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REPLY TO: TALLAHASSEE

April 10, 1996

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COPY

Ms. Blanca Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RE: Petition to Initiate Changes Related to Rule 25-6.049, F.A.C., Measuring Customer Service, by microMETER Corporation, Docket No. 951485-EU and Petition to Initiate Rulemaking to Amend Rule 25-6.049, F.A.C. Measuring Customer Service, by Vistana Management, Ltd., Docket No. 960020-EU

Dear Ms. Bayo:

Enclosed please find the original and fifteen (15) copies of the Comments of Vistana Management, Ltd./American Resort Development Association - Florida Chapter.

If additional information is needed, please do not hesitate to contact me.

Sincerely,

John R. Marks, III

JRM/lcg  
Enclosures

DOCUMENT NUMBER - DATE  
04173 APR 10 1996  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Initiate )  
Changes Related to Rule 25-6.049, )  
F.A.C., Measuring Customer Service, )  
By microMETER Corporation )

Docket No. 951485-EU

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In Re: Petition to Initiate )  
Rulemaking to Amend Rule 25-6.049, )  
F.A.C., Measuring Customer Service, )  
by Vistana Management, Ltd. )

Docket No. 960020-EU

**COMMENTS OF VISTANA MANAGEMENT, LTD./AMERICAN  
RESORT DEVELOPMENT ASSOCIATION - FLORIDA CHAPTER**

**BACKGROUND AND GENERAL COMMENTS**

On January 4, 1996, Vistana Management, Ltd. (Vistana) filed a Petition to Initiate Rulemaking (Petition) to amend Section 25-6.049, Florida Administrative Code, (F.A.C.) Measuring Customer Service (Rule). On January 31, 1996 the American Resort Development Association - Florida Chapter (ARDA) filed a Notice of Appearance and joined Vistana in the Petition.

The current Rule requires individual metering of all timeshare units constructed since January 1, 1981. The ostensible rationale for the Rule specified that timeshare units should be individually metered to promote energy conservation. It also appears that support for the rationale was based on an apparent misunderstanding of the nature of ownership interests in timeshare units and the manner in which common expenses of a timeshare resort are typically allocated and collected from Owners. Both history and energy usage patterns of timeshare units indicate that the rationale was not valid. Owners typically purchase

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timeshares in one week increments and use the facilities in the same manner that vacationers use hotels, motels and similar facilities. No permanent residency is established in timeshare units and they operate identical to a typical suite hotel. Further, all operating expenses of timeshare resorts, including unit utility charges, are typically considered common expenses of the timeshare plan. Pursuant to Chapter 721, Florida Statutes, common expenses must be allocated among the owners of timeshare interest in accordance with the timeshare documents, and, pursuant to Chapter 718, Florida Statutes, timeshare condominium common expenses must be allocated on either a per-unit or per square-footage basis (the overwhelming number of timeshare resorts are condominium-based).

#### **IMPACT ON UTILITY RATES, COST AND FORECASTING**

Vistana/ARDA would agree with the prevailing view that the impact on utility rates and revenue requirements resulting from revisions in the Rule would be negligible. All of the investor owned utilities (IOU's), Florida Power & Light, Florida Power Corporation, Gulf Power and Tampa Electric, agree that it would be appropriate to allow timeshare buildings to be master metered. The comments of Gulf Power effectively state Vistana/ARDA's general position:

. . . it would be appropriate to include timeshare condominium/apartments and timeshare campgrounds as an exception to the requirement for individual electric metering set forth in Section 25-6.049(5)(a), Florida Administrative Code. Timeshare condominium/apartments operate essentially like a motel or hotel. Motel and hotels are included as exceptions under Section 26-6.049(5)(a)(3), F.A.C.

## IMPACT ON CONSERVATION

Because the energy usage patterns of timeshare users are the same as that of hotel/motel occupants, the original rationale for the rule, i.e. to promote energy conservation, is not valid. Vacation ownership usage related to timeshares is generally identical to that of suite hotels. Vistana/ARDA agrees with the following comments of Florida Power Corporation:

The ability and incentive to conserve load for one or two weeks of vacation is not very strong. Instead of trying to get the guest to change their vacation living style, it would make more sense to include in the original construction as many energy saving appliances and construction methods as possible.

## CONVERSION ISSUES

Vistana/ARDA recognizes there will be a revenue impact related to conversion of multiple residential accounts to a general service demand account. Revenues will be reduced by at least the number of customer charges that will be eliminated with a corresponding offsetting reduction in meter reading and billing expenses. The impact on energy sales revenue will depend, in large part, on the rate schedule the master metered account is billed to. Vistana/ARDA believes it is appropriate to charge timeshare facilities the same rate as hotels/motels, i.e. general service demand rate. Again, consistent with the comments of the IOU's, Vistana/ARDA would maintain that there is no indication that such a shift in revenues would adversely impact the rates or general revenue requirements of the utility.

Vistana/ARDA also recognizes that there would be costs related to the actual

removal of individual meters, the installation of the master meters and any associated service changes. The revenue impact of converting or changing out meters should not be significant. Vistana/ARDA understands the desire to avoid any significant adverse impact on any other customer classes. However, Vistana/ARDA also believes that Florida timeshare consumers should not be adversely impacted by what appears to have been the historically inappropriate application of the Rule to timeshares. Vistana/ARDA believes the parties should be allowed to address meter conversion cost on case by case basis. This would allow both parties the flexibility to determine what costs, if any, are associated with meter conversion. Equally important, it would allow the parties to appropriately determine who should bear such costs.

#### **QUALIFYING TIMESHARES**

"Qualifying" timeshares are generally defined as those timeshare facilities which do not have full time permanent resident owners. It has been suggested that "qualifying" timeshares would need to be wholly owned by one management, with no mixing of timeshare tenants and full time resident owners in the same building. Vistana/ARDA believes that the mixing of timeshare tenants with full time permanent residents is rare, but in those instances in which it does occur, full time permanent resident owners should be individually metered.

#### **APPROPRIATENESS**

As previously indicated, because of the energy usage patterns of timeshare participants, the original rationale for the rule, i.e. the promotion of conservation, was not valid when the current rule was adopted and remains invalid today. Consequently, it would

be appropriate to allow timeshare facilities the option to utilize master meters and be treated as commercial customers in the same manner as hotels and motels. This can be accomplished with the revisions to Section 25-6.049, F.A.C. as stated in the proposed rule. Finally, because of the inappropriate and improper categories of timeshare facilities in the past, Vistana/ARDA requests that the revisions to the Rule affecting timeshare units be treated in an expeditious manner.

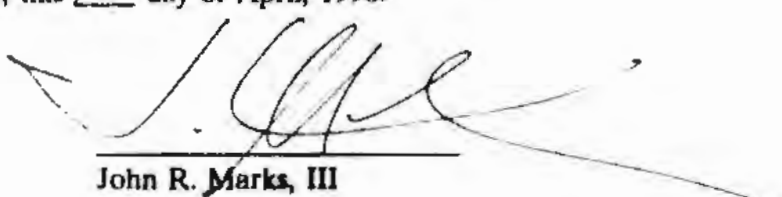


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Attorneys for Vistana Management, Ltd./  
American Resort Development Association

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of Vistana Management, Ltd./American Resort Development Association - Florida Chapter has been furnished by hand delivery to Blanca Bayo, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0850 on this 10<sup>th</sup> day of April, 1996 and a copy by U.S. Mail to James A. McGee, Senior Counsel, Florida Power Corporation, 3201 Thirty-fourth Street, South, Post office Box 14042, St. Petersburg, Florida 33733-4042; Jack L. Haskins, Manager of Rates and Regulatory Matters and Assistant Secretary, Gulf Power Company, 500 Bayfront parkway, Post office Box 1151, Pensacola, Florida 32520-0770; James D. Beasley, MacFarlane, Ausley, Ferguson & McMullen, 227 South Calhoun Street, Tallahassee, Florida 32301; Edward F. Tancer, Florida Power & Light Company, 11770 U.S. Highway 1, North Palm Beach, Florida 33408-3003; John C. Clement, microMeter Corporation, 9700 Koger Blvd., Suite 100, St. Petersburg, Florida 33702; and Laura Glenn, Florida Department of Business and Professional Regulation, 1940 North Monroe Street, Northwood Center, Tallahassee, Florida 32399, this 10<sup>th</sup> day of April, 1996.

  
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John R. Marks, III