



VISTANA MANAGEMENT, LTD.

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January 3, 1996

960020-EU

Ms. Blanca S. Bayo
Director, Division of Records and Reporting
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

Enclosed please find 15 copies of a Petition to Initiate Rule-Making pursuant to the provisions of Section 120.54 (5), Florida Statutes, and Section 25-22012, Florida Administrative Code. These copies need to be distributed to the staff as early as possible in order to meet the deadline and make recommendations to the Commission for Rule-Making changes.

If you have any questions, please feel free to call me at 1-800-877-8787, extension 3220.

Sincerely,

VISTANA MANAGEMENT, LTD.

William F. Schabot, CHA
Director of Facilities Management

WFS/pm

Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Vistana Management, Ltd.)
for Commission to initiate Rule changes related
to 25-6.049 Measuring Customer Service)

PSC Docket No. 960020-EC

PETITION TO INITIATE RULE-MAKING

COMES NOW, Vistana Management, Ltd., a Florida limited. partnership
(Documentation #A-32114, Federal ID,59-3083847), hereinafter "Petitioner" by and
pursuant to the provisions of Section 120.54 (5), Florida Statutes, and Section 25-
22.012, Florida Administrative Code and petitions the Florida Public Service
Commission, (hereinafter "PSC"), to initiate Rule-making proceedings to amend Section
25-6.049. Florida Administrative Code, and in support therefore states:

I.

The name, address, and phone number of the Petitioner is:

Vistana Management, Ltd.
8800 Vistana Centre Drive
Orlando, FL 32821-6353
407-239-3220 Fax: 407-239-3205
Registered Agent's phone: 407-239-3220

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II

Petitioner's Interest

Vistana Management, Ltd. is a Florida ltd. partnership formed for the purposes of providing management services for timeshare condominium associations. It currently operates two properties in the State of Florida. Vistana Resort, located in Lake Buena Vista and situated in Orange County, is a 135-acre resort currently containing 1,068 two-bedroom villas of approximately 1,200 square feet each. Vistana's Beach Club located on Hutchinson Island, in St. Lucie County, is a 78-unit resort with villas of approximately 1,100 square feet.

Petitioner represents over 50,000 individual timeshare owners who are served by electric utilities at the above-mentioned resorts. Currently Rule 25-6.049 requires the individual electric metering of all timeshare resorts constructed since January 1, 1981. In the case of Vistana's resorts, this results in the reading and accounting for over 1,500 electric meters, although gas and water are master metered.

We believe that Rule 25-6.049 is discriminatory to the timeshare industry and owners of timeshare, by causing undue hardship and increased expenditures relating to the purchase and consumption of electricity for use in these timeshare villas. Timeshare resorts which are served by utility companies that are not subject to Rule 25-6.049, have an unfair advantage over timeshare resorts served by regulated utility companies. This advantage amounts to about \$350.00 annually per villa of increased electric costs, which must be absorbed by the individual timeshare unit week owners. Timeshare villas

located in the areas served by unregulated utilities, therefore, have an annual savings of \$350.00 per villa which could be used as an unfair advantage in their sales presentations given to prospective purchasers. This increased cost also diminishes from the timeshare industry's ability to invest in energy conservation products, because of the unnecessary annual expenditure of over \$350.00 per villa, required by individual metering. In addition, the conservation rebates offered to commercial customers are much broader in scope than those provided to residential customers. Rebates for items such as lighting and the innovation incentive program are not offered to residential customers, but would be available if timeshare units were master metered as a commercial account.

Our 50,000 owners purchase timeshare in one week increments and use the resort as if it were a suite hotel. We offer maid services, guests services, convention facilities, and food and beverage operations for owners, renters and exchangers staying for one week vacation periods. No permanent residency is established in timeshare condominiums. Normally, approximately 20% to 30% of our villas are rented on a nightly basis and operate identical to a typical suite hotel. This is a service provided by the management company for the individual timeshare unit week owners.

As a general proposition, all operating expenses of a timeshare resort, including all utility charges are considered common expenses of the timeshare plan. Pursuant to Chapter 721, Florida Statutes, common expenses must be allocated among the owners of timeshare interests in accordance with the timeshare instrument. Since most timeshare resorts are condominiums, their timeshare instruments assess utility charges

against timeshare interest owners pursuant to Chapter 718, Florida Statutes, on either a flat per unit or unit square footage pro-rated basis, regardless of how much of the aggregate utility charge is actually incurred by a given owner (or by his guest or lessee). Therefore, there is no legal method by which the cost of the electricity consumed by the owner of an individual unit week, or by his guest or lessee, may be recovered directly from that owner, guest or lessee. Typically, less than 40% of timeshare owners actually use the unit that they own with the remainder electing to exchange to another location through a service such as RCI.

Although it assumed that Rule 25-6.049 specified that timeshare units should be individually metered to promote energy conservation, this Rule has been ineffective in doing so. We feel that with vacation ownership usage being identical to that of a suite hotel, that energy conservation efforts should be focused in building, furnishing and retrofitting units with effective energy conservation measures and products such as fluorescent lighting, high efficiency heat pumps, occupancy sensors, increased insulation, low flow water products and energy conservation, education and awareness programs for our employees and guests.

III

Reasons for Proposed Amendments

BENEFITS TO CONSUMERS: Presently, condominium associations representing timeshare owners throughout Florida, are required to have individual electric meters for every villa constructed since January 1, 1981. These individual electric meters require

that consumers pay residential price for power (demand commercial accounts are not allowed) and they must pay a Customer Charge for monthly individual manual meter readings, line maintenance for each tenant, billing costs, postage and require individual deposits for each account. If master metering were allowed, the condominium associations could choose to remain on their present plan or change to master metering if the changeover was cost effective. It would allow developers of future timeshare condominium products to eliminate the construction expenditures required for individual electric metering and therefore, reduce the selling price to the consumer. It would also reduce the burden of accounting required of the condominium associations to maintain the tens of thousands of monthly timeshare unit electric bills throughout the State of Florida.

It would reduce the cost to individual unit week owners by \$6.00 to \$7.00 each, and in the case of Vistana's resorts, reduce the cost of electricity by over \$350,000 annually.

It would offer a broader scope of rebates which would allow condominium associations to reduce electric consumption and thereby lower the cost to their owners.

It would allow timeshare condominium associations served by regulated utilities to remain competitive with those served by unregulated utilities, and eliminate the unfair advantage of timeshare resorts served by utilities not impacted by Rule 25-6.049.

BENEFITS TO THE UTILITIES: Utility companies must now spend immense amounts of resources to read, record, maintain, bill, and repair the tens of thousands of

electric meters on individual timeshare units throughout the State of Florida. By allowing master metering of individual condominium associations the utility companies could reduce expenditures and lower their operating costs. In addition, since the utility company's responsibility for repairs stops at the meter, they could reduce their liability to maintain electric service to the individual timeshare condominium units. As utility companies seek to become more efficient to meet the challenge of deregulation and power wheeling, a reduction of costs will be key to the long-term health and success of Florida's utility companies. The elimination of the unnecessary reading and maintenance of individual timeshare condominium electric meters, would be a giant step in improving efficiencies and lowering costs.

BENEFITS TO VISTANA MANAGEMENT, LTD.: As we continue to seek new opportunities to lower the maintenance fees to our timeshare owners, and provide service to additional condominium associations, the elimination of unnecessary accounting practices and expenditures will be key to our long-term success.

WHEREFORE, we, VISTANA MANAGEMENT, LTD., request that PSC initiate rule-making in order to amend Rule 25-6.049 to incorporate the changes in the attached, modified copy of 25-6.049.

Respectfully and cordially,
VISTANA MANAGEMENT, LTD.
William F. Schabot
Director of Facilities Management

CERTIFICATE OF SERVICE

I hereby certify that fifteen (15) copies of the foregoing instrument have been furnished by registered mail to the Public Service Commission, Att: Ms. Blanca S. Bayo, Director, Division of Records and Reporting and mailed on the 3rd day of January, 1996.

By: William F. Schabot

William F. Schabot

1 25-6.049 Measure Customer Service.

2 (1) All energy sold to customers, except that sold under flat rate schedule, shall be
3 measured by commercially acceptable measuring devices owned and maintained by the utility,
4 reconcilable to a utility meter for allocation purposes except where it is impractical to meter
loads,

5 such as street lighting, temporary or special installations, in which case the consumption may be
6 calculated, or billed on demand or connected load rate or as provided in the utility's field tariff.

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

10 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, or, if a computerized readout at a central location, then plainly delineated in the software.
13 All charts taken from recording meters shall be marked with the date of the record, the meter
14 number, customer, and chart multiplier. The register ratio shall be marked on all meter registers,
15 if direct reading. The watt-hour constant for the meter itself shall be placed on all watt-hour
16 meters, if direct reading.

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

19 (5)(a) Individual electric metering by the utility commercially available measuring devices
20 shall be required for each separate occupancy unit of new commercial establishments, residential
21 buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational
22 vehicle parks for which construction is commenced after January 1, 1981, unless constructed for
overnight occupancy.

Coding: Words underlined are additions: words in ~~struck through~~ type are deletions from the law.

~~This requirement shall apply whether or not the facility is engaged in a time-sharing plan~~

2 Individual electric meters shall not, however, be required:

- 3 1. In those portions of a commercial establishment where the floor space
4 dimensions or physical configuration of the units are subject to alteration,
5 as evidenced by non-structural element partition walls, unless the utility
6 determines that adequate provisions can be made to modify the metering to
7 accurately reflect such alterations;
- 8 2. For electricity used in central heating, ventilating and air conditioning
9 systems, or electric back up service to storage heating and cooling systems;
- 10 3. For electricity used in specialized-use housing accommodations such as
11 hospitals, nursing homes, living facilities located on the same premises as,
12 and operated in conjunction with, a nursing home or other health care
13 facility providing at least the same level and types of services as a nursing
14 home, convalescent homes, facilities certificated under Chapter 651,
15 Florida Statutes, college dormitories, convents, sorority houses, fraternity
16 houses, motels, hotels, timeshare resorts and similar facilities.
- 17 4. For separate, specially-designated areas for overnight occupancy at trailer,
18 mobile home and recreational vehicle parks where permanent residency is
19 not established and for marinas where living aboard is prohibited by
20 ordinance, deed restriction, or other permanent means.

21 (b) For purposes of this rule:

- 22 1. "Occupancy unit" means that portion of any commercial establishment,
23 single and multi-unit residential building, or trailer, mobile home or

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1 recreational vehicle park, or marina which is ~~separate~~ part from the rest of such
2 facility by clearly determinable boundaries as described in the rental, lease,
3 or ownership agreement for such unit.

4 2. "Time-sharing plan" means any arrangement, plan, scheme, or similar
5 device, whether by membership, agreement, tenancy in common, sale,
6 lease, deed, rental agreement, license, or right-to-use agreement or by any
7 other means, whereby a purchaser, in exchange for a consideration, receives
8 a right to use accommodations or facilities, or both, for a specific period of
9 time less than a full year during any given year, but not necessarily for
10 consecutive years, and which extends for a period of more than three years.

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

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

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

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

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

4 (a) Where individual metering is not required under Subsection (5)(a)
5 and master metering is used in lieu thereof, reasonable
6 apportionment methods, including sub-metering, may be used by
7 the customer of record or the owner of such facility solely for the
8 Purpose of allocating the cost of the electricity billed by the utility.

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

14 7. Each utility shall develop a standard policy governing the provisions of
15 sub-metering as provided fr herein. Such policy shall be filed by each
16 utility as part of its tariffs. The policy shall have uniform application and
17 shall be nondiscriminatory.

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

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

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

21 10/5/88. mm/dd/yy

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