

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

January 4, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (HELTON) *Math DS OK*
DIVISION OF ELECTRIC & GAS (WHEELER, WINDHAM) *NO BAW Red*
DIVISION OF LEGAL SERVICES (WAGNER) *LW RVE* *RC*
DIVISION OF RESEARCH & REGULATORY REVIEW (HEWITT) *BH PD*

RE: DOCKET NO. 951485-EU - PETITION TO INITIATE CHANGES
RELATED TO RULE 25-6.049, F.A.C., MEASURING CUSTOMER
SERVICE, BY MICROMETER CORPORATION

AGENDA: 1/16/96 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\951485IN.DCM

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant micromETER's petition to initiate rulemaking to amend Rule 25-6.049, Measuring Customer Service?

RECOMMENDATION: Yes. Although the Commission should not propose micromETER's suggested rule changes at this time, the Commission should grant the petition. After staff has conducted at least one workshop and gathered information to determine whether policy changes are appropriate concerning Rule 25-6.049, it can then be determined what rule changes, if any, should be proposed.

STAFF ANALYSIS: By petition dated November 20, 1995, micromETER Corporation seeks to have the Commission amend Rule 25-6.049, entitled "Measuring Customer Service."

MicromETER is a Florida Corporation that has developed a computerized electronic metering device that can monitor groups of 16 load carrying electric service lines. The petitioner is backed by the Department of Energy and Enterprise Corporation of Tampa Bay. MicromETER is backed by these entities because it meets DOE's

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objective of developing an inexpensive device to measure individual energy usage in master metered buildings to aid in creating power conserving incentives. In addition, it furthers Enterprise's objective of developing small, high technology companies in the Tampa Bay area.

Pursuant to Section 120.54(5), Florida Statutes, and Rule 25.22.010, Florida Administrative Code, persons having a substantial interest in a Commission rule may petition to initiate rulemaking proceedings to adopt, amend, or repeal a rule. The "substantial interest" requirement is a liberal standing test when compared to other standing provisions in the APA. Florida Institutional Legal Services, Inc. v. Florida Parole and Probation Commission, 391 So. 2d 247, 249 (Fla. 1st DCA 1980); Freeman v. State of Florida Dept. of Health and Rehabilitative Services, 4 F.A.L.R. 1462-A, 1463-A (Fla. Dept. of Health and Rehabilitative Services 1982), aff'd per curiam, 436 So. 2d 964 (Fla. 3d DCA 1983). According to Professor Pat Dore,

any person whose conduct is controlled by an agency or any person who is required to tailor his conduct to comply with agency directives, or any person who demonstrates a substantial interest in a rule through education, experience, position, or concern has a right to petition an agency for the adoption, amendment, or repeal of a rule.

Dore, Access to Florida Administrative Proceedings, 13 Fla.St.U.L.Rev. 965, 995 (1986). Under this liberal standing test, micromETER has standing to petition the Commission to initiate rulemaking to amend Rule 25-6.049.

MicromETER seeks to provide submeters for buildings that are master metered.¹ Its recommended rule changes would not remove the requirement for individual metering, but would allow metering to be accomplished by a non-utility entity. The utility would install a master meter and bill the owner, who would then do all submetering and billing of the individual unit occupants. The petitioner believes that the availability of its low-cost, accurate metering devices would provide advantages to customers, such as the elimination of individual customer changes.

In 1980, the Commission first amended Rule 25-6.049(5)(a)1. through 4. to require individual meters for all electric consumers, except facilities such as overnight RV and trailer parks, and

¹ MicromETER's suggested rule changes are attached.

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special use housing accommodations such as hospitals, nursing homes, dormitories, convents, motels, hotels, and similar facilities.² The individual meter requirement was imposed in response to PURPA. It was believed that if consumers were responsible for paying their own energy bill, they would police their consumption and conserve energy.

Today, perhaps an even more valid reason for the individual metering requirement is that it allows utilities to fairly allocate costs among consumers. Under the present policy and rate schedules, residential customers are metered individually and pay a residential rate along with any appropriate customer charges. The proposal by micromETER could raise the issue of whether apartment and other residential buildings would qualify for a commercial rate since the utility would be providing service under a master meter arrangement.

In addition, under current rules and statutory authority, meters are regulated by the Commission. The Commission requires a certain meter accuracy and meter testing is mandatory to assure this accuracy. The utility maintains a one-to-one relationship with the customer of record. If a consumer questions a meter reading, he knows where to go to complain. Also, in the case of nonpayment of bills, the utility is controlled by the Commission's disconnect rules. In the case of the submetering arrangement suggested by micromETER, responsibilities in these circumstances would not necessarily be as clear.

Additional information must be gathered before it can be determined whether the Commission should change its policy on master meters. For instance, the effects on rate classes must be more closely examined and the problems of non-payment of bills must be addressed. To what extent the Commission should "deregulate" metering must also be considered.

In addition, there are other issues concerning Rule 25-6.049 that should be dealt with, such as whether "flat rates" should be singled out in subsection (1). The appropriate classification for marina slots also needs to be clarified in subparagraph (5)(a)4. The cost descriptions in subparagraph (5)(b)6. also need to be clarified. The submetering responsibilities in subparagraph (5)(b)7. need to be better defined.

² There are commercial establishments, residential buildings, condominiums, marinas, and similar facilities that are master metered because they were grandfathered in before the Commission made this policy decision.

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Finally, at least one time share association has stated that it plans to petition the Commission to amend Rule 25-6.049 as well. This groups hopes to remove the individual meter requirement for time shares since time share plans do not currently bill customers for their individual use. Since the time share industry has evolved since the Commission first made its individual meter requirement, this policy should also be reviewed.

If the Commission approves staff's recommendation to initiate rulemaking, staff plans to conduct a workshop to address these concerns. After the information gathering stage is complete, it can then be determined whether it is appropriate to propose amendments to Rule 25-6.049.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No.

STAFF ANALYSIS: If the Commission accept's staff's recommendation to initiate rulemaking, this docket should remain open.

25-6.049 Measuring Customer Service.

(1) All energy sold to customers, except that sold under flat rate schedule, shall be measured by commercially acceptable measuring devices reconcilable to a utility meter for allocation purposes 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 relative 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, or if a computerized readout at a central location, then plainly delineated in the software. 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, if direct reading. The watt-hour constant for the meter itself shall be placed on all watt-hour meters, if direct reading.

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

4 (5)(a) Individual electric metering by commercially available
5 devices ~~the utility~~ shall be required for each separate occupancy
6 unit of new commercial establishments, residential buildings,
7 condominiums, cooperatives, marinas, and trailer, mobile home and
8 recreational vehicle parks for which construction is commenced
9 after January 1, 1981. This requirement shall apply whether or not
10 the facility is engaged in a time-sharing plan. Individual
11 electric meters shall not, however, be required:

- 12 1. In those portions of a commercial establishment
13 where the floor space dimensions or physical
14 configuration of the units are subject to
15 alteration, as evidenced by non-structural element
16 partition walls, unless the utility determines that
17 adequate provisions can be made to modify the
18 metering to accurately reflect such alterations;
- 19 2. For electricity used in central heating,
20 ventilating and air conditioning systems, or
21 electric back up service to storage heating and
22 cooling systems,
- 23 3. For electricity used in specialized-use housing
24 accommodations such as hospitals, nursing homes,
25 living facilities located on the same premises as,

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2 and operated in conjunction with, a nursing home or
3 other health care facility providing at least the
4 same level and types of services as a nursing home,
5 convalescent homes, facilities certificated under
6 Chapter 651, Florida Statutes, college dormitories,
7 convents, sorority houses, fraternity houses,
8 motels, hotels, and similar facilities.

9 4. For separate, specially-designated areas for
10 overnight occupancy at trailer, mobile home and
11 recreational vehicle parks where permanent
12 residency is not established and for marinas where
13 living aboard is prohibited by ordinance, deed
14 restriction, or other permanent means.

15 (b) For purposes of this rule:

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

23 2. "Time-sharing plan" means any arrangement, plan,
24 scheme, or similar device, whether by membership,
25 agreement, tenancy in common, sale, lease, deed,

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2 rental agreement, license, or right-to-use
3 agreement or by any other means, whereby a
4 purchaser, in exchange for a consideration,
5 receives a right to use accommodations or
6 facilities, or both, for a specific period of time
7 less than a full year during any given year, but
8 not necessarily for consecutive years, and which
9 extends for a period of more than three years.

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

15 4. The individual metering requirement is waived for
16 any time sharing facility for which construction
17 was commenced before December 23, 1982, in which
18 separate occupancy units were not metered in
19 accordance with subsection (5)(a).

20 5. "Overnight Occupancy" means use of an occupancy
21 unit for a short term such as per day or per week
22 where permanent residency is not established.

23 6. The term "cost" as used herein means only those
24 charges specifically authorized by the electric
25 utility's tariff, including but not limited to the

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2 customer, energy, demand, fuel, and conservation
3 charges made by the electric utility plus
4 applicable taxes and fees to the customer of record
5 responsible for the master meter payments. The
6 term does not include late payment charges,
7 returned check charges, the cost of the
8 distribution system behind the master meter, the
9 cost of billing, and other such costs.

10 (a) Where individual metering is not required
11 under Subsection (5) (a) and master metering is
12 used in lieu thereof, reasonable apportionment
13 methods, including sub-metering, may be used
14 by the customer of record or the owner of such
15 facility solely for the purpose of allocating
16 the cost of the electricity billed by the
17 utility.

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

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

8 Specific Authority: 366.05(1), F.S.

9 Law Implemented: 366.05(3), F.S.

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

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