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August 23, 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
04 AUG 23 PM 4:23
COMMISSION
CLERK

Re: Docket No. 030623-EI

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket on behalf of Florida Power & Light Company ("FPL") are the following documents:

- 09204-04 1. Original and fifteen copies of FPL's Prehearing Statement;
- 09205-04 2. Original and fifteen copies of FPL's Motion to Strike Portions of Customers' Rebuttal Testimony and Exhibits filed by George Brown and Bill Gilmore and Request for Expedited Ruling; and
- 09206-04 3. Original and fifteen copies of FPL's Motion for Partial Summary Final Order.

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Please acknowledge receipt of these documents by stamping the extra copy of this letter filed and returning the copy to me.

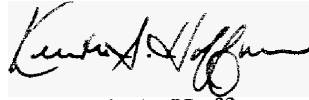
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FPSC-BUREAU OF RECORDS

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August 23, 2004

Thank you for your assistance with this filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth A. Hoffman", is written over a light gray rectangular background.

Kenneth A. Hoffman

KAH/rl

Enclosures

FPLbayo.823ltr

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaints by Southeastern Utility Services,)
Inc. on behalf of various customers, against) Docket No. 030623-EI
Florida Power & Light Company concerning)
thermal demand meter error) Dated: August 23, 2004
_____)

FLORIDA POWER & LIGHT COMPANY’S PREHEARING STATEMENT

Florida Power & Light Company (“FPL” or the “Company”), pursuant to Order No. PSC-0581-PCO-EI, hereby files the following Prehearing Statement:

- (a) The names of all known witnesses that may be called by the party, and the subject matter of their testimony.**

Witness	Subject Matter
David Bromley (Direct)	Provides an overview of the 1V thermal demand meter issues; description of the testing process and method for determining the accuracy of 1V thermal demand meters; description of the modification recently implemented for testing these meters; description of FPL’s method of determining the meter error used for calculating refunds; and the time period to which refunds apply.
Rosemary Morley (Direct)	Addresses how refunds should be calculated when a meter tests outside allowed plus tolerance levels; explanation of specific refund calculations which should be applied to the meters at issue.

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09204 AUG 23 8
FPSC-COMMISSION CLERK

David Bromley (Rebuttal)	Responds to inaccuracies in prefiled testimonies of Customers' witnesses Brown and Smith and Staff witness Matlock regarding test results and test records for the meters at issue; rebuts claims of Messrs. Brown and Smith regarding FPL's calibration of meters; and provides general response to issues raised by Messrs. Brown and Smith that have not been associated with any of the meters at issue in the docket.
Rosemary Morley (Rebuttal)	Addresses inappropriateness of using change in kW demand following meter replacement as a method of computing refund amount and how interest on any refund amount should be calculated.
Edward C. Malemezian, P.E. (Rebuttal)	Responds to direct testimonies of Customers' witnesses Brown and Smith regarding: (1) meters in the docket that tested outside accuracy tolerances established by the FPSC; (2) internal construction and stability of thermal demand registers; (3) unsupported speculation that improper calibration is the cause of over-registration of the meters at issue; (4) statements made by FPL's meter testers concerning failure mechanisms of meters; (5) FPL's thermal meter testing and calibration processes; (6) the effects of heat; (7) the contention that the thermal meter is a simple measurement tool that will not gradually over-register demand; (8) suggested calibration process; (9) the effect of meter reading errors; (10) tapping on the reference standard; (11) time required for stabilization after meter covers are removed; (12) sun shields; and (13) independent meter tests.

- (b) A description of all known exhibits that may be used by the party, (including individual components of a composite exhibit) and the witness sponsoring each.

Exhibit	Description	Sponsoring Witnesses(es)
Document No. DB-1	1V meter removal authorization letter from the FPSC's General Counsel	Bromley (Direct)
Document No. DB-2	Front view picture of a 1V meter	Bromley (Direct)
Document No. DB-3	FPL's approved test procedures (4 pages)	Bromley (Direct)
Document No. DB-4	Meter test results (14 accounts)	Bromley (Direct)
Document No. RM-1	Summary of Accounts Eligible for Refunds	Morley (Direct)
Document No. RM-2	Adjusted kW Demands and Refunds by Account	Morley (Direct)
Document No. RM-3	Derivation of Refunds by Account	Morley (Direct)
Document No. DB-5	Landis & Gyr Meters by Serial Number/Year	Bromley (Rebuttal)
Document No. DB-6	Test Records for 6 of the Meters	Bromley (Rebuttal)
Document No. RM-4	Summary of Accounts Eligible for Refund	Morley (Rebuttal)

Additional Exhibits

In addition to the above prefiled exhibits, FPL reserves the right to utilize any exhibit introduced by any other party or Staff. FPL also reserves the right to introduce portions of transcripts of depositions offered into evidence by Customers. FPL additionally reserves the right

to introduce any additional exhibit necessary for rebuttal, cross-examination or impeachment at the final hearing.

FPL's Notice of Intent to use Confidential Information at Hearing

On July 21, 2004, FPL filed a Stipulated Motion to Refile Its Direct Testimony and Motion to Withdraw Notice of Intent. If that Motion is granted, then subject to confidential documents or information that may be provided to FPL through the completion of discovery, FPL is not aware at this time of any confidential information that it would use at the final hearing.

(c) A statement of the party's basic position in the proceeding.

The meters at issue in this proceeding are known as 1V thermal demand meters. These meters have been used by FPL in the provision of electric service to certain commercial customers. After the 1V meter population failed a statistical sampling test conducted by FPL in the summer of 2002, FPL requested and received approval from the Commission's General Counsel to remove the approximately 3900 1V meters from its meter population in the field. The removal of the 1V meters began in November 2002 and was completed by January 2003. All 1V meters were tested in accordance with Rule 25-6.052, Florida Administrative Code, and FPL's Commission-approved Test Procedures and Test Plans for Metering Devices.

The protest Petition filed by Southeastern Utility Services, Inc., which has since been dismissed as a party, and by Ocean Properties, Ltd., J.C. Penney Corp., Dillard's Department Stores, Inc. and Target Stores, Inc. (the "Customers"), placed 14 of these 1V meters at issue in this proceeding.¹

¹FPL's Testimony addresses the 14 meters identified in the Customers' Petition. Customers have attempted to use their Testimony to inject a new meter into this proceeding, a meter that was not the subject of or included in Customers' Petition.

With respect to each of the 14 meters at issue per Customers' Petition, FPL's basic position is as follows:

(1) FPL conducted its testing consistent with Rule 25-6.052, Florida Administrative Code, and FPL's Commission-approved Test Procedures and Test Plans for Metering Devices.

(2) That in calculating the amount of refunds for meters that over-registered above the 4% tolerance level per Commission rule, FPL has tested each meter and determined the meter test error consistent with Rules 25-6.052, 25-6.058 and 25-6.103, Florida Administrative Code, and FPL's Commission-approved Test Procedures and Test Plans for Metering Devices.

(3) That the period for the refund for each meter at issue in this proceeding is one year. To qualify for a refund beyond one year, Rule 25-6.103(1), Florida Administrative Code, requires the establishment of the fixed date of the cause for the over-registration reflected in the meter test for each meter at issue. Customers have failed to meet this burden. Customers' speculation that each meter at issue in this proceeding was miscalibrated requiring refunds dating back to the prior meter test in the early or mid-1990s has no factual support and is completely undermined by the fact that six of the meters at issue were never calibrated by FPL before being placed in the field. Further, the random allegations that certain meter testers employed by FPL tested thermal demand meters in a manner not consistent with the manufacturer's recommendations are without merit. More importantly, there is no evidence that any of these procedures criticized by Customers was performed on any of the 14 meters at issue. Finally, Customers have presented no evidence that the meters at issue were affected by the sun or radiant heat. In fact, Customers admit that they cannot say with certainty whether any of the meters in this docket were affected by the sun.

(4) Interest on refunds should be calculated pursuant to the methodology set forth in Rule 25-6.109(4), Florida Administrative Code.

Based on the foregoing, total refunds, with interest, for the meters at issue in this proceeding that are eligible for refunds are \$31,377.53.

FPL also has provided for consideration a modification to its process for testing customer-requested thermal demand meter tests. This process utilizes a customer's 24-month actual historical average percentage of full scale as the test point rather than, for example, the 40% or 80% of full scale used by FPL to perform annual sampling tests. However, no meter test would be performed at less than 40% of full scale. FPL believes that this method more closely resembles what the meter actually experienced in the field.

- d) A statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.**

ISSUE 1: Pursuant to Rule 25-6.052, Florida Administrative Code, what is the appropriate method of testing the accuracy of the thermal demand meters subject to this docket?

FPL: The appropriate methods of testing the accuracy of the watthour and demand portions of the thermal demand meters subject to this docket are set forth in Rule 25-6.052, Florida Administrative Code, and FPL's Commission-approved Test Procedures and Test Plans for Metering Devices. With respect to kW demand, Rule 25-6.052(2)(a) authorizes a testing point "at any point between 25 percent and 100 percent of full-scale value." FPL's Test Procedures and Test Plans for Metering Devices, approved by the Commission pursuant to Rule 25-6.052(4), F.A.C. provide that "[d]emand is tested between 25 and 100% of full scale." The watthour portion of these meters was tested at light load (10% rated test ampere) and heavy load (one test at 100% power and another test at 50% lagging power factor). The demand portion of these meters was tested at test points between 25% and 100% of full-scale value.

FPL also has provided for consideration a modification to its process for testing customer-requested thermal demand meter tests. This process utilizes a customer's 24-month actual historical average percentage of full scale as the test point rather than, for example, the 40% or 80% of full scale used by FPL to perform annual

sampling tests. However, no meter test would be performed at less than 40% of full scale. FPL believes that this method more closely resembles what the meter actually experienced in the field. (Bromley, Malemezian).

ISSUE 2: Pursuant to Rules 25-6.058 and 25-6.103, Florida Administrative Code, what is the appropriate method of calculating customer refunds for those thermal meters which test outside the prescribed tolerance limits?

FPL: For the watt-hour portion, utilize the average meter error (the light load is given a weight of 1, the heavy load test at 100% power factor is given a weight of 4 and the heavy load test at 50% lagging power factor is given a weight of 2). For demand, utilize the error stated in terms of full-scale value to calculate the customer's adjusted kWh usage and/or kW demand to remove the effects of the meter error and apply FPL's tariffed rates and charges to the adjusted billing determinants. (Bromley, Malemezian, Morley).

ISSUE 3: Pursuant to Rule 25-6.103, Florida Administrative Code, what is the period for which refunds should apply?

FPL: Customers have failed to demonstrate the fixed date of the cause for the error resulting in over-registration for each meter at issue in this proceeding. Accordingly, under Rule 25-6.103(1), Florida Administrative Code, the period for which any Commission-ordered refunds should apply is one year. (Bromley, Malemezian).

ISSUE 4: What interest rate should be used to calculate customer refunds?

FPL: Interest on any Commission-ordered refunds should be calculated pursuant to the methodology set forth in Rule 25-6.109(4), Florida Administrative Code. (Morley).

(e) A statement of each question of law the party considers at issue and the party's position on each such issue.

Issue 2 presents a mixed question of fact and law. Issue 4 is a question of law. See FPL's positions on these issues.

- (f) A statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.**

Issue 1 presents an issue of policy to the extent the Commission wishes to develop a method of testing the accuracy of the kW demand of thermal demand meters within the framework of Rule 25-6.052(2)(a), Florida Administrative Code. See FPL's position on Issue 1

- (g) A statement of issues to which the parties have stipulated.**

None at this time.

- (h) A statement of all pending motions or other matters the party seeks action upon.**

1. FPL's Motion to Compel Answers to First Set of Requests for Admissions and First Set of Requests for Production of Documents (filed February 27, 2004).
2. FPL's Motion to Strike Customers' Response to FPL's Motion to Compel (filed March 19, 2004).
3. FPL's Stipulated Motion to Refile Its Direct Testimony and Motion to Withdraw Notice of Intent (filed July 21, 2004).
4. FPL's Motion to Compel Answers to FPL's First Set of Interrogatories Nos. 10, 11 and 12 (filed August 18, 2004).
5. FPL's Motion to Strike Portions of Customers' Rebuttal Testimony and Exhibits filed by George Brown and Bill Gilmore and Request for Expedited Ruling (filed August 23, 2004).
6. FPL's Motion for Partial Summary Final Order (filed August 23, 2004).

- (i) **A statement identifying the parties' pending requests or claims for confidentiality.**

See FPL's Stipulated Motion to Refile Its Direct Testimony and Motion to Withdraw Notice of Intent (filed July 21, 2004), referenced above.

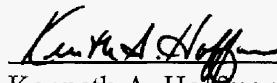
- (j) **A statement as to any requirement set forth in the Order Establishing Procedure that cannot be complied with, and the reasons therefore.**

At this time, FPL is not aware of any requirements in the Order Establishing Procedure with which it cannot comply.

- (k) **Any objections to a witness's qualifications as an expert.**

Pending the depositions of Customers' witnesses Bill Smith, George Brown and Bill Gilmore, and the completion of discovery, FPL reserves its right to object to Mr. Smith's, Mr. Brown's and/or Mr. Gilmore's qualifications as an expert.

Respectfully submitted this 23rd day of August, 2004.



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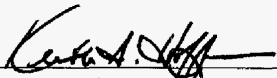
Attorneys for Florida Power & Light Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Prehearing Statement has been furnished by hand delivery this 23rd day of August, 2004, to the following:

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Senior Attorney
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By: 
Kenneth A. Hoffman, Esq.