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January 5, 2004

Ms. Blanca S. Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

**HAND DELIVERY**  
RECEIVED-FPSC  
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COMMISSION CLERK

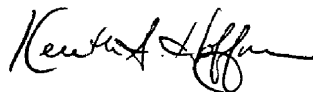
Re: Docket No. 030623-EI

Dear Ms. Bayo:

Enclosed herewith for filing on behalf of Florida Power & Light Company ("FPL") are an original and fifteen copies of FPL's Answer to Petition for Formal Administrative Hearing filed by Ocean Properties, Ltd., J. C. Penney Corp., Dillard's Department Stores, Inc., Target Stores, Inc. and Southeastern Utility Services, Inc.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me. Thank you for your assistance with this filing.

Sincerely,



Kenneth A. Hoffman

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FPSC-BUREAU OF RECORDS

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Complaints by Southeastern Utility Services,  
Inc. on behalf of various customers, against )  
Florida Power & Light Company concerning )  
thermal demand meter error )  
\_\_\_\_\_ )

Docket No. 030623-EI

Filed: January 5, 2004

**FLORIDA POWER AND LIGHT COMPANY'S ANSWER  
TO PETITION FOR FORMAL ADMINISTRATIVE HEARING  
FILED BY OCEAN PROPERTIES, LTD., J. C. PENNEY CORP.,  
DILLARD'S DEPARTMENT STORES, INC., TARGET STORES, INC.,  
AND SOUTHEASTERN UTILITY SERVICES, INC.**

Florida Power and Light Company ("FPL"), by and through its undersigned counsel, and pursuant to Rule 28-106.203, Florida Administrative Code, hereby files its Answer to the Petition for Formal Administrative Hearing filed by Ocean Properties, Ltd., J. C. Penney Corp., Dillard's Department Stores, Inc., Target Stores, Inc. (hereinafter referred to collectively as the "Customers") and Southeastern Utility Services, Inc. ("SUSI"). FPL's Answer to the allegations in the Petition for Formal Administrative Hearing filed by Customers/SUSI is set forth in the correspondingly numbered paragraphs below:

1. Paragraph 1 is admitted subject to FPL's Motion to Dismiss SUSI as a Petitioner in this proceeding.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted as to the Customers. Paragraph 5 is denied as to SUSI.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

8. FPL denies the allegations in Paragraph 8 that allege that the information provided by SUSI in the informal complaint process “enables a fixed date to be determined for purposes of refunding the overcharges due to Customers under Rule 25-6.103(1), F.A.C.” FPL admits the third sentence in paragraph 8. FPL denies that portion of the fourth sentence in Paragraph 8 which maintains that Proposed Agency Action Order No. PSC-03-1320-PAA-EI (the “PAA Order”) “will result in the refund of substantially smaller amounts than those to which the Customers are entitled under Rule 25-6.103(1), F.A.C.....”

9. Paragraph 9 is denied.

10. With respect to Paragraph 10, FPL admits that the Customers’ alleged injuries are at issue in this proceeding pursuant to the Commission rules listed in Paragraph 10 of the Customers/SUSI Petition. FPL also admits the allegations in the second and last sentences of Paragraph 10. The remainder of Paragraph 10 is denied.

11. Paragraph 11 is denied. FPL has moved to dismiss SUSI as a Petitioner in this proceeding.

12. The first sentence of paragraph 12 is denied. The second sentence of Paragraph 12 is admitted subject to FPL’s Motion to Dismiss SUSI as a Petitioner in this proceeding.

13. The first sentence of paragraph 13 is admitted. The second sentence of Paragraph 13 reflecting Customers/SUSI’s characterization of the dispute(s) in this proceeding is denied to the extent it seeks to limit the issues in this proceeding which will be established by the Prehearing Officer (or the Commission) for ultimate disposition by the Commission. FPL admits that an issue in this proceeding is whether one or more of the Customers who received service through IV thermal demand meters that over-registered demand are due refunds, and, if so, the amount of such refunds.

14. Paragraph 14 is denied.
15. Paragraph 15 is denied.
16. Paragraph 16 is denied.
17. With respect to Paragraph 17, FPL admits that the PAA Order rejects SUSI's position (and the "information" and documents purporting to support its position) that the meters at issue in this proceeding over-registered demand beyond that permitted by Rule 25-6.052(2)(a), Florida Administrative Code, when such meters were last calibrated. FPL denies the remainder of Paragraph 17 except to the extent it accurately states the requirement of the PAA Order that FPL refund overcharges for the twelve month period immediately preceding removal of the meters at issue in this proceeding.
18. Paragraph 18 is denied. FPL has moved to strike paragraph 18 of the Customers/SUSI Petition.
19. Paragraphs 19(A), (B), (C), (D), (E), (F), (G), (H) and (I) are denied. In addition, FPL has moved to strike that portion of Paragraph 19(F) that attempts to place at issue non-1V thermal demand meters that are not the subject of the PAA Order.
20. FPL admits that Rule 25-6.058, Florida Administrative Code is at issue in this proceeding and denies the remainder of Paragraph 20(A). FPL admits that Rule 25-6.103, Florida Administrative Code is at issue in this proceeding and denies the remainder of Paragraph 20(B). FPL admits that Rule 25-6.109, Florida Administrative Code, is at issue in this proceeding and denies the remainder of Paragraph 20(C). In addition, FPL has moved to strike Paragraph 20(C) of the Customer/SUSI Petition. FPL denies that the statutes cited in Paragraph 20(D) "dictate that Petitioner's positions stated herein must be applied by the FPSC in this proceeding." FPL denies

Paragraph 20(E) and has moved to strike Paragraph 20(E) of the Petition.

21. FPL opposes the referral of Customers/SUSI's Petition to the Division of Administrative Hearings ("DOAH"). The issues in this proceeding are technical and complex. The Commission's application of its Rules in this proceeding are central to the disposition of this case and may serve to avoid repeated, wasteful litigation of other thermal demand refund claims that SUSI has threatened to bring on behalf of other FPL customers. The Commission Staff has been analyzing and addressing the issues raised by the informal complaints, the PAA Order and the Petitions for Formal Hearing filed by Customers/SUSI and FPL and has reviewed voluminous documentation concerning these issues dating back to the summer of 2002. It would be a complete waste of the time, resources and expertise of the Commission Staff and the Commission to refer this case in a vacuum to DOAH particularly in light of the threats made by SUSI to bring additional complaints to the Commission. The Commission and its Staff should utilize the knowledge and expertise gained and developed to date in applying the rules of the Commission to the matters at issue in this proceeding. With respect to the relief requested in Paragraph 21, FPL denies that Customers/SUSI are entitled to the relief requested in their Petition and has moved to strike Paragraph 21(D) of their Petition.

WHEREFORE, FPL respectfully requests that the Commission:

- A. Conduct a formal administrative hearing in this docket;
- B. Grant FPL's Motion to Dismiss SUSI as a Petitioner and Motion to Strike Portions of Customers/SUSI's Petition for Formal Administrative Hearing filed on even date herewith; and

C. Issue a Final Order denying the relief requested by the Customers (and, at present, SUSI) in their Petition for Formal Administrative Hearing and granting the relief requested by FPL in FPL's Petition on Proposed Agency Action filed on December 10, 2003 in this docket.

Respectfully submitted,



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-- and --

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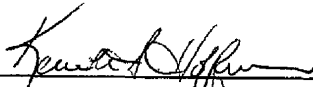
Attorneys for FPL

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy true and correct copy of the foregoing was furnished by U.S. Mail this 5<sup>th</sup> day of January, 2004, to the following:

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