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August 28, 2002

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RECEIVED - PSC
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COMMISSION
CLERK

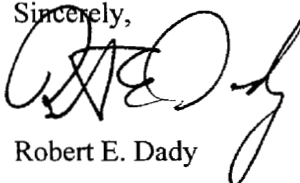
020 944 - EU

Re: Petition for Variance or Waiver
Petitioner: 18001 Collins Avenue Condominium Association, Inc.

Dear Ms. Bayo:

Attached please find one original and seven (7) copies of a Petition for Variance or Waiver from Rule 25-6.049(5)(a) of the Florida Administrative Code regarding individual electric metering on behalf of 18001 Collins Avenue Condominium Association, Inc.

Should you need any further information, please contact the undersigned.

Sincerely,

Robert E. Dady

RED/mtd
Attachments

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FPSC-COMMISSION CLERK

STATE OF FLORIDA
BEFORE THE PUBLIC SERVICE COMMISSION

IN RE:

18001 COLLINS AVENUE
CONDOMINIUM ASSOCIATION, INC.

BER _____

Petitioners
_____ /

**PETITION FOR VARIANCE OR WAIVER
FROM RULE 25-6.049(5)(a)
OF THE FLORIDA ADMINISTRATIVE CODE**

COMES NOW the Petitioner 18001 Collins Avenue Condominium Association, Inc., (hereinafter "**Association**") and hereby petitions the Florida Public Service Commission for a variance or waiver pursuant to Section #120.542 of the Florida statute and Section #28-104.002 of the Florida Administrative Code.

I. Applicable Rule: The applicable rule from which Petitioner seeks a variance or waiver is Rule 25-6.049(5) of the Florida Administrative Code, which states in pertinent part that:

(5)(a) "Individual electric metering by the utility company shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile homes and recreational vehicle parks for which construction is commenced after January 1, 1981."

However, Section 25-6.049(5)(a)(3) of the rule provides certain exceptions to the individual metering requirement.

(5)(a)(3) "For electric used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and occupied 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 home facilities certificated under Chapter 651, Florida Statutes, college dormitories, convents, sorority houses, fraternity houses, *motels, hotels, and similar facilities.*" (Emphasis Supplied)

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The Trump International Sonesta Beach Resort, a Condominium (hereinafter “**Sonesta Beach Resort**”), will operate as a hotel and operates in accordance with Chapter 509.242 of the Florida Statutes as a Public Lodging Establishment and most appropriately fits the definition in such statute as a “Hotel”. “[A] hotel is any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally recognized as a hotel in the community in which it is situated or by the industry.” Chapter 509.242(a), Florida Statutes. Therefore, Petitioner believes under the rule the exception of hotels from the individual metering requirement should apply to the Association and it be allowed to master meter the facility.

II. Underlying Statute F.S. 366.05(1): The applicable portion of the underlying statute indicates that the Public Service Commission (“**Commission**”) shall have the power to prescribe fair and reasonable rates and charges, classifications, standards of quality measurements, and service rules and regulations to be observed by each public utility. Rule 25-6.049(5)(a) and 2506.049(5)(a)(3) has been adopted to accomplish this principle. The implementation of fair and reasonable rates and charges by the public utility companies in Florida is a goal of the Commission established by the legislature. See F.S. 366.03.

In addition, pursuant to docket #810308-EU September 2, 1981, it appears that the intent of Rule 25-6.049(5)(a) and Rule 25-6.049(5)(a)(3) is to serve the public interest regarding energy conservation. Petitioner believes both the underlying statute requiring fair and reasonable rates and the purpose of energy conservation are both better served, if in fact, Petitioner is allowed to master meter the facility.

III. Type of Action Requested: Petitioner requests the Commission grant a variance or waiver from the real or perceived requirement of Rule 25-6.049(5)(a) wherein condominium must be individually metered, and allow Petitioner, who operates as a hotel, to master meter its facility.

IV. Facts Which Demonstrate Substantial Hardship or Violation of Principles of Fairness: Association is a non-profit association which represents investor/owners of condominium units at 18001 Collins Avenue, Sunny Isles Beach, Florida 33160. Association operates the hotel under the name of Trump International Sonesta Beach Resort.

Sonesta Beach Resort is a popular beach front property that is readying to operate pursuant to Chapter 509.242 of the Florida Statutes as a public lodging establishment most appropriately fitting the definition in paragraph 509.242(a) Hotel. The statute defines a hotel as “any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally recognized as a hotel in the community in which it is situated or by the industry.” chapter 509.242(a), Florida Statutes.

Association operating under the name of Sonesta Beach Resort is engaged in the business of providing short term (daily, weekly) lodging to vacationers as do hotels and motels in the adjacent and surrounding areas. Petitioner competes directly for room night business with nearby hotels and motels in Miami, Hollywood, Fort Lauderdale and surrounding areas. The manager of Sonesta Beach Resort is Sonesta Hotels of Florida, Inc. (“**Manager**”) which operates hotels located throughout the country. In Florida, Manager operates the Sonesta Hotels and Suites in Coconut Grove, the Sanibel Harbor Resort, the Sonesta Villas in Orlando and the Sonesta Beach Hotel on Key Biscayne. Sonesta Beach Resort has a full services restaurant on its premises in addition to convention meeting rooms. Guests at the Sonesta Beach Resort will have full access to multiple

pools and related decks, a health spa, tennis court and beach front. To obtain market share Petitioner, through the Manager, will advertise and promote its business with travel agents and in trade shows both in this country and abroad. Manager has utilized full color marketing brochures as one of the many methods to promote its business and keep the units occupied with guests and plans to do such marketing for the Sonesta Beach Resort. A copy of the fact sheet for a brochure and Hotel description and rate card are being printed and are attached as **Exhibit "A"**.

Sonesta Beach Resort will be registered with and licensed by the Florida Department of Business and Professional Regulation to engage in the business of providing transient lodging accommodations and will be registered with the Florida Department of Revenue to collect and remit sales taxes on revenue realized from providing such transient accommodations in the near future in the same manner as the Manager has done for the many hotels it has managed for a substantial number of years.

A majority of the condominium units have been sold by the owner/investors to date with the understanding that the units will be operated as a hotel. In fact, there is a provision in the documents that prohibits the investor/owners from using the units as their full time residences. The only exceptions to this are a maximum of five percent (5%) of the units that may be used at any time in the owner/investors' discretion.

Sonesta Beach Resort will maintain a twenty-four hour registration desk with a large lobby area where guests must check-in to receive their room assignments. Registration, check-in and check-out are accomplished in the same manner as comparable resort hotels. All vehicle parking is by valet service, a practice contrary to the operation of a residential condominium, but similar to the manner in which hotels handle vehicles.

Telephone service for the Petitioner will be provided through a master telephone system by NEC with all calls ringing directly into the switchboard in the same manner as a hotel or motel. Guest rooms will be furnished with calling instructions and all charges will be listed in compliance with the Department of Business Regulation, the FCC, and the PSC. A form presently used by the Manager that will become Petitioner's guest telephone information and instruction card is attached as **Exhibit "B"**. To maintain this expensive type of telephone operation, which is identical to most modern day hotels and motels, requires an investment of capital and time and effort of management.

Manager employs a general manager, Mr. Alan Sonnabend, who is directly responsible for the supervision of the operation and care of the resort. His job duties are similar to those persons holding the title of general manager in any other resort hotel of its size, including oversight and supervision of housekeeping, maintenance, security, guest services, marketing and advertising. It is the general manager's responsibility to operate the resort in a fiscally responsible manner.

It is also the responsibility of the general manager to do the best job he can to insure his property competes well with other hotels and motels in the area for guest room nights. To accomplish this, rates for such room nights must be kept in line with other similar facilities. Advertising dollars must also be expended to fill the needed amount of room nights. These principles exist for resort hotels throughout Florida and also exist for the Petitioner based on its manner of operation.

Without being allowed to master meter its facility, the Petitioner will pay approximately 25%-30% more for the same electric to operate as competing hotels and motels including condominium/hotels such as the Ritz-Carlton on Key Biscayne which enjoys the use of a master meter. This creates a substantial hardship on the Petitioner in its efforts to compete in the room

rental business and pay all the associated costs (including taxes), of operating a resort hotel facility. It also violates principles of fairness in that other hotels and motels in the surrounding area will spend less money on electricity and be able to spend more on advertising or upgrading their facilities to attract the traveling public.

In addition, according to a staff report filed September 5, 2000, in Docket No. 000643-EU, it appears that the type of facilities exempted from the individual metering requirement are those that operate similar to hotels and motels where the occupants of the units are not billed for their use of electricity. Sonesta Beach Resort falls into this category.

It is impractical, if nearly impossible, to attribute and bill electric usage to the daily and weekly guests of the resort. They are billed a bundled rate for the limited use of the rooms rented while vacationing at Sonesta Beach Resort.

V. Conservation Issue: The development of Rule 25-6.049 F.AC. was in great part to encourage conservation of electricity. The PSC, its Staff, and IOU's in Florida have adhered to the philosophy that the end user will be more inclined to be conscious of conservation if such user is made aware of his or her electric use and associated costs. Section (5)(a) of the rule follows this theory by requiring individual metering. However, the implication which can be derived from this section is that the condominiums required to be individually metered are those that are residential in nature. By requiring individual metering for a residential condominium the owner occupant will be made aware of monthly electric usage and associated costs and will be more inclined to conserve electricity.

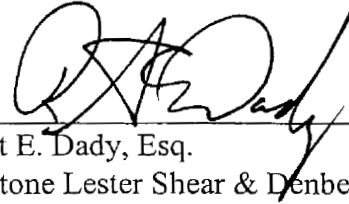
This theory is not applicable in the instant case since Petitioner operates as a resort hotel catering to the transient public. The owner/investors of units at Sonesta Beach Resort are not the

ones responsible for energy conservation at the resort. The chief engineer and maintenance staff at Sonesta Beach Resort have the primary responsibility for energy conservation just like their counterparts in nearby hotels and motels.

VI. Conclusion: By granting Petitioner a waiver or variance from the individual metering requirements of Rule 25.6-049, the interests of the public relating to energy conservation would be better served. By master metering Petitioner would be more efficient in its efforts to control and conserve electricity. In addition, the principles of fairness would be met in that the owner/investors at Sonesta Beach Resort would receive the benefits of lower electric costs due to master metering, as their owner/investor counterparts do in hotels and motels in Florida. Petitioner would also be able to compete with hotels and motels in the area on a more even basis, as Petitioner would not be paying higher costs for electric than their hotel/motel competitors.

VII. Duration of Variance or Waiver: Recognizing that the rules governing use of the units at Sonesta Beach Resort will not change by granting of the variance or waiver from the individual metering requirements of Rule 25-6.049, Petitioner requests the variance or waiver be permanent with the condition that it continues to operate as a hotel, motel or similar facility in accordance with Chapter 509.242 of the Florida Statutes and/or Rule 25-6.049 F.A.C. In the event Petitioner changes its operation from primarily a transient rental facility to primarily a residential facility, the variance or waiver would terminate and the units would be subject to the individual metering requirements of Rule 25.6-049(5)(a).

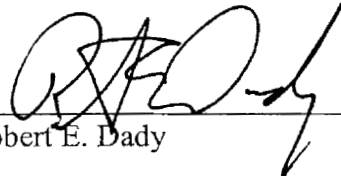
WHEREFORE, for all of the foregoing reasons, Petitioner respectfully requests the Public Service Commission grant its request for a variance or waiver.



Robert E. Dady, Esq.
Fieldstone Lester Shear & Denberg
201 Alhambra Circle, Suite 601
Coral Gables, Florida 33134
Telephone: (305) 357-1001
Facsimile: (305) 357-1002

Authorized Representative and
Attorney for Petitioner
18001 Collins Avenue Condominium
Association, Inc.

I HEREBY CERTIFY that an original and seven (7) copies of the foregoing Petition for Variance or Waiver have been furnished by U.S. Mail this 28th day of August, 2002 to the Public Service Commission, Attn: Ms. Blanca S. Bayo, Director, Division of Records and Reporting.



Robert E. Dady



FACT

TRUMP INTERNATIONAL
SONESTA BEACH RESORT

SHEET



Opening winter 2002/2003, Trump International Sonesta Beach Resort is destined to become the jewel of the new American Riviera. Greeted by the semi-transparent two-story high waterfall in the lobby, you will know you have arrived at a very special place. World-class service, accommodations with every amenity, a wide sandy beach and the turquoise blue ocean combine to make for the perfect vacation at Trump International Sonesta Beach Resort.

A luxury 32-story Platinum award-winning building featuring 400 deluxe rooms and suites offering panoramic views of Intracoastal Waterway and the Atlantic Ocean. Located in beautiful Sunny Isles Beach within 2 miles of the exclusive shopping of Bal Harbour Shops and Aventura Mall and near Miami International Airport and Ft. Lauderdale International Airport.

GUEST ROOM AMENITIES

- 260 King-bedded rooms
- 140 Double-Queen bedded rooms
- Over 450 sq. ft. of interior guest room space
- Bi-level Presidential suite with outdoor jacuzzi
- One and Two bedroom suites with full kitchen
- Microwave oven
- Fully Stocked Mini-bar
- Web TV
- Balconies featuring magnificent views
- Room Service
- Individual Climate Control
- Hair Dryer
- Two-line Telephone
- Cable Television
- CD Player/Radio
- Full-size Iron & Ironing Board
- Bathrobe
- In-room Safe
- Data Port

RESORT FEATURES

- Located directly on the Atlantic Ocean with a wide sandy beach
- Free flowing oceanfront pool
- 1,000 feet of sparkling white sand
- Watersports
- Air-Conditioned beach & pool Cabanas
- Indoor/Outdoor dining
- Three bars including Poolside Bar
- Spa & Salon
- State-of-the-art fitness center
- Retail Shops
- Full-service business center
- 22,000 sq. ft. of meeting space
- Facilities available for meetings, weddings & social events
- Oceanfront Ballroom
- Just Us Kids program offering children's activities
- Game Room
- Complimentary shuttle service to South Beach, Bal Harbour, Aventura and other local attractions

18101 Collins Avenue, Sunny Isles Beach, Florida 33160 • (305) 692-5200 • Fax: (305) 692-5111

www.sonesta.com



TRUMP INTERNATIONAL
SONESTA BEACH RESORT

2002/2003 Rack Rates

Rate Ranges

<u>Dec. 20, 2002 – April 30, 2003</u>	<u>May 1, 2003 – Sept. 15, 2003</u>	<u>Sept. 16, 2003 – Dec. 19, 2003</u>
<u>Deluxe Room</u> \$295 to \$395	<u>Deluxe Room</u> \$185 to \$235	<u>Deluxe Room</u> \$225 to \$275
<u>Deluxe Studio</u> \$345 to \$445	<u>Deluxe Studio</u> \$235 to \$285	<u>Deluxe Studio</u> \$275 to \$325
<u>Junior Suite</u> \$395 to \$495	<u>Junior Suite</u> \$285 to \$335	<u>Junior Suite</u> \$325 to \$375
<u>One Bedroom Suite</u> \$520 to \$670	<u>One Bedroom Suite</u> \$365 to \$475	<u>One Bedroom Suite</u> \$410 to \$540
<u>Two Bedroom Suite</u> \$690 to \$975	<u>Two Bedroom Suite</u> \$485 to \$595	<u>Two Bedroom Suite</u> \$550 to \$700

Rates vary based on room type, view and availability

Trump International Sonesta Beach Resort features 400 oversized luxurious guestrooms. All rooms have private balconies, wet bars, microwave ovens, coffee makers, refrigerators, fully stocked mini bar, individual climate control, hair dryer, in-room safe, two-line telephone, cable & Web TV, data ports, CD player/radio and full size iron & ironing boards. One and Two bedroom suites have full size kitchens & washer/dryers.

Experience the best of an island vacation with miles of white sandy beach on the Atlantic Ocean. Enjoy this elegant resort which features a state of the art spa, tennis, water sports, nearby golf, shopping and minutes from Bal Harbour, South Beach, Miami and Coconut Grove. 20 minutes from Fort Lauderdale and Miami International Airports.

- . 8,000 square foot spa
- . Free flowing ocean front pool
- . 22,000 sq ft of meeting space for meeting, banquets & social functions
- . 2 restaurants/3 bars
- . Scheduled shuttle service to area shopping & attractions
- . Championship golf minutes away
- . Exciting water sports
- . Room service
- . Three retail outlets
- . Children's programs

Third person rollaway: \$35 additional per night. Crib: no charge. Children under 17 years of age: no charge when sharing a room with parents. Maximum: four persons sharing a room. Certain restrictions apply. Room tax is currently 12.5%. Resort fee \$15 plus tax, per room, per night.

Sonesta Beach Resort
















Key Biscayne

TEL: 305-361-2021
 FAX: 305-361-3096

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M

ROOM TO ROOM	7 + ROOM NUMBER
HOTEL OPERATOR	0
LOCAL CALLS	9 + AREA CODE + NUMBER
LONG-DISTANCE	9 + 1 + AREA CODE + NUMBER
INTERNATIONAL	9 + 011 + COUNTRY CODE + CITY CODE + NUMBER

AFTER 20 MINUTES, ALL CALLS ARE CHARGED AT A RATE OF 10¢ PER MINUTE.

				
ROOM SERVICE	BELL CAPTAIN	CONCIERGE	VALET PARKING	MESSAGES
				MESSAGE WAITING
				LINE 1
				LINE 2
				HOLD
				
HOUSEKEEPING	FRONT DESK	PERSONAL SERVICE MANAGER	SPA	RESTAURANTS
				
WEATHER	HANDBET VOLUME	REDIAL	MUTE	SPEAKER PHONE



VOICE MAIL INSTRUCTIONS

In an effort to provide you with the most up-to-date service and technology, we are happy to offer our voice mail message system.

Please follow the instructions listed below.

If you require assistance, please dial "0" for the Hotel Operator.

Please note that voice mail will answer a call within 4 to 6 rings and that **ONCE MESSAGES ARE DELETED, THEY CANNOT BE RETRIEVED!**

To keep your messages confidential:

Press "50", then "8" for Mailbox configuration, and follow the instructions as directed. Program your personal greeting and/or pass code.

Retrieving messages:

If your message light is flashing, press "50" and follow the voice instructions.

Remote retrieval:

Using a touchtone phone from an outside location, you may call (305) 365-2350. Voice mail will ask you to enter your mailbox number (you should enter "7 and your room number" followed by the "#"). Then, follow the instructions to retrieve your messages.

Retrieving messages from a house phone:

Dial "50", wait for the voice, then enter your mailbox number (7 and the room number), press "#" once you hear your mail box answer, follow the instructions accordingly.

Leaving messages for other hotel guests:

Dial "7 and the guests room number". If the guest is unavailable, voice mail will prompt you to leave a message.

INTERNET ACCESS

Internet access and email at 50 times the speed of a standard modem.
Avoid telephone busy signals and local or long-distance phone charges.
Pay one low price for unlimited access until checkout each day.

INSTRUCTIONS

- Starting with your computer off, connect an Ethernet cable from your Ethernet card to the Wayport labeled port on top of the desk. (For your convenience Ethernet cables are available in the mini-bar)
 - Turn you computer on.
- Launch your browser to confirm acceptance of service terms and to activate your Internet connection for each service period.

Wayport Internet is charged to your room at \$9.95 (including tax) for unlimited connectivity until checkout time each day. You may connect and disconnect as often as you like in this period at no additional charge. Additional computers used in the same room will each incur an additional \$9.95 charge.



TELEPHONE DIALING INSTRUCTIONS

Room to Room Dialing
Press "7" + the Room Number

Local Calls
Press "9" + area code + the 7-digit phone number

Long Distance Calls
Press "9" + "1" + area code + the 7-digit phone number

Person to Person, Credit Card, Collect Calls
Press "9" + "0" + "0"

800 & 888 Calls
Touch "9" + "1" + "800" + the 7-digit phone number

International Calls
Press "9" + "0" + "11" + country code + local phone number

Directory Assistance
Local: Press "9" + "411"
Long Distance: Press "9" + "1" + area code + "555-1212"
(85¢ service charge per call)

- Telephone Rates and Information**
- ◆ Primary long distance carrier: MCI
 - ◆ Customer service: 1-800-888-8000
 - ◆ Other long distance carriers can be used by calling their 800, 888 or 950 access numbers
 - ◆ Locals calls are complimentary
 - ◆ 1-800 calls and 1-888 calls are complimentary
 - ◆ Credit card call access, local directory assistance call (411), and long distance directory assistance calls are 85¢ per call

AFTER 20 MINUTES, ALL CALLS ARE CHARGED AT A RATE OF 10¢ PER MINUTE