

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: July 24, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Sapoznikoff) *SMC*
Division of Economics (Hampson, Kelley) *EDD*

RE: Docket No. 20250081-EU – Petition for declaratory statement, or in the alternative, petition for variance from or waiver of the individual metering requirement of Rule 25-6.049(5) and (6), F.A.C., by 20 North Oceanside Owner, LLC.

AGENDA: 08/05/25 – Regular Agenda – Decision on Declaratory Statement as to Issue No. 1 – Proposed Agency Action as to Issue No. 2 – Participation is at the Discretion of the Commission as to Issue No. 1 – Interested Persons May Participate as to Issue No. 2

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 08/21/25 (Final Order on Request for Declaratory Statement Must be Issued by this date, pursuant to Section 120.565(3), Florida Statutes, and Request for Variance or Waiver is Deemed Approved if Not Granted or Denied by this date, pursuant to Section 120.542(8), Florida Statutes)

SPECIAL INSTRUCTIONS: None

Case Background

On May 23, 2025, 20 North Oceanside Owner, LLC (20 North), filed a petition for declaratory statement (Petition), asking the Commission to declare that based on the facts presented “20 North is not required to individually meter the 296 condo-hotel units in Tower 2 because it meets

the exceptions to the individual meter rule found in Rule 25-6.049(5), [Florida Administrative Code (F.A.C.)].” In the alternative, 20 North seeks a variance from or waiver of the individual metering requirements of Rule 25-6.049, F.A.C., thereby allowing it to master-meter the Tower 2 condo-hotel units. 20 North is in the service territory for Florida Power & Light Company (FPL).

The Commission rule addressing metering requirements, Rule 25-6.049, F.A.C., generally requires individual metering of electricity use for individual occupancy units in residential and commercial buildings. However, the rule also establishes certain exemptions to the individual metering requirement and sets forth the criteria for those exemptions. For ease of reference, a copy of Rule 25-6.049, F.A.C., is appended to this recommendation as Attachment A.

20 North asserts that although Tower 2 is a condominium, it will operate in a manner similar to that of a resort hotel. 20 North’s Petition seeks exemption from the individual metering requirement under either of the exceptions provided in paragraphs (5)(d) or (5)(g) of Rule 25-6.049, F.A.C.

- Paragraph (5)(d) of the rule indicates that individual electric meters are not required “[f]or 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).”
- Paragraph (5)(g) of the rule indicates that individual electric meters are not required 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.

Paragraph (8)(b) of Rule 25-6.049, F.A.C., defines overnight occupancy as “use of an occupancy unit for a short term such as per day or per week where permanent residency is not established.”

In addition, if the development is a condominium, subsection (6) of the rule requires both an initial and on-going annual attestations from the owner or developer (customer) to the utility provider that:

[T]he 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.

Finally, Rule 25-6.049(9)(a), F.A.C., states, in pertinent part:

Where individual metering is not required under subsection (5) and master metering is used in lieu thereof, reasonable apportionment methods . . . 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.

20 North's Statement of Facts

In its Petition, 20 North states that although the planned development includes two connected towers, it only seeks the declaratory statement, or variance/waiver, for Tower 2. Tower 1 is to be developed as a residential condominium project with individual metering, whereas Tower 2 is to be developed as a condo-hotel for which 20 North seeks master-metering. 20 North states that ownership of both parcels will be pursuant to Chapter 718, Florida Statutes (F.S.), which pertains to Condominiums. However, according to 20 North, operation of Tower 2 will be pursuant to Chapter 509, F.S., which pertains to Lodging and Food Service Establishments. According to the Petition, Tower 2 must be registered with Department of Business Regulation as a hotel under Section 509.242(1)(a), F.S. Because it asserts that “[t]he Florida Department of Revenue and the Department of Business Regulation will treat Tower 2 like a commercial hotel based on its method of operation,” 20 North seeks master-metering for Tower 2 as that is available to “other similar resort hotels.”¹

20 North asserts that the Purchase Agreement for the Tower 2 units specifies that none of the units “may be occupied as a permanent dwelling unit or residence.” The Petition asserts that Tower 2 is zoned for 303 units, but will only contain 296 units, none of which are allowed to be used as a permanent residence. The Petition further states that the owners of the Tower 2 units may not occupy their units for more than 30 consecutive days and no more than a total of 180 days in any consecutive 12 month period, and that the primary purpose of the Tower 2 units is a “visitor accommodation use.” The Petition also states that the Tower 2 units will be used for “transient” occupancy.

The Petition also states that the applicable zoning requirements for Tower 2 require it to be managed pursuant to a unified management operation plan for rental activities. The Petition states that the management company “will be responsible for staffing 24 hour per day operations, including front desk personnel.” According to the Petition, the telephone service within Tower 2 will operate through a central switchboard controlled by management. The Petition asserts that Hotel management will also be responsible for “record keeping . . . for each unit showing the check-in and check-out date along with the name(s) of the individual(s) registered to occupy the unit.”

The Petition asserts that all utilities (water, sewer, and electrical) will be billed directly to the condominium association and paid for through assessments and that those “costs will be apportioned as common expenses in the same manner as other common expenses on a pro-rata share based on square footage of the unit as compared to the total square footage of all units.”

¹Staff notes that individual electric metering is typically billed at a residential rate. In contrast, master-metering usage is measured using a single, utility-owned meter for billing and service is billed at the lower, commercial rate. See *Florida Power Corp. v. Mayo*, 203 So. 2d 614, 615 (Fla. 1967).

Procedural Matters

The Petition was filed on May 23, 2025. Pursuant to Sections 120.542 and 120.565, F.S., and Rule 28-105.0024, F.A.C., a Notice of Declaratory Statement and a Notice of Variance or Waiver were published in the May 29, 2025, edition of the Florida Administrative Register to inform substantially affected persons of the Petition, and notify them of the right to intervene or submit comments.

Pursuant to Section 120.565(3), F.S., a final order on a request for a declaratory statement must be issued within 90 days of the filing of the Petition. Pursuant to Section 120.542(8), F.S., a request for a variance or waiver must be granted or denied within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. Thus, the Commission must issue an order on the petition for declaratory Statement, or either grant or deny the alternative petition for a rule waiver/variance by August 21, 2025.

No one moved to intervene in this docket and no one filed comments.

This recommendation addresses whether the Commission should grant 20 North's Petition for Declaratory Statement or, in the alternative, grant the petition for variance or waiver of Rule 25-6.049, F.A.C. The Commission has jurisdiction to consider this matter pursuant to Sections 120.542 and 120.565, and Chapter 366, F.S.

Discussion of Issues

Issue 1: Should the Commission grant 20 North's Petition for Declaratory Statement?

Recommendation: No. The Commission should deny 20 North's Petition for Declaratory Statement. Under the facts presented by 20 North, Tower 2 does not satisfy either of the applicable exceptions to the individual meter rule found in Rule 25-6.049(5), F.A.C.

Staff Analysis:

Law Governing Petitions for Declaratory Statement

Section 120.565, F.S., sets forth the necessary elements of a petition for declaratory statement and provides:

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

Rule 28-105.001, F.A.C., states the purpose of a declaratory statement:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.

If a petitioner meets the filing requirements provided by Rule 28-105.002, F.A.C., an agency must issue a declaratory statement.

Rule 28-105.003, F.A.C., provides the requirements for how agencies must dispose of declaratory statements and states that an agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Staff recommends that the Commission rely on the facts as presented by 20 North, without taking a position with regard to the validity of the facts it presented.

20 North's Requested Declaratory Statement

20 North asks the Commission to issue the following affirmative declaratory statement:

20 North is not required to individually meter the 296 condo-hotel units in Tower 2 because it meets the exceptions to the individual meter rule found in Rule 25-6.049(5), F.A.C.

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Threshold Requirements of Petition

Under Section 120.565(1)-(2), F.S., a petition must “state with particularity the petitioner’s set of circumstances” and specify the statute, order, or rule that the petitioner believes is applicable, as well as show the petitioner is substantially affected. 20 North’s Petition contains specific details about the property at issue and identifies Rule 25-6.049(5), F.A.C., as the rule that applies to its set of circumstances. 20 North’s Petition also alleges it is substantially affected because if it is required to individually meter its condo-hotel units in Tower 2 it will incur 20 to 30 percent more in electric costs than what resort hotels would incur. 20 North asserts this would place it at a competitive disadvantage as compared to other public lodging establishments. Accordingly, 20 North meets the threshold requirements to seek a declaratory statement.

Application of Rule 25-6.049, F.A.C.

The purpose of a declaratory statement is to address the applicability of statutory provisions, orders, or rules of an agency to the petitioner’s particular circumstances.² A declaratory statement enables members of the public to resolve ambiguities of law and obtain definitive, binding advice as to the applicability of agency law to a particular set of facts. Accepting the facts alleged by 20 North to be true, staff does not believe that those facts entitle 20 North to the requested declaratory statement.

Although the Petition refers to the units in Tower 2 as a condo-hotel, that term is not used in Rule 25-6.049, F.A.C., to reference which types of occupancy units are subject to individual electric metering and which ones may have master-metering. Rather, pertinent to this case, application of the exceptions to individual metering under Rule 25-6.049(5), F.A.C., depends on whether the property is a hotel, motel, or similar facility providing overnight occupancy,³ or a condominium in which at least 95 percent of the units are used solely for overnight occupancy, there is a central registration desk, lobby and telephone switchboard, and records are kept showing the check-in and check-out dates for the unit, along with the name(s) of the individual(s) registered to occupy the units during those times.⁴ 20 North asserts it is entitled to an exemption either as a hotel (or similar facility) or as a qualifying condominium. Integral to both exceptions is the requirement that occupancy of the residential units be for “overnight occupancy.” Based on the facts presented by 20 North, staff finds that the Tower 2 units are not used for “overnight occupancy,” which is defined by paragraph (8)(b) of the rule as “use of an occupancy unit for a short term such as per day or per week where permanent residency is not established.”

The Petition makes several assertions that the Tower 2 units cannot be used as a permanent residence. The Petition further states that *owners* of the Tower 2 units may not occupy their units for more than 30 consecutive days and no more than a total of 180 days in any consecutive 12 month period. With regard to the occupancy of non-owners, the Petition and its accompanying documents use terms like “visitor accommodation use” and “transient” occupancy. Neither of those terms are used in Rule 25-6.049, F.A.C., and neither the Petition, its attachments, nor the responses from 20 North define those terms nor make even a cursory assertion that the Tower 2 units will be provided for “overnight occupancy” only. Given that 20 North asserts it will be

² Rule 28-105.001, F.A.C.

³ Rule 25-6.049(5)(d), F.A.C.

⁴ Rule 25-6.049(5)(g)1., F.A.C.

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registered as a hotel under Chapter 509, F.S., staff notes that Section 509.013(4)(a)1., F.S., defines a “transient public lodging establishment” as one in which occupancy is limited to periods of less than which is 30 days or 1 calendar month, whichever is shorter.

The Florida Supreme Court has explained that the “words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.” *Lab. Corp. cf Am. v. Davis*, 339 So. 3d 318, 323 (Fla. 2022). “Under the whole-text canon, proper interpretation requires consideration of ‘the entire text, in view of its structure and of the physical and logical relation of its many parts.’” *Id.* (quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation cf Legal Texts* (2012)). Accordingly, for purposes of determining whether the Commission should provide the requested declaratory statement, staff finds that the Petition does not support the determination that Tower 2 of 20 North meets an exception to the individual metering requirement contained in Rule 25-6.049(5)(d) and (g), F.A.C., regardless of whether 20 North is a hotel (or similar facility) or a condominium, because occupancy of Tower 2 is not limited to “overnight occupancy.”

Moreover, under the provisions of the rule applicable to condominiums, Rule 25-6.049(5)(g)1., F.A.C., requires the declaration of condominium itself to state “that at least 95 percent of the units are used solely for overnight occupancy as defined in paragraph (8)(b) of this rule.” The Declaration of Condominium, which is attached as an exhibit to the Petition, fails to make such an assertion. Moreover, the Declaration of Condominium also states that “[s]ubject to applicable zoning, as it may exist from time to time, the Unit may be used as a private temporary or permanent residence, as such use may be limited by applicable zoning.” In addition to limiting occupancy to “a short term such as per day or per week,” the definition of “overnight occupancy” also precludes “permanent residency.”⁵

The Petition itself acknowledges that Tower 2 does not satisfy all the requirements of Rule 25-6.049(5)(g), F.A.C. The Petition alleges facts which, if true, would satisfy prongs 2 and 3 of Rule 25-6.049(5)(g), F.A.C. (pertaining to centralized telephone switchboard, registration desk, lobby, and check-in/check-out records).⁶ In describing the attributes of Tower 2, the Petition merely states, “[t]hese are *part cf the criteria* found in the exclusions to the individual metering requirement of Rule 25-6.049(5)(g).” (Emphasis added.) As such, the Petition acknowledges that Tower 2 does not meet all the criteria required to avoid individual metering.

For these reasons, staff recommends that the Commission should deny 20 North’s Petition for Declaratory Statement. Under the facts presented by 20 North, Tower 2 does not satisfy either of the applicable exceptions to the individual meter rule found in Rule 25-6.049(5), F.A.C.

⁵ Rule 25-6.049(8)(b), F.A.C.

⁶ The Petition states that the management company “will be responsible for staffing 24 hour per day operations, including front desk personnel.” According to the Petition, the telephone service within Tower 2 will operate through a central switchboard controlled by hotel management. The Petition asserts that the management company will also be responsible for “record keeping . . . for each unit showing the check-in and check-out date along with the name(s) of the individual(s) registered to occupy the unit.”

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Issue 2: Should the Commission grant 20 North's alternative Petition for Variance or Waiver?

Recommendation: Yes. 20 North has demonstrated that the purpose of the underlying statutes will be achieved by other means and that application of the rule would create both a substantial hardship and be a violation of the principles of fairness. However, should the Commission grant the waiver or variance, 20 North should be put on notice that the waiver/variance is only effective under the following conditions: (1) 20 North allocates the cost of electricity for Tower 2 to the individual condominium unit owners using an apportionment method consistent with subsection (9) of Rule 25-6.049, F.A.C.; (2) Tower 2 of 20 North continues to operate and is licensed as a transient public lodging facility; and (3) in the event that Tower 2 of 20 North ceases to operate and be licensed as a transient public lodging facility such that a conversion to individual metering is required, 20 North will be solely responsible for the cost of such conversion, pursuant to Rule 25-6.049(7), F.A.C.

Staff Analysis:

Law Governing Petitions for Waiver or Variance

The Legislature allows agencies to grant variances or waivers of their rules because “[s]trict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances.” Section 120.542(1), F.S. Section 120.542(5), F.S., sets forth the necessary elements of a petition for waiver or variance. Each petition shall specify:

- (a) The rule from which a variance or waiver is requested.
- (b) The type of action requested.
- (c) The specific facts that would justify a waiver or variance for the petitioner.
- (d) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

Rule 28-104.002, F.A.C., governs what a petition for variance or waiver must include. Rule 25-6.049, F.A.C., requires individual metering of electricity use for individual occupancy units in residential and commercial buildings, unless they meet one of the exemptions set forth in the rule. If granted, the rule waiver would allow 20 North to install a single master meter to measure usage for all of the residential units in Tower 2.

Purpose of the Underlying Statutes

Pursuant to Section 120.542(5)(d), F.S., a petitioner seeking a rule waiver must demonstrate that the purpose of the underlying statute will be or has been achieved by other means. The underlying statutes of Rule 25-6.049, F.A.C., are Sections 366.05(1), 366.06(1), 366.81, and 366.82, F.S. Section 366.05(1), F.S., grants the Commission the authority to prescribe rate classifications, and service rules and regulations, to be observed by the investor-owned electric utilities. Sections 366.81 and 366.82, F.S., are known collectively as the Florida Energy Efficiency and Conservation Act (FEECA), and direct the Commission to adopt goals and approve plans related to the conservation of electric energy.

The Commission has stated that the purpose of Rule 25-6.049, F.A.C., is to implement the Florida Energy Efficiency and Conservation Act (FEECA) and encourage customers to conserve

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electricity.⁷ As this Commission has noted, “when unit owners are responsible for paying for their actual consumption, they are more likely to conserve to minimize their bills.”⁸ Typically, the requirement that individual occupancy units be individually metered serves the conservation goals of FEECA because if unit owners are responsible for costs based on their actual electricity consumption, they are more likely to conserve energy in order to minimize the cost of energy. However, in situations in which the people occupying the residential units don’t see a direct financial impact for the energy they consume, such as hotels or rental condominium units, individual metering defeats the purpose of the statute. This is the reason for the exceptions to individual metering contained in Rule 25-6.049, F.A.C. In such situations, the property manager, who has responsibility for cost control, can most effectively implement conservation measures to reduce the overall electricity consumption of the facility. 20 North has indicated that management will ensure that the HVAC equipment is maintained to operate a peak efficiency and that the curtains will be closed and the thermostat set at a higher temperature when the units are unoccupied.

If master-metering is implemented, Rule 25-6.049(9)(a), F.A.C., provides that the cost of electricity may be allocated to individual occupancy units using “reasonable apportionment methods.” According to the Petition, costs for electric (as well as water and sewer) “will be apportioned as common expenses in the same manner as other common expenses on a pro-rata share based on the square footage of the unit as compared to the total square footage of all units.” Staff believes that this apportionment method is reasonable and meets the purpose of Section 366.05(1), F.S.

Substantial Hardship or Violation of Principles of Fairness

Pursuant to Section 120.542, F.S., a petition for variance or waiver must also demonstrate that application of the rule would create a substantial hardship or violate principles of fairness. Substantial hardship is defined as a demonstrated economic, technological, legal or other type of hardship to the person requesting the waiver. Principles of fairness are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. Staff believes that 20 North has demonstrated that when the rule is applied to it as concerns Tower 2, a substantial hardship occurs and there is a violation of the principles of fairness.

In prescribing fair and reasonable rates and rate classifications under Sections 366.05(1) and 366.06(1), F.S., the Commission considers, among many other things, load characteristics and usage patterns. Differences in usage patterns and load justify different rates between customer classes. *See Florida Power Corp. v. Mayo*, 203 So. 2d 614, 615 (Fla. 1967). Staff agrees with 20 North that load characteristics and usage patterns of Tower 2 will be more like a hotel rather than a residential condominium, and that it would be a violation of the principles of fairness to require 20 North to individually meter Tower 2.

According to 20 North, Tower 2 must be registered with Department of Business Regulation as a hotel under Section 509.242(1)(a), F.S. Because it asserts that “[t]he Florida Department of

⁷ Order No. PSC-01-0626-PAA-EU, issued March 14, 2001, in Docket No. 001543-EU, *In re: Petition for Variance from or Waiver of Rule 25-6.049(5)(a), F.A.C., by Sundestin International Homeowners Association, Inc.*

⁸ *Id.*

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Revenue and the Department of Business Regulation will treat Tower 2 like a commercial hotel based on its method of operation,” 20 North seeks master-metering for Tower 2 as that is available to “other similar resort hotels.” Because motels and hotels are exempt from the individual metering requirement under paragraph (5)(d) of Rule 25-6.049, F.A.C., they benefit from the lower electricity costs of master-metering. 20 North states that if it is required to individually meter Tower 2, it will incur higher energy costs than its competitors. 20 North asserts that application of the rule will cause a substantial hardship because it will place Tower 2 of 20 North at a competitive disadvantage in regard to the motels and hotels with which it will compete for guests. Staff believes that the application of the rule in this instance will result in substantial economic hardship for 20 North.

Section 120.542(2), F.S., states that principles of fairness are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated entities who are subject to the rule. 20 North asserts that Tower 2 will operate in a manner similar to other hotels and motels in the area. Staff believes that applying the rule to Tower 2 of 20 North in this particular instance will result in treatment that is disparate. Staff believes that the different treatment of similar facilities resulting from the application of Rule 25-6.049(6), F.A.C., to Tower 2 of 20 North constitutes a violation of the principles of fairness as defined in Section 120.542(2), F.S.

Conclusion

Even though Tower 2 does not limit guests to “overnight occupancy,” staff recommends that the Commission grant the waiver/variance. 20 North has demonstrated that the purpose of the underlying statutes will be achieved by other means, and that application of the rule would create both a substantial hardship and be a violation of the principles of fairness. However, should the Commission grant the waiver or variance, 20 North should be put on notice that the waiver/variance is only effective under the following conditions: (1) 20 North allocates the cost of electricity for Tower 2 to the individual condominium unit owners using an apportionment method consistent with subsection (9) of Rule 25-6.049, F.A.C.; (2) Tower 2 of 20 North continues to operate and is licensed as a transient public lodging facility; and (3) in the event that Tower 2 of 20 North ceases to operate and be licensed as a transient public lodging facility such that a conversion to individual metering is required, 20 North will be solely responsible for the cost of such conversion, pursuant to Rule 25-6.049(7), F.A.C.

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Issue 3: Should this docket be closed?

Recommendation: Yes. With regard to the Petition for Declaratory Statement, regardless of whether the Commission votes to grant or deny the Petition, a final order will be issued and the docket should be closed. With regard to the alternative Petition for Variance or Waiver, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Sapoznikoff)

Staff Analysis: With regard to the Petition for Declaratory Statement, regardless of whether the Commission votes to grant or deny the Petition, a final order will be issued and the docket should be closed. With regard to the alternative Petition for Variance or Waiver, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

EXHIBIT “A”

25-6.049 Measuring Customer Service.

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

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

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

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

(5) 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 January 1, 1981. In addition, individual electric meters shall not be required:

(a) In those portions of a commercial establishment where the floor space dimensions or physical configuration of the units are subject to alteration, as evidenced by non-structural element partition walls, unless the utility determines that adequate provisions can be made to modify the metering to accurately reflect such alterations;

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

(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, F.S., college dormitories, convents, sorority houses, fraternity houses, 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) 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) 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 Chapter 721, F.S., and none of the occupancy units are used for permanent occupancy.

(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) For purposes of this rule:

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

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

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

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

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.05(1), 366.06(1), 366.81, 366.82 FS. History—New 7-29-69, Amended 11-26-80, 12-23-82, 12-28-83, Formerly 25-6.49, Amended 7-14-87, 10-5-88, 3-23-97, 10-10-06.