

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

NOVEMBER 2, 2004

RE: Docket No. 030623-EI - Complaints by Ocean Properties, Ltd., J.C. Penney Corp., Target Stores, Inc., and Dillard's Department Stores, Inc. against Florida Power & Light Company concerning thermal demand meter error.

Issue 1: Should the Commission grant FPL's motion to dismiss Customers' petition for variance or waiver of Rule 25-6.103(3), Florida Administrative Code?

Recommendation: No. Customers have standing to file their petition for variance or waiver.

NO VOTE

Due to FPL's withdrawal of its motion, there is no need to address this issue.

COMMISSIONERS ASSIGNED: Deason, Bradley, Davidson

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures of majority commissioners: David M. Deason, Jeff Deason, and Rudy Bradley.

Four horizontal lines for dissenting signatures.

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

11803 NOV -2 04

FPSC-COMMISSION CLERK

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Issue 2: Should the Commission grant Customers' petition for variance or waiver of Rule 25-6.103(3), Florida Administrative Code?

Recommendation: No. Customers have failed to demonstrate that application of the rule would create a substantial hardship or violate principles of fairness. Further, the requested rule waiver is inappropriate given that the interpretation and application of Rule 25-6.103(3), as well as the method of calculating refunds for Customers, is at issue and is the subject of comprehensive prefiled testimony in litigation pending in this docket.

APPROVED

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open to allow this matter to proceed to hearing.

APPROVED