

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION  
CLERK

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** December 7, 2006

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Office of the General Counsel (Bennett) *ACB*  
 Division of Economic Regulation (Kummer) *AK*  
 Division of Regulatory Compliance & Consumer Assistance (Plescow) *AP* *CP* *CM*

**RE:** Docket No. 060488-EI – Complaint No. 665167E of Streamline Hotel a/k/a Daytona Hostelry against Florida Power & Light Company regarding point at which FPL maintains and has responsibility for wiring.

**AGENDA:** 12/19/06 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** Attachments and tariffs not in word document. Attachment B is color.

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\060488.RCM.DOC

### Case Background

Eric Doyle, owner of Streamline Hotel in Daytona Beach, Florida, filed a consumer complaint against Florida Power and Light Company (FPL), complaint number 665167E. Mr. Doyle alleged that a conductor became overheated and the installation began to burn. The installation burn resulted in a complete failure of the electrical service to the hotel building. The business was closed for a day and in addition Mr. Doyle was required to pay to move equipment which he states was owned by the utility. FPL claims that the wiring, which was the cause of the smoke, was owned by the hotel property owner, Mr. Doyle.

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Mr. Doyle filed a consumer complaint concerning the incident. An informal conference between Mr. Doyle and FPL was held on June 28, 2006. There was no resolution of the issue and Mr. Doyle now seeks this Commission's review of his issue regarding ownership of the wiring which caused the closure of his building.

The Commission has jurisdiction pursuant to Section 366.03, 366.04 and 366.05, Florida Statutes, with respect to an electric company's rates and service. Included in its authority, the Commission has jurisdiction to interpret its rules and the utility's tariffs.

### Discussion of Issues

**Issue 1:** Were the Current Transformer Cabinet and the wiring inside the cabinet the property of FPL?

**Recommendation:** No. Pursuant to the tariff, the Commission's rules, and common practice, the line of demarcation for determination of ownership and maintenance of electrical wiring is at a point exterior to the structure. This point is often referred to as "the weatherhead." All wiring from the weatherhead into the building belongs to the property owner. FPL is not responsible for ownership or maintenance of any wiring inside of the building, including wiring inside a current transformer cabinet.

#### **Staff Analysis:**

##### Tariff and Rule Under Review:

The administrative rule which is subject to this Commission's interpretation is Rule 25-6.003(d) Florida Administrative Code. The Tariff which is subject to Commission review is FPL's Tariff Sheet 6.020.

Rule 25-6.003(d) defines "Point of delivery" as "[t]he first point of connection between the facilities of the serving utility and the premises wiring."

Tariff Sheet 6.020, Paragraph 2.3 defines "Point of Delivery" as "the point where the Company's wires or apparatus are connected with those of the Customer. The point of delivery shall be determined by the Company."

##### Streamline Hotel's Argument

Mr. Doyle's position is that the point of delivery or first point of connection between the utility and his hotel is the wiring outside of the current transformer cabinet which was located inside his hotel. He bases this claim on the fact that the current transformer cabinet bears a seal stating it is owned by FPL. Mr. Doyle has provided pictures (Attachment A) of the cabinet showing a seal clearly identifying the cabinet as owned by FPL. Additionally, in order to gain access to the wiring inside of the cabinet, Mr. Doyle asserts that he must ask FPL to unlock the cabinet. Since the current transformer cabinet bears a sign identifying it as property of FPL and since the property owner can not gain access to the wiring inside of the current transformer cabinet, Mr. Doyle concludes that all wiring inside must also be owned by FPL. Mr. Doyle concludes that FPL's ownership or point of delivery extends through the current transformer. Mr. Doyle's responsibility, allegedly, begins on the other side of the current transformer cabinet where the load wires extend out to the Load Center (breaker box).

##### FPL's Argument

FPL states that the customer owns the wires leading from the weatherhead to the current transformers contained in the transformer box. FPL asserts it then owns the wires connecting the current transformer and meters which are all used by FPL to measure the customer's usage and

load. Customer ownership, according to FPL, resumes where the wires exit the current transformers and connect to the Load Center or Breaker Cabinet. FPL acknowledges that some of the customer owned wiring is contained within the locked transformer cabinet. FPL provided a diagram explaining its position which is shown in Attachment B to this recommendation.

At a meeting on-site, FPL acknowledged that it had placed a lock and company decals on the current transformer cabinet for safety purposes and to maintain the integrity of the meter readings. During the site visit, the FPL representative initially explained that the current transformers had originally belonged to FPL but had been transferred to the customer when the hotel was built. In later correspondence between staff and FPL, FPL acknowledged ownership of both the current transformer and the meter. Staff believes FPL's position during the initial site visit was a misinterpretation of an FPL tariff from 1935 when the current transformer cabinet was installed at the hotel. This tariff showed that the utility would provide the current transformer and the cabinet to the customer for installation. In all later discussions, FPL maintained that the utility owned both the current transformers and the meter as these devices are integral to properly metering usage.

#### Analysis

Staff conducted extensive discovery on the issue both before and after the informal conference, including two site visits by a PSC safety engineer. According to technical staff who visited the site, the installation in question was very old but had recently been upgraded and changed substantially (as a result of the burnt wire inside the current transformer cabinet). The original installation was made up of a pole with a three phase bank of transformers and an overhead service drop to the hotel's service mast located at a rear corner of the hotel. The service then continued underground alongside the building and entered the basement near the front of the building. In the basement the service entered an enclosure that, prior to the upgrade, housed Current Transformers (CTs). After the CT cabinet, the service conductors continued to the load center where the power was divided out to the various hotel circuits.

At the time of the incident, the very first point at which the utility's wires touch those of Streamline Hotel's is at that overhead service drop (weatherhead). At that point (the point of delivery) the customer's wiring (and responsibility) continued along the service entrance conductors to the current transformer located inside of the hotel. This interpretation of Rule 25-6.003(d), F.A.C., is consistent with actual construction practices. When a building is constructed, the contractor installs all of the wiring in the building up to the point the utility drops its service line. The service drop point is designated by the utility and for overhead service, it is normally the weatherhead. Since all the wiring is installed by the property owner's contractor, the wiring from the weatherhead throughout the building is owned and maintained by the property owner and not the utility. The exception to that rule, which exception is established by tariff, is that meters and associated equipment are owned by and remain the responsibility of the utility. A current transformer is merely a device used to allow the meter to read current flows which flows would normally be beyond the ability of the meter to read.

Rule 25-6.003(d), F.A.C., and the utility's tariffs support the conclusion that the customer's responsibility for maintaining the electrical wiring begins at the weatherhead and continues into the current transformer cabinet. The Commission's definition of Point of Delivery

as “[t]he first point of connection between the facilities of the serving utility and the premises wiring”<sup>1</sup> (emphasis supplied) leads one to conclude that a point outside of the structure is the first point at which the utilities’ wires connect to that of the premises since the contractor, and not FPL, would have put wiring throughout the building. Specifically, “[t]he Customer’s installation consists of and includes all wires, cutouts, switches and appliances and apparatus of every kind and nature used in connection with or forming a part of an installation for utilizing electric service for any purpose, (excepting meters and associated equipment), ordinarily located on the Customer’s side of “Point of Delivery” and including “Service Entrance Conductors,” whether such installation is owned outright by the Customer or used by the Customer under lease or otherwise.”<sup>2</sup> All wiring between the weatherhead and the load center, except devices necessary for measuring electric usage, was needed by Streamline Hotel in order to utilize the electric service delivered at the weatherhead.

Mr. Doyle has taken the position that FPL’s decal on the exterior of the current transformer cabinet and the lock on the cabinet make the cabinet and all equipment located inside the property of FPL. Placing a decal on the exterior of the current transformer cabinet does not violate any rule or tariff of this Commission. Housings for meters and current transformer are usually provided and owned by the customer. If the meter or current transformer housing is provided by the utility, it is transferred to the property owner at the time of installation. See Order No. 18893, issued Feb. 22, 1988, in Docket No. 870225-EI, In re: Petition of Florida Power and Light Company for Authority to Require Customers to Obtain their Own Self-Contained Meter Enclosures, and see attachment C, submitted by FPL, showing its tariff on installation and ownership of current transformers and lead wires up to the current transformers.

In Order No. 18893, the Commission made it clear that the consumer paid for and owned the housing for the meter because the casing “was not a part of the utility function, but simply housed the meter itself.”<sup>3</sup> Likewise, the current transformer cabinet is not part of the utility’s function but merely houses the current transformer and accordingly is owned by the consumer. The applicable tariff at the time of installation of the current transformer and cabinet was submitted by FPL (attachment C) and supports FPL’s conclusion that the transfer of the cabinet took place at the time of installation and was owned by the hotel. Transferring ownership of the current transformer cabinet is not a violation of the company’s tariff and is consistent with Commission policy.

Locking the current transformer cabinet was likewise consistent with FPL’s approved Electric Service Standards, paragraph H., Section 9 “General Rules and Regulations for Electric Service Standards”. According to paragraph H of the service standards, FPL retains the right to lock meter equipment such as the Current Transformer Cabinet and meter bases. The reason is to protect consumers from injury and to protect the integrity of the metering device. Similarly, the customer may request that FPL open the cabinet in order for the customer to perform any necessary maintenance of his equipment located within the cabinet. Locking the current

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<sup>1</sup> Rule 25-6.003(d), F.A.C.

<sup>2</sup> FPL Tariff Sheet 6.030, 4.1 Customer Installation.

<sup>3</sup> P.1, Order No PSC 18893

transformer cabinet is not a violation of any rule or tariff approved by the Public Service Commission.

Conclusion

Based on the analysis above, staff recommends that the Commission find that the point of delivery for the Streamline Hotel began at the weatherhead and continued through wires connected to the current transformers from the weatherhead. The utility is responsible for the actual current transformers and any wiring connecting them to the meter. The customer's responsibility resumes where the wires exit the current transformers to connect to the load center. Staff recommends that the Commission find that FPL has not violated any tariff or commission rule as it relates to the complaint filed by customer Eric Doyle as owner of Streamline Hotel.

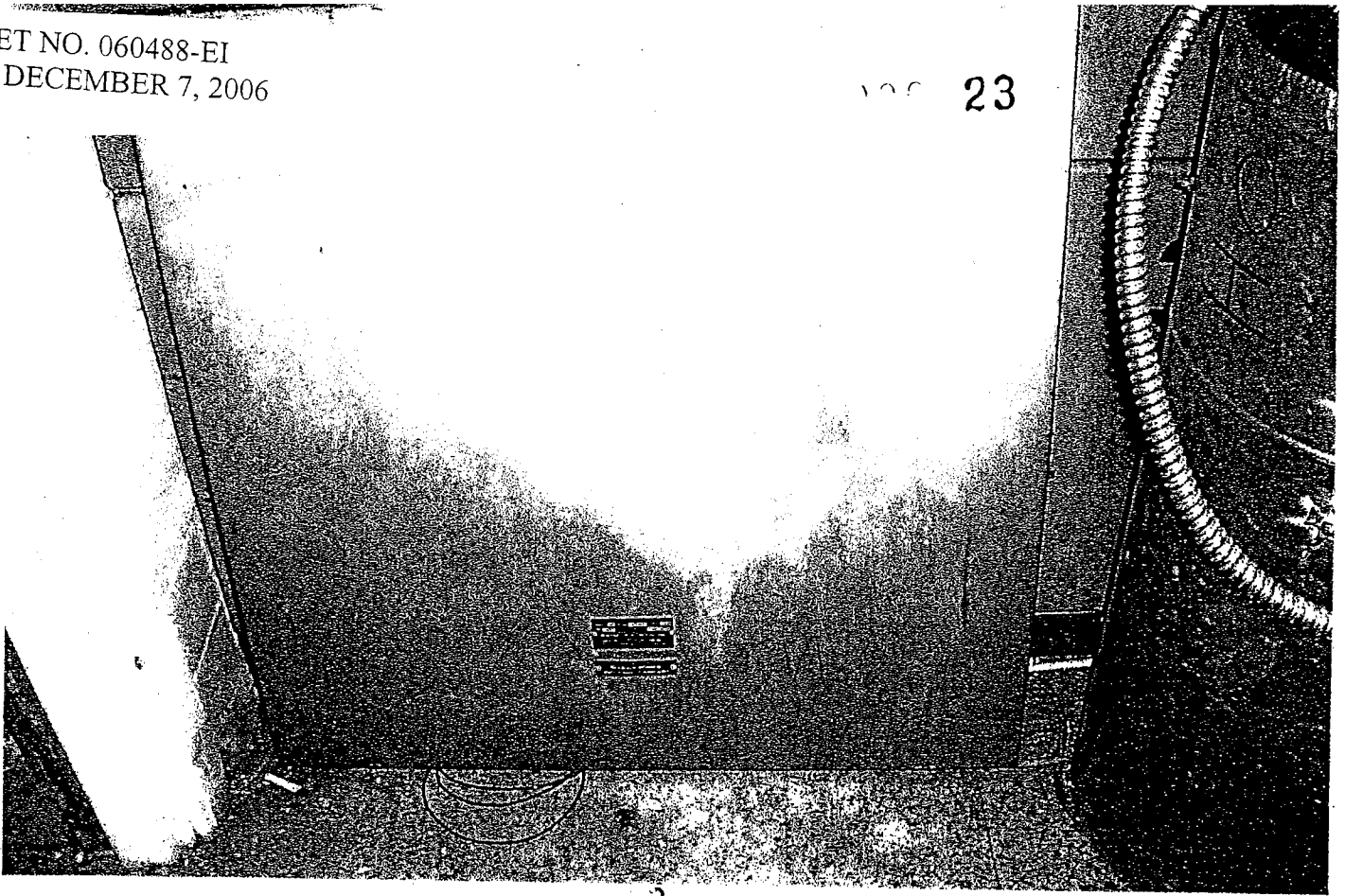
In reaching this decision, PSC staff recommends that the Commission take no position on the cause of the damage experienced by Streamline. Furthermore, staff recommends that the Commission take no position on whether any action of FPL or its employees constituted negligence on the part of FPL. Mr. Doyle raised these additional issues during the course of his informal complaint process. Those decisions are more properly within the jurisdiction of a court of law.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes, this docket should be closed upon issuance of a consummating order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. (Bennett)

**Staff Analysis:** If no timely protest to the proposed agency action is filed within 21 days, this docket should be closed upon issuance of the consummating order.



3.



METER CONNECTION BOX  
VOLTS  VOLTS  AMPS   
TYPE  CAT. NO.   
WALKER ELECTRICAL CO.  
ATLANTA, GA.  
DO NOT BREAK SEAL  
THIS CONNECTION BOX  
DOES NOT CONTAIN FUSES

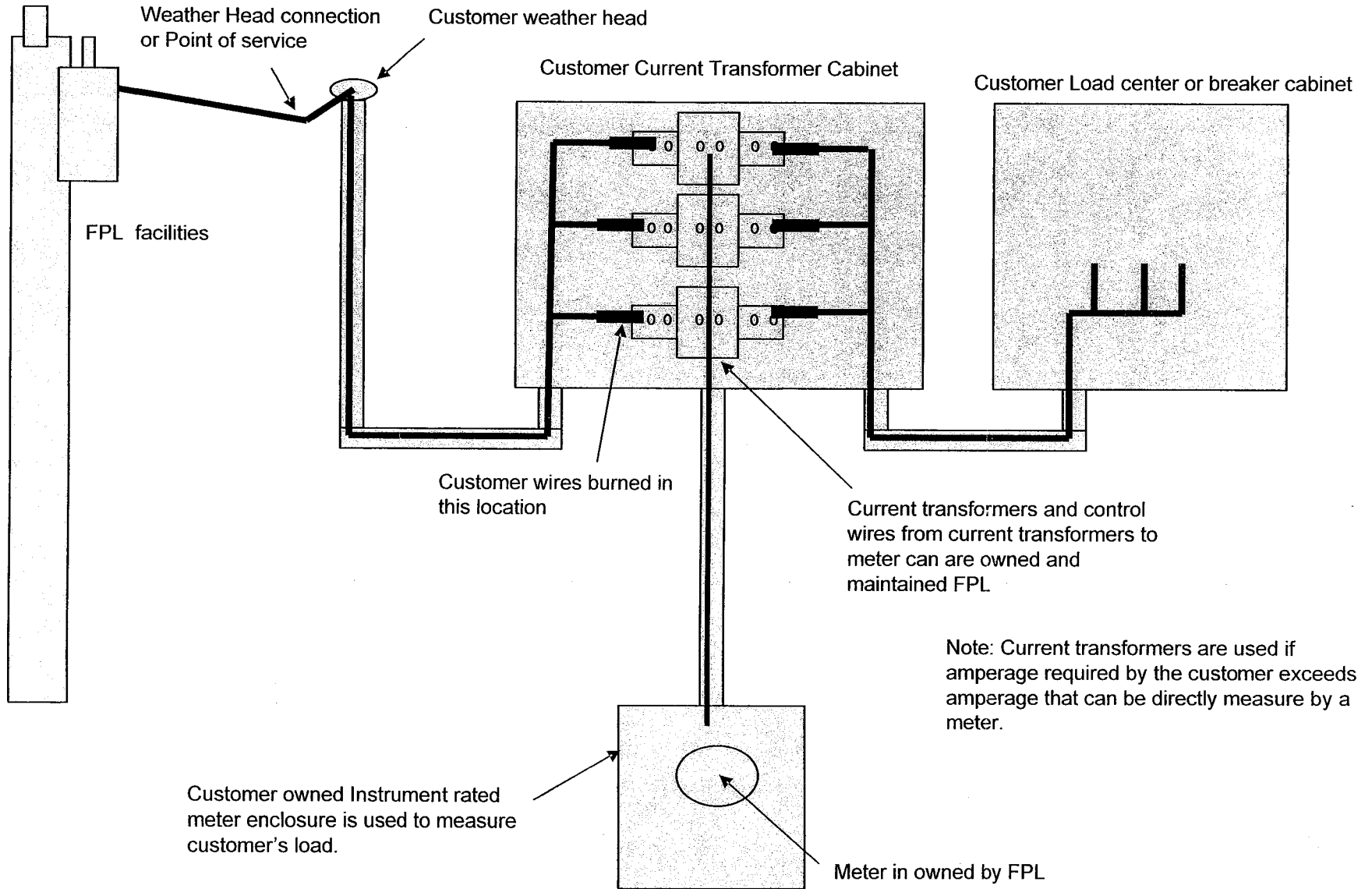
PROPERTY OF  
FLORIDA POWER  
AND LIGHT COMPANY



# Previous Block diagram of Streamline Hotel

All the load carrying wires from point of service or weather head connections are owned by the customer.

 FPL owned  
 Customer owned



Note: Current transformers are used if amperage required by the customer exceeds amperage that can be directly measure by a meter.

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8-2574-2371  
LOS

691-7207



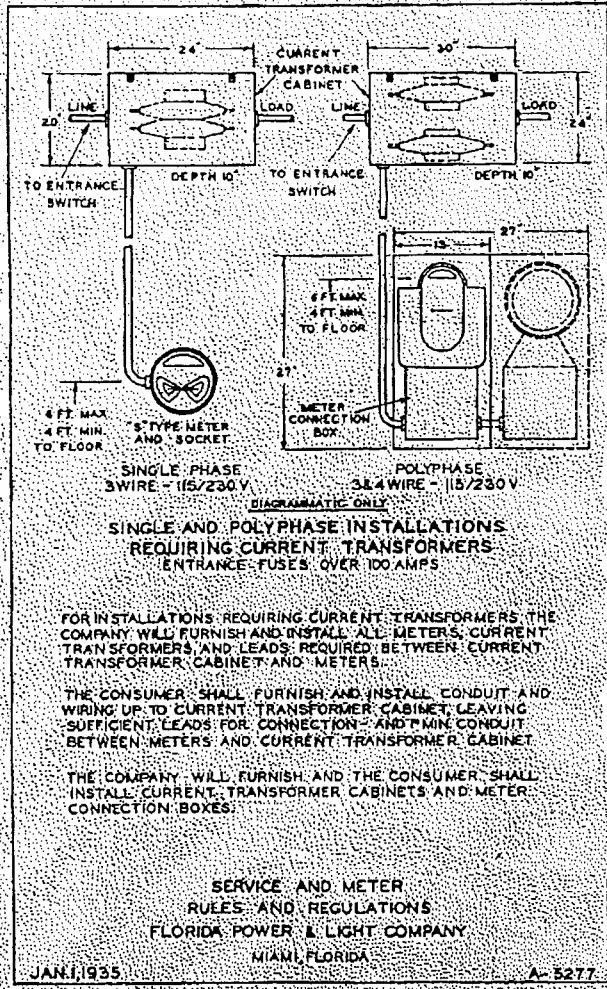
NAAT

691-7135

etc  
423-4891

\* 322-3402  
BULL

1 copy of  
Final Report  
- TRBL TICKET



2.2 Availability of Service. The Company will supply electric service to any applicant for service throughout the territory it serves, subject to the following conditions: should an extension of the Company's facilities be required, the Company will pay for the cost where justified, in the Company's opinion, by revenues to be secured; however, the Company may require monthly or annual guarantees, cash contributions in aid of construction, and/or advances for construction, when in the Company's opinion, the immediate or potential revenues do not justify the cost of extension. If facilities are requested that are not usual and customary for the type of installation to be served, the Company may require a contribution in aid of construction based upon the incremental cost of the requested facility. All contributions in aid of construction will be calculated in accordance with applicable rules and regulations of the Florida Public Service Commission. If the installation of facilities is justified based on the Customer's estimates for electric power but there is reasonable doubt as to level of use or length of use of such facilities, the Customer, when mutually agreeable with the Company, may contract for a minimum Demand or monthly payment sufficient to justify the Company's investment. Upon request, written information will be supplied by the Company concerning the availability and character of service for any desired location. The Company will not be responsible for mistakes of any kind resulting from information given orally.

2.3 Point of Delivery. This is the point where the Company's wires or apparatus are connected with those of the Customer. The point of delivery shall be determined by the Company.

2.4 Character of Service. Alternating current is supplied at a frequency of approximately sixty cycles. Standard nominal voltages are 120 or 120/240 volts for single-phase service and 240 volts for 3-phase delta service. Where three-phase "Wye" service is provided, the standard nominal voltages are 120/208 or 277/480 volts. In some locations other voltages are available. The Company will furnish information regarding Character of Service on request.

2.5 Continuity of Service. The Company will use reasonable diligence at all times to provide continuous service at the agreed nominal voltage, and shall not be liable to the Customer for complete or partial failure or interruption of service, or for fluctuations in voltage, resulting from causes beyond its control or through the ordinary negligence of its employees, servants or agents. The Company shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accident, litigation, shutdowns for repairs or adjustments, interference by Federal, State or Municipal governments, acts of God or other causes beyond its control.

2.6 Temporary Service. Temporary service refers to service required for short-term exhibitions, displays, bazaars, fairs, construction work, houseboats, dredging jobs, and the like. It will be supplied only when the Company has readily available capacity of lines, transformers, generating and other equipment for the service requested. Before supplying temporary service the Company may require the Customer to bear the cost of installing and removing the necessary service facilities, less credit for salvage.

2.7 Indemnity to Company. The Customer shall indemnify, hold harmless and defend the Company from and against any and all liability, proceedings, suits, cost or expense for loss, damage or injury to persons or property, in any manner directly or indirectly connected with, or growing out of the transmission and use of electricity on the Customer's side of the point of delivery.

2.71 Indemnity to Company - Governmental. Notwithstanding anything to the contrary in the Company's tariff, including these General Rules and Regulations for Electric Service, the Company's Rate Schedules, and its Standard Forms, any obligation of indemnification therein required of a Customer, Applicant, or QF, that is a governmental entity of the State of Florida or political subdivision thereof ("governmental entity"), shall be read to include the condition "to the extent permitted by applicable law."

2.8 Access to Premises. The duly authorized agents of the Company shall have safe access to the premises of the Customer at all reasonable hours for the purpose of installing, maintaining, and inspecting or removing the Company's property, reading meters, trimming trees within the Company's easements and rights of way, and other purposes incident to performance under or termination of the Company's agreement with the Customer, and in such performance shall not be liable for trespass.

2.9 Right of Way. The Customer shall grant or cause to be granted to the Company and without cost to the Company all rights, easements, permits and privileges which, in the opinion of the Company, are necessary for the rendering of service to the Customer.

### 3 LIMITATION OF USE

3.1 Resale of Service Prohibited. Electric service received from the Company shall be for the Customer's own use and shall not be resold. Where individual metering is not required under Subsection (5)(a) of Section 25-6.049 (Measuring Customer Service) of the Florida Administrative Code and master metering is used in lieu thereof, reasonable apportionment methods, including sub-metering, may be used by the Customer solely for the purpose of allocating the cost of the electricity billed by the utility. Any fees or charges collected by a Customer for electricity billed to the Customer's account by the utility, whether based on the use of sub-metering or any other allocation method, shall be determined in a manner which reimburses the Customer for no more than the Customer's actual cost of electricity.

For the purpose of this Rule:

- (1) Electric service is "sub-metered" when separate electric meters are used to allocate among tenants, lessees or other entities the monthly bill rendered by FPL to the Customer for electric service, when these tenants, lessees or other entities are charged no more than a proportionate share of such bill, based on their monthly consumption as measured by such meters.
- (2) Electric service is "resold" when separate electric meters are used to charge tenants, lessees or other entities more than a proportionate share of the Customer's monthly bill.

3.2 Street Crossings. The Customers may not build or extend his/her lines across or under a street, alley, lane, court, avenue or other way in order to furnish service for adjacent property through one meter even through such adjacent property is owned by the Customer, unless written consent is obtained from the Company. Consent may be given when such adjacent properties are operated as one integral unit, under the same name, for carrying on parts of the same business.

3.3 Unauthorized Use of Service. In case of any unauthorized remetering, sale, extension or other disposition of service, the Customer's service is subject to discontinuance until such unauthorized remetering, sale, extension or other disposition of service is discontinued, full payment is made of bills for service calculated on proper classifications and rate schedules, and reimbursement in full has been made to the Company for all extra expenses incurred, including expenses for clerical work, testing and inspections.

3.4 Conversion to Master Metering Prohibited. When customers are currently separately served by the Company at individual accounts, they may not terminate these individual accounts and receive service from the Company collectively through a single meter account unless the resulting combined service account is one which could be served by one meter in a building constructed after January 1, 1981 in accordance with Rule 25-6.049 Section (5)(a), of the Florida Administrative Code, and the customer petitions for, and is granted, a waiver by the Florida Public Service Commission of Rule 25-6.049 Section (5)(a), of the Florida Administrative Code.

#### 4 CUSTOMER'S INSTALLATION

4.1 Customer's Installation. The Customer's installation consists of and includes all wires, cutouts, switches and appliances and apparatus of every kind and nature used in connection with or forming a part of an installation for utilizing electric service for any purpose, (excepting meters and associated equipment), ordinarily located on the Customer's side of "Point of Delivery," and including "Service Entrance Conductors," whether such installation is owned outright by the Customer or used by the Customer under lease or otherwise.

4.2 Type and Maintenance. The Customer's wires, apparatus and equipment shall be selected and used with a view to obtaining the highest practicable power factor, and shall be installed and maintained in accordance with standard practice, and in full compliance with all applicable laws, codes and governmental and Company regulations. The Customer expressly agrees to utilize no apparatus or device which is not properly constructed, controlled and protected, or which may adversely affect service to others, and the Company reserves the right to discontinue or withhold service for such apparatus or device.

4.3 Change of Customer's Installation. No changes or increases in the Customer's installation, which will materially affect the operation of any portion of the distribution system or generating plants of the Company shall be made without written consent of the Company. The Customer will be liable for any damage resulting from a violation of this rule.

4.4 Inspection of Customer's Installation. All Customer-owned electrical installations or changes should be inspected upon completion by a competent inspecting authority to insure that wiring, grounding, fixtures and devices have been installed in accordance with the National Electrical Code and such local rules as may be in effect. Where governmental inspection is required by local rules or ordinances, the Company cannot render service until such inspection has been made and formal notice of approval has been received by the Company from the inspecting authority. Where governmental inspection is not required, and before service is rendered by the Company, the Customer shall certify to the Company in writing, that such electrical installation has been inspected by a licensed electrician and is in compliance with all applicable rules and codes in effect. Thereafter, acceptance and receipt of service by the Customer shall constitute certification that the Customer has met all inspection requirements, complied with all applicable codes and rules and, subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company - Governmental, FPL's General Rules and Regulations, the Customer releases, holds harmless and agrees to indemnify the Company from and against loss or liability in connection with the provision of electrical services to or through such Customer-owned electrical installations. The Company reserves the right to inspect the Customer's installation prior to rendering service and from time to time thereafter, but assumes no responsibility whatsoever for any portion thereof.

4.5 Electric Generators. Improper connection of a Customer's generator (or other source of electric service) with the Company's facilities may energize the Company's lines and endanger the lives of the employees, agents or representatives of the Company who may be working on them. Furthermore, such improper connection can seriously damage the Customer's wiring and generator. In order to guard against these dangers, the Company will not connect its service to a Customer's wiring where generators are located unless the wiring conforms to the Company's specifications. These specifications are available on request.

4.6 Momentary Parallel Operation. Permissible and available in all territory served by the Company for electric service to any Customer, at a single point of delivery, when electric service requirements for the Customer's load (i) are supplied or supplemented from the Customer's generation during periods of outages and power ordinarily supplied by the Company, and (ii) necessitate that the Customer's generation operate momentarily in parallel with the Company's system to enable the Customer to transfer its load from the Company's source to the Customer's generation in order to continue the uninterrupted flow of power to the Customer's load. The charge for power supplied by the Company during periods of momentary parallel operation is included in the charge for electric service at the applicable retail rate schedule. No Customer to whom this Rule 4.6 applies shall operate its generation momentarily in parallel with the Company's system unless and until the Customer has entered into a Momentary Parallel Operation Interconnection Agreement with the Company.



**Electric Service Standards**

DATE  
**01-14-05**

PREPARED BY  <b>Distribution Construction Processes</b>	SUBJECT  <b>III. SERVICE PROVISIONS</b>	SECTION PAGE  <b>III: 10 of 11</b>
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work can be performed in a single field visit. However, **check with your local authorities first.** Not all inspectors allow this alternative.

**b. TUG**

The TUG (temporary underground) alternative is available for underground residential services where the permanent meter socket, meter, and downpipe are configured such that they can be used for temporary service. Upon receipt of the temporary inspection, FPL installs the permanent service to the meter socket, and this service is used for construction purposes until the Certificate of Occupancy is obtained. Since no additional work is required by FPL for this type service, no additional construction charges (other than the cost of the permanent underground service itself) are required, provided that all of the FPL construction work can be performed in a single field visit. However, **check with your local authorities first.** Not all inspectors allow this alternative.

One variation of the TUG involves building a portion of the permanent wall and mounting the permanent meter socket, down pipe and customer switch panel on it. The main line switch and breakers for a 120V duplex GFCI receptacle and a 50A 230V receptacle are mounted in the panel with the receptacles mounted below the panel. A minimum 6 mil clear plastic sheet is mounted over the panel to protect it from the weather and a sticker warning of live electrical is placed on the panel. Upon receipt of the Customer's contribution for the permanent underground service, the application for service and the inspection, FPL will install the permanent underground service and meter, and the receptacles mentioned above are used for construction power.

**H. Unauthorized Connections & Disconnections**

All connections of the Customer's wiring to that of FPL, all disconnects of service entrance conductors, all meter removals and installations and all breaking of FPL meter equipment seals shall be made only by FPL, except as allowed in **Section III.I** of these standards.

Any other connection or disconnection of FPL's service by the Customer or his agent is prohibited. If done with the intent to injure or defraud, it is punishable by law. Violators will be prosecuted.

**I. Change in Service Requirements (Service Changes)**

The Customer will normally own all the service facilities on his side of the point of delivery; i.e., the point where FPL's wires carrying the voltage of supply are to join the Customer's wires, except for the meters which will be owned by FPL.

The Customer shall notify FPL, in advance, when a change in service (service change) is being considered to accommodate provisions that service and metering facilities remain adequate.

When a service change requires disconnection of FPL's service, the customer shall request a disconnect/reconnect from FPL. The Customer shall establish an advance appointment to ensure proper coordination between his electrical contractor and FPL crews who will disconnect the service and later reconnect after an inspection (when required by local authorities) is received.

**Exception:**

FPL normally performs both the disconnect and reconnect. In certain cases however, the Customer's **licensed and qualified electrical contractor** is allowed, at his option, but only when approved by FPL, to perform the **disconnect on overhead services only**, when the following criteria are met: