioner Arriaga could
13 participate once he arrives, or, given the fact that it is a
14 three-person panel, you all could recess, give him some time to
15 get here, and then reconvene the hearing at a later time. That
16 would be my recommendation, given the fact that it's two
17 instead of being the five-panel, the five Commissioners, it's a
18 panel of three.

19 COMMISSIONER DEASON: It's my understanding that
20 Commissioner Arriaga anticipates arrival such that he could
21 participate beginning at 11:00 a.m.; is that correct?

22 MR. HARRIS: Yes, sir. That's my understanding.

23 COMMISSIONER DEASON: Okay. Is there -- does that
24 place any undue burden on any of the parties if we just sit
25 down for a while and reconvene at 11:00?

1 MR. BADDERS: No objection.

2 MR. HOFFMAN: No objection from FPL.

3 MR. BURNETT: No objection.

4 COMMISSIONER DEASON: Okay. Very well.

5 Commissioner?

6 COMMISSIONER CARTER: That's fine.

7 COMMISSIONER DEASON: Fine with you. Okay.

8 MR. HARRIS: I was going to say, you might want to
9 ask the telephone participants also.

10 COMMISSIONER DEASON: Yes. Is there any objection?

11 It seems the indication is it would be better for all three

12 Commissioners to hear this matter. And due to, I think it was,
13 either weather or a flight cancellation this morning,

14 Commissioner Arriaga is in route at this point and we will
15 begin at 11:00. Is there any objection?

16 MR. MAZO: No, I have no objection.

17 COMMISSIONER DEASON: Very well. So at this point we
18 can just adjourn, temporarily adjourn until 11:00. I guess
19 just be in recess until 11:00; is that correct?

20 MR. HARRIS: Yes, sir.

21 COMMISSIONER DEASON: Okay. All right. Thank you
22 all. We will reconvene the hearing at 11:00. Thank you for
23 your patience and understanding.

24 (Recess taken.)

25

1 COMMISSIONER DEASON: Call the hearing back to order.
2 Mr. Harris, where are we?

3 MR. HARRIS: I believe we've taken appearances. You
4 may want to check to see if anyone else has joined us,
5 Commissioner, but after that we're ready to move on.

6 COMMISSIONER DEASON: Okay. Is there anyone
7 physically here that has not made an appearance and wishes to
8 do so? Seeing none, has anyone joined us by telephone who has
9 not made an appearance? Hearing none. Mr. Mazo, are you still
10 on the line with us?

11 MR. MAZO: I am.

12 COMMISSIONER DEASON: Very good. Okay.

13 Mr. Harris, I believe we're ready to proceed.

14 MR. HARRIS: Yes, sir. We have a preliminary matter.
15 Staff has prepared an Exhibit 1, which is the Staff Composite
16 Exhibit for this rulemaking docket. It consists of the record,
17 so to speak, to date. It's the notice of rulemaking that was
18 issued by the Commission with the proposed rules; the
19 publications in the Florida Administrative Weekly; materials
20 provided by the Commission staff to the Joint Administrative
21 Procedures Commission; the statement, the SERC, the statement
22 of estimated regulatory costs; and then the hearing materials,
23 the request for hearing received from Power Check Consultants;
24 their comments; the order establishing procedure in this case;
25 and the comments filed by the electric, the investor-owned

1 utilities in response to Power Check Consultants' request for
2 hearing and comments. We would ask that that be marked as
3 Exhibit 1 and placed into the record formally.

4 COMMISSIONER DEASON: It will be identified as
5 Exhibit 1. And without objection, hearing none, show that
6 Exhibit 1 is admitted into the record.

7 (Exhibit 1 marked for identification and admitted
8 into the record.)

9 COMMISSIONER DEASON: Any further preliminary
10 matters?

11 MR. HARRIS: No, sir. Staff is ready to proceed with
12 an introduction to the rule and to get this thing rolling.

13 COMMISSIONER DEASON: Okay. Commissioners, any
14 questions; any preliminary matters from Commissioners?

15 Okay. Very well. Proceed with your introduction.

16 MR. HARRIS: Thank you, Commissioner. I just have a
17 brief introduction before Mr. Baxter takes over with the
18 overview of the rule. And basically I wanted to make clear
19 that this docket has been open for some time. The docket was
20 originally opened in February of 2005. But before that, it had
21 had a number of proceedings.

22 You'll recall for sure, Commissioner Deason, that
23 this docket originally was opened in response to a Commission
24 request that we look at the number of waivers we were granting,
25 I believe ten, of the existing Rule 25-6.049. And you,

1 Commissioners, are aware, when we grant a substantial number of
2 waivers of a rule, we start to look at it to see if the rule
3 should be modified itself as opposed to just continuing to
4 grant waivers.

5 So in response to a Commission inquiry, staff
6 initiated this process a couple of years ago in 2004 and had a
7 rule development -- prepared a draft rule and had a rule
8 development workshop at which the investor-owned utilities
9 participated. They prepared written comments and, based on
10 those, we came up with a draft rule which we then took to a
11 second workshop which was held in April of 2005. At that
12 workshop, again, the IOUs participated. And I would note,
13 Commissioners, that both of these workshops were noticed. They
14 were noticed in the Florida Administrative Weekly, they were
15 noticed on the Commission's internal undocketed filings, and
16 also sent out to persons of interest who had signed up to
17 receive mailings of these type of items.

18 As a result of the April 2005 workshop, staff filed a
19 recommendation that the Commission propose adoption --
20 amendments to Rule 25.6-049. The Agenda Conference was
21 scheduled for September 20th of 2005, and about a week before
22 that Mr. Mazo contacted the Commission staff indicating he had
23 found out about this rulemaking and had some comments and would
24 like to participate in the rule development process. In order
25 to ensure that he had an opportunity to do that, staff

1 recommended that the item be withdrawn from the September 20th
2 Agenda Conference and we scheduled a third rule development
3 workshop for December of 2005.

4 Mr. Mazo participated in that along with the IOUs for
5 the third time. We developed a rule. He participated, he
6 filed post-workshop comments in February of 2006. Using --
7 incorporating those comments into the rule and into the staff
8 recommendation, we refiled a recommendation in April of 2006
9 for the May 2nd Agenda Conference. At that Agenda Conference
10 the Commission considered the recommendation, including the
11 comments of Mr. Mazo, and made a decision to propose amendments
12 to the rule. Those proposed amendments were filed in the
13 Florida Administrative Weekly, and in a timely manner Mr. Mazo
14 has filed a request for hearing based on those same comments
15 and the rule as proposed.

16 With that, I wanted to give you a brief history of
17 sort of how we've gotten to where we are today. And
18 Mr. Baxter, I believe, is going to present some staff comments
19 on what we believe the amendments to the rules do and why we
20 did it that way.

21 COMMISSIONER DEASON: Very well.

22 MR. BAXTER: Greetings, Commissioners. This is
23 John Baxter on behalf of Commission staff.

24 The rule which you're conducting a hearing on today
25 deals with the specifications governing the conversion or

1 installation of master meters on certain listed facilities.
2 Staff has changed the rule to add an exemption for resort
3 condominiums. Resort condominiums are apartment complexes
4 where each unit is held by an individual owner through a
5 condominium form of ownership but is operated in a manner akin
6 to a hotel or motel facility with nightly and weekly rates.
7 The proposed change establishes a 95 percent transient
8 occupancy requirement along with other measures to ensure the
9 facility operates like a hotel.

10 The installation of master meters on resort
11 condominiums is not a mandatory requirement for the facility to
12 receive electric service, but an option a qualifying resort
13 condominium can undertake that can reduce its monthly electric
14 costs.

15 To date, the Commission has granted ten waivers to
16 the current master metering rule. The proposed rule would not
17 apply to any development that has already obtained a waiver,
18 but to those facilities that wish to be master metered from
19 this point forward. It appears that most of the Petitioner's
20 arguments center around objections to the inclusion in the rule
21 of a 95 percent occupancy threshold in the declaration of
22 condominium.

23 Staff has established an occupancy threshold in the
24 rule for two reasons: To ensure that similar facilities are,
25 in fact, treated in a similar manner, and to maintain the link

1 between a regulated utility and its full-time customers.

2 First, one of the primary justifications for granting
3 waivers is that resort condominiums are similar in operation to
4 existing hotel and motel facilities and should be treated as
5 such for purposes of master metering. Staff has placed an
6 occupancy threshold in the rule to ensure that a resort
7 condominium that seeks to be master metered does, in fact,
8 operate in a manner similar to hotels and motels. While some
9 of the ten facilities granted waivers have occupancy
10 restrictions contained in the declaration of condominium or
11 zoning regulations for where the facility is located, there are
12 five facilities that do not have any prohibition against the
13 owner at some later date converting his or her condominium into
14 a permanent residence. If a numeric permanent occupancy
15 safeguard is not in place, a residential condo could simply
16 agree to some minimal transience requirement and enjoy lower
17 electric rates than other residential condos. This results in
18 cross subsidization or could result in the wholesale request
19 for master metering by all condominiums, contrary to the intent
20 of the original rule to encourage conservation.

21 Second, master metering by definition interposes a
22 nonregulated entity between the utility and the customers: In
23 this case, the condominium association or complex manager.
24 While the day-to-day activities and policies of the manager or
25 association may not be important to transient occupants, its

1 actions can have a great impact on full-time residents. In a
2 master metered situation there are no prohibitions on excessive
3 deposits or arbitrary disconnection policies. Further, the
4 end-use customer behind the master meter has no recourse to
5 this Commission on these matters. Staff believes a numeric
6 permanent occupancy requirement is necessary to minimize the
7 number of full-time customers who would be prevented from
8 exercising the rights afforded them under tariffs and PSC
9 rules.

10 In establishing the 95 percent threshold, staff
11 examined previous Commission waiver orders. Currently there is
12 one resort condominium, Collins Avenue, Docket Number 020944,
13 that contains a clause within its declaration of condominium
14 requiring 95 percent transient occupancy. When staff analyzed
15 Petitioner's submitted data along with the percentages for all
16 properties which occupancy data is available, which is nine out
17 of ten waived properties, staff arrived at an average
18 transient occupancy rate of 94.33 percent for all the units
19 which have been sold. Based on the statistical data and the
20 precedent of Collins Avenue, staff asserts that requiring a
21 95 percent transient occupancy restriction in the declaration
22 of condominium would be neither unduly burdensome nor unusual.

23 Commissioners, this concludes my presentation, and
24 staff is available for questions.

25 COMMISSIONER DEASON: Any questions, Commissioners?

1 Okay. Thank you for that. That's very informative.

2 MR. HARRIS: Commissioner, with that, I would suggest
3 that Mr. Mazo as the Petitioner be allowed to make his
4 presentation next.

5 COMMISSIONER DEASON: Okay. Mr. Mazo, you may
6 proceed.

7 MR. MAZO: Commissioners, I think that Mr. Harris
8 stated in his summary some of my, my comments have been made
9 earlier and that my comments are keyed on basically two issues:
10 One is the 95 percent criteria established, and the fact that
11 the 95 percent criteria must now be included in the declaration
12 of condominium.

13 At the workshop, the one workshop that I did attend,
14 I supplied a letter, and it is attached to my prefiled
15 comments. It is a letter from Attorney Carter McDowell who
16 represented the Fontainebleau, who was one of the petitioners
17 who received a waiver for master metering. And Mr. McDowell
18 indicated that the requirement to put the 95 percent criteria
19 within a declaration of condominium, if a developer chose to do
20 that, could turn that condominium into a security, and that
21 none of the developers would be inclined to do that. Certainly
22 that is their choice, but that would pretty much eliminate any
23 master metering for any of those properties, even though they
24 would operate similar to a hotel.

25 Attached to -- I know that, staff, we tried to get

1 the Securities and Exchange Commission letter ruling, and
2 Mr. McDowell finally supplied it to me and it was copied -- it
3 was attached to my prefiled comments.

4 None of the ten waivers that have been issued, or I'd
5 say nine of the ten waivers -- I think Collins Avenue is the
6 only one that Mr. Baxter mentioned that had the requirement in
7 the declaration of condominium. None of the other ten -- none
8 of the other nine had that, and that was not required in the
9 waivers that were granted by the Commission.

10 In the early waivers starting in 1998 with Holiday
11 Villas, the Commission at that time ruled -- and following that
12 one with SunDestin and Dunes of Panama, the Commission granted
13 the waivers with the caveat that those resort condominiums must
14 continue to operate as resort condominiums licensed with the
15 Department of Business Regulation. At that time there was no
16 number criteria set.

17 As the process moved along and other waivers
18 were filed, I came before the Commission under the
19 Fontainebleau II waiver. And at that time -- up until that
20 time there had been no number criteria set. Basically the
21 Commission looked at the waiver request, and if they decided
22 that there was a substantial hardship that was created because
23 a resort condominium that was operating like a hotel was paying
24 the higher individual residential rate to the utility, they
25 were then allowed to master meter and receive service under the

1 master metered commercial rate.

2 There was an argument at the Agenda Conference with
3 Fontainebleau II. FP&L argued for the position that they
4 should be required to have 95 percent. I think the way they
5 put it, and, please, somebody can correct me if I'm wrong, but
6 95 percent of the units had to be used or available for rental
7 in order for that property to qualify for the waiver. At that
8 time there was argument back and forth between the Commission
9 and different parties, and the Commission did not accept the
10 number criteria but basically changed their criteria to say
11 that all or substantially all of the units would be used for
12 transient rental and the property was granted a waiver. And
13 that's what was placed on the Fontainebleau II waiver in the
14 order and that's what's been in existence since that time.

15 Today in a copy -- in my prefiled comments there's
16 also a copy of the Fontainebleau's annual report that they
17 turned in pursuant to their waiver. They had to do that every
18 year. And currently they have 88 percent of their units are
19 used for transient rental. Now I'm pointing this out for this
20 reason. I know that according to Mr. Baxter this would not be
21 retroactive and they would still maintain their waiver. But
22 the point that I make, and I've made it prior and I won't
23 belabor the point, but this property, many of you are aware, is
24 a sister property to the famous Fontainebleau Hotel, although
25 this property was built in essence as a condominium but

1 operating as a hotel.

2 In my arguments I've maintained that when a property
3 is operating similar to a hotel, which is what the current rule
4 states, that it should be allowed the master metering. And
5 there are a lot of, there are a lot of reasons: They pay
6 taxes, they have the expenses similar to a hotel, and the
7 88 percent number under the current criteria would keep this
8 property from obtaining the master metering.

9 That's really the essence of my argument. I could go
10 into a number of details of why. In my prefiled comments one
11 of the things that I think -- there are two points that I would
12 bring up. The genesis of this rule is conservation; the theory
13 being that when the customer received a price signal, they were
14 more inclined to conserve energy. And under the theory with
15 master metering when a property operates like a hotel, that's
16 not necessarily the case.

17 In -- also attached to my prefiled comments were a
18 couple of letters, one from Holiday Villas and one from
19 SunDestin, two properties that had received waivers. And their
20 indication in the letters is that conservation is better served
21 that way. So to limit the criteria to 95 percent in my opinion
22 does not necessarily serve the goal of conservation better. A
23 property like Holiday Villas, which the last I talked to them
24 they were operating, excuse me, around 85, 86 percent of their
25 units in, available for rental, in the transient rental,

1 conservation is still better. So the 95 percent number doesn't
2 create a better avenue for conservation.

3 The second point that I would make is when -- my
4 understanding in considering rates, and I know this is not a
5 rate case, but it has to do with rates because by the property
6 receiving a waiver, they're able to take advantage of the lower
7 commercial rates instead of the higher residential rate. And
8 when they look at rates, one of the factors included in
9 determining what rates are is usage characteristic. And a
10 property that has 95 percent rental or transient rental, the
11 cost to serve that property from a utility, unless I'm totally
12 wrong on the issue, is not substantially different than a hotel
13 or motel. You have 200 units in a building, maybe you have one
14 transformer. The only difference would be if they're
15 individually metered and the utility has to send individual
16 bills to everybody. When you master meter, they get one bill.
17 It does save the utility some money. They save on meters, they
18 save on administrative costs, so there is some savings to the
19 utility. But the cost to serve that property, whether they
20 have 85 percent or 95 percent, is not any different. So those
21 are my two arguments. And I believe that the number criteria
22 is the problem, and that I don't see why a property that
23 operates at 88 or 85 percent and they're operating just like a
24 hotel shouldn't be allowed to master meter. And I appreciate
25 the time to do this. Thank you.

1 COMMISSIONER DEASON: Thank you. Any questions?

2 COMMISSIONER CARTER: Just clarification.

3 COMMISSIONER DEASON: Yes, Commissioner Carter.

4 COMMISSIONER CARTER: Thank you, Mr. Chairman.

5 Staff, in your briefing you said that you found the
6 threshold to be at about 94.3 percent and you're recommending
7 95 percent for occupancy.

8 MR. HARRIS: Yes, sir.

9 COMMISSIONER CARTER: What's, what's the -- why would
10 you go 95 versus just 94?

11 MR. HARRIS: 95 was a more pleasing number than 94.33
12 or 94, but there's really no distinction between the two. The
13 point that staff was trying to get at here is we're very
14 concerned about the ability of a unit that just has the other
15 criteria in the rule, a registration desk, a log book, a
16 toll-free number, to be able to claim to be operated like a
17 hotel, but then have a significant portion of the units being
18 permanently occupied.

19 And Mr. Mazo, I heard on the phone, was mentioning,
20 you know, there's not very much of a difference between
21 85 percent or 88 percent or 95 percent, and that's a matter for
22 your judgment. But what staff is concerned about is what about
23 75 percent or 65 percent or 50 percent or 35 percent? At some
24 point it could be a benefit to a condominium developer to say,
25 by signing up for this type of switchboard and log book and

1 everything, you could still live here full-time and we'll have
2 100 percent permanently occupied, but you'll get a lower
3 electricity rate because we'll claim to be operated like a
4 hotel. That's really our concern. And by having a numerical
5 number in there, it makes it easy for everyone to look at on
6 the front end, that the buyers are being told that this is
7 being intended for rentals so that they can't be misled. And
8 then on the back end for either staff to verify or the IOUS to
9 verify, it's very easy to see and there's no argument that
10 people were sold a unit thinking that they could live there and
11 get a low electricity rate and all of the sudden now they're
12 being told, no, you have to rent your unit. So we're trying to
13 sort of do the right thing. The 95 number isn't magic. It
14 came from the 94.33, but 94 is equally good for our
15 perspective. 85 might be a little bit different, but that's
16 your judgment.

17 COMMISSIONER CARTER: Thank you.

18 COMMISSIONER DEASON: Mr. Harris, I have a question.
19 Under the language of the proposed rule, if an entity, for
20 example, had a 94 percent occupancy, transient occupancy rate,
21 would they be permitted to come in and request a waiver of the
22 rule?

23 MR. HARRIS: Yes, sir, absolutely. And at that point
24 I would expect that they would request a waiver from the
25 95 percent rate and they could either propose a lower rate or

1 something different. And that would meet our needs, which is
2 to show that the goal of nonpermanently occupied and energy
3 conservation are being met.

4 One of the deficiencies we have with Mr. Mazo's
5 argument of just removing the 95 percent occupancy rate is he
6 doesn't really have any proposed rule language to sort of pick
7 up the slack then of how we would really be able to prove
8 without some type of excessive monitoring, and we are not a
9 staff interested in imposing excessive monitoring either by
10 staff or by the utilities to try to verify this permanent
11 occupancy. The 95 percent was an easy way to do it. If
12 Mr. Mazo's client is concerned about that, they can come in and
13 say we have 88 percent and we think this is good enough, and
14 this is why, and this is how we propose to make sure that we're
15 meeting your goals, Commission. And that would be processed
16 just like any other waiver. And it might be that ten years
17 from now we start getting a lot of waivers of the 95 percent
18 and realize we need to modify the rule to remove that, but we
19 just don't know that at this point.

20 COMMISSIONER DEASON: And could you explain to me
21 the, the, the requirement for the limitation to be part of the
22 declaration of condominium?

23 MR. HARRIS: Yes, sir. That was put in as -- for two
24 reasons: Number one, so that on the front end the utilities
25 and the staff would have a clear, you know, point that this is

1 intended to be operated like a hotel and everyone knows that,
2 and we're so -- we, the developer, are so committed to this
3 we're going to put it in the declaration of condominium as
4 opposed to something that may be less permanent. Second, it
5 was important because we want the buyers to know up-front.

6 And we are worried about Mr. -- worried might not be
7 the right word. We're paying attention to Mr. Mazo's argument
8 about a security, and we're concerned about what a developer
9 might say. You know, we have to claim that we're operating
10 this like a -- as a hotel to get a lower electricity rate, but
11 don't worry, we'll make this side agreement or we'll waive it
12 or something. By putting it in a declaration of condominium,
13 that becomes a binding, legal obligation of the developer and
14 the buyer, and we believe, staff believes will cut down on the
15 potential for problems or litigation in the future where some
16 group of buyers or the developer could have the potential for
17 we didn't really mean -- we didn't really understand what we
18 were buying or we didn't really mean to sell you what you
19 thought you were buying, something like that. By putting it
20 up-front in writing in a legal form that is binding on the
21 developer and on the buyer, we think it avoids the potential
22 down the road for some type of misunderstandings.

23 COMMISSIONER DEASON: Thank you. Any other
24 questions? Okay. Do we have other presentations?

25 MR. HARRIS: I believe the investor-owned utilities

1 also have presentations.

2 COMMISSIONER DEASON: Okay. Any preferred order,
3 Mr. Hoffman?

4 MR. HOFFMAN: Commissioner Deason, my name is Ken
5 Hoffman. I'm going to provide some brief responsive comments
6 on behalf of Florida Power & Light Company, Progress Energy,
7 Tampa Electric Company and Gulf Power Company.

8 COMMISSIONER DEASON: Okay. Please proceed.

9 MR. HOFFMAN: Thank you. First, Commissioners, we
10 applaud the efforts of the staff in developing this proposed
11 rule. We think it establishes appropriate criteria for
12 authorizing master metering for resort condominiums or
13 condominium hotels, and that criteria is set forth in
14 Subsection 5(g) of the proposed rule. And as staff has pointed
15 out, the criteria reflects the data and information that has
16 been gathered by staff over the course of a number of waiver,
17 rule waiver proceedings where resort condominiums have come in
18 and asked the Commission for a waiver of the individual
19 metering requirement that normally and would otherwise apply to
20 a condominium. We support the proposed rule and believe the
21 Commission should move forward with its adoption.

22 We recognize that Mr. Mazo and his consulting company
23 have requested this rulemaking hearing and that that request
24 has been granted. We do think that there may be a question as
25 to whether a consulting company has standing to even request a

1 rulemaking hearing, but we are not here today to ask to dismiss
2 Mr. Mazo or his company from the hearing process. We're not
3 looking to create legal issues. We want to just get through
4 with the substance of the proposed rule.

5 We think that the points that he raises in his
6 comments have been raised before. Actually they've been raised
7 on numerous occasions before, including at the December 2005
8 staff workshop. And his arguments have been rejected by the
9 staff and we would say by the Commission when the Commission
10 approved this proposed rule at a May 2006 Agenda Conference.

11 We think it's important to keep in mind that this
12 rule reflects substantial progress and improvement in our minds
13 over the existing rule in terms of ensuring that master
14 metering is initially allowed and allowed to continue under
15 appropriate criteria, and certainly that no rule, including
16 this rule, could guarantee that there will not be future
17 petitions for rule waivers. So we see this rule as a
18 significant step forward in curbing future rule waiver
19 petitions, but certainly not guaranteeing that there will not
20 be another rule waiver petition in the future. This proposed
21 rule simply reflects the information, knowledge and experience
22 of the staff and the Commission in addressing prior rule waiver
23 petitions over the last five years or so. And so the adoption
24 of this rule is entirely consistent with the purpose of
25 rulemaking under Chapter 120.

1 Now with regard to the requirement in Subsection 5(g)
2 that the declaration require that at least 95 percent of the
3 units be used solely for overnight occupancy, that requirement
4 is essentially a middle ground on the data compiled by staff
5 from prior rule waiver petitions which reflected that
6 approximately 93 percent to 100 percent of the units in resort
7 condominiums that were requesting rule waivers were used solely
8 for overnight occupancy. Those figures were discussed by
9 Mr. Wheeler, a former member of the Commission staff, at an
10 Agenda Conference on a rule waiver petition of the individual
11 metering requirement for a building known as the Atlantic.

12 Now, Commissioners, I would add that in another part
13 of this rule, in Subsection 5(f), which is the time share
14 portion of the rule that has been in effect since 1997, the
15 Commission requires that 100 percent of the units be used
16 solely for overnight occupancy. So with the resort
17 condominiums that are at issue in these proposed amendments,
18 the Commission is essentially allowing some leeway for a
19 relatively small percentage of the total number of units to not
20 be used solely for overnight occupancy. But apart from that,
21 the Commission is otherwise being entirely consistent with the
22 way the Commission has treated and continues to treat time
23 shares.

24 The argument that the 95 percent criteria converts a
25 facility into a security was raised at the December 2005 staff

1 workshop by Mr. Mazo with the same letter from the Miami
2 attorney that is attached as an exhibit to his comments. I
3 personally contacted this attorney by email, as did the staff
4 attorney with the Commission who was working on this docket at
5 the time, for some more information on this argument, and
6 neither one of us received a response. No specific
7 information, no specific SEC rulings or precedents or rules
8 that would purport to support the argument. In the comments
9 that have been filed more recently, Mr. Mazo has attached some
10 guidelines that are over 30 years old, and, you know, we don't
11 know whether that reflects -- there's no information in this
12 record that reflects, you know, what the SEC's current position
13 is on this type of issue.

14 We think the fact of the matter is that the
15 Commission has not been provided with any concrete data or
16 legal authority by Mr. Mazo that would support the assertion
17 that the 95 percent requirement converts all of these
18 facilities into a security. You know, it may be that some of
19 the facilities that have come before the Commission in the last
20 few years and have been granted waivers that allowed master
21 metering would have been considered securities and perhaps some
22 would not. We just don't think that with this particular issue
23 there's a way to deal with it on an all-or-nothing basis. And,
24 of course, the benefit, the beauty, if you will, of the
25 rulemaking process is that if a particular facility under its

1 particular set of circumstances believes that the effect of the
2 proposed rule, if adopted, would be to convert that building,
3 that development into a security, then that developer always
4 has the opportunity, has a statutory right, if you will, to
5 petition for a rule waiver under the statutory criteria for
6 rule waivers. That right is always preserved.

7 So that wraps up my comments on behalf of the four
8 companies, Commissioners. We support the proposed rule and ask
9 that you move forward with adoption.

10 COMMISSIONER DEASON: Okay. Thank you, Mr. Hoffman.
11 Any questions? Commissioner.

12 COMMISSIONER ARRIAGA: Thank you, Mr. Chairman.

13 Mr. Mazo, are you still there?

14 MR. MAZO: I am.

15 COMMISSIONER ARRIAGA: This is Commissioner Arriaga.
16 I'd like to ask you a question.

17 MR. MAZO: Yes, sir.

18 COMMISSIONER ARRIAGA: Thank you. Do I understand
19 correctly that your 95 percent number regarding your argument
20 on the Securities and Exchange Commission, do I understand --
21 let me see if I can rephrase this. Is that 95 percent a magic
22 number?

23 Let me put it the other way around. If we adopted an
24 80 percent, wouldn't the SEC argument still fit the comments?
25 What's the difference between 80 and 95?

1 MR. MAZO: Commissioner Arriaga, my understanding --
2 I'm sorry. The 95 percent criteria in my understanding
3 regarding the securities issue has no bearing. The issue
4 according to Attorney Carter McDowell is the requirement of the
5 condominium to include the rental -- making this a rental
6 property in the declaration of condominiums. All of the
7 waivers that I was participating in, which were, I think, nine
8 of the ten that have been talked about, in none of those cases
9 did the declaration of condominium include any suggestion that
10 they had to be used as rentals. They could, but they didn't
11 have to. And I think that's what Attorney McDowell is saying,
12 that if you say they have to, it turns it into a security. But
13 I'm not a lawyer and I can't say -- I just, I read his letter,
14 I spoke to him, and that's the best answer I can give you.

15 COMMISSIONER ARRIAGA: May I continue, Mr. Chairman?

16 COMMISSIONER DEASON: Yes.

17 COMMISSIONER ARRIAGA: Mr. Mazo, I happen to be from
18 Miami myself and I've seen a lot of condo conversions and a lot
19 of condominiums that have been sold by real estate agents to
20 individuals and I don't see any violations. I'll give you a
21 quick example.

22 MR. MAZO: Okay.

23 COMMISSIONER ARRIAGA: The Ritz-Carlton, the
24 Ritz-Carlton in Coconut Grove would be one sold by real estate
25 agents, and I don't see any violation of a SEC rule. Can you

1 say anything to that?

2 MR. MAZO: Yes, Commissioner. Without knowing the
3 situation with Ritz-Carlton and if Ritz-Carlton is operating as
4 a hotel and going to sell as a condominium, I think that the
5 issue that Carter McDowell was raising was whether or not in
6 the declaration of condominium it required 95 percent or any
7 percent of the owners to operate it in a rental pool
8 situation.

9 In other words, what I've seen like with the
10 Fontainebleau II down in Miami, what they did was they gave
11 their purchasers options. They said, here's what we're going
12 to do. If you want your unit in the rental pool, you can do
13 that, but you don't have to. And that's the difference between
14 making it a security and not a security as far as what I
15 understand.

16 COMMISSIONER ARRIAGA: Mr. Hoffman, I was reading
17 your prefiled documents, comments, and in one of them you
18 complained that you did not receive an answer from the
19 attorney. In the second one you barely touched on the issue of
20 the SEC. Do you have a better opinion now regarding if this
21 rule would impact an SEC ruling?

22 MR. HOFFMAN: Commissioner Arriaga, I don't hold
23 myself out as an SEC lawyer. So what I have done is, and
24 Mr. Bryan has assisted with this, we've tried to take a look at
25 what is out there in terms of SEC rules or guidelines. We have

1 not been able to find any SEC rules. We were able to find a
2 ruling that I think the SEC describes as a, a no action letter
3 which did not lay out any concrete set of rules or criteria,
4 but went into different factors that would or could be
5 considered in determining whether a particular facility would
6 be considered a property interest or a security interest
7 subject to SEC rules and guidelines.

8 And I think it was clear from this particular ruling
9 that the SEC has been and at least currently is looking at
10 these things on a case-by-case basis. And they certainly take
11 into account the issue of whether a particular purchaser is
12 required or not to enter into some sort of rental arrangement
13 when that particular purchaser buys his or her unit. So it's
14 certainly something that is considered according to this no
15 action letter that we found by the SEC, but we don't know that
16 that would be determinative. We saw nothing in there that, in
17 that no action letter ruling that said it is determinative. We
18 come away -- I come away as a non-SEC lawyer thinking that it's
19 certainly relevant.

20 But that's why our general position is that if a
21 particular developer under that particular individual set of
22 circumstances believes that a waiver is necessary, that
23 developer has the opportunity to file a rule waiver petition
24 and come in before the Commission and attempt to get a waiver
25 of that particular requirement in the rule.

1 COMMISSIONER DEASON: Commissioner Carter.

2 COMMISSIONER CARTER: Thank you, Madam -- Mr.

3 Chairman. Automatic response. I hope she won't hold that
4 against me.

5 COMMISSIONER DEASON: No. No.

6 COMMISSIONER CARTER: Mr. Chairman, thank you for
7 that.

8 Let me ask staff a question. Isn't it true that you
9 would want to have something as significant as a matter like
10 this in the declaration of agreement for the condo owner so
11 they know up-front? Isn't that more of a notice requirement
12 that they'll able to know that there is a possibility that
13 there will be some rentals versus take my word, wink, wink,
14 nod, nod, by developers?

15 MR. HARRIS: That's our belief. Yes, sir.

16 COMMISSIONER CARTER: Okay. And I've already asked
17 you the question about the 95 percent. Okay.

18 Thank you, Mr. Chairman.

19 COMMISSIONER DEASON: All right. Mr. Harris, where
20 are we at this point? Is the record now closed or should I ask
21 if there are other comments from other individuals? Anyone
22 from the general public wish to address the Commission on this
23 matter?

24 MR. MAZO: Commissioner Deason, Mr. Mazo.

25 COMMISSIONER DEASON: Yes.

1 MR. MAZO: If I may, I just have one, one small
2 comment.

3 COMMISSIONER DEASON: Okay. Please proceed.

4 MR. MAZO: Okay. Just in the presentation by staff,
5 one of the things that was said was that the number was not
6 magic, but they were concerned that facilities that had
7 35 percent or 40 percent or 50 percent may come in and they
8 wouldn't meet the criteria. And I would just like -- my
9 comment is that in the, in the ten years or more now, more than
10 ten years, but since the first waiver was granted, to my
11 knowledge there have been no complaints, there have been no
12 problems, there's been nobody trying to abuse the waiver
13 system. And I guess I understand what staff is trying to do,
14 and certainly if I was an IOU, I would take the position that
15 95 percent is the better number because that's going to limit
16 the numbers that get master metering, but I don't see the need
17 for it at this point, and that's just my position. And I
18 appreciate the time to make the comments. Thank you.

19 COMMISSIONER DEASON: Thank you.

20 Mr. Harris, at some point, the, the record is closed
21 in this proceeding. Are we at that point?

22 MR. HARRIS: Yes, sir. I would suggest that since
23 there are no further comments that the record be closed and we
24 can proceed. You can make the decision as to how you want to
25 proceed to the next step.

1 COMMISSIONER DEASON: Okay. Commissioners, I think
2 we have some flexibility, this being a rule proceeding. We
3 can -- I think the record is now closed. We can take the
4 record as we understand it and we can act upon it, or we can
5 defer for action and request staff to provide a recommendation
6 in a written form, if that is necessary. I don't know what
7 your desires are, but now we can discuss that, if you'd like.

8 First of all, is -- are you comfortable proceeding
9 with a bench decision on this matter or do you wish to have a
10 written recommendation from staff?

11 COMMISSIONER ARRIAGA: Commissioner, I have read this
12 back and forth and been listening to it for the last few months
13 about it and I'm comfortable so far. I think we could move
14 forward. But there's no need, as far as I'm concerned, for a
15 bench decision -- I'm sorry, for an Agenda Conference, a PAA or
16 something like that. So if you wish, we can vote today.

17 COMMISSIONER DEASON: Commissioner Carter.

18 COMMISSIONER CARTER: Mr. Chairman, excuse me, in
19 view of what we've heard, in view of the fact that the record
20 is closed, and in view of the fact that, you know, this process
21 and this information has been out there since February of '05,
22 at the appropriate time -- and if this is the appropriate time,
23 I'd move staff's recommendation on this.

24 COMMISSIONER DEASON: Okay. And staff's
25 recommendation is to adopt the rule as proposed.

1 MR. HARRIS: That's correct.

2 COMMISSIONER DEASON: So just to make that clear when
3 you say "staff recommendation," you're moving that we adopt the
4 rule as proposed.

5 COMMISSIONER CARTER: As proposed. Yes, sir.

6 COMMISSIONER DEASON: Is there a second?

7 COMMISSIONER ARRIAGA: I second.

8 COMMISSIONER DEASON: Okay. It's been moved and
9 seconded. All in favor, say aye.

10 (Unanimous affirmative vote.)

11 COMMISSIONER DEASON: Show the decision is unanimous
12 and that the rule has been adopted.

13 Mr. Mazo, we appreciate your presentation. I know
14 you've raised some very valid points. But I think that the
15 Commission at this point is comfortable with the rule as it has
16 been proposed. And this is a process that perhaps will evolve
17 again at some point depending upon how this actual rule is
18 implemented and the history that we gain from it and whether
19 additional waivers are requested and if those waivers are
20 indeed granted. Is there anything further?

21 MR. MAZO: Commissioner Deason, I appreciate it.
22 Thank you for allowing me to appear by telephone.

23 COMMISSIONER DEASON: You're quite welcome. Thank
24 you, sir.

25 Anything else to come before the Commission?

1 MR. HARRIS: No, sir.

2 COMMISSIONER DEASON: Okay. Thank you all for your
3 concise presentations and the concise answers to our questions.
4 Thank you. This matter is concluded.

5 (Hearing concluded at 11:43 a.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 15th DAY OF SEPTEMBER, 2006.



LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734

EXHIBIT 1
STAFF COMPOSITE EXHIBIT
DOCKET NO. 050152-EU

ITEM DESCRIPTION	TAB NUMBER
Notice of Rulemaking, Order No. PSC-06-0400-NOR-EU, May 11, 2006	1
Florida Administrative Weekly Notice of Rule Proposal dated July 7, 2006	2
Materials Provided to the Joint Administrative Procedures Committee	3
Statement of Estimated Regulatory Costs	4
Request for Hearing of Power Check Consultants	5
Order Establishing Procedure, Order No. PSC-06-0586-PCO-EU, July 6, 2006	6
Comments of Power Check Consultants	7
Responsive Comments of Florida Power & Light Company, Progress Energy Florida, Gulf Power Company and Tampa Electric Company	8

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 050152-EU Exhibit No. 1
Company/FPSC Staff Staff
Witness: Staff Composite Exhibit
Date: 09-06-06

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed revisions to Rule 25-6.049,
F.A.C., Measuring Customer Service.

DOCKET NO. 050152-EU
ORDER NO. PSC-06-0400-NOR-EU
ISSUED: May 11, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF RULEMAKING

BY THE COMMISSION:

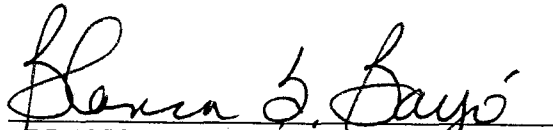
NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-6.049, Florida Administrative Code, relating to measuring customer service.

The attached Notice of Rulemaking will appear in the May 19, 2006 edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than June 9, 2006.

By ORDER of the Florida Public Service Commission this 11th day of May, 2006.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(SEAL)

LDH

DOCUMENT NUMBER-DATE

04135 MAY 11 06

FPSC-COMMISSION CLERK

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050152-EU

RULE TITLE:

RULE NO.:

Measuring Customer Service

Measuring Customer Service

PURPOSE AND EFFECT: The Commission has granted several waivers of the individual metering requirements of Rule 25-6.049, F.A.C., for condominiums that operate in a manner similar to hotels and motels. The Commission is now proposing rule language to create an exemption for these types of facilities.

SUMMARY: The amendment would eliminate the requirement that the occupancy units in certain new and existing residential condominiums and cooperatives that operate like hotels and motels be individually metered for their electricity usage.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The SERC concluded that there should be no negative impact on regulated utilities, the agency, small businesses, cities or county. These entities should benefit as the amendments made the rule clearer.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 366.05(1), F.S.

LAW IMPLEMENTED: 366.05(1), ~~366.05(3)~~, 366.80, 366.81 and 366.82, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE

SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE THESE PROPOSED RULE IS:

Lawrence D. Harris, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.049 Measuring Customer Service.

(1) – (4) No change.

(5)(a) Individual electric metering by the utility shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks. However, individual metering shall not be required for any such occupancy unit for which a construction permit was issued before, and which has received master-metered service continuously since, is commenced after January 1, 1981. In addition, individual electric meters shall not, however, be required:

~~1-(a)~~ (1) through (2) renumbered as (a) through (b). No change;

~~3-(c)~~ For electricity used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of

services as a nursing home, convalescent homes, facilities certificated under Chapter 651, Florida Statutes, college dormitories, convents, sorority houses, fraternity houses, ~~motels, hotels,~~ and similar facilities;

(d) For lodging establishments such as hotels, motels, and similar facilities which are rented, leased, or otherwise provided to guests by an operator providing overnight occupancy as defined in subparagraph (8)(b).

4(e) For separate, specially-designated areas for overnight occupancy, as defined in subparagraph (8)(b), at trailer, mobile home and recreational vehicle parks and marinas where permanent residency is not established.

5(f) For new and existing time-share plans, provided that all of the occupancy units which are served by the master meter or meters are committed to a time-share plan as defined in Section 721, Florida Statutes, and none of the occupancy units are used for permanent occupancy. ~~When a time-share plan is converted from individual metering to master metering, the customer must reimburse the utility for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, the undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.~~

(g) For condominiums that meet the following criteria:

1. The declaration of condominium requires that at least 95 percent of the units are used solely for overnight occupancy as defined in subparagraph (8)(b) of this rule;
2. A registration desk, lobby and central telephone switchboard are maintained; and,

3. A record is kept for each unit showing each check-in and check-out date for the unit, and the name (s) of the individual(s) registered to occupy the unit between each check-in and check-out date.

(6) Master-metered condominiums

(a) Initial Qualifications - In addition to the criteria in subsection (5)(g), in order to initially qualify for master-metered service, the owner or developer of the condominium, the condominium association, or the customer must attest to the utility that the criteria in subsection (5)(g) and in this subsection have been met, and that any cost of future conversion to individual metering will be the responsibility of the customer, consistent with paragraph (7) of this rule. Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule. If the criteria in subsection (5)(g) and in this subsection are not met, then the utility shall not provide master-metered service to the condominium.

(b) Ongoing Compliance - The customer shall attest annually, in writing, to the utility that the condominium meets the criteria for master metering in subsection (5)(g). The utility shall establish the date that annual compliance materials are due based on its determination of the date that the criteria in subsections (5)(g) and (6)(a) were initially satisfied, and shall inform the customer of that date before the first annual notice is due. The customer shall notify the utility within 10 days if, at any time, the condominium ceases to meet the requirements in subsection (5)(g).

(c) Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in

compliance with this rule.

(d) Failure to comply - If a condominium is master metered under the exemption in this rule and subsequently fails to meet the criteria contained in subsection 5(g), or the customer fails to make the annual attestation required by subsection (6)(b), then the utility shall promptly notify the customer that the condominium is no longer eligible for master-metered service. If the customer does not respond with clear evidence to the contrary within 30 days of receiving the notice, the customer shall individually meter the condominium units within six months following the date on the notice. During this six month period, the utility shall not discontinue service based on failure to comply with this rule. Thereafter, the provisions of Rule 25-6.105 apply.

(7) When a structure or building is converted from individual metering to master metering, or from master metering to individual metering, the customer shall be responsible for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, any remaining undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.

(b)(8) For purposes of this rule:

~~1. (a) No change.~~

~~2. The construction of a new commercial establishment, residential building, marina, or trailer, mobile home or recreational vehicle park shall be deemed to commence on the date when the building structure permit is issued.~~

~~3. (b) No change.~~

~~4. The term "cost", as used herein means only those charges specifically authorized by~~

~~the electric utility's tariff, including but not limited to the customer, energy, demand, fuel, and conservation charges made by the electric utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the distribution system behind the master meter, the cost of billing, and other such costs.~~

(6)(9)(a) Where individual metering is not required under Subsection (5) and master metering is used in lieu thereof, reasonable apportionment methods, including sub-metering may be used by the customer of record or the owner of such facility solely for the purpose of allocating the cost of the electricity billed by the utility. The term "cost" as used herein means only those charges specifically authorized by the electric utility's tariff, including but not limited to the customer, energy, demand, fuel, conservation, capacity and environmental charges made by the electric utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the customer-owned distribution system behind the master meter, the customer of record's cost of billing the individual units, and other such costs.

(b) – (c) No change.

Specific Authority: 366.05(1) FS.

Law Implemented: 366.05(1), ~~366.05(3)~~, 366.80, 366.81, and 366.82, FS.

History: Amended 7-29-69, 11-26-80, 12-23-82, 12-28-83, Formerly 25-6.49, Amended 7-14-87, 10-5-88, 3/23/97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Connie Kummer

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

ORDER NO. PSC-06-0400-NOR-EU

DOCKET NO. 050152-EU

PAGE 8

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: May 2, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 31,

Number 48, December 2, 2005.

In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting: Mr. Bill Jones at the above address or by telephone at (863)499-2499.

FLORIDA PAROLE COMMISSION

The Florida Parole Commission announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, July 19, 2006, 9:00 a.m.

PLACE: Everglades Correctional Institution Training Building, 1601 S. W. 187th Avenue, Miami, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regularly Scheduled Meeting for all Parole, Conditional Release, Conditional Medical Release, Addiction Recovery and Control Release Matters.

A copy of the Agenda may be obtained by writing to the: Florida Parole Commission, 2601 Blair Stone Road, Building C, Tallahassee, Florida 32399-2450.

Any person who decides to appeal a decision of the Florida Parole Commission with respect to a matter considered at this meeting may need to ensure that a verbatim record of the proceedings is made, Chapter 80-150, Laws of Florida (1980). In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the agency sending the notice not later than five working days prior to the proceeding at the address given on the notice. Telephone: (850)488-3417.

The Florida Parole Commission announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, July 20, 2006, 9:00 a.m.

PLACE: Everglades Correctional Institution Training Building, 1601, S.W. 187th Avenue, Miami, Florida 33185

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regularly Scheduled Meeting for all Parole, Conditional Release, Conditional Medical Release, Addiction Recovery and Control Release Matters.

A copy of the Agenda may be obtained by writing to the: Florida Parole Commission, 2601 Blair Stone Road, Building C, Tallahassee, Florida 32399-2450.

Any person who decides to appeal a decision of the Florida Parole Commission with respect to a matter considered at this meeting may need to ensure that a verbatim record of the proceedings is made, Chapter 80-150, Laws of Florida (1980). In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the agency sending the notice not later than five working days prior to the proceeding at the address given on the notice. Telephone: (850)488-3417.

✓ PUBLIC SERVICE COMMISSION

The Florida Public Service Commission announces a rule hearing pursuant to Section 120.54(3)(c)1., F.S., to be held in this docket, to which all interested persons are invited to attend.

DOCKET NO.: 050152-EU

RULE: 25-6.049, Florida Administrative Code, Measuring Customer Service

DATE AND TIME: September 6, 2006, 9:30 a.m.

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: Proposed amendments to Rule 25-6.049, F.A.C., to allow exemptions from the Rule's requirement for individual metering for certain resort condominiums which are operated as hotels.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

REGIONAL PLANNING COUNCILS

The North Central Florida Regional Planning Council announces the following meetings to which all persons are invited.

MEETING: Clearinghouse Committee

DATE AND TIME: July 17, 2006, 6:30 p.m.

PLACE: Alachua County Administration Building, John R. (Jack) Durrance Auditorium, 2nd Floor, Room 209, 12 Southeast 1st Street, Gainesville, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Clearinghouse Committee, including the review of the Springhills Development of Regional Impact Substantial Deviation.

Any person deciding to appeal decisions of the Council or its committees with respect to any matter considered at the meetings, may need to make a verbatim record of the proceedings.

A copy of any of these agendas may be obtained by emailing: ncfrpc@ncfrpc.org or writing to NCFRPC, 2009 N. W. 67 Place, Suite A, Gainesville, Florida 32653.

Persons with disabilities who need assistance may contact us, (352)955-2200, at least two business days in advance to make appropriate arrangements.

The North Central Florida Regional Planning Council announces the following meetings to which all persons are invited.

19B-16.003 Participation Agreement.

(1) The contract between the Board and a benefactor shall consist of the benefactor's completed application and the participation agreement. The Florida College Investment Plan Participation Agreement, Form No. FPCB 2006-4, is hereby incorporated by reference. The form may be obtained from the Board by calling 1(800)552-GRAD (4723) (prompt 1).

(2) through (4) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(2) FS. History--New 11-27-02, Amended 12-28-04, 6-2-05.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 21, 2006

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE NO.: 19B-16.005 RULE TITLE: Maximum Account Balance Limit

PURPOSE AND EFFECT: To update the reference to the College Cost and Financial Aid Handbook.

SUMMARY: This rule changes is being made to update the Florida Prepaid College Plan Maximum Account Balance Limit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide for a lower regulatory cost alternative must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98, 1009.81 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: June 12, 2006, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.005 Maximum Account Balance Limit.

(1) The maximum account balance limit shall be determined annually by the Board. The maximum account balance limit shall be calculated by multiplying the qualified higher education expenses, including tuition fees, room and board, and supplies, at the most expensive eligible educational institution, as reported in College Cost and Financial Aid Handbook 2006 2004, published by the College Board, by seven (7), and rounding the resulting product downward to the nearest \$1,000.00 increment. The maximum account balance limit shall not exceed the amount permitted pursuant to s. 529 of the Internal Revenue Code. The Board will publish the amount of the maximum account balance limit annually in the Florida Administrative Weekly. The account balance for a designated beneficiary plus the redemption value of an advance payment contract under the Florida Prepaid College Plan for the same beneficiary shall not exceed the account balance limit. However, accounts for a designated beneficiary that have reached the maximum account balance limit may continue to accrue investment earnings. The redemption value of an advance payment contract shall be as provided in subsection 19B-4.005(2), F.A.C.

(2) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98, 1009.981 FS. History--New 5-30-02, Amended 11-27-02, 12-28-03.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 21, 2006

PUBLIC SERVICE COMMISSION

DOCKET NO. 050152-EU

RULE NO.: 25-6.049 RULE TITLE: Measuring Customer Service

PURPOSE AND EFFECT: The Commission has granted several waivers of the individual metering requirements of Rule 25-6.049, F.A.C., for condominiums that operate in a manner similar to hotels and motels. The Commission is now proposing rule language to create an exemption for these types of facilities.

SUMMARY: The amendment would eliminate the requirement that the occupancy units in certain new and existing residential condominiums and cooperatives that operate like hotels and motels be individually metered for their electricity usage.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC concluded that there should be no negative impact on regulated utilities, the agency, small businesses, cities or county. These entities should benefit as the amendments made the rule clearer.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 366.05(1) FS.

LAW IMPLEMENTED: 366.05(1), 366.80, 366.81, 366.82 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE THE PROPOSED RULE IS: Lawrence D. Harris, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.049 Measuring Customer Service.

(1) through (4) No change.

(5)(a) Individual electric metering by the utility shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks. However, individual metering shall not be required for any such occupancy unit for which a construction permit was issued before, and which has received master-metered service continuously since, is commenced after January 1, 1981. In addition, individual electric meters shall not, however, be required:

1. through 2. renumbered (a) through (b) No change.

(c)3: For electricity used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent homes, facilities certificated under Chapter 651, Florida Statutes, college dormitories, convents, sorority houses, fraternity houses, motels, hotels, and similar facilities;

(d) For lodging establishments such as hotels, motels, and similar facilities which are rented, leased, or otherwise provided to guests by an operator providing overnight occupancy as defined in paragraph (8)(b).

(e)4: For separate, specially-designated areas for overnight occupancy, as defined in paragraph (8)(b), at trailer, mobile home and recreational vehicle parks and marinas where permanent residency is not established.

(f)5: For new and existing time-share plans, provided that all of the occupancy units which are served by the master meter or meters are committed to a time-share plan as defined in Section 721, Florida Statutes, and none of the occupancy units are used for permanent occupancy. ~~When a time-share plan is converted from individual metering to master metering, the customer must reimburse the utility for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, the undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.~~

(g) For condominiums that meet the following criteria:

1. The declaration of condominium requires that at least 95 percent of the units are used solely for overnight occupancy as defined in paragraph (8)(b) of this rule;

2. A registration desk, lobby and central telephone switchboard are maintained; and

3. A record is kept for each unit showing each check-in and check-out date for the unit, and the name(s) of the individual(s) registered to occupy the unit between each check-in and check-out date.

(6) Master-metered condominiums

(a) Initial Qualifications – In addition to the criteria in paragraph (5)(g), in order to initially qualify for master-metered service, the owner or developer of the condominium, the condominium association, or the customer must attest to the utility that the criteria in paragraph (5)(g) and in this subsection have been met, and that any cost of future conversion to individual metering will be the responsibility of the customer, consistent with subsection (7) of this rule. Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule. If the criteria in paragraph (5)(g) and in this subsection are not met, then the utility shall not provide master-metered service to the condominium.

(b) Ongoing Compliance – The customer shall attest annually, in writing, to the utility that the condominium meets the criteria for master metering in paragraph (5)(g). The utility shall establish the date that annual compliance materials are due based on its determination of the date that the criteria in paragraphs (5)(g) and (6)(a) were initially satisfied, and shall inform the customer of that date before the first annual notice

is due. The customer shall notify the utility within 10 days if, at any time, the condominium ceases to meet the requirements in paragraph (5)(g).

(c) Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule.

(d) Failure to comply - If a condominium is master metered under the exemption in this rule and subsequently fails to meet the criteria contained in paragraph (5)(g), or the customer fails to make the annual attestation required by paragraph (6)(b), then the utility shall promptly notify the customer that the condominium is no longer eligible for master-metered service. If the customer does not respond with clear evidence to the contrary within 30 days of receiving the notice, the customer shall individually meter the condominium units within six months following the date on the notice. During this six month period, the utility shall not discontinue service based on failure to comply with this rule. Thereafter, the provisions of Rule 25-6.105, F.A.C., apply.

(7) When a structure or building is converted from individual metering to master metering, or from master metering to individual metering, the customer shall be responsible for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, any remaining undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.

(8)(b) For purposes of this rule:

(a)1. No change.

~~2. The construction of a new commercial establishment, residential building, marina, or trailer, mobile home or recreational vehicle park shall be deemed to commence on the date when the building structure permit is issued.~~

~~(b)3. No change.~~

~~4. The term "cost", as used herein means only those charges specifically authorized by the electric utility's tariff, including but not limited to the customer, energy, demand, fuel, and conservation charges made by the electric utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the distribution system behind the master meter, the cost of billing, and other such costs.~~

(9)(6)(a) Where individual metering is not required under subsection (5) and master metering is used in lieu thereof, reasonable apportionment methods, including sub-metering may be used by the customer of record or the owner of such facility solely for the purpose of allocating the cost of the electricity billed by the utility. The term "cost" as used herein means only those charges specifically authorized by the

electric utility's tariff, including but not limited to the customer, energy, demand, fuel, conservation, capacity and environmental charges made by the electric utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the customer-owned distribution system behind the master meter, the customer of record's cost of billing the individual units, and other such costs.

(b) through (c) No change.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1), ~~366.05(2); 366.80, 366.81, 366.82~~ FS. History--Amended 7-29-69, 11-26-80, 12-23-82, 12-28-83, Formerly 25-6.49, Amended 7-14-87, 10-5-88, 3-23-97.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Connie Kummer

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 31, No. 48, December 2, 2005

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-208.504
RULE TITLE: Criteria for Assignment to Staff Housing

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to add the position of licensed practical nurse to the list of priority assignments for staff housing.

SUMMARY: Amends the rule to add the position of licensed practical nurse to the list of priority staff of a major institution for staff housing assignments.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 20.213, 944.09, 945.025 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.025 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dorothy M. Ridgway, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The Florida **Public Service Commission** announces a staff rule development workshop to be held on Rule 25-4.0665, F.A.C., Lifeline Service, to which all interested persons are invited.

DATE AND TIME: Wednesday, June 21, 2006, 9:30 a.m.
 PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL

The Notice of Proposed Rule Development was published in the April 7, 2006, Florida Administrative Weekly, Vol. 32, No. 14.

A copy of the agenda may be obtained after June 12, 2006, from: Samantha Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6202.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the workshop. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771.

EXECUTIVE OFFICE OF THE GOVERNOR

The **Governor's Faith-Based and Community Advisory Board**, Municipal and Corporate Subcommittee announces a public meeting to which all persons and interested media are invited, except as provided under Section 288.9551, Fla.Stat. (2003).

DATE AND TIME: Wednesday, June 7, 2006, 3:00 p.m.
 PLACE: Conference call (877)651-3473; Leader: Arto Woodley, Chair

GENERAL SUBJECT MATTER TO BE CONSIDERED: At this meeting, the Subcommittee will discuss the creation of the Municipal Resource Guide, as well as discuss other pending issues.

For a copy of the agenda and more information about how to attend the meeting contact Mark Nelson at mark.nelson@vfffund.org or (850)413-0909.

Pursuant to Section 286.26, Florida Statutes, any disabled person wishing to participate in this meeting in order to request any needed special assistance should contact jennie.hopkins@myflorida.com at least 48 hours in advance of the meeting.

The **Governor's Faith-Based and Community Advisory Board**, Disaster Subcommittee announces a public meeting to which all persons and interested media are invited, except as provided under Section 288.9551, Fla.Stat. (2003).

DATE AND TIME: Wednesday, June 14, 2006, 3:00 p.m.
 PLACE: Conference call (850)487-8783; Leader: Jody Hill, Chair

GENERAL SUBJECT MATTER TO BE CONSIDERED: At this meeting, the Subcommittee will discuss the creation of the Municipal Resource Guide, as well as discuss other pending issues.

For a copy of the agenda and more information about how to attend the meeting contact Mark Nelson at mark.nelson@vfffund.org or (850)413-0909.

Pursuant to Section 286.26, Florida Statutes, any disabled person wishing to participate in this meeting in order to request any needed special assistance should contact jennie.hopkins@myflorida.com at least 48 hours in advance of the meeting.

The **Office of Film and Entertainment** and the **Florida Film and Entertainment Advisory Council** will convene in a Membership Committee meeting. This is a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, June 28, 2006, 9:00 a.m. -- 10:00 a.m.

PLACE: The Mayfair Hotel and Spa, 3000 Florida Avenue, Coconut Grove, FL 33133, (305)441-0000

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss general membership matters of the Advisory Council.

A copy of the agenda may be obtained by writing: Natalie Recio, Executive Assistant, The Office of Film and Entertainment, State of Florida, Executive Office of the Governor, Suite 2002, The Capitol, Tallahassee, Florida 32399-0001 or calling (850)410-4765.

Should any person wish to appeal any decision made with respect to the above referenced meeting, he may need to ensure verbatim recording of the proceedings in order to provide a record for judicial review. Pursuant to Section 286.26, Florida Statutes, any handicapped person wishing to attend this meeting should contact the Commission at least 48 hours prior to the meeting in order to request any special assistance.

REGIONAL PLANNING COUNCILS

The **Northeast Florida Regional Council**, Planning and Growth Management Policy Committee announces the following public meeting to which all persons are invited.

DATE AND TIME: Thursday, June 1, 2006, 9:00 a.m.
 PLACE: Nassau County Judicial Annex, Grand Jury Room, 76347 Veterans Way, Yulee, FL 32097

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss pending planning and growth management issues.

A copy of the agenda may be obtained by contacting: Northeast Florida Regional Council, 6850 Belfort Oaks Place, Jacksonville, FL 32216.

Manganese (from chelate in group 2**)	Mn	70.90	70.90
Copper (from sulfate)	Cu	<u>62.03</u>	36.52
Copper (from chloride)	Cu	22.15	22.15
Copper (from oxide)	Cu	19.25	19.25
Copper (from chelate in group 1**)	Cu	156.00	156.00
Copper (from chelate in group 2**)	Cu	113.20	113.20
Zinc (from sulfate)	Zn	<u>21.68</u>	17.94
Zinc (from succinate)	Zn	14.20	14.20
Zinc (from chloride)	Zn	18.45	18.45
Zinc (from oxide)	Zn	<u>12.98</u>	9.92
Zinc (from chelate in group 1**)	Zn	188.00	188.00
Zinc (from chelate in group 2**)	Zn	65.00	65.00
Iron (from sulfate)	Fe	<u>14.51</u>	12.88
Iron (from succinate)	Fe	<u>8.67</u>	6.18
Iron (from humate)	Fe	16.11	16.11
Iron (from oxide)	Fe	<u>4.94</u>	3.88
Iron (from chelate in group 1**)	Fe	<u>248.67</u>	244.96
Iron (from chelate in group 2**)	Fe	82.00	82.00
Aluminum	Al	14.42	14.42
Sulfur (free)	S	<u>3.50</u>	2.55
Sulfur (combined)	S	<u>2.27</u>	2.21
Boron	B	<u>38.95</u>	33.74
Molybdenum	Mo	<u>222.22</u>	198.80
Cobalt	Co	89.90	89.90
Calcium (from any source)	Ca	<u>.79</u>	.71
(3) DOLOMITE and LIMESTONE (when sold as material).			
Magnesium	MgCO ₃	.18	.18
Calcium	CaCO ₃	.09	.09

(4) CALCIUM SULFATE (land plaster, gypsum) (when sold as material).

Calcium	CaSO ₄	.30	.30
---------	-------------------	-----	-----

*A "Unit" of plant nutrient is one percent (by weight) of a ton or 20 pounds.

**Chelates in "group 1" have aminopolycarboxylic acids, such as EDTA, HEDTA, DTPA and NTA, or related compounds as chelating agents. Chelates in "group 2" have chelating agents other than those in group 1.

Specific Authority 570.07(23), 576.181(2) FS. Law Implemented 576.051(2), (3), (7), 576.061, 576.071, 576.181 FS. History—New 1-23-67, Amended 10-22-68, 11-20-69, 10-22-70, 3-9-74, 6-28-74, 10-25-74, 7-6-76, 7-26-77, 7-22-79, 4-23-80, 10-27-80, 10-18-81, 2-16-84, 12-2-85, Formerly 5E-1.16, Amended 11-16-86, 10-8-87, 9-26-88, 11-19-89, 3-28-91, 2-25-92, 8-3-93, 7-12-94, 10-25-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Dale Dubberly, Chief, Bureau of Compliance Monitoring,
 Division of Agricultural Environmental Services
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Anderson Rackley, Director,
 Division of Agricultural Environmental Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 31, 2006
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 14, 2006

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

PUBLIC SERVICE COMMISSION

DOCKET NO. 060035-GU
 RULE NO.: 25-7.037
 RULE TITLE: Change in Character of Service
 PURPOSE AND EFFECT: To state clearly that where a local distribution company makes certain changes to the character of its service it must revise its tariffs, obtain Commission approval and notify the customers.

SUMMARY: The rule contains the requirement that a regulated natural gas utility may not make any change in the character of the gas it provides for customers' appliances without prior approval of the Commission and adequate notice. The proposed rule amendments would clarify that a Florida regulated gas utility is only responsible for changes made by itself to the characteristics of the gas it delivers to its customers and is not responsible for the characteristics of the gas it receives from interconnecting interstate pipelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There should be no additional costs to the regulated companies, the public, or the Commission.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 366.05 FS.
 LAW IMPLEMENTED: 366.03, 366.05(1) FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Christiana Moore, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6098

STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW



OFFICE OF THE GENERAL COUNSEL
RICHARD D. MELSON
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 12, 2006

Mr. Scott Boyd, Executive Director
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RE: Docket No. 050152-EU – Proposed Revisions to Rule 25-6.049, F.A.C., Measuring
Customer Service

Dear Mr. Boyd:

Enclosed is an original copy of the following materials concerning the above referenced
proposed rule:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. A statement of estimated regulatory costs.

If there are any questions with respect to this rule, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry D. Harris".

Larry D. Harris
Associate General Counsel

050152 JAPC.lth.doc

Enclosures

cc: Division of the Commission Clerk
& Administrative Services

1 25-6.049 Measuring Customer Service.

2 (1) All energy sold to customers shall be measured by commercially acceptable
3 measuring devices owned and maintained by the utility, except where it is impractical to meter
4 loads, such as street lighting, temporary or special installations, in which case the consumption
5 may be calculated, or billed on demand or connected load rate or as provided in the utility's
6 filed tariff.

7 (2) When there is more than one meter at a location the metering equipment shall be
8 so tagged or plainly marked as to indicate the circuit metered. Where similar types of meters
9 record different quantities, (kilowatt-hours and reactive power, for example), metering
10 equipment shall be tagged or plainly marked to indicate what the meters are recording.

11 (3) Meters which are not direct reading shall have the multiplier plainly marked on the
12 meter. All charts taken from recording meters shall be marked with the date of the record, the
13 meter number, customer, and chart multiplier. The register ratio shall be marked on all meter
14 registers. The watt-hour constant for the meter itself shall be placed on all watt-hour meters.

15 (4) Metering equipment shall not be set "fast" or "slow" to compensate for supply
16 transformer or line losses.

17 (5)(a) Individual electric metering by the utility shall be required for each separate
18 occupancy unit of new commercial establishments, residential buildings, condominiums,
19 cooperatives, marinas, and trailer, mobile home and recreational vehicle parks. However,
20 individual metering shall not be required for any such occupancy unit for which a construction
21 permit was issued before, and which has received master-metered service continuously since,
22 ~~is commenced after~~ January 1, 1981. In addition, ~~Individual~~ electric meters shall not,
23 ~~however,~~ be required:

24 ~~1-(a)~~ In those portions of a commercial establishment where the floor space
25 dimensions or physical configuration of the units are subject to alteration, as evidenced by

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions
from existing law.

1 non-structural element partition walls, unless the utility determines that adequate provisions
2 can be made to modify the metering to accurately reflect such alterations;

3 ~~2(b)~~ For electricity used in central heating, ventilating and air conditioning systems,
4 or electric back up service to storage heating and cooling systems;

5 ~~3(c)~~ For electricity used in specialized-use housing accommodations such as
6 hospitals, nursing homes, living facilities located on the same premises as, and operated in
7 conjunction with, a nursing home or other health care facility providing at least the same level
8 and types of services as a nursing home, convalescent homes, facilities certificated under
9 Chapter 651, Florida Statutes, college dormitories, convents, sorority houses, fraternity
10 houses, ~~motels, hotels,~~ and similar facilities;

11 (d) For lodging establishments such as hotels, motels, and similar facilities which are
12 rented, leased, or otherwise provided to guests by an operator providing overnight occupancy
13 as defined in subparagraph (8)(b).

14 ~~4(e)~~ For separate, specially-designated areas for overnight occupancy, as defined in
15 subparagraph (8)(b), at trailer, mobile home and recreational vehicle parks and marinas where
16 permanent residency is not established.

17 ~~5(f)~~ For new and existing time-share plans, provided that all of the occupancy units
18 which are served by the master meter or meters are committed to a time-share plan as defined
19 in Section 721, Florida Statutes, and none of the occupancy units are used for permanent
20 occupancy. ~~When a time-share plan is converted from individual metering to master metering,~~
21 ~~the customer must reimburse the utility for the costs incurred by the utility for the conversion.~~
22 ~~These costs shall include, but not be limited to, the undepreciated cost of any existing~~
23 ~~distribution equipment which is removed or transferred to the ownership of the customer, plus~~
24 ~~the cost of removal or relocation of any distribution equipment, less the salvage value of any~~
25 ~~removed equipment.~~

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions
from existing law.

1 (g) For condominiums that meet the following criteria:

2 1. The declaration of condominium requires that at least 95 percent of the units are
3 used solely for overnight occupancy as defined in subparagraph (8)(b) of this rule;

4 2. A registration desk, lobby and central telephone switchboard are maintained; and,

5 3. A record is kept for each unit showing each check-in and check-out date for the
6 unit, and the name (s) of the individual(s) registered to occupy the unit between each check-in
7 and check-out date.

8 (6) Master-metered condominiums

9 (a) Initial Qualifications - In addition to the criteria in subsection (5)(g), in order to
10 initially qualify for master-metered service, the owner or developer of the condominium, the
11 condominium association, or the customer must attest to the utility that the criteria in
12 subsection (5)(g) and in this subsection have been met, and that any cost of future conversion
13 to individual metering will be the responsibility of the customer, consistent with paragraph (7)
14 of this rule. Upon request and reasonable notice by the utility, the utility shall be allowed to
15 inspect the condominium to collect evidence needed to determine whether the condominium is
16 in compliance with this rule. If the criteria in subsection (5)(g) and in this subsection are not
17 met, then the utility shall not provide master-metered service to the condominium.

18 (b) Ongoing Compliance - The customer shall attest annually, in writing, to the utility
19 that the condominium meets the criteria for master metering in subsection (5)(g). The utility
20 shall establish the date that annual compliance materials are due based on its determination of
21 the date that the criteria in subsections (5)(g) and (6)(a) were initially satisfied, and shall
22 inform the customer of that date before the first annual notice is due. The customer shall
23 notify the utility within 10 days if, at any time, the condominium ceases to meet the
24 requirements in subsection (5)(g).

25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 (c) Upon request and reasonable notice by the utility, the utility shall be allowed to
2 inspect the condominium to collect evidence needed to determine whether the condominium is
3 in compliance with this rule.

4 (d) Failure to comply - If a condominium is master metered under the exemption in
5 this rule and subsequently fails to meet the criteria contained in subsection 5(g), or the
6 customer fails to make the annual attestation required by subsection (6)(b), then the utility
7 shall promptly notify the customer that the condominium is no longer eligible for master-
8 metered service. If the customer does not respond with clear evidence to the contrary within
9 30 days of receiving the notice, the customer shall individually meter the condominium units
10 within six months following the date on the notice. During this six month period, the utility
11 shall not discontinue service based on failure to comply with this rule. Thereafter, the
12 provisions of Rule 25-6.105 apply.

13 (7) When a structure or building is converted from individual metering to master
14 metering, or from master metering to individual metering, the customer shall be responsible
15 for the costs incurred by the utility for the conversion. These costs shall include, but not be
16 limited to, any remaining undepreciated cost of any existing distribution equipment which is
17 removed or transferred to the ownership of the customer, plus the cost of removal or
18 relocation of any distribution equipment, less the salvage value of any removed equipment.

19 ~~(b)~~(8) For purposes of this rule:

20 ~~1-~~ (a) "Occupancy unit" means that portion of any commercial establishment, single
21 and multi-unit residential building, or trailer, mobile home or recreational vehicle park, or
22 marina which is set apart from the rest of such facility by clearly determinable boundaries as
23 described in the rental, lease, or ownership agreement for such unit.

24

25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~2. The construction of a new commercial establishment, residential building, marina,~~
2 ~~or trailer, mobile home or recreational vehicle park shall be deemed to commence on the date~~
3 ~~when the building structure permit is issued.~~

4 ~~3.(b)~~ "Overnight Occupancy" means use of an occupancy unit for a short term such as
5 per day or per week where permanent residency is not established.

6 ~~4. The term "cost", as used herein means only those charges specifically authorized by~~
7 ~~the electric utility's tariff, including but not limited to the customer, energy, demand, fuel, and~~
8 ~~conservation charges made by the electric utility plus applicable taxes and fees to the customer~~
9 ~~of record responsible for the master meter payments. The term does not include late payment~~
10 ~~charges, returned check charges, the cost of the distribution system behind the master meter,~~
11 ~~the cost of billing, and other such costs.~~

12 ~~(6)(9)(a)~~ Where individual metering is not required under Subsection (5) and master
13 metering is used in lieu thereof, reasonable apportionment methods, including sub-metering
14 may be used by the customer of record or the owner of such facility solely for the purpose of
15 allocating the cost of the electricity billed by the utility. The term "cost" as used herein means
16 only those charges specifically authorized by the electric utility's tariff, including but not
17 limited to the customer, energy, demand, fuel, conservation, capacity and environmental
18 charges made by the electric utility plus applicable taxes and fees to the customer of record
19 responsible for the master meter payments. The term does not include late payment charges,
20 returned check charges, the cost of the customer-owned distribution system behind the master
21 meter, the customer of record's cost of billing the individual units, and other such costs.

22 (b) Any fees or charges collected by a customer of record for electricity billed to the
23 customer's account by the utility, whether based on the use of sub-metering or any other
24 allocation method, shall be determined in a manner which reimburses the customer of record
25 for no more than the customer's actual cost of electricity.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions
from existing law.

1 (c) Each utility shall develop a standard policy governing the provisions of
2 sub-metering as provided for herein. Such policy shall be filed by each utility as part of its
3 tariffs. The policy shall have uniform application and shall be nondiscriminatory.

4 Specific Authority 366.05(1) FS.

5 Law Implemented 366.05(1), ~~366.05(3)~~, 366.80, 366.81, and 366.82, FS.

6 History--Amended 7-29-69, 11-26-80, 12-23-82, 12-28-83, Formerly 25-6.49, Amended
7 7-14-87, 10-5-88, 3/23/97.

8

9

10

11

12 Rule 6.049 text.ldh.doc

13

14

15

16

17

18

19

20

21

22

23

24

25

CODING: Words underlined are additions; words in ~~struck-through~~ type are deletions from existing law.

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050152-EU

RULE TITLE:

RULE NO.:

Measuring Customer Service

Measuring Customer Service

PURPOSE AND EFFECT: The Commission has granted several waivers of the individual metering requirements of Rule 25-6.049, F.A.C., for condominiums that operate in a manner similar to hotels and motels. The Commission is now proposing rule language to create an exemption for these types of facilities.

SUMMARY: The amendment would eliminate the requirement that the occupancy units in certain new and existing residential condominiums and cooperatives that operate like hotels and motels be individually metered for their electricity usage.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The SERC concluded that there should be no negative impact on regulated utilities, the agency, small businesses, cities or county. These entities should benefit as the amendments made the rule clearer.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 366.05(1), F.S.

LAW IMPLEMENTED: 366.05(1), ~~366.05(3)~~, 366.80, 366.81 and 366.82, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND

ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE THESE PROPOSED RULE IS:

Lawrence D. Harris, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.049 Measuring Customer Service.

(1) – (4) No change.

(5)(~~a~~) Individual electric metering by the utility shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks. However, individual metering shall not be required for any such occupancy unit for which a construction permit was issued before, and which has received master-metered service continuously since, is commenced after January 1, 1981. In addition, individual electric meters shall not, however, be required:

~~1-(a)~~ (1) through (2) renumbered as (a) through (b). No change;

~~3-(c)~~ For electricity used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent homes, facilities certificated under Chapter 651,

Florida Statutes, college dormitories, convents, sorority houses, fraternity houses, motels, hotels, and similar facilities;

(d) For lodging establishments such as hotels, motels, and similar facilities which are rented, leased, or otherwise provided to guests by an operator providing overnight occupancy as defined in subparagraph (8)(b).

4(e) For separate, specially-designated areas for overnight occupancy, as defined in subparagraph (8)(b), at trailer, mobile home and recreational vehicle parks and marinas where permanent residency is not established.

5(f) For new and existing time-share plans, provided that all of the occupancy units which are served by the master meter or meters are committed to a time-share plan as defined in Section 721, Florida Statutes, and none of the occupancy units are used for permanent occupancy. When a time share plan is converted from individual metering to master metering, the customer must reimburse the utility for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, the undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.

(g) For condominiums that meet the following criteria:

1. The declaration of condominium requires that at least 95 percent of the units are used solely for overnight occupancy as defined in subparagraph (8)(b) of this rule;

2. A registration desk, lobby and central telephone switchboard are maintained; and,

3. A record is kept for each unit showing each check-in and check-out date for the unit, and the name (s) of the individual(s) registered to occupy the unit between each check-in and check-out date.

(6) Master-metered condominiums

(a) Initial Qualifications - In addition to the criteria in subsection (5)(g), in order to initially qualify for master-metered service, the owner or developer of the condominium, the condominium association, or the customer must attest to the utility that the criteria in subsection (5)(g) and in this subsection have been met, and that any cost of future conversion to individual metering will be the responsibility of the customer, consistent with paragraph (7) of this rule. Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule. If the criteria in subsection (5)(g) and in this subsection are not met, then the utility shall not provide master-metered service to the condominium.

(b) Ongoing Compliance - The customer shall attest annually, in writing, to the utility that the condominium meets the criteria for master metering in subsection (5)(g). The utility shall establish the date that annual compliance materials are due based on its determination of the date that the criteria in subsections (5)(g) and (6)(a) were initially satisfied, and shall inform the customer of that date before the first annual notice is due. The customer shall notify the utility within 10 days if, at any time, the condominium ceases to meet the requirements in subsection (5)(g).

(c) Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule.

(d) Failure to comply - If a condominium is master metered under the exemption in this rule and subsequently fails to meet the criteria contained in subsection 5(g), or the customer fails to make the annual attestation required by subsection (6)(b), then the utility shall promptly notify the customer that the condominium is no longer eligible for master-metered service. If the customer does not respond with clear evidence to the contrary within 30 days of receiving the notice, the customer shall individually meter the condominium units within six months following the date on the notice. During this six month period, the utility shall not discontinue service based on failure to comply with this rule. Thereafter, the provisions of Rule 25-6.105 apply.

(7) When a structure or building is converted from individual metering to master metering, or from master metering to individual metering, the customer shall be responsible for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, any remaining undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.

~~(b)~~(8) For purposes of this rule:

~~1. (a) No change.~~

~~2. The construction of a new commercial establishment, residential building, marina, or trailer, mobile home or recreational vehicle park shall be deemed to commence on the date when the building structure permit is issued.~~

~~3. (b) No change.~~

~~4. The term "cost", as used herein means only those charges specifically authorized by the electric utility's tariff, including but not limited to the customer, energy, demand, fuel, and conservation charges made by the electric utility plus applicable taxes and fees to the customer~~

of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the distribution system behind the master meter, the cost of billing, and other such costs.

(6)(9)(a) Where individual metering is not required under Subsection (5) and master metering is used in lieu thereof, reasonable apportionment methods, including sub-metering may be used by the customer of record or the owner of such facility solely for the purpose of allocating the cost of the electricity billed by the utility. The term "cost" as used herein means only those charges specifically authorized by the electric utility's tariff, including but not limited to the customer, energy, demand, fuel, conservation, capacity and environmental charges made by the electric utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the customer-owned distribution system behind the master meter, the customer of record's cost of billing the individual units, and other such costs.

(b) – (c) No change.

Specific Authority: 366.05(1) FS.

Law Implemented: 366.05(1), ~~366.05(3)~~, 366.80, 366.81, and 366.82, FS.

History: Amended 7-29-69, 11-26-80, 12-23-82, 12-28-83, Formerly 25-6.49, Amended 7-14-87, 10-5-88, 3/23/97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Connie Kummer

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: May 2, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 31,
Number 48, December 2, 2005.

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

Rule 25-6.049, Florida Administrative Code, pertains to measuring electric service of customers. Paragraph 5(a) of the current rule requires that condominium units be individually metered by the utility. Individual metering is intended to promote energy conservation.

Over the last 8 years, the Commission has granted 10 waivers of Rule 25-6.049 for condominiums that are operated like hotels, referred to as “resort condominiums” or “condotels”. The waivers allowed resort condominiums to be master metered, provided certain conditions were met.

These amendments to Rule 25-6.049 are intended to bring the existing rule into compliance with Commission policy as established by the rule waivers granted over the last 8 years.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

State of Florida



Public Service Commission

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

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

DATE: June 30, 2005
TO: Office of General Counsel (Stern)
FROM: Division of Economic Regulation (Hewitt) CBH ✓ FW ✓ JDS
RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rule 25-6.049, F.A.C., Measuring Customer Service

SUMMARY OF THE RULE

Rule 25-6.049, F.A.C, contains the requirements for measuring energy delivered to electricity customers. Individual electric metering is required for each separate occupancy unit of any new customers except for certain situations or specialized-use housing such as nursing homes, hotels, and college dormitories.

The proposed rule amendments would clarify and expand what type of short term dwelling qualifies for master-metering. Because the Commission has been approving waivers to the rule for condominiums that meet certain criteria, the rule amendments would extend the transient lodging exemption to condominiums that are used for short term overnight occupancy. Criteria for master-metering would be included in the rule and reporting requirements added, consistent with language included in the rule waivers.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

All five electric investor owned utilities (IOUs) and parties interested in installing master-metering for condominiums would be affected by the proposed rule changes.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Commission would benefit because there would be less time spent processing meter rule waiver requests for condominiums intended for transient guests. There should be no impact on agency revenues.

There should be no negative impact on other state and local government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

IOUs would have reduced customer billing costs for a master-metered facility, but would have reduced net revenues from due to a lower commercial class billing rate for the facility and reduced customer charge revenues. IOUs would have initial monitoring costs to ensure compliance with requirements for new and converted master-metered facilities and on-going annual costs to ensure future compliance. The utilities that would be affected have not indicated that there would be any significant cost issue from the proposed rule. Their total costs would depend on the size of the projects master-metered and the total number of projects each year.

Entities interested in master-metering condominiums currently appear before the Commission seeking rule waivers and incur costs in doing so. The proposed rule changes would codify Commission policy of allowing master-metering of condominiums under certain conditions, and should decrease the cost of seeking waivers by some unknown amount. Entities that individually meter their structures would bear the costs of converting to master-metering. If in the future, they fail to meet the standards for master-metering, they would bear the cost of converting back to individual metering, consistent with requirements and rule waivers granted.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

There should be a benefit to the unregulated small businesses that qualify for master-metering with no negative impacts on small cities, or small counties.

CH:kb

cc: Mary Andrews Bane
Chuck Hill
David Wheeler
Hurd Reeves

State of Florida



Public Service Commission

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

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

DATE: June 30, 2005
TO: Office of General Counsel (Stern)
FROM: Division of Economic Regulation (Hewitt)
RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rule 25-6.049, F.A.C., Measuring Customer Service

SUMMARY OF THE RULE

Rule 25-6.049, F.A.C, contains the requirements for measuring energy delivered to electricity customers. Individual electric metering is required for each separate occupancy unit of any new customers except for certain situations or specialized-use housing such as nursing homes, hotels, and college dormitories.

The proposed rule amendments would clarify and expand what type of short term dwelling qualifies for master-metering. Because the Commission has been approving waivers to the rule for condominiums that meet certain criteria, the rule amendments would extend the transient lodging exemption to condominiums that are used for short term overnight occupancy. Criteria for master-metering would be included in the rule and reporting requirements added, consistent with language included in the rule waivers.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

All five electric investor owned utilities (IOUs) and parties interested in installing master-metering for condominiums would be affected by the proposed rule changes.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Commission would benefit because there would be less time spent processing meter rule waiver requests for condominiums intended for transient guests. There should be no impact on agency revenues.

There should be no negative impact on other state and local government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

IOUs would have reduced customer billing costs for a master-metered facility, but would have reduced net revenues from due to a lower commercial class billing rate for the facility and reduced customer charge revenues. IOUs would have initial monitoring costs to ensure compliance with requirements for new and converted master-metered facilities and on-going annual costs to ensure future compliance. The utilities that would be affected have not indicated that there would be any significant cost issue from the proposed rule. Their total costs would depend on the size of the projects master-metered and the total number of projects each year.

Entities interested in master-metering condominiums currently appear before the Commission seeking rule waivers and incur costs in doing so. The proposed rule changes would codify Commission policy of allowing master-metering of condominiums under certain conditions, and should decrease the cost of seeking waivers by some unknown amount. Entities that individually meter their structures would bear the costs of converting to master-metering. If in the future, they fail to meet the standards for master-metering, they would bear the cost of converting back to individual metering, consistent with requirements and rule waivers granted.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

There should be a benefit to the unregulated small businesses that qualify for master-metering with no negative impacts on small cities, or small counties.

H:kb

cc: Mary Andrews Bane
Chuck Hill
David Wheeler
Hurd Reeves

ERC Summary

The proposed rule should make Commission policy on master metered condominiums clear and the qualifying process more efficient and less time consuming. Utilities would have less cost for customer billing but a likely net decrease in revenues because the lower commercial billing rate.

The Commission would benefit from fewer rule waiver requests with a decrease in the time and effort involved. The total cost savings are unknown.

In re: Proposed revisions to Rule 25-6.049 DOCKET NO.050152-EU
F.A.C. Measuring Customer Service

REQUEST FOR HEARING

COMES NOW Power Check Consultants pursuant to the Rules of the FPSC and respectfully requests a hearing on the proposed rule changes reflected in PSC ORDER 06-0400-NOR-EU, issued May 11, 2006, and as grounds therefore would state:

1. Such request is timely as it is made prior to June 9, 2006.
2. According to the stated purpose and effect the Commission has granted several waivers of the individual measuring requirements of Rule 25-6.049, F.A.C., for condominiums that operate in a manner similar to hotels and motels, and is now proposing language to create exemption for these type of facilities. While in form the new language appears to create such an exemption, in reality the new criteria established will create the opposite effect and will substantially limit the ability for condominiums that operate in a manner similar to hotels and motels to obtain the exemption the Commission is seeking to create.
3. The summary of the proposed order indicates that the amendment would eliminate the requirement that the occupancy units in certain new and existing residential condominiums and cooperatives that operate like hotels and motels be individually metered for their electricity usage. However, the rule change actually limits the exemption to those facilities ~~where 95% of~~

04874 JUN-6 8

their units are used solely for overnight occupancy. Power Check believes this criteria is discriminatory against other facilities that operate similar to hotels and motels. As the rule now reads, those facilities that operate similar to hotels and motels would be exempted from the individual metering requirement. In granting several of the waivers in recent years the Commission has indicated that the facility must maintain all or substantially all of its units for temporary occupancy. The new rule would now limit the exemption and exclude those condominiums where 94%, or 93%, or 92%, etc. were used for temporary occupancy.

4. The amendment also forces any condominium seeking the exemption to include the 95% criteria stated above in its declaration of condominium. In reality this criteria further restricts the possibility of exemptions for condominiums in the future. The reason is that this statement in a declaration of condominium in essence makes the condominium a forced overnight rental facility resulting in the sale of securities rather than the sale of condominiums.

5. In addition, the language change while supposedly created to reduce the need for waivers will most likely have the opposite effect. With increased restrictions on the exemption, and additional regulatory requirements, the need for filing with the Commission for waivers will be increased rather than decreased.

6. Wherefore, Power Check respectfully requests the Commission grant its request for a hearing in this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Request for Hearing has been furnished this 6th day of June, 2006 to the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd, Tallahassee, Fl 32399-0862.

MARC D. MAZO

MARC D. MAZO of
POWER CHECK CONSULTANTS
14252 Puffin Court
Clearwater, Florida 33762
727-573-5787 - Voice
727-573-5675 - Fax

ORIGINAL

Matilda Sanders

From: POWCK@aol.com
Sent: Tuesday, June 06, 2006 8:37 AM
To: Filings@psc.state.fl.us
Cc: daleylaw@nettally.com
Subject: Request for Hearing
Attachments: reqforhearing62006.doc

Ms Blanco Baya,

Attached please find Power Check's request for hearing in Docket Number 050152-EU. Thank you for filing the same.

Marc Mazo
727-573-5797

CMP _____
 COM _____
 CTR _____
 ECR _____
 GCL _____
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC 1

TH *Kim P*

DOCUMENT NUMBER-DATE

04874 JUN-6 06

FPSC-COMMISSION CLERK

6/6/2006

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed revisions to Rule 25-6.049,
F.A.C., Measuring Customer Service.

DOCKET NO. 050152-EU
ORDER NO. PSC-06-0586-PCO-EU
ISSUED: July 6, 2006

ORDER ESTABLISHING PROCEDURES TO BE FOLLOWED
AT RULEMAKING HEARING

I. Background

The Commission has proposed amendments to Rule 25-6.049, Florida Administrative Code, Measuring Customer Service. Specifically, the Commission voted to amend Rule 25-6.049 to allow an exemption from the Rule's individual metering requirements for certain resort condominium developments which are intended to be operated like hotels. The rule proposal was published in the Florida Administrative Weekly on May 19, 2006. Power Check Consultants filed a request for hearing on June 6, 2006.

II. Rulemaking Hearing

A rulemaking hearing is scheduled before the Commission at the following time and place:

9:30 a.m., September 6, 2006
Room 148, Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida

The rulemaking hearing shall be governed by section 120.54(3)(c), Florida Statutes, and by Rule 28-103.004, Florida Administrative Code.

III. Prehearing Procedures and Deadlines

Power Check Consultants and other interested persons who are or will be requesting the Commission to adopt changes to the Rule as proposed in the May 19, 2006, Florida Administrative Weekly shall prefile comments or testimony no later than August 16, 2006. Any person may then prefile comments or testimony responding to the comments and/or testimony filed on August 16, 2006. The responsive comments and/or testimony must be filed no later than August 23, 2006.

Prefiled comments or testimony shall be typed on 8-1/2-inch by 11-inch transcript-quality paper, double-spaced, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

DOCUMENT NUMBER-DATE

05939 JUL -6 g

FPSC-COMMISSION CLERK

All alternative rule proposals must be made in writing, with copies attached to prefiled comments or testimony. Changes or additions to the proposed rule text must be shaded, and explanations of those changes or additions with cross-references to page numbers of prefiled comments/testimony should be included in footnotes to the rule text.

Each exhibit intended to support prefiled comments or testimony shall be attached to that person's comments/testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1.

An original and 15 copies of all comments, testimony, alternative rule proposals, and exhibits must be filed with the Director, Division of the Commission Clerk and Administrative Services, by the close of business, which is 5:00 p.m. on the date due. Service on the following persons is required:

Marc D. Mazo, Power Check Consultants, 14252 Puffin Court, Clearwater, Florida, 33762

Kenneth A. Hoffman, Esquire, and John R. Ellis, Esquire, Rutledge, Ecenia, Underwood, Purnell, & Hoffman, P.A., P. O. Box 551, Tallahassee, FL 32302

Larry D. Harris, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0862

IV. Hearing Procedures

The Commission staff will present a summary of the proposed rule amendments as approved by the Commission the May 2, 2006, Agenda Conference.

The first exhibit introduced into the record will be a composite exhibit prepared by staff, which will consist of the following documents: Florida Administrative Weekly notice and proposed rule; materials provided to the Joint Administrative Procedures Committee, which include the statement of facts and circumstances justifying the rule, statement on federal standards, and notice of rulemaking; a memorandum regarding a statement of estimated regulatory costs; and any material, including prefiled comments, testimony, and attachments, that may be submitted pursuant to section 120.54, Florida Statutes. It shall not be necessary for participants to insert their prefiled comments or testimony into the record at the hearing. Copies of the first exhibit will be available at the hearing.

Following the staff presentation, affected persons will have the opportunity to present evidence and argument. It may be necessary to impose time limits for presentations, depending upon the number of participants. Persons with similar presentations should combine to make one presentation. Persons making presentations will be subject to questions from other persons. Such questions shall be limited only to those necessary to clarify and understand the presenter's position.

Persons who wish to participate at the hearing must register at the beginning of the hearing. The specific order of presentation will be determined by the presiding officer the morning of the hearing.

At the conclusion of the hearing, the Commission may make its decision, or may announce dates for the filing of a staff recommendation and an Agenda Conference. Based on the hearing record, the Commission may decide to file the rule for adoption as originally proposed; propose changes to the rule; or withdraw all proposed changes.

V. Posthearing Procedures

At the conclusion of the September 6, 2006, hearing, the Commission may make its decision. In the event the Commission does not make its decision at the conclusion of the hearing, the provisions of this section shall apply.


A transcript of the proceedings will be made available to the public on or about September 15, 2006, at cost.

If the Commission decides to allow posthearing comments, they shall be filed no later than September 26, 2006, or such other date as announced at the hearing. If allowed, posthearing comments shall be typed on 8-1/2-inch by 11-inch transcript-quality paper, double-spaced, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches). An original and 15 copies of all posthearing comments shall be filed with the Director, Division of Commission Clerk and Administrative Services, by the close of business which is 5:00 p.m. on the date due.

Based on the foregoing, it is

ORDERED that this order shall govern the conduct of these proceedings, as set forth above, unless modified by the Commission.

By ORDER of Chairman Lisa Polak Edgar, as Prehearing Officer, this 6th day of July, 2006.


LISA POLAK EDGAR
Chairman and Prehearing Officer

(SEAL)

LDH

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.

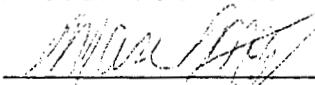
STATE OF FLORIDA
BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO.050152-EU

IN RE: REVISIONS OR AMENDMENT TO RULE 25-6.049, FLORIDA
ADMINISTRATIVE CODE - MEASURING CUSTOMER SERVICE

COMMENTS OF POWER CHECK CONSULTANTS

RESPECTFULLY SUBMITTED BY:



MARC D. MAZO

14252 Puffin Court
Clearwater, Florida 33762
Telephone (727)573-5787
Facsimile (727)573-5675
Email powck@aol.com

DOCUMENT NUMBER-DATE

07361 AUG 16 98

FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed revisions to Rule 25-6.049 DOCKET NO.050152-EU
F.A.C. Measuring Customer Service

COMMENTS OF POWER CHECK CONSULTANTS WITH ATTACHMENTS

COMES NOW Power Check Consultants pursuant to ORDER NO. PSC - 06-0586 - PCO - EU of the FPSC, and files the following comments with attachments regarding the Commission's proposed amendments to Rule 25-6.049, Florida Administrative Code.

CASE BACKGROUND

Rule 25-6.049, F.A.C., pertains to measuring electric service of customers. Individual metering was codified by rule in the early 1980's. It's primary purpose was to promote energy conservation. The Commission believed when individual customers are directly responsible for paying for their electricity consumption they will be more inclined to conserve in order to minimize their bill.

As a result, the commission required condominiums to be individually metered. At the same time, the Commission made an exception for facilities that operated in a manner similar to hotels and motels. The new amendment to this exception now limits the exemption to only those condominiums that use 95% of their units for overnight occupancy.

COMMENTS

Over the past several years, the Commission granted 10 waivers of Rule 25-6.049. In each case, a resort condominium that was primarily a transient facility and operated in a manner

similar to hotels, was requesting the Commission grant a waiver to allow the facility to take service from the utility via master meter in lieu of individual metering. The Commission found that due to their nature or mode of operation, it was not practical to attribute usage in the resort condominiums to individual occupants. In the early cases the Commission was not as concerned with the number of condominium units used for transient rentals as they were with the nature of the operation of the facility. Where the resort condominium was registered for transient rentals with the Department of Business and Professional Regulation, and operated its facility like a hotel or motel, the Commission followed the rationale that since guests were not billed for their use of electricity, but rather paid a bundled rate for the use of the room for a limited time, it was not practical to attribute usage to the individual occupants, and conservation would be better served by master metering.

The amendment to Rule 25-6.049, requiring 95% of the units in a condominium to be used for overnight occupancy, appears to go against this rationale. While the nature or mode of operation is still a factor, the exemption will only be allowed where 95% of the condominium units are used for overnight occupancy. This is true regardless of whether the condominium operates in a manner similar to a hotel, but only uses 85% of its units for overnight occupancy. The amendment implies that if a condominium operates like a hotel, but only has 85% of its units available for overnight occupancy, the Commission's energy conservation goals will not be met. To the best of Power Check's knowledge, there has been no evidence presented to show that a condominium

that operates in a manner similar to a hotel, with 85% of its units used for transient rentals, will not meet the goals of the Commission regarding energy conservation. The record of the PSC and experience of Power Check in this regard, suggest that the Commission goal of energy conservation will in fact be met when a condominium operates like a hotel, even though it does not use 95% of its units for over night occupancy.

ENERGY CONSERVATION GOALS

Power Check has been involved in 9 of the 10 waivers brought before the Commission concerning Rule 25-6.049. From this experience, the PSC goal of energy conservation appears to be better served when a resort condominium operating like a hotel is allowed to master meter. This is true regardless of whether the condominium has 75% of its units available for transient rentals or 95%. Our experience has shown that when a facility operates in a manner similar to a hotel, in general they use at a minimum, 75% of the condominium units for overnight occupancy. It is the nature or mode of operation that should be the determining factor. Power Check believes that the number of units used for over night occupancy should be a factor in determining whether a condominium operates like a hotel, but not the controlling factor.

In most of the waiver cases where the resort condominium has been master metered, it has placed the monthly electric expense in the operating budget of the condominium association. Since the manager of the resort (similar to the manager of a hotel) is

responsible for the budget, this creates closer attention paid by management to energy costs. Also, in each case the condominium association manager now receives the monthly electric bills rather than the bills being sent by the utility to hundreds of individual owners. This provides a basis for monthly review, and is the catalyst for closer scrutiny and more attention to energy conservation. This fact is supported by letters of two of the managers from the early waivers, Holiday Villas II and Sundestin. The letters are attached as Exhibits 1 and 2. Power Check has found in its research that most of the other facilities that have been granted waivers and implemented master metering have also experienced a heightened awareness and closer attention to energy conservation.

FAIR AND REASONABLE RATES

While energy conservation is the primary objective of the Commission in considering exemptions to the individual metering rule, the Commission has also considered the fairness of the rates for electricity in granting the exemptions.

When a condominium operates as a resort, in a manner similar to a hotel, the condominium incurs significantly more expenses than a primarily residential facility. Expenses for this type of facility are closer in nature to that of a hotel or motel. In addition to licenses and permits required to operate a transient facility, there are stricter health and safety rules imposed by the Department of Business and Professional Regulation

which require additional time, effort and money for compliance. There are also advertising expenses, management expenses, salary, and taxes that must be paid that are not typical expenses found in primarily residential condominium. And, there are penalties for failure to comply with DBPR rules for resort condominiums that do not exist for residential facilities.

Under similar factual circumstances, where the condominiums seeking waivers for master metering were regularly in competition with other hotels for room night business, the Commission has in essence said that what is a fair and reasonable rate for these facilities for electricity is the master meter rate paid by the hotels. Not the higher residential rate the condominiums would pay if they continued to be individually metered by the utility.

Power Check does not believe the amendment fulfills the goal of the commission to ensure fair and reasonable rates. Would it be fair for a condominium that operates like a hotel with all the accompanying expenses, to pay a higher rate for electricity because it used 85% of its units for overnight occupancy rather than 95%?

Power Check has seen no evidence that any of the waivers granted by the Commission for master metering resulted in hardship for any IOU, or caused any IOU to come back to the Commission for a rate case. In other words, the Commission was able, with minimum effect on the IOU's, to provide the opportunity for resort condominiums that operate like hotels, to master meter and secure a lower rate for electricity from the utility. Also, to our knowledge, there have been no complaints filed that allege it is unfair that the resort condominiums have

received the lower rates. This would appear to be in harmony with the Commission's objective to maintain fair and reasonable rates for the public, and is true for those condominiums that operate in a manner similar to hotels even though they do not use 95% of their units for overnight occupancy.

CRITERIA TO MASTER METER

In the case of Holiday Villas II, Dunes, and Sundestin, a few of the early waivers to come before the Commission regarding Rule 25-6.049, the Commission determined that as long as the condominiums were licensed by the Department of Business and Professional Regulation, and continued to operate like hotels, they could maintain master metering.

It was not until the waiver request was filed regarding Fontainebleau II, that the Commission made any change in its criteria. At that time, FP&L argued that the PSC should establish a stricter criteria to grant a waiver for master metering. FP&L argued for a 95% criteria. After considerable discussion at the agenda conference regarding various percentages, the Commission rejected the 95% criteria, and established that all or substantially all of the units must be used for transient rental.

Today, the Fontainebleau II, and the Atlantic, both properties that received waivers from the Commission, are operating first class hotels in South Florida. Their most recent annual reports filed with the Commission show respectively they have 88% and 85% of the total units available for transient rentals. The reports are attached as Exhibits 3 and 4.

Each property has full time staff equal to that of other luxury hotels. Both operate restaurants, spas, have room service, valet, concierge service, workout rooms, pools, and all the amenities of first class beach hotels. They each pay sales tax on room rentals, and collect and pay occupancy tax. Would it be fair and reasonable for these properties to be required to have individual meters and pay the higher residential electric rates? Or, under the guidelines of the Commission for fair and reasonable rates, is it more equitable that these properties that compete regularly with other major beach hotels and resorts in the area, be allowed to receive electric service via master meters at the same commercial rates as their competitors?

USAGE CHARACTERISTICS AND COST OF SERVICE

It is Power Check's understanding that usage characteristics and cost of service are factors that are used by the Commission in establishing rates.

In all cases of the past waivers where Power Check has been involved, the usage characteristics of the resort condominiums were more similar to hotels and motels, than permanent residential occupants. The majority of the units in all the cases were used for vacation rentals with corresponding usage characteristics. This was true whether the percentage of units used for rentals was 84% or 95%.

In addition, the cost of a utility to serve a resort condominium that is master metered with 200 units, is not significantly different than a hotel that is master metered and

also has 200 units. In fact, when a property converts from individual metering to master metering there are savings that accrue to the IOU in the form of lower cost to read meters, lower administrative costs relating to billing of customers (1 bill vs 200), lower inventory costs (1 meter vs 200), and lower costs of maintenance on meters (1 vs 200).

The cost of service holds true for a master metered resort condominium regardless of the percentage of units used for overnight occupancy. The usage characteristics of the resort condominium in total would vary by the percentage of units used for rentals, but in all cases of the waivers granted by the Commission the usage characteristics were primarily transient, similar to hotels and/or motels.

REQUIREMENT TO INCLUDE 95% CRITERIA IN THE DECLARATION OF CONDOMINIUM CAN CONVERT THE PROJECT INTO A SECURITY

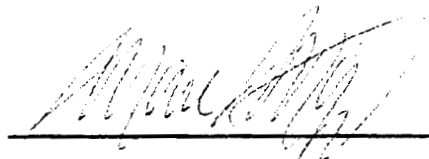
Finally, by requiring the resort condominium to include the new 95% criteria in the Declaration of Condominium, in the opinion of Carter N. McDowell, Attorney for the Miami firm of Bilzin, Sumberg, Baena, Price, and Axelrod, LLP, who represents clients such as: Turnberry Associates, Fontainebleau Resorts, Fortune International, The Related Company of Florida, and Starwood Hotels, such requirement would violate the letter and word of the SEC ruling and would almost certainly convert the condominium project into a security. Mr. McDowell's letter presented to the staff at workshop in December, 2005 is attached

as Exhibit 5, along with a copy of the corresponding SEC release regarding the subject. It is attached as Exhibit 6.

In Mr. McDowell's legal opinion the requirement to include the 95% criteria in the Declaration of Condominium is in essence a forced rental pool situation for the condominium if the owners wish to master meter. This forced rental pool situation appears to convert the condominium into a security under SEC guidelines. The result being that no condominium will likely seek the master meter option under the new rule.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and 15 copies have been been furnished on this 14th day of August, 2006, to Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd, Tallahassee, Fl 32399-0862, and copies of the above and foregoing have been furnished to: Kenneth A. Hoffman, Esquire and John R. Ellis, Esquire, Rutledge, Ecenia, Underwood, Purnell, & Hoffman, P.A., P.O. Box 551, Tallahassee, Florida, 32302; and, Larry D. Harris, Esquire, Florida Public Service Commission, 2540 Shumard Oak Blvd, Tallahassee, Fl 32399-0862.



MARC D. MAZO of
POWER CHECK CONSULTANTS
14252 Puffin Court
Clearwater, Florida 33762
727-573-5787 - Voice
727-573-5675 - Fax

*Resort Condominium Rentals
on the Gulf of Mexico*

Holiday Villas II

June 12, 2003

Marc Mazo
Power Check Consultants
14252 Puffin Court
Clearwater, Fl 33762

Dear Marc:

I have no problem letting the Florida Public Service Commission know that we believe their decision to allow Holiday Villas II to master meter the resort was a positive step for energy conservation.

Holiday Villas II is extremely pleased with our master metering system. As a result of receiving one electric bill each month for all units, it is much easier to track usage. This helps identify problem areas and make corrections much faster than if we had to wait for our investor/owners who do not live in the units to receive their bill, analyze it, and then let us know if there appears to be a problem.

In addition, because of the master metering the electric expense for the units is included in our annual Association budget. As manager, I am responsible for operating the resort within budgetary guidelines approved each year by our Board of Directors. By including the expense within the budget, it serves to heighten my awareness and provide incentive to reduce energy costs where ever possible.

By receiving one master bill for all the units, it is my opinion that we watch the costs closer and are more inclined to take steps to conserve energy and reduce the costs. It is much easier to motivate our staff to make efforts towards energy conservation, i.e. improved maintenance, more awareness by housekeeping in thermostat control, or any other methods we learn for lowering our electric costs.

Yours very truly,



Marcus Paula
Manager

SUNDESTIN RESORT
1010 E HWY 98
DESTIN, FL 32540

June 12, 2003

Marc Mazo
Power Check Consultants
14252 Puffin Court
Clearwater, FL 33762

Dear Marc:

As you are aware, it took a little longer than we anticipated accomplishing the conversion to master metering; however, it appears to be a positive step for the resort that will lead to reduced energy consumption and lower electricity bills.

Based on the conversion, the homeowners' association now includes the cost of electricity for the units as a common expense within its annual budget. When individually metered, the cost of electricity for each unit was part of the association common expenses. As manager of the resort, I am responsible for operating within the budget guidelines adopted by the board of directors. Based on the inclusion of the electric within the annual budget I have become more attuned to watching this expense. Now that we receive one master electric bill for the units, it has heightened my awareness of this expense and helped generate more interest by me and our staff in insuring that steps are taken to reduce energy consumption where ever and when ever possible.

Housekeeping staff regularly helps our energy conservation efforts by closing curtains on the sun side of the resort after cleaning a unit, and by setting AC thermostats back to higher levels after guests have lowered them below what is necessary to cool the unit. Maintenance and engineering staff are now more motivated to accomplish preventive maintenance, and to quickly correct any problems identified by housekeeping that might create unnecessary use of electricity.

It is my opinion that for resorts that operate in a manner similar to hotels, regardless of whether they have some permanent occupants, or not, master metering will help conserve energy and reduce the costs of electricity.

Yours very truly,

Lino Maldonado

Lino Maldonado
General Manager

LUXURY  RESORTS
INTERNATIONAL

30th November 2005

Attention Florida Public Service Commission.

**Ref: The Atlantic Hotel Condominium.
601 N. Ft. Lauderdale Beach Blvd
Fort Lauderdale, FL 33304**

Dear Sirs,

Please be advised that the number of units sold to date at The Atlantic is 118. The number of units in the rental pool at this time amounts to 105. There a total of 124 units in the project, 6 remaining for sale.

Yours truly,



Maggie Fitzner
Owners Representative.
954-567-8090

Turnberry Associates

December 8, 2005

By Fedex

Blanca S. Bayo
Director
Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Fontainebleau II/TL Fontainebleau Tower Limited Partnership
Docket No. 030557-EU
Order Nos PSC-03-0999-PAA-EU and PSC-03-1081-CO-EU

Ladies and Gentlemen:

We are filing this report pursuant to condition number 4 of the above referenced orders issued on September 5, 2003 and September 30, 2003 respectively. The first unit closing was on February 7, 2005.

As of November 30, 2005:


Number of Residential Units Sold: 462 of 462
Number of Residential Units entered into the voluntary rental program: 412

Please let me know if additional information is needed.

Thank you.

Sincerely,

TURNBERRY ASSOCIATES


Lori R. Hartglass
Associate General Counsel

LRH/gg

cc: Scott Barter (by e-mail)
Adam Klein (by e-mail)
Marc Mazo (by e-mail)

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

200 SOUTH BISCAYNE BOULEVARD, SUITE 2500 • MIAMI, FLORIDA 33131-5340

TELEPHONE: (305) 374-7580 • FAX: (305) 374-7593

E-MAIL: INFO@BILZIN.COM • WWW.BILZIN.COM

MIAMI • TALLAHASSEE

Carter N. McDowell, P.A.

Direct Dial: (305) 350-2355

Direct Facsimile: (305) 351-2239

E-mail: cmcdowell@bilzin.com

December 15, 2005

**VIA FACSIMILE & E-MAIL
& REGULAR MAIL**

Marc Mazo, Senior Partner
Powercheck Consultants
14252 Puffin Court
Clearwater, FL 33762

**Re: *Florida Public Service Commission ("PSC") Proposed Rule Change
to Rule 25-6.049 Re Master Metering***

Dear Marc:

This letter will confirm our numerous conversations concerning the above-referenced rule change. As you know I represent Turnberry Associates, Fontainebleau Resorts, Fortune International, The Related Company of Florida, Starwood Hotels and other developers, all of whom are in the process of developing condominium hotel projects.

Condominium hotel projects are a unique product within the spectrum of real estate interests. They are very highly regulated on the local, state and indirectly on the federal level. Specifically, the Securities and Exchange Commission ("SEC") has examined Condominium Hotel products and projects and issued a letter ruling concerning the sale of condominium hotel units as to whether they constitute the sale of a real estate interest or a security. There are many factors set out in the SEC letter ruling that effect hotel condominiums but the most salient aspect of the letter ruling with regard to the proposed PSC rule change is that the SEC has specifically determined that a developer may **NOT CREATE A MANDATORY RENTAL POOL OR OTHER MECHANISM WHICH WOULD EFFECTIVLY FORCE PURCHASERS OF THESE UNITS TO PLACE THEIR UNITS UP**

MIAMI 961615.1 7650823990
12/15/05 12:35 PM

Marc Mazo, Senior Partner

December 15, 2005

Page 2

FOR RENTAL AS PART OF THE OPERATION OF THE OVERALL PROPERTY.

Developers are even prohibited from establishing occupancy rules and regulations which would have the effect of forcing the purchasers of hotel condominium units into a rental pool. Under the SEC letter ruling, the imposition of temporal limitations requiring that a unit be utilized only for overnight occupancy and/or requiring participation in any type of rental pool or rental operation would convert these condominium hotel interest into a security subject to all of the regulations governing the trading and sale of securities. The conversion of a condominium hotel unit to a security would be effectively a "death sentence" for this type of real estate product. Real estate brokers could no longer sell the units, only registered security brokers and agents could sell them and there is a whole panoply of other regulations that would come to bear that are simply not workable.

It is my understanding from my discussions with you that the proposed rule change would require condominium hotel associations that wish to master meter to include in their declaration of condominium requirement that at least 95% of the units be used for "overnight occupancy." The inclusion of such a provision in a declaration of condominium for a condominium hotel would certainly violate the letter and word of the SEC ruling and would almost certainly covert that project into a security in accordance with the SEC letter ruling. In short such a rule would effectively prohibit any condominium hotel product from seeking a master meter. This would be a potential nightmare both logistically and operationally for this type of product.

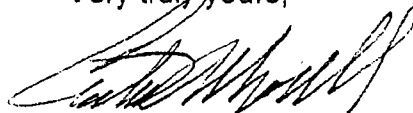
In fairness, condominium hotel projects are permitted to enforce binding regulations such as zoning laws and other local government rules and regulations that are automatically applicable to the property. Hence, if a local zoning ordinance provides that a condominium hotel unit can not be occupied for more than 60 days at one time; that type of limitation may be imposed within the condominium documents, if and only if it is a preexisting regulation of general application to similarly situated properties. The SEC has gone so far as to say that a condominium hotel developer may not ever request that a local government adopt more stringent regulations without also running afoul of the securities regulations.

In this case the decision to seek a master meter for a condominium hotel project is clearly a voluntary act in that it requires a specific application and specific approval. Unlike a zoning regulation that is automatically applicable to a property, the decision to seek a master meter is a voluntary act by the developer of the project. There is no question in my mind, under the provisions of the SEC letter ruling, that if a developer were to seek a master meter and in so doing became subject to a requirement that 95% of the units be solely used for overnight occupancy that the developer would be in violation of the provisions of the SEC letter ruling and that the entire project would almost certainly

Marc Mazo, Senior Partner
December 15, 2005
Page 3

become a security subject to all of the applicable SEC rules and regulations. In short, the proposed rule would effectively prohibit any condominium hotel project from ever seeking a master meter. Hence, it is my belief that the proposed rule would create an undo hardship and economic burden on all future condominium hotel properties statewide.

Very truly yours,



Carter N. McDowell

CNM/mc

cc: Lori Hartglass, Esq.

Westlaw.

Release No. 5347, Release No. 33-5347, 1973 WL 158443 (S.E.C. Release No.)
 (Cite as: 1973 WL 158443 (S.E.C. Release No.))

S.E.C. Release No.

*1 Securities Act of 1933

GUIDELINES AS TO THE APPLICABILITY OF THE FEDERAL SECURITIES LAWS TO OFFERS AND
 SALES OF CONDOMINIUMS OR UNITS IN A REAL ESTATE DEVELOPMENT
 January 4, 1973

The Securities and Exchange Commission today called attention to the applicability of the federal securities laws to the offer and sale of condominium units, or other units in a real estate development, coupled with an offer or agreement to perform or arrange certain rental or other services for the purchaser. The Commission noted that such offerings may involve the offering of a security in the form of an investment contract or a participation in a profit sharing arrangement within the meaning of the Securities Act of 1933 and the Securities Exchange Act of 1934. [FN1] Where this is the case any offering of any such securities must comply with the registration and prospectus delivery requirements of the Securities Act, unless an exemption therefrom is available, and must comply with the anti-fraud provisions of the Securities Act and the Securities Exchange Act and the regulations thereunder. In addition, persons engaged in the business of buying or selling investment contracts or participations in profit sharing agreements of this type as agents for others, or as principal for their own account, may be brokers or dealers within the meaning of the Securities Exchange Act, and therefore may be required to be registered as such with the Commission under the provisions of Section 15 of that Act.

The Commission is aware that there is uncertainty about when offerings of condominiums and other types of similar units may be considered to be offerings of securities that should be registered pursuant to the Securities Act. The purpose of this release is to alert persons engaged in the business of building and selling condominiums and similar types of real estate developments to their responsibilities under the Securities Act and to provide guidelines for a determination of when an offering of condominiums or other units may be viewed as an offering of securities. Resort condominiums are one of the more common interests in real estate the offer of which may involve an offering of securities. However, other types of units that are part of a development or project present analogous questions under the federal securities laws. Although this release speaks in terms of condominiums, it applies to offerings of all types of units in real estate developments which have characteristics similar to those described herein.

The offer of real estate as such, without any collateral arrangements with the seller or others, does not involve the offer of a security. When the real estate is offered in conjunction with certain services, a security, in the form of an investment contract, may be present. The Supreme Court in Securities and Exchange Commission v. W. J. Howey Co., 328 U.S. 293 (1946) set forth what has become a generally accepted definition of an investment contract:

*2 "a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party, it being immaterial whether the shares in the enterprise are evidenced by formal certificates or by nominal interests in the physical assets

Release No. 5347, Release No. 33-5347, 1973 WL 158443 (S.E.C. Release No.)
(Cite as: 1973 WL 158443 (S.E.C. Release No.))

employed in the enterprise." (298)
The Howey case involved the sale and operation of orange groves. The reasoning, however, is applicable to condominiums.

As the Court noted in Howey substance should not be disregarded for form, and the fundamental statutory policy of affording broad protection to investors should be heeded. Recent interpretations have indicated that the expected return need not be solely from the efforts of others, as the holding in Howey appears to indicate. [FN2] For this reason, an investment contract may be present in situations where an investor is not wholly inactive, but even participates to a limited degree in the operations of the business. The "profits" that the purchaser is led to expect may consist of revenues received from rental of the unit; these revenues and any tax benefits resulting from rental of the unit are the economic inducements held out to the purchaser.

The existence of various kinds of collateral arrangements may cause an offering of condominium units to involve an offering of investment contracts or interests in a profit sharing agreement. The presence of such arrangements indicates that the offeror is offering an opportunity through which the purchaser may earn a return on his investment through the managerial efforts of the promoters or a third party in their operation of the enterprise.

For example, some public offerings of condominium units involve rental pool arrangements. Typically, the rental pool is a device whereby the promoter or a third party undertakes to rent the unit on behalf of the actual owner during that period of time when the unit is not in use by the owner. The rents received and the expenses attributable to rental of all the units in the project are combined and the individual owner receives a ratable share of the rental proceeds regardless of whether his individual unit was actually rented. The offer of the unit together with the offer of an opportunity to participate in such a rental pool involves the offer of investment contracts which must be registered unless an exemption is available.

Also, the condominium units may be offered with a contract or agreement that places restrictions, such as required use of an exclusive rental agent or limitations on the period of time the owner may occupy the unit, on the purchaser's occupancy or rental of the property purchased. Such restrictions suggest that the purchaser is in fact investing in a business enterprise, the return from which will be substantially dependent on the success of the managerial efforts of other persons. In such cases, registration of the resulting investment contract would be required.

*3 In any situation where collateral arrangements are coupled with the offering of condominiums, whether or not specifically of the types discussed above, the manner of offering and economic inducements held out to the prospective purchaser play an important role in determining whether the offerings involve securities. In this connection, see Securities and Exchange Commission v. C. M. Joiner Leasing Corp., 320 U.S. 344 (1943). In Joiner, the Supreme Court also noted that:

"In enforcement of [the Securities Act], it is not inappropriate that promoters' offerings be judged as being what they were represented to be." (353)
In other words, condominiums, coupled with a rental arrangement, will be deemed to be securities if they are offered and sold through advertising, sales literature, promotional schemes or oral representations which emphasize the economic benefits to the purchaser to be derived from the managerial efforts of the promoter, or a third party designated or arranged for by the promoter, in renting the units. *

In summary, the offering of condominium units in conjunction with any one of the

Release No. 5347, Release No. 33-5347, 1973 WL 158443 (S.E.C. Release No.)
(Cite as: 1973 WL 158443 (S.E.C. Release No.))

following will cause the offering to be viewed as an offering of securities in the form of investment contracts:

1. The condominiums, with any rental arrangement or other similar service, are offered and sold with emphasis on the economic benefits to the purchaser to be derived from the managerial efforts of the promoter, or a third party designated or arranged for by the promoter, from rental of the units.
 2. The offering of participation in a rental pool arrangement; and
 3. The offering of a rental or similar arrangement whereby the purchaser must hold his unit available for rental for any part of the year, must use an exclusive rental agent or is otherwise materially restricted in his occupancy or rental of his unit.
- In all of the above situations, investor protection requires the application of the federal securities laws.

If the condominiums are not offered and sold with emphasis on the economic benefits to the purchaser to be derived from the managerial efforts of others, and assuming that no plan to avoid the registration requirements of the Securities Act is involved, an owner of a condominium unit may, after purchasing his unit, enter into a non-pooled rental arrangement with an agent not designated or required to be used as a condition to the purchase, whether or not such agent is affiliated with the offeror, without causing a sale of a security to be involved in the sale of the unit. Further a continuing affiliation between the developers or promoters of a project and the project by reason of maintenance arrangements does not make the unit a security.

In situations where commercial facilities are a part of the common elements of a residential project, no registration would be required under the investment contract theory where (a) the income from such facilities is used only to offset common area expenses and (b) the operation of such facilities is incidental to the project as a whole and are not established as a primary income source for the individual owners of a condominium or cooperative unit.

*4 The Commission recognizes the need for a degree of certainty in the real estate offering area and believes that the above guidelines will be helpful in assisting persons to comply with the securities laws. It is difficult, however, to anticipate the variety of arrangements that may accompany the offering of condominium projects. The Commission, therefore, would like to remind those engaged in the offering of condominiums or other interests in real estate with similar features that there may be situations, not referred to in this release, in which the offering of the interests constitutes an offering of securities. Whether an offering of securities is involved necessarily depends on the facts and circumstances of each particular case. The staff of the Commission will be available to respond to written inquiries on such matters.

By the Commission,

Ronald F. Hunt

Secretary

FN1. It should be noted that where an investment contract is present, it consists of the agreement offered and the condominium itself.



From **\$129**



WHERE KIDS
CAN RUN FOR MILES
AND SO CAN THEIR
IMAGINATIONS.

Treat your family to the joys of Sanibel Island, a lush tropical destination offering warm Gulf waters, miles of beach and the world's best shelling. Enjoy enhanced island residences with full kitchens, providing satisfaction after a day of fun in the sun.

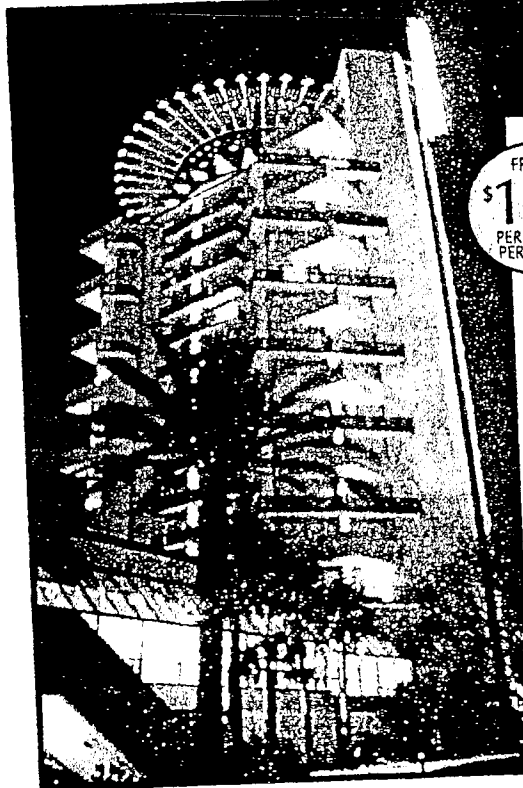


SUNDIAL

sanibel's #1 beach & golf resort

For rate and package details call
866-283-6959 or visit sundialresort.com

*Rates are per night and valid through 9/30/06. Subject to unit type and availability at time of booking. Not available for groups or holidays. Minimum length of stay may be required. Tax and resort fees are additional.



A FT. LAUDERDALE ICON
AT A LANDMARK RATE.

FROM
\$119
PER ROOM
PER NIGHT

Nothing says Ft. Lauderdale like Pier Sixty-Six. Situated on The Intracoastal Waterway minutes from Ft. Lauderdale beach, it's close to shopping, dining and Ft. Lauderdale's celebrated nightlife. Relish deluxe guestrooms with dazzling waterfront views. Be pampered at our European spa. And experience our Aquatic Center with water sports, fishing and diving. So call today. This rate won't be a familiar sight forever.



For reservations, call 866.283.6959
or visit www.pier66.hyatt.com

*Rate valid thru 9/30/06 for single/double occupancy and is subject to availability. Rates are per room, per night and are not combinable with other offers or group rates. Tax and resort fees are additional.

LUXURY RESORT



STATEMENT

1451 MIDDLE GULF DRIVE
SANIBEL ISLAND, FLORIDA 33957-4618
(239) 472-4134

FOR RESERVATIONS CALL
800-237-4134

ROOM	ARRIVAL	DEPARTURE	FOLIO NO.		PAGE
J303	06/06/06	06/11/06	55140F	2 Adults	1

Mazo, Mr. Marc
14252 Pufin Ct
Clearwater, FL 33762

DATE	CODE	DESCRIPTION		CHARGES	CREDIT
05/30/06	ZAMX	XXXXXXXXXXXX4018 0809	1		199.00
06/06/06	RMSPR	BEST AVAIL RATE	1	199.00	
06/06/06	TAX	Sales Tax	1	21.89	
06/07/06	LCPH	325-0604 5 (22:48)	1	0.75	
06/07/06	TAXPL	Local Comm Serv Tax	1	0.04	
06/07/06	TAXPS	State Comm Serv Tax	1	0.07	
06/07/06	RMSPR	BEST AVAIL RATE	1	199.00	
06/07/06	TAX	Sales Tax	1	21.89	
06/08/06	RMSPR	BEST AVAIL RATE	1	199.00	
06/08/06	TAX	Sales Tax	1	21.89	
06/09/06	RMSPR	BEST AVAIL RATE	1	199.00	
06/09/06	TAX	Sales Tax	1	21.89	
06/10/06	RMSPR	BEST AVAIL RATE	1	199.00	
06/10/06	TAX	Sales Tax	1	21.89	
06/11/06	ZAMX	XXXXXXXXXXXX4018 0809	1		961.81
06/06/06	POS14	Crocodials #1480	3	37.00	
06/07/06	POS14	Crocodials #1617	3	18.50	
Subtotals				\$ 1160.81	\$ 1160.81

PAID IN FULL --- THANK YOU!

FINANCE CHARGE FINANCE CHARGE
FINANCE CHARGE FINANCE CHARGE
FINANCE CHARGE FINANCE CHARGE
FINANCE CHARGE FINANCE CHARGE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed revisions to Rule 25-6.049,)
F.A.C., Measuring Customer Service.)

Docket No. 050152-EU

Filed: August 23, 2006

**PREFILED RESPONSIVE COMMENTS OF
FLORIDA POWER & LIGHT COMPANY, PROGRESS
ENERGY FLORIDA, GULF POWER COMPANY AND
TAMPA ELECTRIC COMPANY**

Florida Power & Light Company, Progress Energy Florida, Gulf Power Company and Tampa Electric Company (hereinafter referred to collectively as the "Investor-Owned Utilities" or "IOUs"), by and through their respective undersigned counsel, and pursuant to Order No. PSC-06-0586-PCO-EU issued July 6, 2006 in the above-referenced docket, hereby file their Prefiled Responsive Comments in response to the Comments filed by Power Check Consultants ("PCC"), and state as follows:

1. This docket focuses on proposed amendments to Rule 25-6.049, Florida Administrative Code, addressing the circumstances and criteria under which condominiums may be approved for master metering. A Staff Rule Development Workshop was held on December 16, 2005. The IOUs participated in the Workshop, as did Mr. Marc Mazo, the principle of PCC.

2. Following the December 16, 2005 Staff workshop, the Commission approved proposed revisions to Rule 25-6.049 at the May 2, 2006 Agenda Conference. Pursuant to Chapter 120 procedures, the proposed rule amendments were published in the Florida Administrative Weekly on May 19, 2006. PCC, a consulting entity, filed a request for hearing on June 6, 2006, and a rulemaking hearing has been scheduled before the Commission for September 6, 2006. PCC filed Direct Comments on August 16, 2006.

DOCUMENT NUMBER-DATE

07666 AUG 23 06

FPSC-COMMISSION CLERK

3. PCC's Comments raise the same issues that have previously been raised by PCC and rejected by the Staff in the April 20, 2006 Staff Recommendation and by the Commission in its approval of that Recommendation at the May 2, 2006 Agenda Conference.

4. The IOUs continue to support the Proposed Rule amendments. The Proposed Rule amendments will help ensure, to the extent possible, that the conservation incentives inherent with individual metering are not cast aside unless a condominium establishes and continues to demonstrate compliance with the Proposed Rule's criteria for eligibility for master metering. While no rule can ensure the elimination of future rule waiver requests, the adoption of the language and criteria in the Proposed Rule will provide notice of the specific master metering requirements to affected entities and serve to reduce the number of future rule waiver requests. The IOUs hereby attach and incorporate by reference their prior written comments filed in this proceeding as Composite Exhibit A.

5. In addition, and consistent with our prior Comments, the IOUs reiterate:

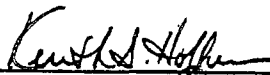
a. Section (5)(g)1. of the proposed rule providing the criterion that the declaration of condominium require at least 95% of the units be used solely for overnight occupancy is consistent with and reflective of the overnight occupancy percentages of resort condominiums or similar facilities that have been granted rule waivers by the Commission. Mr. Mazo's varying requests to lower this percentage have all been considered and rejected.

b. Contrary to Mr. Mazo's assertions, the Commission has not granted prior rule waiver requests to ensure fair and reasonable rates for the facilities that petitioned for rule waivers.

c. Finally, the argument that the inclusion of the 95% criterion in the declaration of condominium may convert the project into a security has previously been raised and PCC's

Comments add nothing to the prior arguments of Mr. Mazo on this issue.

Respectfully submitted,



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

Patrick Bryan, Esq.
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408
(561) 304-5134 (Telephone)
(561) 691-7305 (Telecopier)
On behalf of Florida Power & Light Company

John Burnett, Esq.
Post Office Box 14042
St. Petersburg, FL 33733
(727) 820-5185 (Telephone)
(727) 820-5519 (Telecopier)
On behalf of Progress Energy Florida

James D. Beasley, Esq.
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302
(850) 224-9115 (Telephone)
(850) 222-7952 (Telecopier)
On behalf of Tampa Electric Company

Russell Badders, Esq.
Beggs & Lane
P. O. Box 12950
Pensacola, Florida 32576-2950
(850) 432-2451 (Telephone)
(850) 469-3331 (Telecopier)
On behalf of Gulf Power Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished by U. S. Mail to the following this 23rd day of August, 2006:

Marc Mazo
14252 Puffin Court
Clearwater, Florida 33762

Katherine Fleming, Esq.
Lawrence Harris, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Patrick Bryan, Esq.
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

John Burnett, Esq.
Post Office Box 14042
St. Petersburg, FL 33733

James D. Beasley, Esq.
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

Russell Badders, Esq.
Beggs & Lane
P. O. Box 12950
Pensacola, Florida 32576-2950



KENNETH A. HOFFMAN, ESQ.

fp\responsivecomments

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
RICHARD M. ELLIS
KENNETH A. HOFFMAN
LORENA A. HOLLEY
MICHAEL G. MAIDA
MARTIN P. McDONNELL
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT
HAROLD F. X. PURNELL
MARSHA E. RULE
GARY R. RUTLEDGE
MAGGIE M. SCHULTZ
GOVERNMENTAL CONSULTANTS
PARSONS B. HEATH
MARGARET A. MENDUNI
M. LANE STEPHENS

February 10, 2006

Marlene K. Stern, Esq.
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 050152-EU
In re: Proposed Revisions to Rule 25-6.049, F.A.C., Measuring Customer Service

Dear Ms. Stern:

These post-workshop comments are submitted on behalf of Florida Power & Light Company, Progress Energy Florida, Gulf Power Company and Tampa Electric Company (collectively the "IOUs").

As you are well aware, this rulemaking was opened at the Commission's direction to minimize what had been an increasing number of petitions for rule waivers filed by resort condominiums or similar facilities who wished to initially install or convert to master metering. The Commission Staff and the IOUs have expended considerable time and resources in these various proceedings as well as in the rule development process. The IOUs' basic position is that the proposed amendments to Rule 25-6.049 attached to the Notice of Proposed Rule Development issued November 21, 2005, continue to reflect an excellent work product that will achieve the Commission's goal of reducing rule waiver petitions and ensuring that individual metering, and the conservation incentive that comes with it, remains intact unless a condominium satisfies the proposed criteria.

The IOUs also believe that a few additional points were raised at the workshop that merit consideration for a final proposed rule.



Marlene K. Stern, Esq.

Page 2

February 10, 2006

With that backdrop, the IOUs offer the following recommendations:

(1) The proposed rule as reflected in the November 21, 2005 Notice of Proposed Rule Development should be proposed for adoption, with a few minor additional changes as outlined below. Before discussing suggested changes, we reiterate our support of subsection (g)1. of the proposed rule which sets forth the following criterion for a condominium to be master metered:

1. The declaration of condominium requires that at least 95% of the units are used solely for overnight occupancy as defined in subparagraph (8)(b) of the rule....

This criterion was the subject of the bulk of Mr. Mazo's comments at the workshop. Mr. Mazo, in his appearances before the Commission, has argued for as low as 50% and seemed to settle on a number of 80% at the workshop. The Staff should not revise this part of the proposed rule. The IOUs maintain that the Staff appropriately developed a percentage figure predicated on the hard data of the facilities that have sought rule waivers, which, according to the data, average approximately 3.5% permanent occupancy units. While this criterion would reflect significant progress in reducing rule waiver petitions, the Staff should be mindful that no rule guarantees the elimination of a potential petition for rule waiver in the future. Further, the IOUs would remind the Staff that this proposed criterion would treat resort condominiums similar to other transient facilities under the rule, all of which, including time shares, typically have or require 100% transient occupancy.

We are also mindful that at the workshop, Mr. Mazo offered a copy of a letter from an attorney offering an interpretation of a purported SEC letter ruling and Mr. Mazo attempted to explain the potential impact on this proposed rule. I have requested a copy of the purported SEC letter ruling from the attorney who signed the letter distributed by Mr. Mazo and that attorney failed to reply to my request. My understanding is that Staff also requested a copy of the purported SEC letter ruling from Mr. Mazo who failed to respond. Given the lack of response and failure to cooperate, the IOUs cannot formulate any type of substantive response and would hope that there would be no further consideration of this argument.

(2) During the workshop, Progress Energy Florida suggested adding language to subsections (6)(a) and (c), which states as follows:

"However, the utility has no duty or obligation to conduct such inspections, and may do so at its sole discretion."

Marlene K. Stern, Esq.
Page 3
February 10, 2006

The IOUs support this proposed addition to subsection (6)(a) and (c) of the Rule as we believe it provides clarifying language that a utility has the right but not the obligation to conduct the inspections of the condominiums discussed in these subsections of the Rule.

(3) Finally, the IOUs suggest that it may be appropriate to add language to the proposed rule that would require an owner or a developer of a condominium facility eligible for master metering to also wire the facility for individual metering in the event the facility, at some future date, is no longer eligible for master metering.

On behalf of the IOUs, we appreciate the opportunity to submit these post-workshop comments.

Sincerely,


Kenneth A. Hoffman

KAH/rl

cc: Jim Beasley, Esq.
John Burnett, Esq.
Russell Badders, Esq.
Mr. Bill Feaster
Mr. Paul Lewis
Mr. Wilbur J. Stiles

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
RICHARD M. ELLIS
KENNETH A. HOFFMAN
LORENA A. HOLLEY
MICHAEL G. MAIDA
MARTIN P. McDONNELL
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT
HAROLD F. X. PURNELL
MARSHA E. RULE
GARY R. RUTLEDGE
MAGGIE M. SCHULTZ
GOVERNMENTAL CONSULTANTS
MARGARET A. MENDUNI
M. LANE STEPHENS

May 2, 2005

Marlene K. Stern, Esq.
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Staff's Draft Text of Proposed Amendments to Rule 25-6.049, Florida
Administrative Code.

Dear Marlene:

As you know, our firm represents Florida Power & Light Company ("FPL") in connection with the above-referenced rulemaking. First and foremost, FPL wishes to express its appreciation to the Commission Staff for its efforts in this rulemaking. FPL believes that the process has worked well and that the current draft represents a significant improvement over earlier versions.

As you may recall, there were certain provisions proposed by FPL that have apparently been rejected by Staff in developing the current text of the proposed rule. While FPL believes that those provisions were worth pursuing, FPL believes that the current text of the rule, subject to the additional comments below, reflects an appropriate and acceptable version of the rule that FPL can support. I have contacted representatives for Progress Energy, Gulf Power Company and Tampa Electric Company regarding the suggested revisions below and although I have not yet heard back from Progress Energy, I have been authorized to represent that Gulf Power Company and Tampa Electric Company adopt and support the additional suggested revisions to the Rule that are set forth below.

With that backdrop, FPL offers the following additional comments to the current draft text of the amendments to Rule 25-6.049:

Page 2

May 2, 2005

(1) **Subsection (8)(b)** - - FPL believes that this provision is no longer necessary. Under the new language in subsection (5), the term "construction" is now followed by the word "permit" so there would no longer appear to be a need to define the construction of a new commercial establishment, etc. as the date when a construction permit is issued. If the Staff agrees, then subsection (8)(c) would become subsection (8)(b) and the current references to subsection (8)(c) in other parts of the Rule should be corrected.

(2) **Subsection (6)** - - FPL believes that the Rule can be strengthened by expressly providing that a condominium shall be master metered if the owner/developer, condominium association or customer fails to comply with the Initial Qualifications Provisions under subsection (6)(a) or the On-Going Compliance Provision in subsection (6)(b). To accomplish that, FPL proposes a new subsection (6)(c) which would state as follows:

(c) If the owner or developer of the condominium, the condominium association, or the customer fails to comply with the requirements of subsections (6) (a) or (b), the utility shall individually meter the condominium for a failure to comply with subsection (6)(a) or shall convert the condominium to individual meters pursuant to subsection (6)(e) for a failure to comply with subsection (6)(b).

If the above new subsection (6)(c) is included in the proposed Rule, then existing subsections (6)(c) and (d) would need to be renumbered as (6)(d) and (e), respectively.

(3) **Subsection (9)(a)** - - As currently proposed, the last sentence of that subsection reads as follows:

The term does not include payment charges, returned check charges, the cost of the distribution system behind the master meter, the cost of billing, and other such costs.

There are two items in the above language which appear to require further consideration. In referring to "the cost of the distribution system behind the master meter," it appears that Staff is referring to facilities on the customer's side of the meter. There are many instances where the customer rents facilities from FPL that are on the customer's side of the meter. FPL believes that such rental charges would properly be allocated to the unit owners as part of the "cost" of the electricity billed by the utility under this subsection. Therefore, to provide clarification, FPL would recommend that this portion of the last sentence of subsection (9)(a) be amended to read:

Page 3
May 2, 2005

the cost of the customer-owned distribution system on the customer's side of the master meter

The next passage in this rule refers to "the cost of billing." FPL's cost of billing is included in its customer charge and, therefore, would not be applicable to the exclusionary language in this section. To provide clarification, FPL would suggest that this language be amended to read:

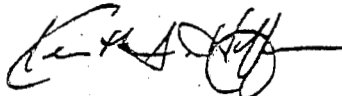
the customer of record's cost of billing the individual units

Taking the two suggested changes to Staff's language together, FPL suggests that the last sentence of subsection (9)(a) be revised to read as follows:

The term does not include late payment charges, returned check charges, the cost of the customer-owned distribution system on the customer's side of the master meter, the customer of record's cost of billing the individual units, and other such costs.

We hope that the above suggestions are helpful. If you have any questions, please give me a call.

Sincerely,



Kenneth A. Hoffman

KAH/rl

cc: Mr. Bill Feaster
Mr. Gary Livingston
Mr. Howard Bryant
Mr. Paul Lewis
Mr. Bob Valdez

\\FPL\stern\trmay2.wpd