

BEFORE THE PUBLIC SERVICE COMMISSION

In re: 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.

DOCKET NO. 060488-EI
ORDER NO. PSC-07-0021-PAA-EI
ISSUED: January 8, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER ESTABLISHING OWNERSHIP OF
WIRING AND CURRENT TRANSFORMER
CABINET AT THE STREAMLINE HOTEL

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

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.

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 sought our review of his issue regarding ownership of the wiring which caused the closure of his building. We have 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 our authority, is the jurisdiction to interpret our rules and the utility's tariffs.

DOCUMENT NUMBER-DATE

00158 JAN-8 5

FPSC-COMMISSION CLERK

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

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 provided pictures 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 asserted 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 concluded that all wiring inside must also be owned by FPL. Mr. Doyle concluded 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 Position

FPL stated 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.

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 our staff and FPL, FPL acknowledged ownership of both the current transformer and the meter. Our staff was of the opinion that 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.

Ownership of the Wiring

Our staff conducted extensive discovery on the issue both before and after the informal conference, including two site visits by a staff safety engineer. According to our 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 touched those of Streamline Hotel's was 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"¹ (emphasis supplied) leads us 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."² 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.

¹ Rule 25-6.003(d), F.A.C.

² FPL Tariff Sheet 6.030, 4.1 Customer Installation.

Mr. Doyle took 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. 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.

In 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, 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."³ 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 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.

Upon consideration, we find that the point of delivery for the Streamline Hotel is at the weatherhead, owned by the property owner. The customer's responsibility begins at the weatherhead and continues 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. We 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 our decision, we take no position on the cause of the damage experienced by Streamline. Furthermore, we 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.

Based on the foregoing, it is

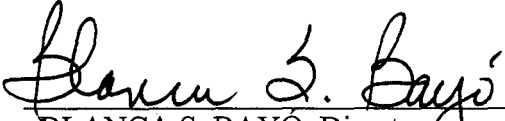
³ P.1, Order No PSC 18893

ORDERED by the Florida Public Service Commission that FPL is not the owner of the current transformer cabinet or the wiring inside the current transformer cabinet which was located inside the Streamline Hotel. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 8th day of January, 2007.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

LCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 29, 2007.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.