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August 23, 2006

VIA HAND DELIVERY

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

RECEIVED-PPSC
05 AUG 23 AM 11:07
COMMISSION
CLERK

Re: Docket No. 050152-EU

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company, Progress Energy Florida,
Gulf Power Company and Tampa Electric Company ("IOUs") are the original and fifteen copies of
the IOUs' Prefiled Responsive Comments.

Please acknowledge receipt of these documents by stamping the extra copy of this letter
"filed" and returning the copy to me. Please contact me if you have questions regarding this filing.

Thank you for your assistance with this filing.

CMP
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CTR
ECR
GCL
KAH/rl
OPC Enclosures
RCA fpl/bayo 08 23 06ltr
SCR
SGA
SEC 1
OTH Kim P.

Sincerely,

Kenneth A. Hoffman
Kenneth A. Hoffman

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

07666 AUG 23 06

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed revisions to Rule 25-6.049,)
F.A.C., Measuring Customer Service.)
_____)

Docket No. 050152-EU

Filed: August 23, 2006

**PREFILED RESPONSIVE COMMENTS OF
FLORIDA POWER & LIGHT COMPANY, PROGRESS
ENERGY FLORIDA, GULF POWER COMPANY AND
TAMPA ELECTRIC COMPANY**

Florida Power & Light Company, Progress Energy Florida, Gulf Power Company and Tampa Electric Company (hereinafter referred to collectively as the “Investor-Owned Utilities” or “IOUs”), by and through their respective undersigned counsel, and pursuant to Order No. PSC-06-0586-PCO-EU issued July 6, 2006 in the above-referenced docket, hereby file their Prefiled Responsive Comments in response to the Comments filed by Power Check Consultants (“PCC”), and state as follows:

1. This docket focuses on proposed amendments to Rule 25-6.049, Florida Administrative Code, addressing the circumstances and criteria under which condominiums may be approved for master metering. A Staff Rule Development Workshop was held on December 16, 2005. The IOUs participated in the Workshop, as did Mr. Marc Mazo, the principle of PCC.

2. Following the December 16, 2005 Staff workshop, the Commission approved proposed revisions to Rule 25-6.049 at the May 2, 2006 Agenda Conference. Pursuant to Chapter 120 procedures, the proposed rule amendments were published in the Florida Administrative Weekly on May 19, 2006. PCC, a consulting entity, filed a request for hearing on June 6, 2006, and a rulemaking hearing has been scheduled before the Commission for September 6, 2006. PCC filed Direct Comments on August 16, 2006.

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FPSC-COMMISSION OF 11 15

3. PCC's Comments raise the same issues that have previously been raised by PCC and rejected by the Staff in the April 20, 2006 Staff Recommendation and by the Commission in its approval of that Recommendation at the May 2, 2006 Agenda Conference.

4. The IOUs continue to support the Proposed Rule amendments. The Proposed Rule amendments will help ensure, to the extent possible, that the conservation incentives inherent with individual metering are not cast aside unless a condominium establishes and continues to demonstrate compliance with the Proposed Rule's criteria for eligibility for master metering. While no rule can ensure the elimination of future rule waiver requests, the adoption of the language and criteria in the Proposed Rule will provide notice of the specific master metering requirements to affected entities and serve to reduce the number of future rule waiver requests. The IOUs hereby attach and incorporate by reference their prior written comments filed in this proceeding as Composite Exhibit A.

5. In addition, and consistent with our prior Comments, the IOUs reiterate:

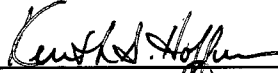
a. Section (5)(g)1. of the proposed rule providing the criterion that the declaration of condominium require at least 95% of the units be used solely for overnight occupancy is consistent with and reflective of the overnight occupancy percentages of resort condominiums or similar facilities that have been granted rule waivers by the Commission. Mr. Mazo's varying requests to lower this percentage have all been considered and rejected.

b. Contrary to Mr. Mazo's assertions, the Commission has not granted prior rule waiver requests to ensure fair and reasonable rates for the facilities that petitioned for rule waivers.

c. Finally, the argument that the inclusion of the 95% criterion in the declaration of condominium may convert the project into a security has previously been raised and PCC's

Comments add nothing to the prior arguments of Mr. Mazo on this issue.

Respectfully submitted,



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On behalf of Gulf Power Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished by U. S. Mail to the following this 23rd day of August, 2006:

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Clearwater, Florida 33762

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fp\responsivecomments

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February 10, 2006

Marlene K. Stern, Esq.
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 050152-EU
In re: Proposed Revisions to Rule 25-6.049, F.A.C., Measuring Customer Service

Dear Ms. Stern:

These post-workshop comments are submitted on behalf of Florida Power & Light Company, Progress Energy Florida, Gulf Power Company and Tampa Electric Company (collectively the "IOUs").

As you are well aware, this rulemaking was opened at the Commission's direction to minimize what had been an increasing number of petitions for rule waivers filed by resort condominiums or similar facilities who wished to initially install or convert to master metering. The Commission Staff and the IOUs have expended considerable time and resources in these various proceedings as well as in the rule development process. The IOUs' basic position is that the proposed amendments to Rule 25-6.049 attached to the Notice of Proposed Rule Development issued November 21, 2005, continue to reflect an excellent work product that will achieve the Commission's goal of reducing rule waiver petitions and ensuring that individual metering, and the conservation incentive that comes with it, remains intact unless a condominium satisfies the proposed criteria.

The IOUs also believe that a few additional points were raised at the workshop that merit consideration for a final proposed rule.



Marlene K. Stern, Esq.
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With that backdrop, the IOUs offer the following recommendations:

(1) The proposed rule as reflected in the November 21, 2005 Notice of Proposed Rule Development should be proposed for adoption, with a few minor additional changes as outlined below. Before discussing suggested changes, we reiterate our support of subsection (g)1. of the proposed rule which sets forth the following criterion for a condominium to be master metered:

1. The declaration of condominium requires that at least 95% of the units are used solely for overnight occupancy as defined in subparagraph (8)(b) of the rule....

This criterion was the subject of the bulk of Mr. Mazo's comments at the workshop. Mr. Mazo, in his appearances before the Commission, has argued for as low as 50% and seemed to settle on a number of 80% at the workshop. The Staff should not revise this part of the proposed rule. The IOUs maintain that the Staff appropriately developed a percentage figure predicated on the hard data of the facilities that have sought rule waivers, which, according to the data, average approximately 3.5% permanent occupancy units. While this criterion would reflect significant progress in reducing rule waiver petitions, the Staff should be mindful that no rule guarantees the elimination of a potential petition for rule waiver in the future. Further, the IOUs would remind the Staff that this proposed criterion would treat resort condominiums similar to other transient facilities under the rule, all of which, including time shares, typically have or require 100% transient occupancy.

We are also mindful that at the workshop, Mr. Mazo offered a copy of a letter from an attorney offering an interpretation of a purported SEC letter ruling and Mr. Mazo attempted to explain the potential impact on this proposed rule. I have requested a copy of the purported SEC letter ruling from the attorney who signed the letter distributed by Mr. Mazo and that attorney failed to reply to my request. My understanding is that Staff also requested a copy of the purported SEC letter ruling from Mr. Mazo who failed to respond. Given the lack of response and failure to cooperate, the IOUs cannot formulate any type of substantive response and would hope that there would be no further consideration of this argument.

(2) During the workshop, Progress Energy Florida suggested adding language to subsections (6)(a) and (c), which states as follows:

“However, the utility has no duty or obligation to conduct such inspections, and may do so at its sole discretion.”


Marlene K. Stern, Esq.
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February 10, 2006

The IOUs support this proposed addition to subsection (6)(a) and (c) of the Rule as we believe it provides clarifying language that a utility has the right but not the obligation to conduct the inspections of the condominiums discussed in these subsections of the Rule.

(3) Finally, the IOUs suggest that it may be appropriate to add language to the proposed rule that would require an owner or a developer of a condominium facility eligible for master metering to also wire the facility for individual metering in the event the facility, at some future date, is no longer eligible for master metering.

On behalf of the IOUs, we appreciate the opportunity to submit these post-workshop comments.

Sincerely,



Kenneth A. Hoffman

KAH/rl

cc: Jim Beasley, Esq.
John Burnett, Esq.
Russell Badders, Esq.
Mr. Bill Feaster
Mr. Paul Lewis
Mr. Wilbur J. Stiles

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May 2, 2005

Marlene K. Stern, Esq.
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Staff's Draft Text of Proposed Amendments to Rule 25-6.049, Florida
Administrative Code

Dear Marlene:

As you know, our firm represents Florida Power & Light Company ("FPL") in connection with the above-referenced rulemaking. First and foremost, FPL wishes to express its appreciation to the Commission Staff for its efforts in this rulemaking. FPL believes that the process has worked well and that the current draft represents a significant improvement over earlier versions.

As you may recall, there were certain provisions proposed by FPL that have apparently been rejected by Staff in developing the current text of the proposed rule. While FPL believes that those provisions were worth pursuing, FPL believes that the current text of the rule, subject to the additional comments below, reflects an appropriate and acceptable version of the rule that, FPL can support. I have contacted representatives for Progress Energy, Gulf Power Company and Tampa Electric Company regarding the suggested revisions below and although I have not yet heard back from Progress Energy, I have been authorized to represent that Gulf Power Company and Tampa Electric Company adopt and support the additional suggested revisions to the Rule that are set forth below.

With that backdrop, FPL offers the following additional comments to the current draft text of the amendments to Rule 25-6.049:

Page 2
May 2, 2005

(1) **Subsection (8)(b)** - - FPL believes that this provision is no longer necessary. Under the new language in subsection (5), the term "construction" is now followed by the word "permit" so there would no longer appear to be a need to define the construction of a new commercial establishment, etc. as the date when a construction permit is issued. If the Staff agrees, then subsection (8)(c) would become subsection (8)(b) and the current references to subsection (8)(c) in other parts of the Rule should be corrected.

(2) **Subsection (6)** - - FPL believes that the Rule can be strengthened by expressly providing that a condominium shall be master metered if the owner/developer, condominium association or customer fails to comply with the Initial Qualifications Provisions under subsection (6)(a) or the On-Going Compliance Provision in subsection (6)(b). To accomplish that, FPL proposes a new subsection (6)(c) which would state as follows:

(c) If the owner or developer of the condominium, the condominium association, or the customer fails to comply with the requirements of subsections (6) (a) or (b), the utility shall individually meter the condominium for a failure to comply with subsection (6)(a) or shall convert the condominium to individual meters pursuant to subsection (6)(e) for a failure to comply with subsection (6)(b).

If the above new subsection (6)(c) is included in the proposed Rule, then existing subsections (6)(c) and (d) would need to be renumbered as (6)(d) and (e), respectively.

(3) **Subsection (9)(a)** - - As currently proposed, the last sentence of that subsection reads as follows:

The term does not include payment charges, returned check charges, the cost of the distribution system behind the master meter, the cost of billing, and other such costs.

There are two items in the above language which appear to require further consideration. In referring to "the cost of the distribution system behind the master meter," it appears that Staff is referring to facilities on the customer's side of the meter. There are many instances where the customer rents facilities from FPL that are on the customer's side of the meter. FPL believes that such rental charges would properly be allocated to the unit owners as part of the "cost" of the electricity billed by the utility under this subsection. Therefore, to provide clarification, FPL would recommend that this portion of the last sentence of subsection (9)(a) be amended to read:

Page 3
May 2, 2005

the cost of the customer-owned distribution system on the customer's side of the master meter

The next passage in this rule refers to "the cost of billing." FPL's cost of billing is included in its customer charge and, therefore, would not be applicable to the exclusionary language in this section. To provide clarification, FPL would suggest that this language be amended to read:

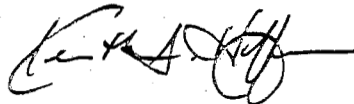
the customer of record's cost of billing the individual units

Taking the two suggested changes to Staff's language together, FPL suggests that the last sentence of subsection (9)(a) be revised to read as follows:

The term does not include late payment charges, returned check charges, the cost of the customer-owned distribution system on the customer's side of the master meter, the customer of record's cost of billing the individual units, and other such costs.

We hope that the above suggestions are helpful. If you have any questions, please give me a call.

Sincerely,



Kenneth A. Hoffman

KAH/rl

cc: Mr. Bill Feaster
Mr. Gary Livingston
Mr. Howard Bryant
Mr. Paul Lewis
Mr. Bob Valdez

\\FPL\sternl\trmay2.wpd