

May 19, 1997

RECEIVED

To: Mr. David Smith
Director Florida Public Service Commission
Division of Appeals
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

97 MAY 27 PM 4:10

FLORIDA PUBLIC SERVICE COMMISSION
DIVISION OF APPEALS

970647-EU

Dear Mr. Smith:

On June 8, 1996 I wrote to Mr. Richardson of Florida Power Corporation pointing out a very obvious inequity in electricity billing practices in Dunedin Beach Campground. That is because 80% of the campground, (195 sites), are on a master meter, and the remaining 20%, (38 sites), were individually metered by Florida Power. It was my desire at the time to gain permission for the campground owner to install individual meters of his own on those 38 sites, and thus put all 233 sites on one uniform and non-discriminatory system. At the time, FPSC rule #25-6.049 was invoked and prevented the change over.

Several exchanges of intelligence relative to the matter ensued with two meetings convened between Florida Power, the campground owner, and the 38 site renters. Agreement was unanimous, and it was recommended by Florida Power, that a waiver to the rule be sought from the Florida Public Service Commission via petition.

On March 4, 1997, the signed petition, copy attached, was forwarded to all the principles involved. Some minor exchanges of information ensued but not until late last week did I find out that the petition was hopelessly bogged down in bureaucracy. It seems that the Public Counsel and the FPSC were waiting for the other to take the initiative and in consequence thereof, there was no action, and 12 weeks more were for the most part wasted. This procrastination is frustrating and inexcusable.

At any rate, I did receive a letter last week from the Electric Regulation Bureau informing me that in their opinion, a waiver could not be issued, and a rule change had to be sought. I still believe a waiver to be appropriate in this instance, due to very unique circumstances, but decided to defer and move on with a further request for an amendment to rule #25-6.049 and thus obviate the need for a new petition. Regardless of the semantics involved, Waiver vs. Rule change, I feel that the original petition is accurate, comprehensive, and worthy of due consideration. In view of the foregoing, I am submitting this letter as an addendum to our original petition, asking for a rule change along with the waiver, as the granting of either would be satisfactory to all parties concerned.

I realize that in the legal profession one must be concise and to the point. In order to demonstrate the RV Parks' position, I suggest the following changes in Rule #25-6.049:

1. Add after the end of paragraph 4, page 35:

5. In recreational vehicle parks constructed prior to January 1, 1981, where completion of the park in line with original approved plans was delayed until after January 1, 1981 by circumstances beyond the park owners control, i.e., County sewer systems incomplete, etc..

2. Add after the end of paragraph 3, page 36:

These provisions shall be waived in those cases of RV park completion's after January 1, 1981, provided the original approved plan was defined accordingly. See subsection (5)(a)5.

3. Add to the end of paragraph 6(a), page 36:

DOCUMENT NUMBER-DATE

05429 MAY 29 97

FPSC-RECORDS/REPORTING

In those instances of RV park completion's after January 1, 1981, the apportionment method currently used on the prior built sites shall be implemented in a uniform and non-discriminatory manner on all those sites built to the original approved plan after January 1, 1981.

Observations on above suggested amendments:

1. Paragraph 5, page 35;
 - (a) Allows the invoking of this amendment for one reason only, which is the completion of an RV Park.
 - (b) Ties down the fact that the original approved plans for the RV Park encompassed these units. Allows only for park completion's, no new sections or new parks allowed.
 - (c) Further restricts this rule in that the park owner had to halt the original construction due to no fault of his own. Lack of funds, etc., not valid reasons.

2. Paragraph 3, page 36;
 - (a) Backs up paragraph (5)(a)5 in order to avoid conflict between the two.
 - (b) Further serves to restrict added provisions of the rule to park completion's after January 1, 1981.

3. Paragraph 6(a), page 36;
 - (a) Allows for only one method of apportionment of master meter billing.
 - (b) Guarantees the existence of uniformity, and non-discriminatory electricity billing practices.

Note: I still feel that a waiver, due to the very unusual circumstances demonstrated, should remain a distinct possibility.

It is recognized that the language that I have used is geared to the unique conditions prevalent in this park, and quite possibly, certain changes would be required to satisfy the general rule. I believe the data presented herewith should provide an adequate insight into the overall problem. Florida Power meters, (Individual Residential), vs. Campground meters, (Master-Commercial), create four conditions that we consider discriminatory. These are:

1. A higher KWH usage rate.
2. A monthly service charge.
3. A re-connect fee when power is shut off for a period of time.
4. A minimum monthly power charge in certain instances when power is left on and the minimum usage requirement is not recorded.

We view these charges as being discriminatory due to the fact that 80% of the park (195 sites), know nothing of them. So why must the remainder, or 20% (38 sites), be treated differently? The matter of the re-connect fee is one of severe discrimination because of its limiting of physical movement of the 38 site renters. In one case a renter was caused to re-connect three times in the course of one six month period. People have a difficult time understanding why they cannot come and go with impunity, like their 195 friends and neighbors, who are most fortunate in enjoying the benefits of master meter billing, while they have been denied similar treatment.

We are aware that there have been other petitions presented in the past to request a rule change to allow for master metering, and are in agreement with the denials of such in those instances where dual billing procedures and discriminatory practices were not present. However, care should be taken when an opinion is advanced based upon different circumstances; i.e. Micrometer Corporation, a manufacturer of metering devices, wanted to install their own system in multi-unit buildings and replace Florida Power meters. That is where the similarity with Dunedin Beach Campground ends. Furthermore, this opinion is flawed in virtually all its content. We do not seek a particular rate because of the impact it would have on our bills. There are other factors involved besides rates. The rate we are paying pales in light of other

considerations; especially in view of our comparatively low usage of power on average. Secondly, there are not and never have been two sections to this campground. Any assumption thereto is in error. Finally, the argument that discriminatory practices can be accepted in this instance due to Florida Statutes is off the mark. The facts must be considered before a label of Acceptable Discriminatory Practices is attached. Is it possible that certain conditions were not considered when these statutes evolved? Is the question of the "re-interpretation of the statutes" in order at this time? We suggest that the possibility exists due to our unique circumstances for the inclusion of our entire park into the "Grandfather" process alluded to in the FPSC staff opinion. In view of our objections to the FPSC staff opinion, we wish to encourage all concerned in this matter to dwell with the facts. The 38 petitioners in question are renters of 20% of the sites in a unified campground (no designated boundaries, etc.), operating under dual billing procedures brought about by a rule change that provoked a set of unique circumstances, the main ones being viewed as highly discriminatory, and found in our opinion, wanting in the FPSC defense thereof.

Not communicated before this time, and most important in deliberations, should be the fact that the campground owner will assume complete responsibility for the cost and installation of this proffered endeavor. He also anticipates the opportunity to operate his park in a uniform and non-discriminatory manner. Mr. Whalen has been the owner and/or manager of Dunedin Beach Campground for 24 years, and has a reputation beyond reproach. His efforts on behalf of the residents over the years have been noteworthy, and we have confidence in the fact that the campground will continue to be operated in an exemplary and non-discriminatory manner if within his control.

In conclusion, we are asking for a review of this waiver, and/or rule change amendment request at your earliest convenience. In addition we wish to be informed of the approach taken, and progress made, in this instance by the FPSC and others involved. Mr. Whalen (campground owner), and I stand ready to assist the FPSC and Public Counsel in any way possible, in order to bring this elongated (one year in June) matter to a close.

Mr. Whalen may be reached in his office in Dunedin Beach Campground at 1-813-784-3719.

Yours truly,



Earle C. Bartell
Campground Resident

ECB/rw

Attachment:

cc: Mr. Jack Shreve, Esquire
Office of Public Counsel

Ms. Julia L. Johnson, Chairman
Florida Public Service Commission

Mr. Joseph Jenkins, Director
Florida Public Service Commission
Electric and Gas Division

Mr. Joseph Richardson, President and CEO
Florida Power Corporation

Ms. Connie S. Kummer, Chief - Bureau of Electric Regulation
Florida Public Service Commission

Petition

March 4, 1997

To: Office of Public Consul
Mr. Jack Shreve, Esquire
Mr. Roger Howell, Esquire
111 West Madison St.
Room 812
Tallahassee, FL 32399-1400

970647-EU

From: Thirty eight tenants of record
Dunedin Beach Campground
2920 Alternate 19 North
Dunedin, FL 34698

Subject: The waiving of certain provisions of F.P.S.C. Rule #25-6.049
pertaining to primary metering procedures. (Measuring Customer Service)

1. Whereas: Dunedin Beach Campground opened in 1973 with primary metered electricity billing on 195 RV Sites. Lacking individual meters the charges of necessity were allocated in the rent at the time. Due to the lack of County sewer service at that time, the remaining land had to be used for a sewer system, and the construction of the remaining 38 sites was suspended until 1982 when the county sewer was connected to the park. Had the proper County facilities been available at the time, the park would have been completed in a uniform manner, which would have eliminated all future concerns. This reason for delay is one of primary concern in the waiver of the FPSC ruling. The park owner was ready and willing to complete his park, but matters beyond his control prevented this.
2. Whereas: In 1982 the campground owner asked to have his own meters installed on the 38 remaining sites he was developing, and was denied due to F.P.S.C. ruling #25-6.049 which stated in general that no further primary metering was to be implemented. Hence, the installation of Florida Power meters came about, and with it the beginning of non-uniform electricity billing charges which precipitated a discriminatory act against these 38 rental sites 15 years ago. Had the owner been granted his request the entire park would have been primary metered with uniform electricity billing procedures.
3. Whereas: As a result of item 2 above, the following surcharges were added to these 38 sites through Florida Power billing procedures.

- a. Monthly service charge.
- b. Slightly higher KWH charges due to non-commercial billing.
- c. Re-connect charge covering those sites where power was temporarily disconnected. This can occur several times a year.
- d. Minimum monthly billing charge in certain circumstances.

An estimate of the total billing difference where air conditioning/heat are involved amounts to approximately \$16.00 monthly. Figures are available upon request. It should be noted that the 195 site renters on primary meter billing know nothing of these extra charges. They enjoy complete freedom of movement with electricity charges indicated only when the individual meters on their sites are impulsed. How can neighbors in such close proximity (some across the street from one another) be treated so differently? The fact that this park is one consolidated unit, with no sub-divisions or physical differences in rental sites whatsoever must be reiterated.

4. Whereas: In 1996 the campground owner installed his own meters on the original 195 sites while upgrading those electrical facilities. He now had the ability to bill each site for the electricity utilized and no longer had to apportion his overall primary meter charges in the rent. This action was a positive move in all respects.
5. Whereas: As a result of item 4 above, comparisons of charges, surcharges, etc., were made and the campground owner became aware of the electricity billing differences. He set out immediately to correct this matter by requesting permission from Florida Power to install his own meters in place of the Florida Power meters and integrate the 38 sites with his 195 primary metered sites, thus setting up uniformity, while negating the discrimination problem. This was not to be, as he was once again thwarted by FPSC rule #25-6.049.
6. Whereas: The efforts and time spent by Mr. Whalen, on behalf of the people, in order to bring about unified electricity billing procedures was indeed noteworthy. Also worthy of acclaim is his campground, which of itself has unique qualities. This campground opened on March 2, 1973 and has been under Mr. Whalen's management and/or ownership ever since, (24 years). It is well managed and directed. The paid staff is excellent, and in addition, approximately 30 volunteers form a well balanced general committee, and sub-committees, responsible for all social activities, including special events and sports. We look on this campground as probably the most neighborly and trouble free RV Resort on the entire West coast of Florida. We also look on Mr. Whalen as a competent business man who can be relied upon to do the right thing, regardless of circumstances. This he has demonstrated over the years.

7. Whereas: We have reviewed FPSC Rule #25-6.049 and feel it was well advised in 1981 in order to protect renters from certain indiscriminate landlords electricity billing practices. However, this rule does nothing in support of the 38 sites in question, except that its questionable enforcement precipitated the conditions now present. In other words, the campground owner was denied the right to have a uniform electricity metering policy with its attending non-discriminatory billing procedure. The last sentence of paragraph 7, page 6-36 of rule #25-6.049 states:

"THE POLICY SHALL HAVE UNIFORM APPLICATION AND SHALL BE NON-DISCRIMINATORY".

We contend that this sentence, when interpreted in line with the present unique circumstances of non-uniformity and discrimination in Dunedin Beach Campground, would nullify all of the other applicable provisions of this rule. We further maintain that the invoking of certain clauses of the rule, that resulted in the installation of Florida Power meters in 1982, was contrary to FPSC policy. Therefore, the present use of the same rationale in defense of that prior decision is dubious.

8. Whereas: Our further review of the particulars involved in this case indicates some lack of attention by the Florida Power engineers in not picking up the potential problem prevalent in Dunedin Beach Campground. Had the circumstances of non-uniformity and discrimination been discovered, and more closely explored, it is hereby suggested that much needless effort would have been avoided on everyone's part. However, in view of our findings, we now seek a waiver of some provisions of FPSC Rule #25-6.049 due to the unique conditions mentioned above. It is our considered opinions that in general the rule is good as long as extenuating circumstances such as those causing discrimination are not prevalent.

9. Whereas: Let it be known the RV park owner, Mr. Richard Whalen, and the 38 petitioners are in complete agreement as to his desire to install his own meters in place of Florida Power meters. It is also recognized that Florida Power Corporation will sanction his solution to this problem upon notification of the Florida Public Service Commission waiver in this instance.

10. Whereas: We, the undersigned petitioners ask the Florida Public Service Commission to review our current position, examine the unique circumstances involved, and grant us and Mr. Whalen that consideration, which we as good neighbors, friends and Florida Power customers, have earned. We anxiously await the FPSC waiver which should assist all of us in our further pursuit of happiness in

a uniform and non-discriminatory RV Park, shared in all particulars
by the renters of record on all 233 sites.

Signed by,

All Petitioners
(Attached)

cc: Mr. Joseph Richardson
President and Chief Operating Officer
Florida Power Corporation

Mr. Joseph Jenkins
Director, Florida Public Service Commission
Electric and Gas Division

Mr. Bernard Windham
Florida Public Service Commission
Division of Electric and Gas

Mr. David Smith, Director
Florida Public Service Commission
Division of Appeals

Ms. Julia L. Johnson, Chairman
Florida Public Service Commission

Site No.Signature

170 Carl C. Bartel - Beatrice O. Bartel
 171 Robert A. Scott - Mary W. Scott
 172 Albert A. Bellman - Constance D. Bellman
 173 Frank A. Richards
 174 Larry Kastelin - Margaret J. Kastelin
 175 Nancy A. Joy
 176 Fred M. Hunter - Ruth B. Hunter
 177 Archer Jones - Jean Jones
 178 Michael J. Johnson
 179 James H. Stetson
 180 Johnny F. Weaver - Mrs. S. Weaver
 181 Arthur J. Kreny
 182 Robert R. Hummer - Alice W. Hummer
 183 George E. Stetson
 184 Evelyn B. Hollinger
 185 Edwin A. Williams - Ann D. Williams
 186 Joe Huddleston - Betty Huddleston
 187 Margaret J. Hunter
 188 Edward J. Turner - Frankie M. Turner
 189 Reg B. Hunter - Elinor L. Hunter
 190 Bob Harris - Shirley Harris
 191 Eric Adams - Irene Adams
 192 Wm. McConnel - Dorothy McConnel
 193 Dorothy Pounder
 194 Earl Thompson - Mrs. Thompson
 195 James P. Barrett
 196 Robert M. Schipke - Ethel J. Schipke
 197 Michael J. Johnson
 198 Thomas K. Kessler
 199 Edward M. Meier - Grace Meier
 200 Floyd E. White - Helen W. White
 201 Frank Gant - Betty Gant
 202 Regina K. Kerman - Frank E. Kerman
 203 Ed F. Davis - Charlotte F. Davis
 204 George W. Pender - Betty F. Pender
 205 John E. Woodson - Carol E. Woodson
 206 TRAVELING - NOT AVAILABLE
 207 John Russ - Gene Russ

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 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. 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)(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 for which construction is commenced after January 1, 1981. This requirement shall apply whether or not the facility is engaged in a time-sharing plan. Individual electric meters shall not, however, be required:

1. 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;
2. For electricity used in central heating, ventilating and air conditioning systems, or electric back up service to storage heating and cooling systems;
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.
4. For separate, specially-designated areas for overnight occupancy at trailer, mobile home and recreational vehicle parks where permanent residency is not established and for marinas where living aboard is prohibited by ordinance, deed restriction, or other permanent means.

(b) For purposes of this rule:

1. "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.
2. "Time-sharing plan" means any arrangement, plan scheme, or similar device, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, whereby a purchaser, in exchange for a

consideration, receives a right to use accommodations or facilities, or both, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years.

3. 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.
4. The individual metering requirement is waived for any time sharing facility for which construction was commenced before December 23, 1982, in which separate occupancy units were not metered in accordance with subsection (5)(a).
5. "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.
6. The term "cost" as used herein means any 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.
 - (a) Where individual metering is not required under Subsection (5)(a) 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.
 - (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.
7. 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.

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

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

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.

25-6.050 Location of Meters. The utility shall designate to an applicant or its customers the location for meter placement. Locations of meters should be easily accessible for reading, testing, and making necessary adjustments and repairs.

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

Law Implemented: 366.05(1), F.S.

History: Amended 7/29/69, formerly 25-6.50.