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MATTHEW M. CARTER II
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

October 19, 2007

Jon S. Wheeler, Clerk
District Court of Appeal, First District
301 South Martin Luther King, Jr., Boulevard
Tallahassee, Florida 32399-1850

Re: First District Court of Appeal, Case No. 1D07-208 – Ocean Properties, Ltd. and Dillards, Inc. vs. Rudolph “Rudy” Bradley, Chairman, etc., et al. PSC Docket No. 030623-EI

Dear Mr. Wheeler:

Enclosed is the Record on Appeal in the above-referenced case, consisting of eight volumes, Attachment One, and Attachment Two which is being forwarded for filing in the District Court of Appeal, First District. Please initial and date the copy of this letter to indicate receipt.

If you have any questions regarding this Record on Appeal, please feel free to contact me.

Sincerely,

Handwritten signature of Ann Cole in cursive.

Ann Cole
Commission Clerk

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OCT 19 2007

JON S. WHEELER
Clerk District Court Of Appeal
1st District

AC:mhl
Enclosure

cc: Jon C. Moyle, Jr., Esquire
William H. Holliman, Esquire
Kenneth Hoffman, Esquire
J. Stephen Menton, Esquire
Natalie F. Smith, Esquire
David E. Smith, Office of the General Counsel
Richard Bellak, Office of the General Counsel

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DATE _____

STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
MATTHEW M. CARTER II
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David E. Smith, Office of the General Counsel
Richard Bellak, Office of the General Counsel

DISTRICT COURT OF APPEAL, FIRST DISTRICT

OCEAN PROPERTIES, LTD. AND DILLARDS, INC.,)
)
 Appellants,)
)
 vs.) 1ST DCA No. 1D07-208
)
 RUDOLPH "RUDY" BRADLEY, CHAIRMAN,)
 ETC., ET AL.,)
)
 Appellees.)
 _____)

RECORD ON APPEAL IN THE MATTER OF:

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.

PSC DOCKET NO. 030623-EI

Jon C. Moyle, Jr., Esquire
William H. Holliman, Esquire
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301

Richard Bellak, Esquire
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

ATTORNEYS FOR APPELLANTS

ATTORNEYS FOR APPELLEES

I N D E X (BY DATE)

PSC DOCKET NO. 030623-EI

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COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
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KATRINA J. TEW

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

March 6, 2006

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

FPSC CLERK - CORRESPONDENCE
 Answer to file Reply Consult
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Re: Supreme Court Case No. SC05-2172 – Ocean Properties, Ltd. and Dillard's, Inc.
vs. Rudolph “Rudy” Bradley, Chairman, et al. (Docket No. 030623-EI)

Dear Mr. Hall:

The record in the above-referenced case, consisting of eight bound volumes, two hearing transcripts, and two pouches of hearing exhibits is forwarded for filing in the Court. A copy of the index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt.

Do not hesitate to call me at 413-6744 if you have any questions concerning the contents of this record.

Sincerely,

Kay Flynn,
Chief of Records

KF:mhl

Enclosure

cc: Jon C. Moyle, Jr., Esquire
William H. Hollimon, Esquire
Kenneth Hoffman, Esquire
J. Stephen Menton, Esquire
Natalie F. Smith, Esquire
David Smith, Office of the General Counsel
Richard Bellak, Office of the General Counsel

DOCUMENT NO. DATE

05261-07 3/6/06
FPSC - COMMISSION CLERK

FILED
THOMAS D. HALL

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CLERK, SUPREME COURT
BY

STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
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Public Service Commission

March 6, 2006

Jon C. Moyle, Jr., Esquire
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301

FPSC, CLERK - CORRESPONDENCE
<input checked="" type="checkbox"/> Mr. Moyle <input type="checkbox"/> Mr. Deason <input type="checkbox"/> Mr. Carter
DOCUMENT NO. <u>05261-07</u>
DIVISION

**Re: Supreme Court Case No. SC05-2172 – Ocean Properties, Ltd. and Dillards, Inc.
vs. Rudolph “Rudy” Bradley, Chairman, et al. (Docket No. 030623-EI)**

Dear Mr. Moyle:

I have enclosed an invoice reflecting charges for preparation of the above-referenced record. Please forward a check in the amount indicated, made payable to the Florida Public Service Commission, at your earliest convenience.

Do not hesitate to call if you have any questions concerning this matter.

Sincerely,

Kay Flynn, Chief
Bureau of Records

KF:mhl
Enclosure

DOCUMENT NO.	DATE
<u>05261-07</u>	<u>3/6/06</u>
FPSC - COMMISSION CLERK	

FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Blvd. ● Tallahassee, Florida 32399-0850

Date: 3/6/06

10207

To: Jon C. Moyle, Jr., Esquire
 Moyle, Flanigan, Katz, Raymond
 & Sheehan, P.A.
 118 North Gadsden Street
 Tallahassee, Florida 32301

Date Paid _____
 Amount Paid _____
 Check # _____
 Check Cash
 PSC Signature _____

↑ ↑
 This number must appear on
 all checks or correspondence
 regarding this invoice.

Please make checks payable to: FLORIDA PUBLIC SERVICE COMMISSION			
QUANTITY	DESCRIPTION	PRICE	AMOUNT
2,602 pages	Copying and preparation of Docket 030623-EI on appeal to Supreme Court, Case No. SC05-2172.	@.05¢ per page	\$130.10
1	Certificate of Director		4.00
TOTAL			\$134.10

PSC/CCA 008-C Rev. 10/01

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
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STATE OF FLORIDA



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ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
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(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

March 6, 2006

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

FPSC, CLERK - CORRESPONDENCE
 Administrative Files Computer
DOCUMENT NO. 05261-07
RECORDED BY GCL; parties of record

**Re: Supreme Court Case No. SC05-2172 – Ocean Properties, Ltd. and Dillards, Inc.
vs. Rudolph “Rudy” Bradley, Chairman, et al. (Docket No. 030623-ED)**

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Sincerely,

Handwritten signature of Kay Flynn in cursive.

Kay Flynn,
Chief of Records

KF:mhl

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- cc: Jon C. Moyle, Jr., Esquire
- / William H. Hollimon, Esquire
- / Kenneth Hoffman, Esquire
- J. Stephen Menton, Esquire
- / Natalie F. Smith, Esquire
- / David Smith, Office of the General Counsel
- / Richard Bellak, Office of the General Counsel

DOCUMENT NO. DATE
05261-07 3/6/06
FPSC - COMMISSION CLERK

I N D E X

Ocean Properties, Ltd. and Dillards, Inc.
vs.
Rudolph “Rudy” Bradley, Chairman, et al.
FPSC Docket No. 030623-EI
Supreme Court Case No. SC05-2172

VOLUME 1

Progress Docket 1

Request to establish docket, by Florida Public Service Commission’s (“Commission”) staff, filed July 16, 200315

Memorandum dated July 18, 2003 from Cochran Keating, Commission, to Bill Feaster, Florida Power & Light Company (“FPL”); Ken Hoffman, Rutledge Ecenia Purnell & Hoffman, P.A. (“Rutledge Ecenia”); George Brown, Southeastern Utility Service, Inc. (“SUSI”); and Charlie Beck, Office of Public Counsel (“OPC”), advising of July 24, 2003 meeting, filed July 21, 2003.....16

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VOLUME 2

[Continuation of] Memorandum dated July 21, 2003 from Sid Matlock, Commission, to Division of the Commission Clerk and Administrative Services with attached Lotus table listing customers and meter locations; CATS files; responses to CATS files; and correspondence and E-mails received from George Brown, SUSI, on behalf of various customers, to be placed in docket filed, filed July 22, 2003.....201

VOLUME 3

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Memorandum dated July 22, 2003 from Sid Matlock, Commission, to Division of the Commission Clerk and Administrative Services with attached July 22, 2003 E-mail correspondence from Roseann Lucas, FPL, filed July 22, 2003425

Memorandum dated July 24, 2003 from Sid Matlock, Commission, to Division of the Commission Clerk and Administrative Services with attached July 22, 2003 letter from Kenneth Hoffman, FPL, to Cochran Keating, Commission, and E-mail correspondence from George Brown, SUSI, filed July 22, 2003567

Memorandum dated July 29, 2003 from Sid Matlock, Commission, to Division of the Commission Clerk and Administrative Services with attached July 28, 2003 and July 29, 2003 E-mail correspondence from George Brown, SUSI, filed July 29, 2003571

Memorandum dated July 29, 2003 from Cochran Keating, Commission, to Bill Feaster, FPL; Ken Hoffman, Rutledge Ecenia; George Brown, SUSI; and Charlie Beck, OPC, with attached data request, filed July 29, 2003580

Memorandum dated August 1, 2003 from Sid Matlock, Commission, to Division of the Commission Clerk and Administrative Services with attached July 29, 2003 E-mail correspondence from George Brown, SUSI, filed August 1, 2003582

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STATE OF FLORIDA

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



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
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Public Service Commission

January 4, 2006

Jon C. Moyle, Jr., Esquire
William H. Hollimon, Esquire
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301

Re: Ocean Properties, Ltd., et al. vs. Lisa Polak Edgar, et al.
Supreme Court Case No. SC05-2172 (Docket No. 030623-ED)

Dear Mr. Moyle:

Enclosed is the index to the above-referenced docket on appeal. Please look the index over and let me know if you have any questions concerning the contents of the record.

The record will be filed with the Court on or before March 8, 2006.

Sincerely,

Kay Flynn, Chief
Bureau of Records

KF:mhl

cc: Kenneth A. Hoffman, Esquire
J. Stephen Menton, Esquire
David E. Smith, Esquire
Richard Bellak, Esquire
Natalie F. Smith, Esquire

I N D E X

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vs.
Lisa Polak Edgar, Chairman, et al.
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State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

FPSC, CLK - CORRESPONDENCE

Administrative Provider Consumer

DOCUMENT NO. 05261-07

NOV 22 AM 10:33

RECEIVED FPSC

DATE: November 21, 2005

TO: **Kay B. Flynn**, Chief of Records, Division of the Commission Clerk & Administrative Services
 Hong Wang, Management Review Specialist, Division of the Commission Clerk & Administrative Services
 Cecelia R. Diskerud, Deputy Clerk, Office of the General Counsel

FROM: Wanda L. Terrell, Administrative Assistant, Office of the General Counsel
 David E. Smith, Attorney Supervisor, Office of the General Counsel

RE: Ocean Properties, Ltd. and Dillard's, Inc. v. Florida Public Service Commission, Docket No. 030623-EI, Florida Supreme Court

Please note that Richard Bellak is handling the above appeal. The Notice of Administrative Appeal was filed on November 18, 2005. The schedule is as follows:

<u>Date</u>	<u>Item</u>
From day of filing:	
<u>12/24/05</u>	Draft of Index of Record from CCA to Appeals Attorney.
<u>01/07/06</u>	Index of Record served on Parties.
<u>01/17/06</u>	Copy of Record to Appeals.
<u>01/27/06</u>	Appellant's Initial Brief Due.
<u>02/11/06</u>	Draft Commission Answer Brief Due.
<u>02/16/06</u>	Commission's Answer Brief Due.
<u>03/07/06</u>	Appellant's Reply Brief Due.

DES:wlt

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR
ISILIO ARRIAGA



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CLERK AND ADMINISTRATIVE
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2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

November 21, 2005

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

**Re: 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 - Docket No. 030623-EI**

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Appeal, filed in this office on November 18, 2005, on behalf of Ocean Properties, Ltd. and Dillard's, Inc. Also enclosed is a copy of Order No. PSC-05-0226-FOF-EI, the order on appeal.

It is our understanding that the index of record is due to be served on the parties to this proceeding on or before January 7, 2006.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records

KF/mhl
Enclosure

cc: John C. Moyle, Jr., Esquire
William H. Hollimon, Esquire
Kenneth A. Hoffman, Esquire
J. Stephen Menton, Esquire
Natalie F. Smith, Esquire
David Smith, Esquire

BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION
CLERK

Complaints by Ocean Properties, Ltd,
J.C. Penney Corp., Target Stores, Inc.,
and Dillards Department Stores, Inc.
against Florida Power & Light Company
concerning thermal demand meter error

Docket No. 030623-EI
Filed: November 18, 2005

NOTICE OF APPEAL

NOTICE IS GIVEN that Ocean Properties, Ltd. and Dillards, Inc., Appellants, appeal to the SUPREME COURT OF FLORIDA, the Final Order of this FLORIDA PUBLIC SERVICE COMMISSION, Order No. PSC-05-0226-FOF-EI, rendered on February 25, 2005, a conformed copy of which is attached. The nature of the Order is a Final Order of the Florida Public Service Commission, resolving thermal demand meter complaints brought against Florida Power & Light Company in Docket No. PSC-030623-EI. The Commission denied a motion for reconsideration of this Final Order on October 21, 2005.

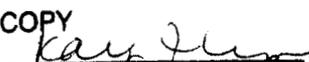
Dated this 18th day of November, 2005.



Jon C. Moyle, Jr.
Florida Bar No. 727016
William H. Hollimon
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ATTEST


Chief Bureau of Records

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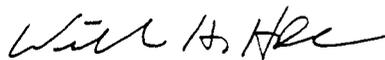
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished
by U.S. Mail this day this 18th day of November, 2005, to the following parties of record:

Cochran Keating
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Kenneth A. Hoffman
Rutledge, Ecenia, Purnell & Hoffman
Post Office Box 551
Tallahassee, FL 32302-0551

Natalie Smith
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420



William H. Hollimon

BEFORE THE PUBLIC SERVICE COMMISSION

In re: 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.	DOCKET NO. 030623-EI. ORDER NO. PSC-05-0226-FOF-EI ISSUED: February 25, 2005
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

APPEARANCES:

KENNETH A. HOFFMAN, ESQUIRE, and J. STEPHEN MENTON, ESQUIRE,
Rutledge, Ecenia, Purnell & Hoffman, P.A., P.O. Box 551, Tallahassee, Florida
32302

On behalf of Florida Power & Light Company

WILLIAM H. HOLLIMON, ESQUIRE, and JON C. MOYLE, JR., ESQUIRE,
Moyle, Flanigan, Katz, Raymond and Sheehan, P.A., The Perkins House, 118
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On behalf of Ocean Properties, Ltd., J. C. Penney Corp., Dillards Department
Stores, Inc., and Target Stores, Inc.

WM. COCHRAN KEATING IV, ESQUIRE, and MARY ANNE HELTON,
ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard,
Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission

FINAL ORDER RESOLVING COMPLAINTS

BY THE COMMISSION:

On November 19, 2003, this Commission issued Order No. PSC-03-1320-PAA-EI in this docket as proposed agency action to resolve complaints made by Southeastern Utility Services, Inc. ("SUSI") against Florida Power & Light Company ("FPL") on behalf of six commercial retail electric customers concerning inaccuracies in the customers' thermal demand meters. SUSI, four of the customers it represents (Ocean Properties, Ltd., J.C. Penney Corp., Dillards Department Stores, Inc., and Target Stores, Inc., collectively referred to as "Customers"), and FPL protested the Commission's proposed agency action and requested a formal administrative

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hearing on these matters.¹ Consequently, this matter was set for a formal administrative hearing which was held on November 4, 2004.

At hearing, we heard testimony from witnesses presented by FPL and Customers and from one Staff witness. FPL and Customers filed post-hearing briefs on December 16, 2004. Based on our review of the evidence adduced at hearing and the arguments presented in the parties' post-hearing briefs, we disposed of the issues in this docket² by vote at our February 1, 2005, Agenda Conference. This order memorializes our decision.

I. Meters Eligible for Refund

Fourteen type 1V thermal demand meters used by FPL to serve Customers are at issue in this proceeding. Each of these meters is used to measure two separate components upon which Customers' bills are based: an energy (kilowatt-hours, kWh, or watthour) component and a demand (kilowatt or kW) component. From late 2002 through early 2003, FPL removed these meters from service, tested each meter, and replaced each meter with an electronic demand meter.³ Customers contend that refunds are due for thirteen of these meters, one due to inaccurate measurement of energy and the remaining twelve due to inaccurate measurement of demand.

We are first presented with the question of determining, pursuant to our rules, the appropriate method of testing the accuracy of the thermal demand meters subject to this docket and, in turn, which of the 14 meters subject to this docket are eligible for a refund. With respect to determining the appropriate method of testing the accuracy of the watthour component of these meters, our rules are clear. Based on testing performed pursuant to our rules, the parties agree that the one meter for which Customers seek a refund based on erroneous watthour registration fails the accuracy requirements of our rules and is eligible for a refund. With respect to determining the appropriate method of testing the accuracy of the demand portion of these meters, we find that our rules are ambiguous and direct our staff to pursue rulemaking to clarify these rules. Based on the facts before us, however, we need not interpret our rules to determine how the accuracy of the demand component of these meters should be tested. For eleven meters, the record indicates that the parties agree that those meters are eligible for a refund for erroneous demand registration. We find that the parties' agreement is within the range of reasonable interpretations of our rules, and we accept this agreement with respect to those eleven meters. We find that the remaining two meters are not eligible for refunds for the reasons set forth below. Our findings for each meter are set forth below.

¹ Subsequently, by Order No. PSC-04-0591-PCO-EI, issued June 11, 2004, SUSI was dismissed as a party to this proceeding. By Order No. PSC-04-0881-PCO-EI, issued September 8, 2004, we affirmed this dismissal by denying SUSI's motion for reconsideration.

² The issues in this docket were established in Order No. PSC-04-0933-PHO-EI, issued September 22, 2004.

³ In this time period, FPL removed, tested, and replaced all of the approximately 3,900 type 1V thermal demand meters used on its system.

Meter #1V7166D

This is the only meter for which Customers seek a refund based on erroneous wathour registration, rather than demand registration. Both parties agree with the test results for the wathour portion of Meter #1V7166D. This meter had a registration error of 2.08%, which is in excess of the 2% error allowed by Rule 25-6.052(1), Florida Administrative Code. Thus, this meter is eligible for a refund for wathour overregistration.

Meter #1V5871D

This meter has a bent maximum demand pointer. This causes the instantaneous demand pointer to strike the maximum demand pointer prematurely, causing an erroneous deflection of approximately + 2.5 divisions on the scale of the demand portion of the meter. Two and a half divisions of the scale corresponds to 30 kilowatts of demand, or 3.57% of full-scale value. The record shows that in five tests of this meter at approximately 61% of full scale, the results varied from an error of 3.14% to 3.57% of full-scale value. The direct testimony of Customers witness George Brown in this case shows an error of 6.7% of full-scale value for this meter. However, witness Brown conceded on cross-examination that the 6.7% figure was not a test result, but a number that was agreed to by the parties as part of failed settlement discussions.

Pursuant to Rule 25-6.052(2)(a), Florida Administrative Code, the performance of the demand portion of the meters at issue in this docket is acceptable if the error of registration does not exceed 4% in terms of full scale value. The test results for the demand portion of this meter show that it did not exhibit error in excess of 4% of full scale value. Thus, this meter is not eligible for a refund.

Meter #1V5774D

Customers state that this meter was mistakenly included in their petition for a formal hearing in this docket. Witness Brown did not discuss this meter in his testimony nor did he include this meter in the table he prepared summarizing the refunds he is proposing for Customers. The test results for this meter show that it was slightly underregistering both kilowatt-hours and demand (-0.48% and -0.03%, respectively). Therefore, this meter is not eligible for a refund.

*Meters #1V52093, #1V7179D, #1V52475, #1V5216D, #1V7001D, #1V5192D,
#1V5025D, #1V7019D, #1V7032D, #1V5887D, #1V5159D*

The demand portion of all of these eleven meters failed the 4% accuracy requirement of Rule 25-6.052(2)(a) when tested at 80% of full-scale value. One of the meters also failed the 4% accuracy requirement when tested at 40% of full-scale value. Although FPL does not agree that it was required to test these meters at 80% of full-scale value, it nevertheless agreed to do so and is recommending refunds to customers for these meters based on the results of the 80% test. Both parties agree, based on the tests that have been conducted by FPL, that these meters are eligible for a refund. We accept this agreement and find that these meters are eligible for refunds for demand overregistration.

II. Determination of Meter Error for Refund Calculation Purposes

Calculation of Refunds for Demand Overregistration

FPL witness David Bromley argues that customer refunds for demand overregistration should be based on the error of the meter expressed as a percentage of full-scale value. Recognizing that Rule 25-6.103(1), Florida Administrative Code, only addresses the *watthour* portion of the meter, witness Bromley relies on Rule 25-6.103(3) for justification. He testified that this rule makes it clear that when a meter is found to be in excess of described limits, the refund or the charge is to be based on the error as determined by the meter test. He concludes that the meter test referenced in Rule 25-6.103(3) must refer to the performance requirements of Rule 25-6.052. We disagree with this interpretation of our rules.

Rule 25-6.103(3) states:

It shall be understood that when a meter is found to be in error in excess of the prescribed limits, the figure to be used for calculating the amount of refund or charge in subsection (1) or paragraph (2)(b) above shall be that percentage of error as determined by the test.

Both subsection (1) and paragraph (2)(b) of the rule refer to refunds or backbills as determined by Rule 25-6.058, Florida Administrative Code. Staff witness Sidney Matlock discussed in detail that Rule 25-6.058, while providing a clear method for calculating the amount billed in error for the *watthour portion* of these meters, does not clearly provide an appropriate method for determining the amount billed in error for the *demand portion* of these meters. Thus, it appears that our rules are, at the very least, ambiguous regarding the proper method to determine refunds for demand meters. We are not aware of any other instance in which we have been asked to apply our rules to determine refunds for demand meters and, thus, find no guidance in past Commission decisions.

Customers agree that our rules do not specifically address how the demand portion of the meters subject to this docket should be tested for purposes of calculating a refund. Moreover, both Staff witness Matlock and Customers witness Brown provide persuasive examples which show that under witness Bromley's interpretation of the rule, i.e., using errors as a percent of full-scale value to calculate amounts billed in error due to demand overregistration, customers would not be made whole.

Customers witness Brown proposes that refunds be based on the actual change in demand registration that has occurred following the replacement of the inaccurate thermal demand meters with electronic demand meters. We must reject witness Brown's proposal, because we find no basis in our rules for supporting this proposed method of calculating refunds. As noted above, we recognize that there is ambiguity in our rules and that a clear method for determining the amount billed in error for the demand portion of these meters is not specified in the rules. However, Rule 25-6.103(3), cited above, states that any refund should be based on "that percentage of error determined by *the test*." (Emphasis added.) Thus, our rules clearly envision that any refund be based on the results of a meter test.

Further, we agree with FPL witness Rosemary Morley that there are two technical flaws in witness Brown's proposed method. Witness Brown calculates an average demand for each customer before and after meter replacement. However, the average demand before meter replacement is based on 12 months and the average demand after meter replacement is based on 16 to 22 months, depending on the meter. The two averages are not consistent because the average after replacement, in effect, weights certain months more than others. For example, meter #1V5192D shows an average meter error of 10.62% for the 18 months following meter replacement. If 12 months had been used to conduct a month-to-month comparison with the previous 12 months, the average meter error following replacement would have been 7.63%.

The second technical flaw is that witness Brown's proposed method does not take into account that some customer loads were already trending downward before meter replacement. These trends can be observed most clearly in Customers witness Bill Gilmore's rebuttal testimony. Five of the fourteen charts he presents show that a downward trend in the plotted ratios of kilowatt-demand to energy consumption already existed before meter replacement. An additional five charts show that the plotted ratios of kilowatt-demand to energy consumption following meter replacement are not outside of the control limits in witness Gilmore's statistical analysis, as discussed in greater detail below.

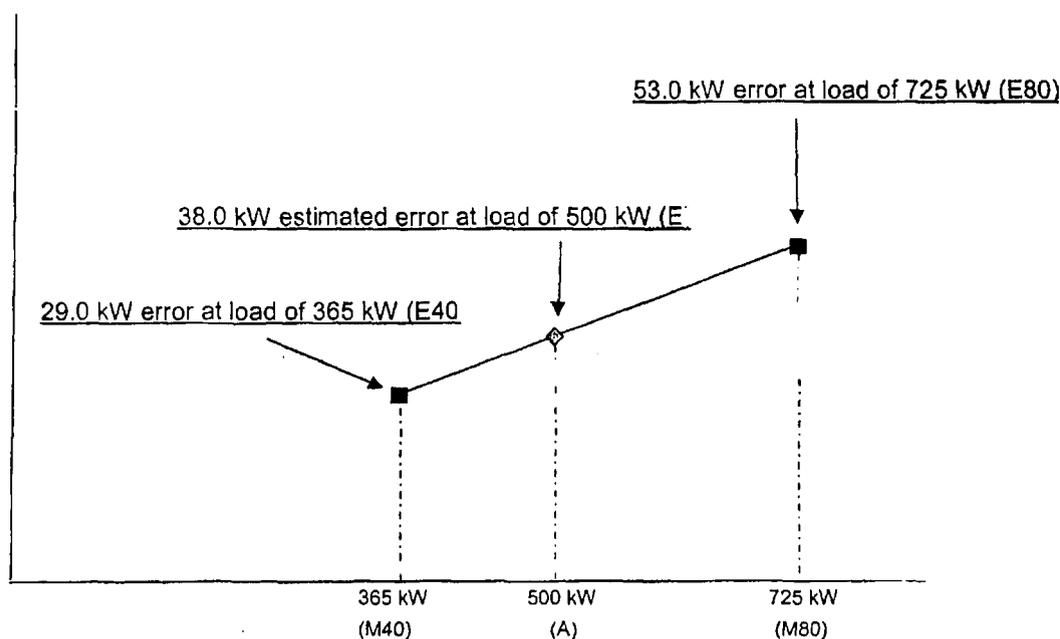
Staff witness Matlock proposes that the eligible meters be re-tested at the customers' average billing demand for the refund period to determine the percentage error for purposes of calculating a refund. Witness Matlock proposes that the test point error be used rather than the full-scale error, because he believes, as discussed above, that use of the full-scale error does not make the customer whole. Based on our review of the record, we agree that using the percentage error based on the test point rather than the full-scale value better serves the purpose of making the customer whole.

Recognizing that our rules do not specify a clear method for determining the amount billed in error for the demand portion of these meters but clearly envision using meter test results to calculate refunds, we find in the record of this proceeding a mechanism consistent with our rules and suitable for determining meter error for refund calculation purposes in this case. Staff witness Matlock testified that straight-line interpolation could be used to interpolate the results of FPL's previous tests of each meter at 40% and 80% of full scale to determine the error at each customer's maximum monthly demand. We believe that this method can practically and easily be used to determine the percentage error for the eleven meters eligible for a refund for inaccurate demand readings while avoiding the need for extensive retesting of these meters.⁴ However, instead of using each customer's maximum demand over the refund period, as witness Matlock proposes, we believe that each customer's average demand over the refund period should be used to better reflect the customer's actual usage. We note that FPL witness Bromley testified that FPL is using average demand in the modified procedure that FPL is currently using to calculate refunds for customers with demand meters eligible for refunds, although his modified procedure uses a two-year average rather than the average over the refund period.

⁴ We do not address whether this same procedure should be employed in other factual situations where different meter test points, or a single point, may have been used. We do direct our staff to pursue rulemaking to address this and other issues arising under our meter testing and refund rules.

This straight-line interpolation method is similar to and consistent with the method proposed by a manufacturer of thermal demand meters, Landis & Gyr, in an April 5, 1982, letter that was introduced into evidence. In that letter, two separate linear interpolations are used: one to determine the effect of any zero adjustment error at the customer's load point, and one to determine any full-scale adjustment error at the customer's load point. Because the error at no load is unknown in this case, we adopt the use of a single linear interpolation using the test results that are available from the two test points (40% and 80% of full-scale). This linear interpolation method is illustrated in the following diagram:

Illustration of Linear Interpolation to find Error at Customer Average Billing Demand



$$\text{Equation of estimating line: } E = [(E80 - E40)/(M80 - M40) * (A - M40)] + E40$$

The following table shows the full-scale error test results for the eleven meters eligible for refunds because of demand registration errors, as presented by FPL witness Bromley:

<u>Meter Number – Location</u>	<u>40% F.S. Error</u>	<u>80% F.S. Error</u>
1V52093 (Ocean Properties – Bradenton)	5.78%	6.00%
1V7179D (J.C. Penney – Bradenton)	n/a	4.31%
1V52475 (J.C. Penney – Naples)	3.01%	4.12%
1V5216D (Dillards – Coral Springs)	2.44%	4.84%
1V7001D (Target – Boynton Beach)	n/a	4.60%
1V5192D (Target – Bradenton)	2.68%	4.36%
1V5025D (Target – Delray Beach)	1.73%	4.12%
1V7019D (Target – Ft. Myers)	n/a	4.21%
1V7032D (Target – Hollywood)	2.01%	4.84%

1V5887D (Target – Port Charlotte)	3.25%	4.36%
1V5159D (Target – Venice)	3.10%	4.36%

To use the straight-line interpolation method, only three of the meters eligible for refund - Meters #1V7179D, #1V7001D, and #1V7019D – require testing at 40% of full scale. After this testing, the linear interpolation procedure described above shall be applied to determine the correction factor to be used in determining corrected customer billing demands.

For purposes of clarity, the nine-step procedure outlined below specifies how the linear interpolation method shall be used to determine the amount billed in error for the demand portion of the eligible meters subject to this docket:

1. Calculate the average billing demand over the refund period. Denote this average by A.
2. Test the meter in question at both 80% of full-scale value and 40% of full-scale value (or, as nearly so as practicable), denoting these two test points by T80 and T40, respectively. Denote the kilowatt readings on the meter being tested by M80 and M40, respectively. (In this docket, the existing test results shown in the table above shall be used and supplemented by additional test results at 40% of full-scale value for the three meters identified above.)
3. Calculate the kilowatt error at each of these test points and denote them by E80 and E40, respectively:

$$E80 = M80 - T80 \quad \text{and} \quad E40 = M40 - T40$$

4. Calculate the estimated kilowatt error, E, at the customer's average billing demand by the following formula:

$$E = [(E80 - E40) / (M80 - M40) * (A - M40)] + E40$$

5. Calculate the percentage error, P, associated with the kilowatt error at customer's average load:

$$P = [E / (A - E)] * 100$$

6. Calculate a "correction factor" defined by $1 / (1 + P / 100)$
7. Multiply each monthly billing demand in the refund period by the correction factor calculated in Step 6 to determine an adjusted billing demand for each month.
8. Apply the appropriate rates and charges to each of the adjusted billing demands calculated in Step 7 to calculate an adjusted monthly bill for each month in the

refund period. Then subtract the adjusted monthly bill from the original monthly bill for each month of the refund period.

9. Apply the appropriate interest rate to the overbilled amounts calculated in Step 8 to determine the total refund amount for each meter eligible for refund.

Calculation of Refund for Watthour Overregistration

Neither the Customers' position on this issue nor the testimony provided by witness Brown on behalf of Customers explicitly discusses the appropriate method for calculating customer refunds for the watthour portion of a thermal demand meter. However, the refund that witness Brown is proposing in this docket for Meter #1V7166D is based on the average change in kWh consumption before and after the thermal meter was replaced by an electronic meter. As discussed previously, we find that it is not appropriate to calculate refunds on the basis of readings before and after meter changeout.

For this meter, the percent change that was used by witness Brown in his calculations (1.63%) is actually less than the error as measured by FPL (2.08%). We find that FPL used the correct method to calculate the percent registration error for this meter as specified in Rule 25-6.058(3)(a). Using the 2.08 percent error as determined by Rule 25-6.058(3)(a), an adjusted bill would be calculated in a manner similar to that outlined in Steps 6 through 9 of the procedure set forth above for calculating refunds for overregistration by the demand portion of the meter.

Treatment of Similarly Situated Customers

Customers point out that Section 366.03, Florida Statutes, states that "[n]o public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject same to any undue or unreasonable prejudice or disadvantage in any respect." Citing Pan American World Airways, Inc. v. Florida Public Service Commission, 427 So. 2d 716 (Fla. 1983), Customers argue that utility policies must be applied without discrimination. Customers argue that FPL, in calculating refunds for customers whose type 1V thermal demand meters were tested and found to be eligible for refunds, established a policy of using the higher of the meter test point error or an error calculated by comparing billing records before and after replacement of the meter (the "higher of" method). Customers contend that this policy must now be applied uniformly to all customers whose type 1V meters are eligible for refunds, including Customers.

FPL notes that Rule 25-6.103(3) provides that the determination of amounts billed in error shall be based on the results of a test. FPL contends that the record is clear that FPL offered all customers, including Customers in this docket, the "higher of" method sought by Customers, along with a 12-month refund. FPL asserts that Customers' complaint of unfair treatment rang hollow when Customers witness Brown conceded on cross-examination that FPL had made the same offer to him, as representative of Customers, and witness Brown rejected it in favor of pursuing multi-year refunds.

The record is clear that FPL treated Customers in this docket the same as other similarly situated customers with respect to the calculation of refunds for meter error in type 1V thermal

demand meters. FPL calculated refunds for all such customers based on a 12-month refund period and the "higher of" method described above. The record indicates that FPL used the "higher of" method, which goes beyond the requirements of the relevant Commission rules, as previously discussed, to remove any perception from affected customers that they were not being treated fairly. Thus, FPL went beyond the requirements of our rules in this regard in an attempt to avoid litigation concerning calculation of refunds.

On behalf of Customers, witness Brown rejected this method of calculating refunds and sought refunds for greater than 12 months. Through this litigation, Customers now seek the benefit of the "higher of" method along with a refund period much greater than twelve months. Thus, Customers themselves have chosen to be treated differently than similarly situated customers.

Customers assert that there is no evidence that FPL ever offered these terms to other customers as settlement or that those customers accepted these terms as settlement. Instead, Customers assert, FPL developed a policy to calculate refunds pursuant to these terms and credited customers' accounts accordingly. Customers contend that FPL never informed other customers that the credit being applied to their accounts was an offer to resolve issues related to a faulty thermal demand meter and that acceptance of the credit constituted acceptance of FPL's offer. Customers argue that merely paying a bill which includes a utility generated credit is not acceptance of an offer.

The record reflects that FPL did not negotiate the calculation of refunds with customers outside of this docket. Yet the record does indicate that every customer using a type 1V thermal demand meter was informed by FPL that each such meter would be removed, tested, and replaced with a new meter and that FPL would provide a refund if the meter test demonstrated that the meter was eligible for a refund, but would not backbill any customer whose meter underregistered outside of the limits specified by Commission rules. Each of these customers whose meter was eligible for a refund was free to challenge FPL's calculation of the refund provided, including the refund period, just as Customers have done in this docket. Upon such a challenge, FPL would also have been free to take the position that it is not required to calculate refunds based on the "higher of" method, just as it has done in this docket.

We find that FPL treated Customers in this docket the same as any other similarly situated customer with respect to the calculation of refunds for meter error in type 1V thermal demand meters. By seeking to hold FPL to one part of the formula it used to calculate refunds - a part not required by our rules - but seeking larger refunds by litigating another part of the formula, Customers have chosen to be treated differently than similarly situated customers.

III. Refund Period

Rule 25-6.103(1), Florida Administrative Code, reads in pertinent part:

Whenever a meter is found to have an error in excess of the plus tolerance allowed in Rule 25-6.052, the utility shall refund to the customer the amount billed in error as determined by Rule 25-6.058 for one half the period since the last test, said one

half period shall not exceed twelve (12) months; except that if it can be shown that the error was due to some cause, the date of which can be fixed, the overcharges shall be computed back to but not beyond such date based upon available records.

As discussed below, we find, pursuant to this rule, that a refund period of one year is appropriate for the meters addressed in this docket.

Meter #1V7166D (Dillards – Port Charlotte)

As noted previously, this meter failed the watt-hour accuracy requirements of our rules by a very small margin. The only evidence in the record related at all to the time period in which this meter overregistered is a chart provided by witness Brown that attempts to show a change in usage after meter replacement. However, this chart shows only a one-year historical analysis. Therefore, the chart does not demonstrate that the watt-hour portion of this meter had been in error in excess of the plus tolerance allowed by our rules for more than 12 months. Because there is no evidence to demonstrate that this meter has had an unacceptable error since some fixed point in time beyond 12 months, we find that the appropriate refund period for this meter is one year.

Meters #1V5216D (Dillards – Coral Springs), #1V5159D (Target – Venice), #1V5887D (Target – Port Charlotte), #1V7019D (Target – Ft. Myers), #1V7032D (Target – Hollywood), #1V7179D (J.C. Penney – Bradenton), #1V5025D (Target – Delray Beach), #1V52475 (J.C. Penney – Naples), #1V52093 (Ocean Properties – Bradenton), #1V5192D (Target – Bradenton), and #1V7001D (Target – Boynton Beach)

Customers' theory of this case is that the demand component of these meters was miscalibrated by FPL and, therefore, any refund must go back to the time that they were last calibrated by FPL. The record shows that FPL tested six of these meters⁵ when it received them as new meters from the manufacturer in the early 1990s. These meters tested as accurate at that time, so FPL did not make any calibration adjustments. Thus, Customers theory cannot be sustained with respect to these six meters.

In addition, the control charts prepared by witness Gilmore do not support a refund period of more than one year. Witness Gilmore contends that there is a consistent relationship between kilowatt-demand and energy consumption. According to witness Gilmore, because the meters in this docket have exhibited correct readings for energy consumption, any significant change in the ratio of demand to energy must be caused by a change in demand.

Witness Gilmore plots these ratios of demand to energy on a chart along with statistically determined upper and lower control limits. The last ratio plotted on each chart represents the ratio of demand to energy for the new electronic demand meter that replaced the old thermal demand meter. If the last data point falls below the lower control limit while all other data points

⁵ Meters #1V5216D (Dillards – Coral Springs), #1V5159D (Target – Venice), #1V5887D (Target – Port Charlotte), #1V7019D (Target – Ft. Myers), #1V7032D (Target – Hollywood), and #1V7179D (J.C. Penney – Bradenton).

fall within the control limits, witness Gilmore contends that this is an indication that the demand dropped significantly when the new meter was installed.

We do not find witness Gilmore's analysis to be a reliable indicator of meter error "due to some cause, the date of which can be fixed" as required by our rules to justify a refund period greater than 12 months. The analysis does not include a review of what other factors may have influenced a particular customer's demand either before or after meter replacement. Further, witness Gilmore admitted on cross-examination that the analysis does not provide a basis to establish any specific cause for a variation that is outside the range of the control limits.

In addition, we are persuaded that if there is already a downward trend in the plotted ratios prior to meter replacement, a point falling below the control limit does not necessarily indicate an "out of control" condition as witness Gilmore contends. It is just as likely to indicate the continuation of a trend that had already been established. For six of the meters, the analysis shows such a downward trend prior to meter replacement. Further, the analysis shows that the data points for five of the meters are within the control limits established in the analysis. Based on witness Gilmore's analysis, we note the following:

- The chart for Meter #1V5216D (Dillards – Coral Springs) shows that all plotted ratios (annual average ratios of demand to energy consumption) fall within the established control limits.
- The chart for Meter #1V5159D (Target – Venice) shows that there is a downward trend in plotted ratios prior to meter replacement. In addition, all ratios are within the established control limits.
- Witness Gilmore stated under cross examination that he did not have the correct data corresponding to the chart for Meter #1V5887D (Target - Port Charlotte). Thus, no conclusions can be drawn from the chart for this meter.
- The chart for Meter #1V7019D (Target – Ft. Myers) shows a downward trend in ratios for the five-year period prior to meter replacement.
- The chart for Meter #1V7032D (Target – Hollywood) shows a downward trend for two years prior to meter replacement. In addition, all annual averages are within the established control limits, although the last data point is very near the limit.
- The chart for Meter #1V7179D (J.C. Penney – Bradenton) shows a downward trend for the three years prior to meter replacement.
- The control chart for Meter #1V5025D (Target – Delray Beach) shows a downward trend over all years represented by the control chart. In addition, there are significant drops in the ratios for both years prior to meter replacement.

- The control chart Meter #1V52475 (J.C. Penney – Naples) shows that all annual averages are within the established limits of the control chart. In addition, there is a significant drop in the ratio for the year prior to replacement of the meter.
- The control chart for Meter #1V52093 (Ocean Properties – Bradenton) shows a downward trend in the ratios for two years prior to meter replacement. In addition, all annual averages fall within the established control limits.

From this record, we cannot conclude, pursuant to Rule 25-6.103(1), that a refund period beyond one year is appropriate for these meters. Thus, we find that the appropriate refund period for these meters is the one-year period prior to meter replacement.

IV. Appropriate Rate Schedule to Apply in Calculating Refunds

We are next asked to determine the appropriate rate schedule to be used to calculate refunds for eligible meters. Based on the analysis set forth below, we find that the proper rate schedule to be used to calculate refunds is the rate schedule under which the customer would have been billed if the meter had registered accurately.

As discussed in FPL witness Morley's testimony, the goal of refunds is to make the customer's electric bill equal to the electric bill which would have been rendered, had the meter error not existed. Witness Morley argues that the objective should be to hold the customer harmless from the effects of the meter error and return the customer to a correctly billed status quo. Witness Morley describes how FPL's rate schedules are differentiated by the maximum monthly demand of the customer. Customers whose maximum demand in a given 12 month period is between 21 kW and 499 kW qualify for the GSD rate. Customers whose maximum demand in a 12 month period is between 500 kW and 1,999 kW are billed under the GSLD-1 rate schedule. If, due to meter error a customer's measured maximum demand exceeded 500 kW but the actual demand was less than 500 kW, the customer would have been billed under the GSD tariff in the absence of the meter error. Therefore, Witness Morley contends, the appropriate adjustment is to calculate the customer's bill under the GSD schedule and then subtract that amount from the actual amount billed to determine the amount of the refund for the month. Witness Morley maintains that this methodology is consistent with our rules.

Customers witness Brown disputes the rate schedule used to calculate a refund for one specific customer whose meter is eligible for a refund. This customer was originally billed on the GSLD rate schedule because the customer's maximum registered demand in a 12 month period was in excess of 500 kW. When the correction factor advocated by witness Morley was applied, this customer no longer qualified for the GSLD rate and was rebilled using the GSD rate factors. The GSLD rate schedule allows a customer for whom it is advantageous to "opt up" to the GSLD rate even if the customer would not otherwise qualify for that schedule. The customer then pays for the minimum 500 kW demand, no matter what the actual kW usage is. The advantage to "opting up" is the ability to take service at the lower kWh charge on the GSLD rate. For high load factor customers, this may be a significant monetary advantage, even with the minimum kW charges. Witness Brown argued that because the customer was very close to 500

kW maximum demand, and may well have chosen to “opt up,” using the GSD rate to calculate the refund could understate the refund due to this customer. Witness Brown contends that because the customer had no reason to believe it didn’t qualify for the GSLD rate, it never considered the “opt up” provision and was therefore being unduly penalized by being billed at the GSD rate.

FPL witness Morley notes that this specific customer is the only customer with a meter being addressed in this docket that falls into this potential “opt up” situation. Further, FPL established that this customer had been on the GSD rate since September 2003, was aware of the opt up provision, and had not yet availed itself of that option. The inference was that the customer, even given the knowledge and opportunity to opt up, has not done so. We believe that it is reasonable to assume the customer would not have opted up, had the meter been registering correctly. Therefore, we find that witness Morley’s calculations for this customer were appropriate.

In conclusion, we find that the proper rate schedule to be used to calculate refunds is the schedule under which the customer would have been billed, had the meter registered accurately.

V. Effects of Sun/Radiant Heat on Accuracy of Meters

We are also asked to address the following issue raised by Customers in this docket: “Did the sun or radiant heat affect the accuracy of any of the meters subject to this docket? If so, how do such effects impact the determination of which meters are eligible for a refund of the amount of any refund due?” Having thoroughly reviewed the record of this proceeding, we find no evidence that the sun or radiant heat affected the accuracy of any meters subject to this docket. Thus, such matters do not affect our determination of which meters are eligible for a refund or the amount of any refund.

According to the Prehearing Order in this docket, Customers witnesses Brown, Smith and Gilmore were identified to address this issue. Witness Gilmore provided no testimony on this issue. Witness Brown testified that he had observed and video recorded numerous thermal demand meters that appeared to respond to the effects of solar radiation. When asked if the meters subject to this docket have been affected by the sun, he stated that he could not be certain what part of the meters’ demand errors in the docket were affected by the sun. Witness Smith also testified that thermal demand meters are affected by the sun. However, he provided no specific testimony regarding the meters that are subject to this docket.

FPL witness Bromley discussed this issue in his direct testimony. According to witness Bromley, in early 2002 a customer alleged, among other things, that its 1V thermal demand meter was over-registering in part because of the effects of the sun. FPL metering personnel investigated and observed that the heating and cooling of the meter experienced during and after exposure to the sun appeared to be affecting the demand reading.

FPL then performed a laboratory test on the meter. Three 500-watt halogen lights were used to simulate the effect of the sun. By using this test, FPL was able to duplicate what FPL employees had observed in the field. The process of being heated and then cooled caused the

meter to over-register demand. To determine whether the phenomenon was a widespread problem, FPL tested two random samples of thermal meters, totaling 150 meters in all. Not one of the 150 meters sampled registered higher than it should when the meter was heated by the halogen lights and then cooled.

FPL witness Malemezian testified that the effect of the sun may cause a slight under-registration. He points out that the lab test performed by FPL on the 150 meters showed that the external heating caused either no demand misregistration or some demand underregistration.

In conclusion, there is no information in the record to indicate that the specific meters subject to this docket were affected by the sun. Therefore, we can make no determination as to how this phenomenon may have affected the meters subject to this docket.

VI. Interest Rate for Refunds

Customers argue that, pursuant to Section 687.01, Florida Statutes, the appropriate interest rate for calculating customer refunds is the rate provided for in Section 55.03, Florida Statutes. Section 687.01 states that “[i]n all cases where interest shall accrue without a special contract for the rate thereof, the rate is the rate provided for in s. 55.03.” Customers state that Section 55.03 requires the Chief Financial Officer to annually set the interest rate by averaging the discount rate of the Federal Reserve Bank of New York for the preceding year, then adding 500 basis points to the averaged discount rate. Customers also argue that the Florida Supreme Court decided in Kissimmee Utility Authority v. Better Plastics, Inc., 526 So. 2d 46 (Fla. 1988) that Section 687.01 is applicable when calculating interest on utility overcharge refunds.

Customers further argue that Rule 25-6.109(4), Florida Administrative Code, which addresses the interest rate to be applied to Commission-ordered refunds, is invalid because no specific statutory authority exists which gives this Commission the ability to adopt such a rule. Customers note that they have initiated a rule challenge in a proceeding before the Division of Administrative Hearings. Finally, Customers argue that it is better public policy to calculate interest using an approach that reaches back further in time to the point Customers were actually damaged, rather than applying an interest rate based on the commercial paper rates for the past 30 days as called for in Rule 25-6.109(4).

FPL notes that Rule 25-6.109(1) provides that the interest rate provisions of subsection (4) of the rule apply to all refunds ordered by this Commission with the exception of deposit refunds and refunds associated with adjustment factors, unless otherwise ordered by the Commission. FPL notes that this case does not involve deposit refunds or refunds associated with adjustment factors.

FPL contends that Kissimmee Utility is distinguishable from this case because it did not address whether the rule at issue in this case applied to a refund ordered by this Commission for payment by an electric utility that is subject to rate regulation by the Commission. FPL notes that approximately seven months after issuance of the Court’s opinion in Kissimmee Utility, this Commission directly addressed the applicability of its refund rules in Commission proceedings. FPL notes that in Order No. 20474, issued December 20, 1988, in Docket No. 880606-WS, In re:

Complaint by Kelly Tractor Company, Inc. against Meadow Brook Utility Systems, Inc. regarding refunds for overpayments in Palm Beach County, we analyzed and rejected the potential application of the Kissimmee Utility decision and held that the interest to be applied to the refund at issue should be calculated pursuant to its rules. FPL states that in that case, we noted that the generally applicable refund and interest rate rule for public utilities subject to our rate regulation was not at issue in Kissimmee Utility.

We agree with FPL that the Florida Supreme Court's decision in Kissimmee Utility is clearly and easily distinguishable from this case. Kissimmee Utility involved a municipal utility not subject to our broad ratemaking authority under Chapter 366, Florida Statutes. We do not have the authority to set rates for municipal utilities and, likewise, do not have the authority to require refunds for overcharges of the rates set by municipal utilities. Thus, our rules governing refunds and interest rates applicable to Commission-ordered refunds were not at issue in Kissimmee Utility. As noted by FPL, we recognized these distinctions in Order No. 20474 and determined that our rules, rather than Section 687.01, apply to the calculation of interest on Commission-ordered refunds. Thus, we find that the interest rate provisions of Rule 25-6.109, Florida Administrative Code, shall apply to calculate appropriate refunds in this case.

As noted above, Customers have asserted that Rule 25-6.109 is invalid for lack of any statutory authority for us to adopt an interest rate rule applicable to the refunds in this case. However, we must continue to assume the validity of the rule pending an adjudication to the contrary.

VII. Provision of Refunds

For the 12 meters identified as being eligible for refunds, refunds shall be calculated consistent with the findings set forth herein. FPL shall calculate corrected billing determinants for these meters over the 12-month refund periods specified above. The appropriate rate schedule as determined herein, and all other applicable rates and charges, shall be applied to the corrected billing determinants to determine the corrected bill for each month in the refund period. The difference between the original bill and the corrected bill is the amount of refund due to the customer, except for interest. The appropriate interest rate, as set forth above, shall be applied to the monthly refund amounts to determine a total refund for the entire refund 12-month period.

Refunds shall be completed within 30 days of the issuance date of this order.

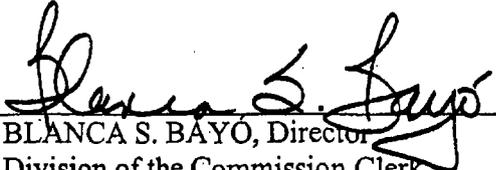
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company shall calculate refunds, consistent with the provisions of this order, for those meters identified in the body of this order as eligible for refunds and shall complete such refunds within 30 days of the issuance date of this order. It is further

ORDERED that this docket shall be closed after the time for filing an appeal has expired.

ORDER NO. PSC-05-0226-FOF-EI
DOCKET NO. 030623-EI
PAGE 16

By ORDER of the Florida Public Service Commission this 25th day of February, 2005.


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

(SEAL)

WCK

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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought..

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Ruth Nettles

030623

From: Ruth Nettles
Sent: Friday, March 18, 2005 12:07 PM
To: 'JON MOYLE, JR.'
Subject: RE: Corrected Address for Ocean Properties

Thank you, Mr. Moyle.

Ruth

From: JON MOYLE, JR. [mailto:jmoylejr@moylelaw.com]
Sent: Friday, March 18, 2005 12:09 PM
To: Ruth Nettles
Subject: FW: Corrected Address for Ocean Properties

I sent it to the wrong address the first time. Here is the correct address for Ocean Properties. Jon

-----Original Message-----

From: JON MOYLE, JR.
Sent: Friday, March 18, 2005 12:07 PM
To: 'rnettles@psc.fl.us'
Subject: Corrected Address for Ocean Properties

1001 East Atlantic Ave.
Suite 202
Delray Beach, Fl. 33483

Please let me know if you need anything further. Jon

The information contained in this electronic mail transmission is attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 850-681-3828. Thank you.

done
3/18/05

OK
146

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

February 16, 2005

Kenneth A. Hoffman, Esquire
Rutledge, Ecenia, Purnell & Hoffman
Post Office Box 551
Tallahassee, Florida 32302-0551

Re: Return of Confidential Documents to the Source, Docket No. 030623-EI

Dear Mr. Hoffman:

Commission staff have advised that Confidential Document Nos. 07616-03 and 08666-03, filed on behalf of Florida Power & Light Company can be returned to the source. The documents are enclosed.

Please do not hesitate to contact me if you have any questions concerning return of this material.

Sincerely,

A handwritten signature in black ink, appearing to read "Kay Flynn".

Kay Flynn, Chief
Bureau of Records

KF/mhl
Enclosure

cc: William C. Keating, Office of the General Counsel

SIGNED FOR BY

A handwritten signature in black ink, appearing to read "Callie Hill".

DATE

2-24-05

Kay Flynn

030423

From: Denise Karnes
Sent: Friday, January 28, 2005 10:07 AM
To: Alina Dieguez; Allen Mortham; Beth Salak; Betty Ashby; Bev DeMello; Blanca Bayo; Bob Trapp; Braulio Baez; Bridget Hoyle; Carlotta Stauffer; Carol Purvis; Cayce Hinton; Charles Davidson; Chuck Hill; Cindy Miller; Dan Hoppe; Della Fordham; Diane Lee; Dorothy Boone; Eileen Patrick; Hurd Reeves; J. Terry Deason; Jane Fautot; Janet Brunson; Janet Harrison; JoAnn Chase; Kathleen Stewart; Katrina Tew; Kay Flynn; Kay Posey; Kevin Bloom; Larry Harris; Lisa Edgar; Manuel Arisso; Martha Golden; Mary Bane; Mary Macko; Norma Jenkins; Pat Dunbar; Patsy White; Richard Tudor; Rick Melson; Roberta Bass; Rudy Bradley; Sandy Moses; Sharon Allbritton; Steven Stolting; Susan Howard; Tarik Noriega; Tim Devlin; Veronica Washington
Subject: Items of Interest at Upcoming Agenda Conference, 2/01/05

A news release was sent to the daily newspapers this morning, 1/28/05, and is available on the PSC web site:
<http://www.psc.state.fl.us/general/news/pressrelease.cfm?release=-2147483320>



State of Florida
Public Service Commission
NEWS RELEASE

January 28, 2005

Contact: 850-413-6482

Items of Interest at Upcoming Agenda Conference, 2/01/05

TALLAHASSEE — The following items are among those scheduled for consideration by the Commission at the February 1, 2005, Agenda Conference.

ITEM 8 – DOCKET NO. 040604-TL - ADOPTION OF NATIONAL SCHOOL LUNCH PROGRAM AND INCOME-BASED CRITERION AT OR BELOW 135% OF FEDERAL POVERTY GUIDELINES FOR LIFELINE AND LINK-UP ELIGIBILITY. The Commission will consider adoption of settlement agreements with BellSouth, Sprint and Verizon regarding customer eligibility for Lifeline and Link-Up programs.

ITEM 12 – DOCKET NO. 041375-EI - REQUEST TO EXCLUDE APRIL 11-12 AND JUNE 13, 24, AND 26, 2004, OUTAGE EVENTS FROM ANNUAL DISTRIBUTION SERVICE RELIABILITY REPORT BY TAMPA ELECTRIC COMPANY. The Commission will evaluate a staff recommendation regarding the company's request to exclude certain weather-induced outages from its annual reliability indices.

ITEM 18 – DOCKET NO. 030623-EI - COMPLAINTS AGAINST FLORIDA POWER & LIGHT COMPANY CONCERNING THERMAL DEMAND METERS. The Commission will review a staff recommendation regarding the appropriate method for testing the accuracy of specific electric meters and for calculating refunds to customers whose meters registered inaccurately.

###

Website - <http://www.floridapsc.com>
Kevin Bloom, Director, Office of Public Information
Additional Press Contact: Tarik Noriega
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: December 9, 2004
TO: Blanca Bayó, Director, Commission Clerk and Administrative Services
FROM: Jane Furot, Chief, Office of Hearing Reporter Services
RE: DOCKET NO. 030623-EI, HEARING HELD 11/04/04.

Attached for filing are Exhibits 1 through 20 representing a complete filing of the exhibits identified and admitted into the record during the proceedings held in the above docket.

Acknowledged BY:

A handwritten signature in cursive script, appearing to read "T. Jefferson".

JF/rlm



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: November 15, 2004

TO: Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

FROM: Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

RE: DOCKET NO. 030623-EI, HEARING HELD 11/04/04.

RE: 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.

DOCUMENT NOS. 12149-04, 11-15-04, Volume 1
12150-04, 11-15-04, Volume 2

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, ECR

Acknowledged BY:

JF/rIm

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

October 6, 2004

Kenneth A. Hoffman, Esquire
Rutledge, Ecenia, Purnell & Hoffman
Post Office Box 551
Tallahassee, Florida 32302-0551

Re: Return of Confidential Documents to the Source, Docket No. 030623-EI

Dear Mr. Hoffman:

Commission Order PSC-04-0911-PCO-EI was issued on September 17, 2004 granting Florida Power & Light's motion to withdraw notice of intent. Per this Order, Confidential Document Nos. 07586-04 and 07587-04, filed on behalf of Florida Power & Light Company, are to be returned to the source. The confidential documents are enclosed, along with the corresponding redacted versions, Document Nos. 07583-04 and 07584-04.

Please do not hesitate to contact me if you have any questions concerning this matter.

Sincerely,


Kay Flynn, Chief
Bureau of Records

KF:mhl
Enclosure

cc: Cochran Keating, Office of the General Counsel

SIGNED FOR BY



DATE

10-06-04

Kay Flynn

From: Blanca Bayo
Sent: Monday, October 04, 2004 1:45 PM
To: Kay Flynn
Subject: RE: FPL testimony in 030623

Approved.

-----Original Message-----

From: Kay Flynn
Sent: Monday, October 04, 2004 11:59 AM
To: Blanca Bayo
Subject: RE: FPL testimony in 030623

Yes, I would like to put a copy of the e-mail in the file....simply shows we were double-checking because what we're being instructed to do (by the order) is outside the normal procedures.

I'll print the e-mail for the docket correspondence file, have Marguerite prepare a transmittal letter for both the conf. and redacted and ref. the order in the letter, have the PDF image of the redacted document deleted, leave the document description in CMS and put a "CCA NOTE" indicating it was returned to the source per Order.

How is that?

Kay

*DNS 07583-04,
07584-04, 07586-04,
and 07587-04*

-----Original Message-----

From: Blanca Bayo
Sent: Monday, October 04, 2004 11:32 AM
To: Kay Flynn
Subject: RE: FPL testimony in 030623

I believe this is a case-by-case issue.

In any instance where we have an Order and the GC's office instructs us to take action, we should handle as requested.

Nonetheless, you should have the detail e-mail in your files as documentation (not sure if we shouldn't also include a copy of the e-mail in the correspondence side of the file? What do you think?)

-----Original Message-----

From: Kay Flynn
Sent: Monday, October 04, 2004 11:27 AM
To: Blanca Bayo
Subject: FW: FPL testimony in 030623

Blanca, I had this correspondence (below) with Cochran concerning the return of a redacted document (an order says to return the redacted--docket file version--of a document) Is this something we will take as a case by case and, because there is an order involved, we will remove the redacted from the docket file, delete the PDF, and return the original document to the source?

Kay

-----Original Message-----

From: Cochran Keating

Sent: Monday, September 20, 2004 3:42 PM

To: Kay Flynn

Subject: FW: FPL testimony in 030623

Actually, after reading the order again, it appears that we should send back both the redacted and highlighted copies. Given that we don't need either, would that be a problem?

-----Original Message-----

From: Cochran Keating

Sent: Monday, September 20, 2004 3:41 PM

To: Kay Flynn

Subject: RE: FPL testimony in 030623

I think both versions are superseded by the new, non-redacted version. There should be no change to the old versions except to remove the redactions. Thus, I don't think we need either the old redacted or unredacted versions. If it is our standard practice to keep the redacted version, however, it wouldn't hurt to do that.

-----Original Message-----

From: Kay Flynn

Sent: Monday, September 20, 2004 2:03 PM

To: Cochran Keating

Cc: Marguerite Lockard; Blanca Bayo

Subject: FPL testimony in 030623

Cochran, we received direct testimony and exhibits of Morley and Bromley today. Ken Hoffman's cover letter asks, per Order PSC-04-0911-PCO-EI, that we return the 7/12 filing of their highlighted and their redacted versions of the testimony. As you know, we frequently return confidential material to the source, but the redacted version of the document was placed in the docket file (public record) and it has been scanned, distributed, etc. Would it be appropriate to return only the confidential version of these testimonies as is our normal procedure?

Kay



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: September 8, 2004

TO: Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

FROM: Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

RE: DOCKET NO. 030623-EI, PREHEARING HELD 08/30/04.

RE: 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.

DOCUMENT NO. 09665-04, 09-03-04

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, ECR

Acknowledged BY:

A handwritten signature, possibly "JF", is written above a horizontal line.

JF/rlm

PSC/CCA028-C (Rev10/01)

Kimberley Pena

From: CJ Cratty [cjcratty@moylelaw.com]
Sent: Wednesday, September 01, 2004 1:42 PM
To: Kimberley Pena
Cc: JON MOYLE, JR.; BILL HOLLIMON
Subject: Subpoenas

<<Subpoena to Appear at Hearing - Hamilton.doc>> <<Subpoena to Appear at Hearing - Hutchins.doc>> <<Subpoena to Appear at Hearing - Williams.doc>> <<Subpoena to Appear at Hearing - Cain.doc>> <<Subpoena to Appear at Hearing - DeMars.doc>> <<Subpoena to Appear at Hearing - Faircloth.doc>>

Please prepare subpoenas pursuant to the attached. Let me know when they're ready and I'll send a runner down with a check to pick them up. Thanks for your help!

CJ Cratty

The information contained in this electronic mail transmission is attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 850-681-3828. Thank you.

6 subpoenas

6 pages

\$ 24.00

COMPLETED
09/01/04

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Docket No. 030623 - Complaints)
by Southeastern Utility Services, Inc., on)
behalf of various Florida Power & Light)
Company concerning thermal demand)
meter error.)

SUBPOENA

THE STATE OF FLORIDA

TO: Bill Hamilton, Florida Power & Light Company, 9250 West Flagler Street, Room 1606, Miami, Florida 33174.

YOU ARE COMMANDED to appear before the Florida Public Service Commission at the Betty Easley Conference Center, Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida, on Thursday, September 23, 2004, at 9:30 a.m., to testify in this action.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on September 1, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

(S E A L)

Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
Attorney for Dillard's Department Stores, Inc.,
J.C. Penney Company, Inc., Ocean Properties,
Ltd., Southeastern Utilities Services, Inc., and
Target Stores Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Docket No. 030623 - Complaints)
by Southeastern Utility Services, Inc., on)
behalf of various Florida Power & Light)
Company concerning thermal demand)
meter error.)

SUBPOENA

THE STATE OF FLORIDA

TO: Henry Hutchins, Florida Power & Light Company, 9250 West Flagler Street, Room 1606, Miami, Florida 33174.

YOU ARE COMMANDED to appear before the Florida Public Service Commission at the Betty Easley Conference Center, Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida, on Thursday, September 23, 2004, at 9:30 a.m., to testify in this action.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on September 1, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

(S E A L)

Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
Attorney for Dillard's Department Stores, Inc.,
J.C. Penney Company, Inc., Ocean Properties,
Ltd., Southeastern Utilities Services, Inc., and
Target Stores Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Docket No. 030623 - Complaints)
by Southeastern Utility Services, Inc., on)
behalf of various Florida Power & Light)
Company concerning thermal demand)
meter error.)

SUBPOENA

THE STATE OF FLORIDA

TO: Geisha Williams, Florida Power & Light Company, 9250 West Flagler Street, Room 1606, Miami, Florida 33174.

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IN RE: Docket No. 030623 - Complaints)
by Southeastern Utility Services, Inc., on)
behalf of various Florida Power & Light)
Company concerning thermal demand)
meter error.)

SUBPOENA

THE STATE OF FLORIDA

TO: Chuck Cain, Florida Power & Light Company, 9250 West Flagler Street, Room 1606, Miami, Florida 33174.

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IN RE: Docket No. 030623 - Complaints)
by Southeastern Utility Services, Inc., on)
behalf of various Florida Power & Light)
Company concerning thermal demand)
meter error.)

SUBPOENA

THE STATE OF FLORIDA

TO: Jim DeMars, Florida Power & Light Company, 9250 West Flagler Street, Room 1606, Miami, Florida 33174.

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IN RE: Docket No. 030623 - Complaints)
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behalf of various Florida Power & Light)
Company concerning thermal demand)
meter error.)

SUBPOENA

THE STATE OF FLORIDA

TO: Brian Faircloth, Florida Power & Light Company, 9250 West Flagler Street, Room 1606, Miami, Florida 33174.

YOU ARE COMMANDED to appear before the Florida Public Service Commission at the Betty Easley Conference Center, Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida, on Thursday, September 23, 2004, at 9:30 a.m., to testify in this action.

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Attorney for Dillard's Department Stores, Inc.,
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Target Stores Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utilities)
Services, Inc., on behalf of various customers) Docket No.: 030623
against Florida Power and Light Company)
concerning thermal demand meter error.)

TRIAL SUBPOENA FOR TESTIMONY

TO: Bill Hamilton
Florida Power & Light Company
9250 West Flagler Street, Room 1606
Miami, Florida 33174

PLEASE TAKE NOTICE THAT PURSUANT TO Florida Rule of Civil Procedure 1.410(b), section 120.569(f), Florida Statutes, and the Notice of Commission Hearing and Prehearing Conference filed in the above-referenced docket, you are hereby commanded to appear to give testimony at 9:30 a.m., Thursday, September 23, 2004, Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

In accordance with sections 112.061(6) (a) and (b), 112.061(7), and 112.061(8), Florida Statutes, a check in the amount of \$425.00 is enclosed to cover witness fees and travel expenses.

PLEASE GOVERN YOURSELF ACCORDINGLY.

JON C. MOYLE, JR.
Florida Bar No. 727016
WILLIAM H. HOLLIMON
Florida Bar No. 104868
MOYLE, FLANIGAN, KATZ, RAYMOND
& SHEEHAN, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
(850) 681-3828 (telephone)
(850) 681-8788 (facsimile)
jmoylejr@moylelaw.com
bhollimon@moylelaw.com

Attorneys for Ocean Properties

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to those listed below with an asterisk and the remainder by U.S. Mail without an asterisk this _____ day of _____, 2004.

Cochran Keating, Esquire
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Bill Walker
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301

*Kenneth A. Hoffman
Rutledge, Ecenia, Purnell & Hoffman
215 S. Monroe St., Ste. 420
Tallahassee FL 32301

R. Wade Litchfield
Natalie Smith
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

Daniel Joy
785 SunTrust Bank Plaza
1800 Second Street
Sarasota, FL 34236

Jon C. Moyle, Jr.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utilities)
Services, Inc., on behalf of various customers) Docket No.: 030623
against Florida Power and Light Company)
concerning thermal demand meter error.)

TRIAL SUBPOENA FOR TESTIMONY

TO: Henry Hutchins
Florida Power & Light Company
9250 West Flagler Street, Room 1606
Miami, Florida 33174

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utilities)
Services, Inc., on behalf of various customers) Docket No.: 030623
against Florida Power and Light Company)
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TO: Geisha Williams
Florida Power & Light Company
9250 West Flagler Street, Room 1606
Miami, Florida 33174

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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Services, Inc., on behalf of various customers) Docket No.: 030623
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TO: Chuck Cain
Florida Power & Light Company
9250 West Flagler Street, Room 1606
Miami, Florida 33174

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utilities)
Services, Inc., on behalf of various customers) Docket No.: 030623
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Florida Power & Light Company
9250 West Flagler Street, Room 1606
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utilities)
Services, Inc., on behalf of various customers) Docket No.: 030623
against Florida Power and Light Company)
concerning thermal demand meter error.)

TRIAL SUBPOENA FOR TESTIMONY

TO: Brian Faircloth
Florida Power & Light Company
9250 West Flagler Street, Room 1606
Miami, Florida 33174

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Sarasota, FL 34236

Jon C. Moyle, Jr.

SIEMENS

August 23, 2004

Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Docket #030623 EI
Subpoena Response by Siemens Power Transmission & Distribution, Inc.

Dear Sir:

Siemens Power Transmission & Distribution, Inc. has no documents responsive to the listed items on Attachment A of the subpoena. Please confirm no Siemens representative needs to appear on September 2, 2004 as called for in the subpoena.

Sincerely,



Margaret R. Buker
Senior Counsel

- CMP _____ MRB:dkp
- COM _____ cc: Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Shechan, P.A.
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- RCA _____
- SCR _____
- SEC 1
- OTH _____

04 AUG 26 AM 9 14
DISTRIBUTION CENTER

Siemens Corporation

Margaret R. Buker
Senior Counsel

3333 Old Milton Parkway
Alpharetta, GA 30005

DOCUMENT NUMBER-DATE

~~00200 1026 3~~

Tel: (770) 751-2351

margaret.buker@siemens.com

Fax: (770) 740-2594
FPSC COMMISSION CLERK

Kimberley Pena

030623

From: CJ Cratty [cjcatty@moylelaw.com]
Sent: Friday, August 06, 2004 2:54 PM
To: Kimberley Pena
Subject: RE: Subpoena - additional changes per Jon - please add to other e-mail I just sent

1. Is this ready? I have a runner ready to head out. Thanks!

From: Kimberley Pena [mailto:KPena@PSC.STATE.FL.US]
Sent: Friday, August 06, 2004 2:16 PM
To: CJ Cratty
Subject: RE: Subpoena - additional changes per Jon - please add to other e-mail I just sent

Will change the name. I do need you to send me an amended Attachment A including the added item. I'm going to need help with the person most knowledgeable about thermal demand meters. I'm not sure if that note was for you. Please advise.

From: CJ Cratty [mailto:cjcatty@moylelaw.com]
Sent: Friday, August 06, 2004 1:43 PM
To: Kimberley Pena
Subject: FW: Subpoena - additional changes per Jon - please add to other e-mail I just sent
Importance: High

Thanks again for all your help on this.

From: JON MOYLE, JR.
Sent: Friday, August 06, 2004 1:33 PM
To: CJ Cratty
Cc: BILL HOLLIMON
Subject: Subpoena

Couple of changes to the Subpoena:

Make it a subpoena for deposition duces tecum as authorized by Florida Rules of Civil Procedure 1.410 and 1.310 and the corp. rep. section, which you can get from the one we did previously

Person most knowledgeable about thermal demand meters, including TMS/TMT Thermal Demand Meters - That should do it - let's see if the third time is the charm -

Also on the documents section, add one more request: Documents regarding the point or points on a thermal demand meter scale the meter should be calibrated so the meter is most accurate. Thanks. Let's get it done and served early next week - We need to give them at least 30 days from service, or else they will object, etc. So long as it is prior to 9-14, we should be o.k. Jon

The information contained in this electronic mail transmission is attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 850-681-3828. Thank you.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

SUBPOENA DUCES TECUM
FOR DEPOSITION

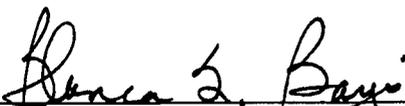
THE STATE OF FLORIDA

TO: Officer(s), Director(s), Managing Agent(s), or Other Person(s) at Siemens Power
Transmission and Distribution, Inc. most knowledgeable about thermal demand meters,
including TMS/TMT Thermal Demand Meters c/o CT Corporation, 1200 South Pine Island
Road, Plantation, FL 33324.

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the offices of Moyle, Flanigan, Katz, Raymond & Sheehan, P.A., 118 N. Gadsden Street, Tallahassee, Florida 32301, on Thursday, September 2, 2004, at 12:00 p.m., to testify in this action, and to have with you at that time and place the following: All documents set forth in Attachment A. The requirements concerning discovery responses set out in Order No. PSC-04-0581-PCO-EI will apply (See Attachment B).

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on August 6, 2004.



Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

(S E A L)

Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
118 N. Gadsden Street
Tallahassee, Florida 32301
(850) 681-3828
Attorney for
Ocean Properties, Ltd.

1. All updates or technical advisories provided to FPL for thermal demand meters.
2. All correspondence, including e-mails, exchanged between you and FPL regarding thermal demand meters.
3. All documents related to impacts the sun or heat may have on thermal demand meters.
4. All documents related to the calibration of thermal demand meters.
5. All documents related to causes or reasons why the demand component of thermal demand meters may gradually overregister demand.
6. All notes or other documents regarding meetings, discussions, or other communication between you and FPL regarding thermal demand meters.
7. All documents related to any legal or administrative complaints in your possession related to the accuracy of thermal demand meters.
8. All documents related to how customer refunds should be calculated for thermal demand meters..
9. All documents indicating at what point on the thermal demand scale and/or at what percentage thermal demand meters should be tested for accuracy.
10. All documents related to the maintenance of thermal demand meters.
11. All documents related to the accuracy or performance of Landis & Gyr thermal demand meters.
12. All documents related to how a thermal demand meter should be tested for accuracy related to its demand component.
13. All documents regarding the point or points on a thermal demand meter scale the meter should be calibrated so the meter is most accurate.

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error. | DOCKET NO. 030623-EI
ORDER NO. PSC-0581-PCO-EI
ISSUED: June 9, 2004

ORDER ESTABLISHING PROCEDURE

I. Case Background

The Commission opened Docket No. 030623-EI to address complaints made by Southeastern Utility Services, Inc. (SUSI) against Florida Power and Light Company (FPL) on behalf of six commercial retail electric customers concerning 28 individual accounts. By Proposed Agency Action Order No. PSC-03-1320-PAA-EI (PAA Order), issued November 19, 2003, the Commission attempted to resolve these complaints. SUSI, the commercial customers, and FPL protested the Commission's order. Accordingly, this matter has been scheduled for a formal evidentiary proceeding.

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ORDER NO. PSC-04-0581-PCO-EI
DOCKET NO. 030623-EI
PAGE 2

III. Governing Provisions

Formal hearing proceedings before the Florida Public Service Commission are governed by Chapter 120, Florida Statutes, and Chapters 25-22, 25-40, and 28-106, Florida Administrative Code. To the extent provided by Section 120.569(2)(g), Florida Statutes, the Florida Evidence Code (Chapter 90, Florida Statutes) shall apply. To the extent provided by Section 120.569(2)(f), Florida Statutes, and unless otherwise modified by the Prehearing Officer, the Florida Rules of Civil Procedure shall apply.

Rule 28-106.211, Florida Administrative Code, specifically provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case. This Order is issued pursuant to that authority. The scope of this proceeding shall be based upon the issues raised by the parties up to and during the prehearing conference, unless modified by the Commission.

IV. Issue Identification / Tentative Issues

A list of the issues identified thus far in this proceeding is attached to this order as Appendix A. Prefiled testimony, exhibits, and prehearing statements shall address the issues set forth in the appendix.

V. Filing Procedures

A. General

In accordance with Rule 25-22.028, Florida Administrative Code, parties shall submit the original document and the appropriate number of copies to the Division of the Commission Clerk and Administrative Services for filing in the Commission's docket file. Filing may be made by mail, hand delivery, or courier service. Please refer to the rule for the requirements of filing on diskette for certain utilities. Filings pertaining to this docket should identify the assigned docket number and should be addressed to:

Director, Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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B. Document Identification

Unless modified by the Prehearing Officer for good cause shown, each page of every document produced pursuant to requests for production of documents shall be identified individually through the use of a Bates Stamp or other equivalent method of sequential identification. Parties should number their produced documents in an unbroken sequence through the final hearing. An example of the typical sequential identification format is as follows:

[company initials] 000001

C. Public Access to Records

All files at the Commission shall be open to public inspection, unless otherwise prohibited by law, regulation or court order, or when upon motion and order the Commission or Prehearing Officer otherwise has the authority or discretion to prohibit public inspection. All hearings shall be open to the public unless prohibited by law, regulation, or court order or unless closed by order of the Commission or the Prehearing Officer for good reason.

The Division of the Commission Clerk and Administrative Services shall make available for public inspection upon reasonable request during the regular business hours of the Commission all of the public records of the Commission, as defined by Chapter 119, Florida Statutes, subject to any privilege or confidential treatment of those records. The Commission Clerk may charge a fee to recover reasonable costs of copying as specified by Section 119.07(1)(a), Florida Statutes.

D. Ex Parte Communications Prohibition

Pursuant to Section 350.042, Florida Statutes, a party or counsel for a party shall not initiate any oral or written communication with a Commissioner pertaining to a matter before the Commission unless prior consent of all other parties or their counsel has been obtained. Copies of all pleadings or correspondence filed with the Commission by any party shall be served upon all other parties or their counsel.

All parties are cautioned to follow the requirements of Rule 25-22.033, Florida Administrative Code, relating to disclosure of meetings between parties, their representatives, and Commission staff.

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VI. Prefiled Testimony, Exhibits, & Exhibit Identification

Each party shall prefile, in writing, all testimony and exhibits that it intends to sponsor. An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of the Commission Clerk and Administrative Services, by 5:00 p.m. on the date due. A copy of all prefiled testimony and exhibits shall be served by regular mail, overnight mail, or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

Testimony shall be typed on 8 ½ inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

When a witness supports his or her prefiled testimony with one or more exhibits, each exhibit submitted shall:

- (1) have been previously produced except for good cause shown;
- (2) be identified individually through some method of sequential identification (See (4)(c) below), with the pages numbered sequentially within each attached exhibit;
- (3) be attached to that witness' testimony when filed; and
- (4) have the following in the upper right-hand corner of each page:
 - (a) the docket number;
 - (b) the witness' name;
 - (c) the word "Exhibit" followed by a blank line for the exhibit number;
 - (d) the word "Page" followed by a blank line for the page number and the word "of" followed by a blank line for the total number of pages in the exhibit; and
 - (e) the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL
J. Doe Exhibit No. _____, Page ____ of ____
Cost Studies for Minutes of Use by Time of Day

All known exhibits shall be marked for identification at the prehearing conference. If a demonstrative exhibit or other demonstrative tools are to be used at hearing, they must also be identified by the time of the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits

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may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially.

VII. Discovery Procedures

A. General

Discovery shall be conducted in accordance with the provisions of Chapters 120, 366, and 367, Florida Statutes, Rules 25-22, 25-40, and 28-106, Florida Administrative Code, and the Florida Rules of Civil Procedure (as applicable), as modified herein or as may be subsequently modified by the Prehearing Officer.

When discovery requests are served and the respondent intends to request clarification of the discovery request, such request for clarification shall be made within ten calendar days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

The hearing in this docket is currently set for September 28, 2004. Unless subsequently modified by the Prehearing Officer, the following shall apply:

- (1) Discovery shall be completed by September 14, 2004.
- (2) Discovery requests shall be served by e-mail, fax, hand delivery, or overnight mail.
- (3) All interrogatories, requests for admissions, and requests for production of documents shall be numbered sequentially in order to facilitate their identification.
- (4) Discovery requests shall be numbered sequentially within a set.
- (5) Subsequent discovery requests shall continue the sequential numbering system.
- (6) Discovery responses shall be served within 20 calendar days (inclusive of mailing) of receipt of the discovery request and shall be followed by hard copy within 2 calendar days if served electronically.
- (7) For good cause shown, additional time for mailing shall be afforded at the Prehearing Officer's discretion.
- (8) Discovery requests and responses shall also be served on staff.

Pursuant to Rule 28-106.206, Florida Administrative Code, unless subsequently modified by the Prehearing Officer, the following shall apply:

- (1) Interrogatories, including all subparts, shall be limited to 250.
- (2) Requests for production of documents, including all subparts, shall be limited to 100.

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- (3) Requests for admissions, including all subparts, shall be limited to 75.

B. Confidential Information Provided Pursuant to Discovery

Confidential information, and requests that information be deemed confidential, shall be governed by Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. In response to discovery requests, parties may need to provide information that another party in this proceeding deems, or may deem, confidential. When the submitting party is aware that such information may be deemed confidential, the submitting party shall notify the other party prior to submitting the information, which shall be submitted with an accompanying Notice of Intent to Request Confidential Classification. This procedure is to ensure conformance with this Commission's rules regarding the handling and continued confidential treatment of such information pending a formal ruling by the Commission.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending: (i) a formal ruling on such request by the Commission; or (ii) return of the information to the person providing the information. Information that has not been made a part of the evidentiary record in the proceeding, shall be returned to the party providing it within: (i) one week of the hearing where no determination of confidentiality has been made; or (ii) the time period set forth in Section 366.093, Florida Statutes, where a determination of confidentiality has been made.

C. Depositions

Parties may conduct discovery by means of deposition. While parties may have a designated corporate representative present at a deposition, each party shall ensure that individuals other than its attorney and a corporate representative shall not be present at the depositions of any other witnesses in this docket. This prohibition shall apply to depositions conducted in person, by telephone, or by any other applicable means.

VIII. Motions

Motions shall be determined pursuant to Chapters 120 and 366, Florida Statutes, Chapters 25-22, 25-40, and 28-106, Florida Administrative Code, and the Florida Rules of Civil Procedure (as applicable), as modified herein. The Prehearing Officer retains authority to adjust any time frames regarding motions for good cause shown.

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IX. Settlements & Stipulations

The Commission shall be notified promptly of all settlements, stipulations, agency orders, or any other action terminating a matter before the Commission. A copy of such settlement, stipulation, agency order, or any other document reflecting an action terminating a matter before the Commission shall be filed with the Commission.

X. Telephonic/Electronic Proceedings

Where technically feasible, when all parties are in agreement, and subject to the explicit approval of the Presiding Officer, or as appropriate, the Prehearing Officer, parties may appear at administrative Commission hearings or prehearings via the use of telephonic, video, or other electronic means in lieu of appearing in person.

XI. Prehearing Procedures

A. Prehearing Statements

All parties in this docket and staff shall file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of the Commission Clerk and Administrative Services by 5:00 p.m. on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission.

Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position.

Prehearing statements shall set forth the following information in the sequence listed below:

- (1) The name of all known witnesses that may be called by the party and the subject matter of their testimony.
- (2) 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.
- (3) A statement of the party's basic position in the proceeding.
- (4) 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.

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- (5) A statement of each question of law the party considers at issue and the party's position on each such issue.
- (6) 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.
- (7) A statement of issues to which the parties have stipulated.
- (8) A statement of all pending motions or other matters the party seeks action upon.
- (9) A statement identifying the party's pending requests or claims for confidentiality.
- (10) A statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.
- (11) Any objections to a witness' qualifications as an expert. Failure to identify such objection may result in restriction of a party's ability to conduct voir dire.

B. Attendance at Prehearing Conference

Pursuant to Rule 28-106.209, Florida Administrative Code, a prehearing conference will be held August 30, 2004, at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida. Unless excused by the Prehearing Officer for good cause shown, or in accordance with the Prehearing Officer's approval of appearance by electronic means under Section X, each party (or designated representative) shall personally appear at the prehearing conference. Failure of a party (or that party's representative) to appear shall constitute waiver of that party's issues and positions, and that party may be dismissed from the proceeding.

C. Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate each of the following:

- (1) The party was unable to identify the issue because of the complexity of the matter.
- (2) Discovery or other prehearing procedures were not adequate to fully develop the issue.
- (3) Due diligence was exercised to obtain facts touching on the issue.
- (4) Information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue.
- (5) Introduction of the issue would not be to the prejudice or surprise of any party.

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Specific reference shall be made to the information received and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

D. Expectations of Parties at Prehearing Conference

A draft prehearing order shall be circulated to the parties by the Commission's legal staff prior to the prehearing conference. To maximize the efficiency at the prehearing conference for the Commission and the parties, parties shall be prepared to:

- (1) define and limit, if possible, the number of issues;
- (2) determine the parties' positions on the issues;
- (3) determine what facts, if any, may be stipulated;
- (4) dispose of any motions or other matters that may be pending; and
- (5) consider any other matters that may aid in the disposition of this case.

XII. Hearing Procedures

A. General

As provided by Sections 120.569 and 120.57, Florida Statutes, formal hearings will be held before the full Commission or assigned panel of Commissioners. The Commission will give notice of a hearing in a manner consistent with Chapters 120, 350, and 366, Florida Statutes. All hearings shall be transcribed, and the transcripts shall become part of the record. All witnesses shall present testimony that is sworn or affirmed and shall be subject to cross-examination. Unless authorized by the Presiding Officer for good cause shown, parties shall not conduct discovery during cross-examination at the hearing.

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B. Attendance at Hearing

Unless excused by the Presiding Officer for good cause shown, or in accordance with approval of appearance by electronic means under Section X, each party (or designated representative) shall personally appear at the hearing. Failure of a party, or that party's representative, to appear shall constitute waiver of that party's issues, and that party may be dismissed from the proceeding.

Likewise, all witnesses are expected to be present at the hearing unless excused by the Presiding Officer upon the staff attorney's confirmation prior to the hearing date of the following:

- (1) All parties agree that the witness will not be needed for cross examination.
- (2) All Commissioners assigned to the panel do not have questions for the witness.

In the event a witness is excused in this manner, his or her testimony may be entered into the record as though read following the Commission's approval of the proposed stipulation of that witness' testimony.

C. Evidence

As provided by Sections 120.569 and 120.57, Florida Statutes, the Commission may consider the Florida Evidence Code (Chapter 90, Florida Statutes) as a guide, but may rely upon any evidence of a type commonly relied upon by a reasonably prudent person in the conduct of their affairs.

D. Use of Confidential Information at Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093(2), Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, at the hearing shall adhere to the following:

- (1) Any party intending to use confidential documents for which no prior ruling has been made must be prepared to present their justifications to the Commission for a ruling at the hearing.
- (2) Any party wishing to use proprietary confidential business information shall notify the Prehearing Officer and all parties of record by the time of the

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prehearing conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. Such notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven-day requirement described above shall be grounds to deny the party the opportunity to present evidence that is proprietary confidential business information.

- (3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Division of the Commission Clerk and Administrative Services' confidential files.

XIII. Post-Hearing Procedures

A. Bench Decision

The Commission (or assigned panel of Commissioners) may render a bench decision at the time of the hearing or render a decision without any post hearing submissions by the parties, as deemed appropriate. Such a determination may be with or without the oral or written recommendation of the Commission staff, at the Commission's (or assigned panel's) discretion.

B. Statements of Issues & Positions and Briefs

If the Commission (or assigned panel) does not make a bench decision at the hearing, it may allow each party to file a post-hearing statement of issues and positions. In such event, a summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position. However, the position must be reduced to no more than 50 words. If a post-hearing statement is required and a party

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fails to file in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time, unless modified by the Presiding Officer.

XIV. Controlling Dates

The following dates have been established to govern the key activities of this case:

- | | | |
|-----|---------------------------------------|--------------------|
| (1) | Direct testimony and exhibits (all) | July 12, 2004 |
| (2) | Staff testimony and exhibits, if any | August 2, 2004 |
| (3) | Rebuttal testimony and exhibits (all) | August 16, 2004 |
| (4) | Prehearing Statements | August 23, 2004 |
| (5) | Prehearing Conference | August 30, 2004 |
| (6) | Discovery Cutoff | September 14, 2004 |
| (7) | Hearing | September 28, 2004 |
| (8) | Briefs | October 26, 2004 |

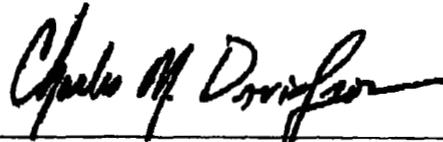
In addition, all parties should be on notice that the Prehearing Officer may exercise his discretion to schedule additional prehearing conferences or meetings of the parties as deemed appropriate. Such meetings will be properly noticed to afford the parties an opportunity to attend.

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Based upon the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 9th day of June, 2004.



CHARLES M. DAVIDSON
Commissioner and Prehearing Officer

(SEAL)

WCK

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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director,

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Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Appendix A

Tentative Issues List

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?
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?
3. Pursuant to Rule 25-6.103, Florida Administrative Code, what is the period for which refunds should apply?
4. What interest rate should be used to calculate customer refunds?

Kimberley Pena

030623

From: CJ Cratty [cjcratty@moylelaw.com]
Sent: Friday, August 06, 2004 12:15 PM
To: Kimberley Pena
Subject: RE: Subpoena

Thanks - I will send a runner out. Appreciate the help!

From: Kimberley Pena [mailto:KPen@PSC.STATE.FL.US]
Sent: Friday, August 06, 2004 12:04 PM
To: CJ Cratty
Subject: RE: Subpoena

will do. The cost will be \$4.00. And it is available for pick-up. Thanks.

From: CJ Cratty [mailto:cjcratty@moylelaw.com]
Sent: Friday, August 06, 2004 12:10 PM
To: Kimberley Pena
Subject: RE: Subpoena

Yes - thanks for your help.

From: Kimberley Pena [mailto:KPen@PSC.STATE.FL.US]
Sent: Friday, August 06, 2004 12:01 PM
To: CJ Cratty
Subject: RE: Subpoena

Per our discussion, I will reissue the subpoena to include The Order as an attachment. In order to do this I will be eliminating the title, Exhibit A from your file. Would this be okay with you?

From: CJ Cratty [mailto:cjcratty@moylelaw.com]
Sent: Friday, August 06, 2004 11:56 AM
To: Kimberley Pena
Subject: RE: Subpoena

Thanks! Jon has a couple of questions:

He wants to add his phone number so the other side can call him if necessary. Can he write that in on the subpoena, or would it be better if he just enclosed a card?

He would like to add as an attachment the Order Establishing Procedure which sets the limit on the time for responding to discovery at 20 days. Can we just add that from here or will we need to get the subpoena re-issued? Thanks!

From: Kimberley Pena [mailto:KPen@PSC.STATE.FL.US]
Sent: Friday, August 06, 2004 8:56 AM
To: CJ Cratty
Subject: RE: Subpoena

Betty Easley Conference Center, 4075 Esplanade Way, Rm 110 (Bureau of Records)

From: CJ Cratty [mailto:cjcratty@moylelaw.com]
Sent: Friday, August 06, 2004 8:59 AM
To: Kimberley Pena
Subject: Subpoena

To where at the PSC should I send our runner to pick up the subpoena this morning? Thanks!

CJ Cratty

The information contained in this electronic mail transmission is attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 850-681-3828. Thank you.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

**SUBPOENA DUCES TECUM
WITHOUT DEPOSITION**

THE STATE OF FLORIDA

TO: Custodian of Records, Siemens Power Transmission and Distribution, Inc. c/o CT Corporation, 1200 South Pine Island Road, Plantation, FL 33324.

YOU ARE COMMANDED to appear at the offices of Moyle, Flanigan, Katz, Raymond & Sheehan, P.A., 118 N. Gadsden Street, Tallahassee, Florida 32301 on or before Thursday, September 2, 2004 , at 12:00 p.m., or at such other time and place as may be mutually agreed upon by counsel, and to have with you at that time and place the following: All documents set forth in Attachment A. The requirements concerning discovery responses set out in Order No. PSC-04-0581-PCO-EI will apply (See Attachment B).

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may mail or deliver the copies to the attorney whose name appears on this subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena. THIS WILL NOT BE A DEPOSITION. NO TESTIMONY WILL BE TAKEN.

YOU ARE SUBPOENAED by the following attorney to (1) appear as specified, or (2) furnish the records instead of appearing as provided above, and unless excused from this subpoena by this attorney or the Commission you shall respond to this subpoena as directed.

DATED on August 6, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

(S E A L)

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

John C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
118 N. Gadsden Street
Tallahassee, Florida 32301
(850) 681-3828
Attorney for
Ocean Properties, Ltd.

1. All updates or technical advisories provided to FPL for thermal demand meters.
2. All correspondence, including e-mails, exchanged between you and FPL regarding thermal demand meters.
3. All documents related to impacts the sun or heat may have on thermal demand meters.
4. All documents related to the calibration of thermal demand meters.
5. All documents related to causes or reasons why the demand component of thermal demand meters may gradually overregister demand.
6. All notes or other documents regarding meetings, discussions, or other communication between you and FPL regarding thermal demand meters.
7. All documents related to any legal or administrative complaints in your possession related to the accuracy of thermal demand meters.
8. All documents related to how customer refunds should be calculated for thermal demand meters..
9. All documents indicating at what point on the thermal demand scale and/or at what percentage thermal demand meters should be tested for accuracy.
10. All documents related to the maintenance of thermal demand meters.
11. All documents related to the accuracy or performance of Landis and Gyr thermal demand meters.
12. All documents related to how a thermal demand meter should be tested for accuracy related to its demand component.

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error. | DOCKET NO. 030623-EI
ORDER NO. PSC-0581-PCO-EI
ISSUED: June 9, 2004

ORDER ESTABLISHING PROCEDURE

I. Case Background

The Commission opened Docket No. 030623-EI to address complaints made by Southeastern Utility Services, Inc. (SUSI) against Florida Power and Light Company (FPL) on behalf of six commercial retail electric customers concerning 28 individual accounts. By Proposed Agency Action Order No. PSC-03-1320-PAA-EI (PAA Order), issued November 19, 2003, the Commission attempted to resolve these complaints. SUSI, the commercial customers, and FPL protested the Commission's order. Accordingly, this matter has been scheduled for a formal evidentiary proceeding.

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III. Governing Provisions

Formal hearing proceedings before the Florida Public Service Commission are governed by Chapter 120, Florida Statutes, and Chapters 25-22, 25-40, and 28-106, Florida Administrative Code. To the extent provided by Section 120.569(2)(g), Florida Statutes, the Florida Evidence Code (Chapter 90, Florida Statutes) shall apply. To the extent provided by Section 120.569(2)(f), Florida Statutes, and unless otherwise modified by the Prehearing Officer, the Florida Rules of Civil Procedure shall apply.

Rule 28-106.211, Florida Administrative Code, specifically provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case. This Order is issued pursuant to that authority. The scope of this proceeding shall be based upon the issues raised by the parties up to and during the prehearing conference, unless modified by the Commission.

IV. Issue Identification / Tentative Issues

A list of the issues identified thus far in this proceeding is attached to this order as Appendix A. Prefiled testimony, exhibits, and prehearing statements shall address the issues set forth in the appendix.

V. Filing Procedures

A. General

In accordance with Rule 25-22.028, Florida Administrative Code, parties shall submit the original document and the appropriate number of copies to the Division of the Commission Clerk and Administrative Services for filing in the Commission's docket file. Filing may be made by mail, hand delivery, or courier service. Please refer to the rule for the requirements of filing on diskette for certain utilities. Filings pertaining to this docket should identify the assigned docket number and should be addressed to:

Director, Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

ORDER NO. PSC-04-0581-PCO-EI
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B. Document Identification

Unless modified by the Prehearing Officer for good cause shown, each page of every document produced pursuant to requests for production of documents shall be identified individually through the use of a Bates Stamp or other equivalent method of sequential identification. Parties should number their produced documents in an unbroken sequence through the final hearing. An example of the typical sequential identification format is as follows:

[company initials] 000001

C. Public Access to Records

All files at the Commission shall be open to public inspection, unless otherwise prohibited by law, regulation or court order, or when upon motion and order the Commission or Prehearing Officer otherwise has the authority or discretion to prohibit public inspection. All hearings shall be open to the public unless prohibited by law, regulation, or court order or unless closed by order of the Commission or the Prehearing Officer for good reason.

The Division of the Commission Clerk and Administrative Services shall make available for public inspection upon reasonable request during the regular business hours of the Commission all of the public records of the Commission, as defined by Chapter 119, Florida Statutes, subject to any privilege or confidential treatment of those records. The Commission Clerk may charge a fee to recover reasonable costs of copying as specified by Section 119.07(1)(a), Florida Statutes.

D. Ex Parte Communications Prohibition

Pursuant to Section 350.042, Florida Statutes, a party or counsel for a party shall not initiate any oral or written communication with a Commissioner pertaining to a matter before the Commission unless prior consent of all other parties or their counsel has been obtained. Copies of all pleadings or correspondence filed with the Commission by any party shall be served upon all other parties or their counsel.

All parties are cautioned to follow the requirements of Rule 25-22.033, Florida Administrative Code, relating to disclosure of meetings between parties, their representatives, and Commission staff.

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VI. Prefiled Testimony, Exhibits, & Exhibit Identification

Each party shall prefile, in writing, all testimony and exhibits that it intends to sponsor. An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of the Commission Clerk and Administrative Services, by 5:00 p.m. on the date due. A copy of all prefiled testimony and exhibits shall be served by regular mail, overnight mail, or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

Testimony shall be typed on 8 ½ inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

When a witness supports his or her prefiled testimony with one or more exhibits, each exhibit submitted shall:

- (1) have been previously produced except for good cause shown;
- (2) be identified individually through some method of sequential identification (See (4)(c) below), with the pages numbered sequentially within each attached exhibit;
- (3) be attached to that witness' testimony when filed; and
- (4) have the following in the upper right-hand corner of each page:
 - (a) the docket number;
 - (b) the witness' name;
 - (c) the word "Exhibit" followed by a blank line for the exhibit number;
 - (d) the word "Page" followed by a blank line for the page number and the word "of" followed by a blank line for the total number of pages in the exhibit; and
 - (e) the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL
J. Doe Exhibit No. _____, Page ____ of ____
Cost Studies for Minutes of Use by Time of Day

All known exhibits shall be marked for identification at the prehearing conference. If a demonstrative exhibit or other demonstrative tools are to be used at hearing, they must also be identified by the time of the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits

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may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially.

VII. Discovery Procedures

A. General

Discovery shall be conducted in accordance with the provisions of Chapters 120, 366, and 367, Florida Statutes, Rules 25-22, 25-40, and 28-106, Florida Administrative Code, and the Florida Rules of Civil Procedure (as applicable), as modified herein or as may be subsequently modified by the Prehearing Officer.

When discovery requests are served and the respondent intends to request clarification of the discovery request, such request for clarification shall be made within ten calendar days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

The hearing in this docket is currently set for September 28, 2004. Unless subsequently modified by the Prehearing Officer, the following shall apply:

- (1) Discovery shall be completed by September 14, 2004.
- (2) Discovery requests shall be served by e-mail, fax, hand delivery, or overnight mail.
- (3) All interrogatories, requests for admissions, and requests for production of documents shall be numbered sequentially in order to facilitate their identification.
- (4) Discovery requests shall be numbered sequentially within a set.
- (5) Subsequent discovery requests shall continue the sequential numbering system.
- (6) Discovery responses shall be served within 20 calendar days (inclusive of mailing) of receipt of the discovery request and shall be followed by hard copy within 2 calendar days if served electronically.
- (7) For good cause shown, additional time for mailing shall be afforded at the Prehearing Officer's discretion.
- (8) Discovery requests and responses shall also be served on staff.

Pursuant to Rule 28-106.206, Florida Administrative Code, unless subsequently modified by the Prehearing Officer, the following shall apply:

- (1) Interrogatories, including all subparts, shall be limited to 250.
- (2) Requests for production of documents, including all subparts, shall be limited to 100.

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(3) Requests for admissions, including all subparts, shall be limited to 75.

B. Confidential Information Provided Pursuant to Discovery

Confidential information, and requests that information be deemed confidential, shall be governed by Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. In response to discovery requests, parties may need to provide information that another party in this proceeding deems, or may deem, confidential. When the submitting party is aware that such information may be deemed confidential, the submitting party shall notify the other party prior to submitting the information, which shall be submitted with an accompanying Notice of Intent to Request Confidential Classification. This procedure is to ensure conformance with this Commission's rules regarding the handling and continued confidential treatment of such information pending a formal ruling by the Commission.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending: (i) a formal ruling on such request by the Commission; or (ii) return of the information to the person providing the information. Information that has not been made a part of the evidentiary record in the proceeding, shall be returned to the party providing it within: (i) one week of the hearing where no determination of confidentiality has been made; or (ii) the time period set forth in Section 366.093, Florida Statutes, where a determination of confidentiality has been made.

C. Depositions

Parties may conduct discovery by means of deposition. While parties may have a designated corporate representative present at a deposition, each party shall ensure that individuals other than its attorney and a corporate representative shall not be present at the depositions of any other witnesses in this docket. This prohibition shall apply to depositions conducted in person, by telephone, or by any other applicable means.

VIII. Motions

Motions shall be determined pursuant to Chapters 120 and 366, Florida Statutes, Chapters 25-22, 25-40, and 28-106, Florida Administrative Code, and the Florida Rules of Civil Procedure (as applicable), as modified herein. The Prehearing Officer retains authority to adjust any time frames regarding motions for good cause shown.

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IX. Settlements & Stipulations

The Commission shall be notified promptly of all settlements, stipulations, agency orders, or any other action terminating a matter before the Commission. A copy of such settlement, stipulation, agency order, or any other document reflecting an action terminating a matter before the Commission shall be filed with the Commission.

X. Telephonic/Electronic Proceedings

Where technically feasible, when all parties are in agreement, and subject to the explicit approval of the Presiding Officer, or as appropriate, the Prehearing Officer, parties may appear at administrative Commission hearings or prehearings via the use of telephonic, video, or other electronic means in lieu of appearing in person.

XI. Prehearing Procedures

A. Prehearing Statements

All parties in this docket and staff shall file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of the Commission Clerk and Administrative Services by 5:00 p.m. on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission.

Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position.

Prehearing statements shall set forth the following information in the sequence listed below:

- (1) The name of all known witnesses that may be called by the party and the subject matter of their testimony.
- (2) 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.
- (3) A statement of the party's basic position in the proceeding.
- (4) 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.

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- (5) A statement of each question of law the party considers at issue and the party's position on each such issue.
- (6) 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.
- (7) A statement of issues to which the parties have stipulated.
- (8) A statement of all pending motions or other matters the party seeks action upon.
- (9) A statement identifying the party's pending requests or claims for confidentiality.
- (10) A statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.
- (11) Any objections to a witness' qualifications as an expert. Failure to identify such objection may result in restriction of a party's ability to conduct voir dire.

B. Attendance at Prehearing Conference

Pursuant to Rule 28-106.209, Florida Administrative Code, a prehearing conference will be held August 30, 2004, at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida. Unless excused by the Prehearing Officer for good cause shown, or in accordance with the Prehearing Officer's approval of appearance by electronic means under Section X, each party (or designated representative) shall personally appear at the prehearing conference. Failure of a party (or that party's representative) to appear shall constitute waiver of that party's issues and positions, and that party may be dismissed from the proceeding.

C. Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate each of the following:

- (1) The party was unable to identify the issue because of the complexity of the matter.
- (2) Discovery or other prehearing procedures were not adequate to fully develop the issue.
- (3) Due diligence was exercised to obtain facts touching on the issue.
- (4) Information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue.
- (5) Introduction of the issue would not be to the prejudice or surprise of any party.

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Specific reference shall be made to the information received and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

D. Expectations of Parties at Prehearing Conference

A draft prehearing order shall be circulated to the parties by the Commission's legal staff prior to the prehearing conference. To maximize the efficiency at the prehearing conference for the Commission and the parties, parties shall be prepared to:

- (1) define and limit, if possible, the number of issues;
- (2) determine the parties' positions on the issues;
- (3) determine what facts, if any, may be stipulated;
- (4) dispose of any motions or other matters that may be pending; and
- (5) consider any other matters that may aid in the disposition of this case.

XII. Hearing Procedures

A. General

As provided by Sections 120.569 and 120.57, Florida Statutes, formal hearings will be held before the full Commission or assigned panel of Commissioners. The Commission will give notice of a hearing in a manner consistent with Chapters 120, 350, and 366, Florida Statutes. All hearings shall be transcribed, and the transcripts shall become part of the record. All witnesses shall present testimony that is sworn or affirmed and shall be subject to cross-examination. Unless authorized by the Presiding Officer for good cause shown, parties shall not conduct discovery during cross-examination at the hearing.

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B. Attendance at Hearing

Unless excused by the Presiding Officer for good cause shown, or in accordance with approval of appearance by electronic means under Section X, each party (or designated representative) shall personally appear at the hearing. Failure of a party, or that party's representative, to appear shall constitute waiver of that party's issues, and that party may be dismissed from the proceeding.

Likewise, all witnesses are expected to be present at the hearing unless excused by the Presiding Officer upon the staff attorney's confirmation prior to the hearing date of the following:

- (1) All parties agree that the witness will not be needed for cross examination.
- (2) All Commissioners assigned to the panel do not have questions for the witness.

In the event a witness is excused in this manner, his or her testimony may be entered into the record as though read following the Commission's approval of the proposed stipulation of that witness' testimony.

C. Evidence

As provided by Sections 120.569 and 120.57, Florida Statutes, the Commission may consider the Florida Evidence Code (Chapter 90, Florida Statutes) as a guide, but may rely upon any evidence of a type commonly relied upon by a reasonably prudent person in the conduct of their affairs.

D. Use of Confidential Information at Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093(2), Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, at the hearing shall adhere to the following:

- (1) Any party intending to use confidential documents for which no prior ruling has been made must be prepared to present their justifications to the Commission for a ruling at the hearing.
- (2) Any party wishing to use proprietary confidential business information shall notify the Prehearing Officer and all parties of record by the time of the

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prehearing conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. Such notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven-day requirement described above shall be grounds to deny the party the opportunity to present evidence that is proprietary confidential business information.

- (3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Division of the Commission Clerk and Administrative Services' confidential files.

XIII. Post-Hearing Procedures

A. Bench Decision

The Commission (or assigned panel of Commissioners) may render a bench decision at the time of the hearing or render a decision without any post hearing submissions by the parties, as deemed appropriate. Such a determination may be with or without the oral or written recommendation of the Commission staff, at the Commission's (or assigned panel's) discretion.

B. Statements of Issues & Positions and Briefs

If the Commission (or assigned panel) does not make a bench decision at the hearing, it may allow each party to file a post-hearing statement of issues and positions. In such event, a summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position. However, the position must be reduced to no more than 50 words. If a post-hearing statement is required and a party

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fails to file in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time, unless modified by the Presiding Officer.

XIV. Controlling Dates

The following dates have been established to govern the key activities of this case:

- | | | |
|-----|---------------------------------------|--------------------|
| (1) | Direct testimony and exhibits (all) | July 12, 2004 |
| (2) | Staff testimony and exhibits, if any | August 2, 2004 |
| (3) | Rebuttal testimony and exhibits (all) | August 16, 2004 |
| (4) | Prehearing Statements | August 23, 2004 |
| (5) | Prehearing Conference | August 30, 2004 |
| (6) | Discovery Cutoff | September 14, 2004 |
| (7) | Hearing | September 28, 2004 |
| (8) | Briefs | October 26, 2004 |

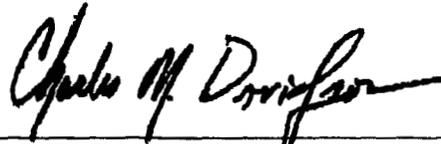
In addition, all parties should be on notice that the Prehearing Officer may exercise his discretion to schedule additional prehearing conferences or meetings of the parties as deemed appropriate. Such meetings will be properly noticed to afford the parties an opportunity to attend.

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Based upon the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 9th day of June, 2004.



CHARLES M. DAVIDSON
Commissioner and Prehearing Officer

(SEAL)

WCK

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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director,

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Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Appendix A

Tentative Issues List

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?
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?
3. Pursuant to Rule 25-6.103, Florida Administrative Code, what is the period for which refunds should apply?
4. What interest rate should be used to calculate customer refunds?

Kimberley Pena

030623

From: CJ Cratty [cjcratty@moylelaw.com]
Sent: Thursday, August 05, 2004 2:20 PM
To: Kimberley Pena
Subject: Subpoena

Sept 2nd
noon
Ocean Properties

<<Subpoena for Documentary Evidence (Siemens).doc>>

Attached is what I typed here at work this morning. I can make the attachment a separate file if that's what we need to do. Please let me know if you need anything else from us. Thanks for your help!

CJ Cratty

The information contained in this electronic mail transmission is attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 850-681-3828. Thank you.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utilities services,)
Services, Inc. on behalf of various customers against) Docket No.: 030623
Florida Power and Light Company concerning) Filed: August 5, 2004
demand meter error.)

SUBPOENA FOR DOCUMENTARY EVIDENCE

TO: Custodian of Records
Siemens Power Transmission and Distribution, Inc.
c/o CT Corporation
1200 South Pine Island Raod
Plantation FL 33324

PLEASE TAKE NOTICE THAT PURSUANT TO Florida Rule of Civil Procedure 1.410(c) and Order No. PSC-04-0581-PCO-EI filed in the above-referenced docket, you are hereby commanded to produce within twenty (20) days of the receipt hereof the documents and things listed on Exhibit A attached hereto. Such production will take place at the offices of Moyle, Flanigan, Katz, Raymond & Sheehan, P.A., 118 N. Gadsden Street, Tallahassee, Florida 32301.

"Documents" means any written, recorded, filmed or graphic matter, whether produced, reproduced, or on paper, cards, tapes, film, electronic facsimile, electronic mail, computer storage device or any other media, including, but not limited to, memoranda, notes, minutes, records, photographs, correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, electronic mail transmissions, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records or recordings or oral conversations, work papers, and also including, but not limited to, originals, whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise, and drafts, which are in the possession, custody or control of FPL or in the possession, custody or control of the present or former agents, representatives or attorneys of FPL, or any and all persons acting on its behalf, including documents at any time in the possession,

custody or control of such individuals or entities or known by FPL to exist.

“You”, “your”, “Company” or “Siemens” refers to Siemens Power Transmission & Distribution, Inc., and a company you acquired, Landis & Gyr, and their employees and authorized agents.

“FPL” refers to Florida Power & Light Company.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

JON C. MOYLE, JR.
Florida Bar No. 727016
WILLIAM H. HOLLIMON
Florida Bar No. 104868
MOYLE, FLANIGAN, KATZ, RAYMOND
& SHEEHAN, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
(850) 681-3828 (telephone)
(850) 681-8788 (facsimile)
jmoylejr@moylslaw.com
bhollimon@moylslaw.com

Attorneys for Ocean Properties

Exhibit A

1. All updates or technical advisories provided to FPL for thermal demand meters.
2. All correspondence, including e-mails, exchanged between you and FPL regarding thermal demand meters.
3. All documents related to impacts the sun or heat may have on thermal demand meters.
4. All documents related to the calibration of thermal demand meters.
5. All documents related to causes or reasons why the demand component of thermal demand meters may gradually overregister demand.
6. All notes or other documents regarding meetings, discussions, or other communication between you and FPL regarding thermal demand meters.
7. All documents related to any legal or administrative complaints in your possession related to the accuracy of thermal demand meters.
8. All documents related to how customer refunds should be calculated for thermal demand meters..
9. All documents indicating at what point on the thermal demand scale and/or at what percentage thermal demand meters should be tested for accuracy.
10. All documents related to the maintenance of thermal demand meters.
11. All documents related to the accuracy or performance of Landis and Gyr thermal demand meters.
12. All documents related to how a thermal demand meter should be tested for accuracy related to its demand component.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to those listed below with an asterisk and the remainder by U.S. Mail without an asterisk this 5th day of August, 2004.

Cochran Keating, Esquire
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Bill Walker
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301

*Kenneth A. Hoffman
Rutledge, Ecenia, Purnell & Hoffman
Post Office Box 551
Tallahassee, FL 32302-0551

R. Wade Litchfield
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

Daniel Joy
785 SunTrust Bank Plaza
1800 Second Street
Sarasota, FL 34236

Natalie Smith
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

Jon C. Moyle, Jr.

Kimberley Pena

From: CJ Cratty [cjcatty@moylelaw.com]
Sent: Thursday, August 05, 2004 2:28 PM
To: Kimberley Pena
Subject: Exhibit A to Subpoena

<<Exhibit A to Siemens Subpoena for Documentary Evidence.doc>>

Here you go!

CJ Cratty

The information contained in this electronic mail transmission is attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 850-681-3828. Thank you.

Exhibit A

1. All updates or technical advisories provided to FPL for thermal demand meters.
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8. All documents related to how customer refunds should be calculated for thermal demand meters..
9. All documents indicating at what point on the thermal demand scale and/or at what percentage thermal demand meters should be tested for accuracy.
10. All documents related to the maintenance of thermal demand meters.
11. All documents related to the accuracy or performance of Landis and Gyr thermal demand meters.
12. All documents related to how a thermal demand meter should be tested for accuracy related to its demand component.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

**SUBPOENA DUCES TECUM
WITHOUT DEPOSITION**

THE STATE OF FLORIDA

TO: Custodian of Records, Siemens Power Transmission and Distribution, Inc. c/o CT Corporation, 1200 South Pine Island Road, Plantation, FL 33324.

YOU ARE COMMANDED to appear at the offices of Moyle, Flanigan, Katz, Raymond & Sheehan, P.A., 118 N. Gadsden Street, Tallahassee, Florida 32301 on or before Thursday, September 2, 2004, at 12:00 p.m., or at such other time and place as may be mutually agreed upon by counsel, and to have with you at that time and place the following: All documents set forth in the Attachment, "Exhibit A."

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may mail or deliver the copies to the attorney whose name appears on this subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena. THIS WILL NOT BE A DEPOSITION. NO TESTIMONY WILL BE TAKEN.

YOU ARE SUBPOENAED by the following attorney to (1) appear as specified, or (2) furnish the records instead of appearing as provided above, and unless excused from this subpoena by this attorney or the Commission you shall respond to this subpoena as directed.

DATED on August 6, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

(S E A L)

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

John C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
118 N. Gadsden Street
Tallahassee, Florida 32301
Attorney for
Ocean Properties, Ltd.

Exhibit A

1. All updates or technical advisories provided to FPL for thermal demand meters.
2. All correspondence, including e-mails, exchanged between you and FPL regarding thermal demand meters.
3. All documents related to impacts the sun or heat may have on thermal demand meters.
4. All documents related to the calibration of thermal demand meters.
5. All documents related to causes or reasons why the demand component of thermal demand meters may gradually overregister demand.
6. All notes or other documents regarding meetings, discussions, or other communication between you and FPL regarding thermal demand meters.
7. All documents related to any legal or administrative complaints in your possession related to the accuracy of thermal demand meters.
8. All documents related to how customer refunds should be calculated for thermal demand meters..
9. All documents indicating at what point on the thermal demand scale and/or at what percentage thermal demand meters should be tested for accuracy.
10. All documents related to the maintenance of thermal demand meters.
11. All documents related to the accuracy or performance of Landis and Gyr thermal demand meters.
12. All documents related to how a thermal demand meter should be tested for accuracy related to its demand component.

Kimberley Pena

030623-EI

From: AMY KELLY [akelly@moylelaw.com]
Sent: Friday, July 16, 2004 3:46 PM
To: Kimberley Pena
Subject: Trial subpoenas

Hey, Kim.

I need trial subpoenas for the following:

Brian Faircloth

Henry Hutchins

Jim DeMars

9250 West Flagler Street

Miami, Florida 33174

The hearing is set for September 28 at 9. Thanks!

Amy D. Kelly

Assistant to Jon C. Moyle, Jr.

Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.

The Perkins House

118 North Gadsden Street

Tallahassee, Florida 32301

Telephone: (850) 681-3828

E-mail: akelly@moylelaw.com

The information contained in this electronic mail transmission is attorney/client privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect at 850-681-3828. Thank you.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

SUBPOENA

THE STATE OF FLORIDA

TO: Henry Hutchins, Florida Power & Light Company, 9250 West Flagler Street, Miami, Florida 33174.

YOU ARE COMMANDED to appear before the Florida Public Service Commission at the Betty Easley Conference Center, 4075 Esplanade Way, Hearing Room 148, Tallahassee, Florida, on September 28, 2004, at 1:30 p.m., to testify in this action.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on July 26, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

(S E A L)

Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
Attorney for Dillards Department Stores, Inc.,
J.C. Penney Company, Inc., Ocean Properties,
Ltd., Southeastern Utilities Services, Inc., and
Target Stores Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

SUBPOENA

THE STATE OF FLORIDA

TO: Brian Faircloth, Florida Power & Light Company, 9250 West Flagler Street, Miami, Florida 33174.

YOU ARE COMMANDED to appear before the Florida Public Service Commission at the Betty Easley Conference Center, 4075 Esplanade Way, Hearing Room 148, Tallahassee, Florida, on September 28, 2004, at 1:30 p.m., to testify in this action.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on July 26, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

(S E A L)

Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
Attorney for Dillards Department Stores, Inc.,
J.C. Penney Company, Inc., Ocean Properties,
Ltd., Southeastern Utilities Services, Inc., and
Target Stores Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

SUBPOENA

THE STATE OF FLORIDA

TO: Jim DeMars, Florida Power & Light Company, 9250 West Flagler Street, Miami, Florida 33174.

YOU ARE COMMANDED to appear before the Florida Public Service Commission at the Betty Easley Conference Center, 4075 Esplanade Way, Hearing Room 148, Tallahassee, Florida, on September 28, 2004, at 1:30 p.m., to testify in this action.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on July 26, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

(S E A L)

Jon C. Moyle, Jr.
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
Attorney for Dillard's Department Stores, Inc.,
J.C. Penney Company, Inc., Ocean Properties,
Ltd., Southeastern Utilities Services, Inc., and
Target Stores Inc.

ORIGINAL
STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DEPUTY EXECUTIVE DIRECTOR
KEVIN R. NEAL
(850) 413-6071

Public Service Commission

July 21, 2003

Docket # 030023-E1

VIA FACSIMILE

The Honorable Michael S. Bennett
The Florida Senate
Wildwood Professional Park
3653 Cortez Road, West, Suite 90
Bradenton, FL 34210

Dear Senator Bennett:

I'm writing to provide you with additional information regarding alleged problems with thermal demand meters used by Florida Power & Light (FPL). The attached document will provide you with a more detailed description of the situation.

In January 2002, FPL received a customer inquiry from Mr. George Brown of Southeastern Utility Services, Inc. (SUSI), concerning one of its 1V thermal demand meters. Mr. Brown, who represented the FPL customer, alleged that the meter improperly measured demand when exposed to the heat of the sun.

At the request of the customer, a PSC staff engineer witnessed a field test of the alleged defective meter. The test revealed that the meter showed a potential inaccuracy when subjected to changes in temperature caused by sunlight in the morning and shade in the afternoon. In September 2002, FPL performed additional tests to determine if the problem was unique to this particular meter. None of the tested meters responded similarly to the field-tested meter. However, the test results showed that more than the allowable percentage of 1V meters, as opposed to other thermal demand meters, registered outside of tolerance.

On October 11, 2002, FPL notified the commission staff of its plans to remove and replace approximately 3,900 1V thermal demand meters by January 2003. FPL indicated that it would test each meter and would issue refunds to customers whose 1V meters over-registered demand and would not back-bill customers whose meters under-registered, absent evidence of meter tampering or fraud. The results of the individual meter tests indicate that FPL has been under-billing many more customers than it has over-billed as a result of 1V meter error.

DOCUMENT NUMBER - DATE
05261 JUL-26
FPSC-COMMISSION CLERK

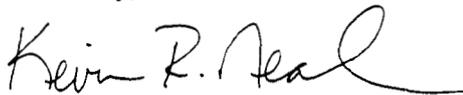
The Honorable Michael S. Bennett
July 21, 2003
Page 2

Since the initial inquiry, PSC staff has been involved in numerous meetings, tests, and retests involving SUSI and FPL in order to facilitate resolution of the issues. Recently, SUSI filed several complaints with the Commission concerning the level of refunds to be provided to its clients who formerly used 1V meters. The Commission staff has opened Docket No. 030623-EI and scheduled a meeting for July 24, 2003, to address the complaints. In addition to SUSI and FPL, the Office of Public Counsel has been invited to participate in the meeting.

If the complaints are not resolved at the July 24th meeting, Commission staff will prepare a written recommendation to the Commission and any remaining issues will be decided by the Commissioners at an agenda conference in the near future.

If you have additional questions on this matter, please contact Cochran Keating, at (850) 413-6193.

Sincerely,



Kevin R. Neal
Deputy Executive Director

KRN:CK:dl
Enclosure

cc: Mary Andrews Bane, Executive Director
Cochran Keating, Senior Attorney

FPL's Demand Meters

FPL reported that it used, as of the end of 2001, approximately 91,000 thermal demand meters to measure electricity consumption primarily for customers taking service under FPL's large-use commercial class rate schedules. This total represented approximately 32% of FPL's commercial accounts. The meters are designed to measure two things: (1) the customer's consumption of energy during a billing period, measured in kilowatt-hours (kWh); and (2) the customer's highest level of demand during the billing period, measured in kilowatts (kW). Charges are applied to these two measurements in calculating the customer's bill. Because residential customers are not charged based on a demand measurement, FPL does not use any of these meters for residential accounts.

For purposes of measuring demand, the primary alternative to thermal demand meters is electronic demand meters. FPL reported that it used electronic demand meters for approximately 54,000 of its commercial accounts as of the end of 2001.

The concerns raised about FPL's meters involve only the measurement of demand from thermal demand meters. Thus, this report concerns the accuracy of only these demand measurements. Pursuant to Commission rule, demand measurements from thermal demand meters are considered outside of tolerance if the error of registration exceeds four percent.

FPL's Thermal Demand Meters

Pursuant to Commission rule, FPL tests a random sample of its in-service meters each year. For purposes of this testing, FPL divides its approximately 91,000 thermal demand meters into four populations by meter type. Tested pursuant to Commission-approved testing procedures, each of the four meter type populations has passed for the years 1998 through 2001. These 91,000 meters may also be divided into nine populations by meter symbol.

Thermal Demand Meters with 1V Meter Symbol

In January 2002, FPL received a customer inquiry concerning the demand measurement supplied by one of its thermal demand meters with the "1V" meter symbol. The inquiry, initiated on behalf of the customer by Mr. George Brown of Southeastern Utility Services, Inc, (SUSI) asserted that the meter improperly measured demand when exposed to the heat of the sun, with the implication that this may be symptomatic of all thermal demand meters. As permitted by

Commission rule, the customer requested a meter test referee, i.e., a meter test in the presence of a Commission staff engineer. Upon review of the meter's performance in the field, with a Commission staff engineer present, FPL reported that this meter exhibited a potential inaccuracy when subjected to changes in temperature from sunlight in the morning to shade in the afternoon.

To determine whether this response was unique to the particular meter, FPL chose to test two random samples of its thermal demand meters under conditions simulating the heat and light experienced in the field test. The first random sample consisted of 50 of FPL's 1V thermal demand meters. The second random sample consisted of 100 of its thermal demand meters with meter symbols other than 1V. Both samples were chosen in accordance with FPL's approved random sampling plan. The tests occurred in September 2002. According to FPL's test report, only the one meter that exhibited inaccuracy in the field test displayed sensitivity to heat and light conditions in the simulated test.

The test results showed, however, that this sample of FPL's 1V meters tested outside of tolerance. Pursuant to its approved random sampling plan, the maximum allowable percent defective for the 1V test sample was 7.61%, but 12.2% tested outside of tolerance. Three meters under-registered outside of tolerance and two meters over-registered outside of tolerance. Four meters were removed from the sample due to component failure, all four severely under-registering demand. The sample of FPL's non-1V thermal demand meters tested within tolerance. Upon review of the results of the non-1V test by meter symbol and results for those meter symbols from its annual random tests from 1997 through 2001, FPL determined that it should test statistically valid random samples of its thermal demand meters by meter symbol to determine if any further action was necessary.

FPL provided the results of testing these two samples to the Commission staff. By letter dated October 11, 2002, FPL informed the staff of its plans to remove and replace its approximately 3,900 1V thermal demand meters by January 2003 and to test each of those meters by March 2003. FPL indicated that, based on the test results for each meter, it would not backbill customers whose 1V meters under-registered out of tolerance (absent evidence of meter tampering or fraud) and would refund customers whose 1V meters over-registered out of tolerance, in accordance with applicable Commission rules. FPL's plan also called for netting under-registration and over-registration for customers with multiple accounts (i.e., a retail chain) that used 1V meters. For those customers whose 1V meters on net over-registered outside of

tolerance, a refund would be provided; for those customers whose 1V meters on net under-registered outside of tolerance, no backbilling would be pursued. FPL's plan also provided that it would inform each affected customer by letter concerning this meter replacement program and follow-up with a phone call to each affected customer to discuss additional details. The form letter that FPL intended to use was also provided to the Commission staff.

FPL met with the Commission staff on October 16, 2002, to discuss its plan to remove, test, and replace its 1V thermal demand meters. At that meeting, FPL expressed concern about implementing its plan to remove the meters in light of the possibility of meter test referee requests that might be made during the removal process. Under the Commission's rules, a customer requests a meter test referee from the Commission. The Commission must then notify the utility of the request. Under the rule, the utility may not disturb the meter outside of the presence of a Commission representative once it has received notice of the request, unless authority to do so is first given in writing by the Commission or the customer. FPL was concerned that the Commission may receive a request for meter test referee prior to a particular 1V meter being removed, but, in the time it would take for that request to be communicated from the Commission to FPL to FPL's meter replacement crew, the meter may be removed in the normal course of FPL's planned replacement and testing program. By letter dated October 21, 2002, the Commission's General Counsel, pursuant to the rule, granted FPL's request for authority to remove only 1V meters outside the presence of a Commission representative in order to improve the efficiency and expediency of the replacement program. This authority applied only to future, not pending, meter test referee requests and was conditioned on FPL maintaining and documenting a continuous chain of custody for meters subject to such requests.

FPL proceeded with its replacement and testing program for the 1V thermal demand meters. Testing occurred from November 2002 through March 2003. Commission staff engineers were present during portions of the testing process, occasionally arriving unannounced, to monitor and ensure the testing was done in compliance with Commission-approved procedures. A representative of SUSI was also present during the testing of meters that had been used for its clients. The Commission staff met with FPL on January 21, 2003, to assess, among other things, the progress of the replacement and testing program, at which time 95% of the 1V meters had been removed and replaced and 30% had been tested. In May 2003, FPL reported that the results of this testing showed that 15% of all of its 1V meters registered outside of tolerance, with 11% under-

registering outside of tolerance and 4% over-registering outside of tolerance. These results were consistent with the interim results provided in January 2003 and indicate that FPL has been under-billing many more customers than it has over-billed as a result of 1V meter error.

Consistent with Commission rule, these meters were tested between 25% and 100% of the full-scale value of the meter, with many tested at 40% of full-scale value. However, in response to concerns raised by SUSI that testing at a higher percentage of full-scale value would more closely represent actual meter usage and would demonstrate greater meter error, FPL agreed to retest, at 80% of full-scale value, all 1V meters that were originally tested at 40% of full-scale value. Consistent with Commission rules, FPL and SUSI agreed that the calculation of any refund owing to error in these retested meters would be based on the results of the retest. FPL further agreed that, should it provide greater benefit to the customer, FPL would calculate a refund based upon the difference in actual customer usage for an agreed upon time frame before and after replacement of the customer's 1V meter. This concession is not required by Commission rule. FPL agreed to implement these procedures for all customers who formerly used 1V meters. In addition, these procedures were reduced to writing and agreed upon by SUSI and FPL to govern treatment of SUSI's clients. These procedures, as well as the agreement, were provided to Commission staff at a meeting with FPL held May 12, 2003.

SUSI has recently filed several complaints with the Commission concerning the level of refunds to be provided to its clients who formerly used 1V meters. It is the Commission staff's understanding that the primary issue to be resolved in these complaints is the period over which refunds should be calculated for meters found to have over-registered outside of tolerance. The Commission staff has opened Docket No. 030623-EI and scheduled a meeting for July 24, 2003, with SUSI, FPL, and the Office of Public Counsel to address these complaints. If these complaints cannot be resolved informally, the staff will prepare a recommendation to the Commission after gathering any other information that it believes will assist it in making a recommendation.

Thermal Demand Meters with non-1V Meter Symbols

FPL's 1V thermal demand meters account for approximately 3,900 of its approximately 91,000 thermal demand meters. The remainder of FPL's thermal demand meters are denoted by eight different meter symbols; 1Q (2,500), 1T (7,700), 1U (11,600), 4C (13,300), 4E (4,900), 4J (17,400), 4L (24,900), and 4N (4,500). As noted above,

in September 2002, FPL tested a random sample consisting of 100 of its thermal demand meters with these meter symbols. Upon review of the results of this test by meter symbol and results for those meter symbols from its annual random tests from 1997 through 2001, FPL determined that it should test statistically valid random samples of its thermal demand meters by meter symbol to determine if any further action was necessary.

When the results of FPL's 1997-2001 annual testing by the broader classification of meter type were viewed by meter symbol, the 4N meter results, although statistically invalid, showed a total percent defective in excess of the maximum allowable percent defective. Hence, in September 2002, FPL tested a random sample of 50 of its 4N thermal demand meters, in accordance with FPL's approved random sampling plan. The statistically valid random sample was deemed acceptable: the total percent defective was 5.4%, while the maximum allowable percent defective was 7.61%. Still, FPL chose to remove and replace its 4N thermal demand meters. At its May 12, 2003, meeting with the Commission staff, FPL indicated that 87% (3,900) of its 4N meters had been removed and replaced.

Next, FPL conducted separate tests of random meter samples representing each of the other seven thermal demand meter symbols. The results of those tests were provided to the Commission staff at its January 21, 2003, meeting with FPL. The results for six of the meter symbols (1Q, 1T, 4C, 4E, 4J, and 4L), representing approximately 70,700 or 77% of all FPL's thermal demand meters, showed that the total percent defective for each meter symbol was below the maximum allowable percent defective. Thus, those meter symbol samples passed. At the May 12, 2003, meeting with the Commission staff, FPL indicated that it would reassess these meter symbol populations during late 2003 through early 2004 and communicate any findings or plans with the Commission staff.

The results for the 75 meter sample of the remaining meter symbol (1U) showed a total percent defective of 8.03%, while the maximum allowable percent defective was 7.15%. Thus, the 1U meter sample failed. At the January 21, 2003, meeting, FPL informed the Commission staff that it intended to test two additional random samples of its 1U meters, consistent with its approved random sampling plan. If one or both samples failed, indicating an unacceptable level of outside of tolerance 1U meters under its sampling plan, FPL stated that it would proceed to remove, replace, and test the 1U meters in the same manner it had handled its 1V meters, including issuing refunds where appropriate. If both samples passed, indicating an acceptable level of outside of tolerance 1U meters under its sampling plan, FPL indicated that it

would still remove and replace the 1U meters as it had done with its 4N meters.

Both samples were deemed acceptable, and the results of each test were similar. The first sample yielded a total percent defective of 4.72%. The second sample yielded a total percent defective of 4.349%. For each sample, the maximum allowable percent defective was 7.15%. Hence, FPL chose only to remove and replace its 1U meters. At the May 12, 2003, meeting with the Commission staff, FPL indicated that it expected to remove and replace approximately 6,000 of its 1U meters in 2003 and the remainder in 2004.

Conclusion

Based on the Commission staff's monitoring and review of FPL's testing and test results and its discussions with FPL, it appears that FPL has complied with all Commission rules for testing the accuracy of its thermal demand meters. To address some of the concerns raised by SUSI and to explore the possibility that meters with different meter symbols may display differing degrees of error, FPL went beyond its typical testing by meter type to also test by meter symbol. In the case of its 1V thermal demand meters, FPL has agreed to do more to the customers' benefit than Commission rules require. The Commission staff intends to monitor FPL's continuing evaluation of its thermal demand meters and ensure that testing procedures comply with Commission rules and that customers receive the benefit of any refunds required by Commission rule.

As noted above, SUSI has outstanding complaints at the Commission on behalf of customers who used or are using meters with the 1V meter symbol. It appears that many of SUSI's concerns have been addressed by FPL, but, at a minimum, an issue remains between SUSI and FPL concerning the period of time over which to calculate appropriate refunds. Pending the outcome of a meeting to be held Thursday, July 24 between the Commission staff, FPL, SUSI, and the Office of Public Counsel, the Commission staff may have to prepare a recommendation to the Commission to resolve any remaining issues in the near future. FPL has indicated that it will begin providing refunds, pursuant to its calculations, to all other customers that took service with a 1V meter once it completes its retesting of those meters. The Commission staff intends to review the 1V meter retest results and ensure that affected customers are properly refunded, where appropriate.

Over the last year, SUSI has raised various concerns with FPL's thermal demand meters, both in general and in relation to

complaints on behalf of specific customers. It is the Commission staff's understanding that some of these concerns have been addressed. However, to the extent other concerns have not been addressed, this report is not intended to prejudge or resolve any issue that SUSI or any customer may have raised or later raise. No opinion in this report represents a decision of the Public Service Commission.

Section 1 - Bureau of Records and Hearings Services Completes

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.
 Company: Florida Power & Light Company
Southeastern Utility Services, Inc.

Official Filing Date: _____ Expiration: _____
 Last Day to Suspend: _____
 Referred to: _____
 ("O") indicates OPR

AUS	CAF	CCA	CMP	ECR	EXT	(GCL)	MMS	PIF
X	X			X		X		

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff C Keating

Staff Counsel C Keating

OCRs (ECR) R Floyd, C Kummer
 (AUS) S Matlock, D Wheeler
E Mills, J Ruehl

	Current CASR revision level	Due Dates	
		Previous	Current
1. Revised CASR Due	0	NONE	10/31/2003
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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____

Date filed with CCA: 08/28/2003

Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	JB	DS	BZ	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
JB	DS	BZ	BD	DV	
				X	

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case:

Approved: LJ/smt
 Date: 07/31/2003

N

Section 1 - Bureau of Records and Hearings Services Completes

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.
 Company: Florida Power & Light Company
Southeastern Utility Services, Inc.

Official Filing Date: _____ Expiration: _____
 Last Day to Suspend: _____
 Referred to: _____
 ("O") indicates OPR

AUS	CAF	CCA	CMP	ECR	EXT	(GCL)	MMS	PIF
X	X			X		X		

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff C Keating

Staff Counsel C Keating

OCRs (ECR) R Floyd, C Kummer
S Matlock, D Wheeler
 (AUS) E Mills, J Ruehl

	Current CASR revision level	Due Dates	
		Previous	Current
1. Revised CASR Due	2	01/16/2004	02/06/2004
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Recommended assignments for hearing and/or deciding this case:
 Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____
 Date filed with CCA: 09/25/2003
 Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
				X	

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BB/rt
 Date: 10/01/2003

Case Scheduling/Rescheduling Advice

Last Revised 06/09/2004 at 15:14

Page 1 of 1

Printed on 06/09/2004 at 15:18

To:

<input checked="" type="checkbox"/> Commissioner Deason	<input checked="" type="checkbox"/> Deputy Executive Director/EXA	<input checked="" type="checkbox"/> Economic Regulation Director
<input checked="" type="checkbox"/> Commissioner Jaber	<input checked="" type="checkbox"/> General Counsel Director	<input type="checkbox"/> External Affairs Director
<input checked="" type="checkbox"/> Commissioner Bradley	<input checked="" type="checkbox"/> Auditing & Safety Director	<input checked="" type="checkbox"/> Court Reporter
<input checked="" type="checkbox"/> Commissioner Davidson	<input checked="" type="checkbox"/> Comm. Clerk & ADM Services	<input type="checkbox"/> Staff Contact
<input checked="" type="checkbox"/> Executive Director	<input type="checkbox"/> Competitive Markets/Enforcement	
<input checked="" type="checkbox"/> Public Information Officer	<input checked="" type="checkbox"/> Consumer Affairs Director	

From: Office of Chairman Braulio Baez

Docket Number: 030623-EI

Docket Title: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.

1. Schedule Information

Event	Former Date	New Date	Location	Time
Prehearing Conference		08/30/2004	Tallahassee, Room 148	1:30 PM - 3:00 PM
Hearing		09/28/2004	Tallahassee, Room 148	9:30 AM - 5:00 PM

2. Hearing/Prehearing Assignment Information

Former Assignments

Hearing Officers

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		

Current Assignments

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		
			X	X	X		

Prehearing Officer

Commissioners					
BZ	DS	JB	BD	DV	ADM

Commissioners					
BZ	DS	JB	BD	DV	ADM
				X	

Reason for Revision: A. New Assignment 1. Unavailability 2. Good Cause 3. Recused 4. Disqualified 5. See Remarks

Remarks: OEP PSC-04-0581-PCO-EI, 6/9/04

Section 1 - Bureau of Records Completed

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.
 Company: Florida Power & Light Company
 Southeastern Utility Services, Inc.

Official Filing Date: _____ Expiration: _____
 Last Day to Suspend: _____
 Referred to: _____
 ("O") indicates OPR

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
		X		X			X	X

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff

C Keating

Staff Counsel

C Keating

OCRs (ECR)

R Floyd, C Kummer

(RCA)

S Matlock, D Wheeler
E Mills, J Ruehl

3 Current CASR revision level

Due Dates

Previous Current

1.	Direct Testimony & Exhibits (All)	SAME	07/12/2004
2.	Testimony & Exhibits - Staff	SAME	08/02/2004
3.	FAW Notice of Prehearing	SAME	08/03/2004
4.	Notice of Prehearing and Hearing	SAME	08/03/2004
5.	Testimony & Exhibits - Rebuttal (All)	SAME	08/16/2004
6.	Prehearing Statements	SAME	08/23/2004
7.	Draft Prehearing Order	NONE	08/26/2004
8.	Prehearing	SAME	08/30/2004
9.	Transcript of Prehearing Due	SAME	09/03/2004
10.	FAW Notice of Hearing	SAME	09/07/2004
11.	Prehearing Order	SAME	09/10/2004
12.	Discovery Actions Complete	SAME	09/14/2004
13.	Hearing	SAME	09/28/2004
14.	Transcript of Hearing Due	SAME	10/06/2004
15.	Briefs Due	SAME	10/26/2004
16.	Staff Recommendation	SAME	12/09/2004
17.	Agenda	SAME	12/21/2004
18.	Standard Order	SAME	01/10/2005
19.	Close Docket or Revise CASR	SAME	02/18/2005
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Recommended assignments for hearing and/or deciding this case:

Full Commission _____ Commission Panel X
 Hearing Examiner _____ Staff _____

Date filed with CCA: 06/14/2004

Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	
			X	X	X		

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
				X	

CSRA

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BB/Rmt
 Date: 06/14/2004

Case Scheduling/Rescheduling Advice

Last Revised 08/13/2004 at 15:00

Page 1 of 1

Printed on 08/13/2004 at 16:12

To:

<input checked="" type="checkbox"/> Commissioner Deason <input type="checkbox"/> Commissioner Jaber <input checked="" type="checkbox"/> Commissioner Bradley <input checked="" type="checkbox"/> Commissioner Davidson <input checked="" type="checkbox"/> Executive Director <input checked="" type="checkbox"/> Public Information Officer	<input checked="" type="checkbox"/> Deputy Executive Director/EXA <input checked="" type="checkbox"/> General Counsel Director <input checked="" type="checkbox"/> Auditing & Safety Director <input checked="" type="checkbox"/> Comm. Clerk & ADM Services <input type="checkbox"/> Competitive Markets/Enforcement <input checked="" type="checkbox"/> Consumer Affairs Director	<input checked="" type="checkbox"/> Economic Regulation Director <input type="checkbox"/> External Affairs Director <input checked="" type="checkbox"/> Court Reporter <input checked="" type="checkbox"/> Staff Contact - Felicia Banks
---	--	---

From: Office of Chairman Braulio Baez

Docket Number: 030623-EI

Docket Title: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.

1. Schedule Information

Event	Former Date	New Date	Location	Time
Hearing	09/28/2004	09/23/2004	Tallahassee, Room 148	9:30 AM - 5:00 PM

2. Hearing/Prehearing Assignment Information

Former Assignments

Hearing Officers

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		

Current Assignments

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		
		X		X	X		

Prehearing Officer

Commissioners					
BZ	DS	JB	BD	DV	ADM

Commissioners					
BZ	DS	JB	BD	DV	ADM
			X		

Reason for Revision: A. New Assignment 1. Unavailability 2. Good Cause 3. Recused 4. Disqualified 5. See Remarks

Remarks:

Section 1 - Bureau of Records Complete

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: Complaints by Southeastern Utility Services, Inc., on behalf of various customers, against Florida Power & Light Company concerning thermal demand meter error.
 Company: Florida Power & Light Company
Southeastern Utility Services, Inc.

Official Filing Date: _____
 Last Day to Suspend: _____
 Referred to: _____
 ("O") indicates OPR

Expiration: _____

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
		X		X			X	X

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff	<u>C Keating</u>
Staff Counsel	<u>C Keating</u>
OCRs (ECR)	<u>R Floyd, C Kummer</u>
(RCA)	<u>S Matlock, D Wheeler</u> <u>E Mills, J Ruehl</u>

	Due Dates	
	Previous	Current
<input type="checkbox"/> 4 Current CASR revision level		
1. Notice of Prehearing and Hearing	SAME	08/03/2004
2. Testimony & Exhibits - Rebuttal (All)	SAME	08/16/2004
3. Prehearing Statements	SAME	08/23/2004
4. Draft Prehearing Order	SAME	08/26/2004
5. Prehearing	SAME	08/30/2004
6. Transcript of Prehearing Due	SAME	09/03/2004
7. Standard Order - Motions	SAME	09/07/2004
8. FAW Notice of Hearing	SAME	09/07/2004
9. Prehearing Order	SAME	09/10/2004
10. Discovery Actions Complete	SAME	09/14/2004
11. Hearing	09/28/2004	09/23/2004
12. Transcript of Hearing Due	10/06/2004	10/01/2004
13. Briefs Due	SAME	10/26/2004
14. Staff Recommendation	SAME	12/09/2004
15. Agenda	SAME	12/21/2004
16. Standard Order	SAME	01/10/2005
17. Close Docket or Revise CASR	SAME	02/18/2005
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Recommended assignments for hearing and/or deciding this case:

Full Commission Commission Panel
 Hearing Examiner Staff

Date filed with CCA: 08/17/2004

Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	
		X		X	X		

CSRA

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
				X	

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BB/Am
 Date: 08/17/2004

Case Scheduling/Rescheduling Advice

Last Revised 09/23/2004 at 07:56

Page 1 of 1

Printed on 09/24/2004 at 09:17

To:

<input checked="" type="checkbox"/> Commissioner Deason	<input checked="" type="checkbox"/> Deputy Executive Director/EXA	<input checked="" type="checkbox"/> Economic Regulation Director
<input checked="" type="checkbox"/> Commissioner Jaber	<input checked="" type="checkbox"/> General Counsel Director	<input type="checkbox"/> External Affairs Director
<input checked="" type="checkbox"/> Commissioner Bradley	<input checked="" type="checkbox"/> Auditing & Safety Director	<input checked="" type="checkbox"/> Court Reporter
<input checked="" type="checkbox"/> Commissioner Davidson	<input checked="" type="checkbox"/> Comm. Clerk & ADM Services	<input type="checkbox"/> Staff Contact
<input checked="" type="checkbox"/> Executive Director	<input type="checkbox"/> Competitive Markets/Enforcement	
<input checked="" type="checkbox"/> Public Information Officer	<input checked="" type="checkbox"/> Consumer Affairs Director	

From: Office of Chairman Braulio Baez

Docket Number: 030623-EI

Docket Title: 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.

1. Schedule Information

Event	Former Date	New Date	Location	Time
Hearing	09/23/2004	Cancelled	Tallahassee, Room 148	9:30 AM - 5:00 PM

2. Hearing/Prehearing Assignment Information

Former Assignments

Hearing Officers

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		

Current Assignments

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		
		X		X	X		

Prehearing Officer

Commissioners						
BZ	DS	JB	BD	DV	ADM	

Commissioners						
BZ	DS	JB	BD	DV	ADM	
				X		

Reason for Revision: A. New Assignment 1. Unavailability 2. Good Cause 3. Recused 4. Disqualified 5. See Remarks

Remarks: Court stayed proceeding on 9/22/04.

Case Scheduling/Rescheduling Advice

Last Revised 10/04/2004 at 10:42

Page 1 of 1

Printed on 10/04/2004 at 10:43

To:

<input checked="" type="checkbox"/> Commissioner Deason	<input checked="" type="checkbox"/> Deputy Executive Director/EXA	<input checked="" type="checkbox"/> Economic Regulation Director
<input checked="" type="checkbox"/> Commissioner Jaber	<input checked="" type="checkbox"/> General Counsel Director	<input type="checkbox"/> External Affairs Director
<input checked="" type="checkbox"/> Commissioner Bradley	<input checked="" type="checkbox"/> Auditing & Safety Director	<input checked="" type="checkbox"/> Court Reporter
<input checked="" type="checkbox"/> Commissioner Davidson	<input checked="" type="checkbox"/> Comm. Clerk & ADM Services	<input type="checkbox"/> Staff Contact
<input checked="" type="checkbox"/> Executive Director	<input type="checkbox"/> Competitive Markets/Enforcement	
<input checked="" type="checkbox"/> Public Information Officer	<input checked="" type="checkbox"/> Consumer Affairs Director	

From: Office of Chairman Braulio Baez

Docket Number: 030623-EI

Docket Title: 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.

1. Schedule Information

Event	Former Date	New Date	Location	Time
Hearing		11/04/2004	Tallahassee, Room 148	9:30 AM - 5:00 PM

2. Hearing/Prehearing Assignment Information

Former Assignments

Hearing Officers

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		

Current Assignments

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		
		X		X	X		

Prehearing Officer

Commissioners					
BZ	DS	JB	BD	DV	ADM

Commissioners					
BZ	DS	JB	BD	DV	ADM
				X	

Reason for Revision: A. New Assignment 1. Unavailability 2. Good Cause 3. Recused 4. Disqualified 5. See Remarks

Remarks:

Section 1 - Bureau of Records Completes

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: **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.**
 Company: **Florida Power & Light Company**
Southeastern Utility Services, Inc.

Official Filing Date: _____ Expiration: _____

Last Day to Suspend: _____

Referred to:

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
		X		X			X	X

(*O* indicates OPR)

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff

C Keating

5 Current CASR revision level

Due Dates
 Previous Current

Staff Counsel

C Keating

OCRs (ECR)

R Floyd, C Kummer

(RCA)

S Matlock, D Wheeler

E Mills, J Ruhl

1.	Draft Prehearing Order	SAME	08/26/2004
2.	Discovery Actions Complete	SAME	09/14/2004
3.	Standard Order - Motions	SAME	10/11/2004
4.	Hearing	09/23/2004	11/04/2004
5.	Transcript of Hearing Due	10/01/2004	11/15/2004
6.	Briefs Due	10/26/2004	12/06/2004
7.	Staff Recommendation	12/09/2004	01/06/2005
8.	Agenda	12/21/2004	01/18/2005
9.	Standard Order	01/10/2005	02/07/2005
10.	Close Docket or Revise CASR	02/18/2005	03/31/2005
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Recommended assignments for hearing and/or deciding this case:

Full Commission _____ Commission Panel
 Hearing _____ Staff _____

Date filed with CCA: 10/05/2004

Initials OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

CSRA

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	JB	BD	DV		
		X		X	X		

Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
				X	

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: 1313/Am
 Date: 10/05/2004

Section 1 - Bureau of Records Complete

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: **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.**

Company: **Florida Power & Light Company**
Southeastern Utility Services, Inc.

Official Filing Date: _____ Expiration: _____

Last Day to Suspend: _____

Referred to:

("O" indicates OPR)

CCA	OMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
		X		X			X	X

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT IT IS TENTATIVE AND SUBJECT TO REVISION. FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments		Due Dates	
OPR Staff		<input type="checkbox"/> 6 Current CASR revision level	Previous Current
	C Keating		
		1. Draft Prehearing Order	SAME 08/26/2004
		2. Discovery Actions Complete	SAME 09/14/2004
		3. Staff Recommendation	01/06/2005 01/20/2005
		4. Agenda	01/18/2005 02/01/2005
		5. Standard Order	02/07/2005 02/21/2005
		6. Close Docket or Revise CASR	02/18/2005 03/31/2005
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Staff Counsel

OCRs (ECR)

(RCA)

Recommended assignments for hearing and/or deciding this case:

Full Commission _____ Commission Panel
Hearing _____ Staff _____

Date filed with CCA: 01/06/2005

Initials OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	DV	ED		
		X	X	X			

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	DV	ED	
			X		

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BB/AW
Date: ~~Pending~~ 1/21/05

Section 1 - Bureau of Records Complete:

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: **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.**

Company: **Florida Power & Light Company
Southeastern Utility Services, Inc.**

Official Filing Date: _____ Expiration: _____

Last Day to Suspend: _____

Referred to:

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
		X		X			X	X

(* indicates OPR)

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module A9

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff	C Keating	7	Current CASR revision level	Due Dates	
				Previous	Current
		1.	Draft Prehearing Order	SAME	08/26/2004
		2.	Discovery Actions Complete	SAME	09/14/2004
		3.	Staff Recommendation - Motion for Reconsiderat	NONE	07/21/2005
		4.	Agenda - Motion for Reconsideration	NONE	08/02/2005
		5.	Standard Order - Motion for Reconsideration	NONE	08/22/2005
		6.			
		7.			
Staff Counsel	C Keating	8.			
		9.			
OCRs (ECR)	R Floyd, C Kummer	10.			
	S Matlock, D Wheeler	11.			
(RCA)	E Mills, J Ruehl	12.			
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		14.			
		15.			
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Recommended assignments for hearing and/or deciding this case:		33.			
Full Commission _____ Commission Panel <u>X</u>		34.			
Hearing _____ Staff _____		35.			
Date filed with CCA: <u>07/01/2005</u>		36.			
Initials OPR _____		37.			
Staff Counsel _____		38.			
		39.			
		40.			

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	ED	--		
		X	X				

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	ED	--	
		X			

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BBH

Date: 07/01/2005

Section 1 - Bureau of Records Complete

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: **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.**
 Company: **Florida Power & Light Company**
Southeastern Utility Services, Inc.

Official Filing Date: _____ Expiration: _____

Last Day to Suspend: _____

Referred to:

CCA CMP ECR (GCL) PIF RCA SCR SGA

(*O) indicates OPR

		X	X		X	X	
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Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff

C Keating

8 Current CASR revision level

Due Dates
 Previous Current

Staff Counsel

C Keating

OCRs (ECR)

R Floyd, C Kummer

(RCA)

S Matlock, D Wheeler

E Mills, J Ruehl

Recommended assignments for hearing and/or deciding this case:

Full Commission Commission Panel X
 Hearing Staff

Date filed with CCA: 07/22/2005

Initials OPR _____

Staff Counsel _____

		SAME	08/26/2004
1.	Draft Prehearing Order	SAME	08/26/2004
2.	Discovery Actions Complete	SAME	09/14/2004
3.	Staff Recommendation - Motion for Reconsiderat	07/21/2005	09/08/2005
4.	Agenda - Motion for Reconsideration	08/02/2005	09/20/2005
5.	Standard Order - Motion for Reconsideration	08/22/2005	10/10/2005
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	ED	--		
		X	X				

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	ED	--	
		X			

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BB/hrs

Date: Pending 8/02/05

Section 1 - Bureau of Records Completes

Docket No. 030623-EI Date Docketed: 07/16/2003 Title: **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.**

Company: **Florida Power & Light Company
Southeastern Utility Services, Inc.**

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to:

CCA CMP ECR (GCL) PIF RCA SCR SGA

(*O* indicates OPR)

		X	X		X	X	
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Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A9

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff

C Keating

9 Current CASR revision level

Due Dates
Previous Current

Staff Counsel

C Keating

OCRs (ECR)

R Floyd, C Kummer
S Matlock, D Wheeler
(RCA) E Mills, J Ruhl

1.	Draft Prehearing Order	SAME	08/26/2004
2.	Discovery Actions Complete	SAME	09/14/2004
3.	Staff Recommendation - Motion for Reconsiderat	09/08/2005	09/22/2005
4.	Agenda - Motion for Reconsideration	09/20/2005	10/04/2005
5.	Standard Order - Motion for Reconsideration	10/10/2005	10/24/2005
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Recommended assignments for hearing and/or deciding this case:

Full Commission ___ Commission Panel
Hearing ___ Staff ___

Date filed with CCA: 09/09/2005

Initials OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	ED	--		
		X	X				

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	ED	--	
		X			

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: _____
Date: _____

133/hrs
~~Pending~~ 9/13/05

Matilda Sanders

1320-PAA

From: Janice Banka
Sent: Wednesday, November 19, 2003 11:15 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

13

Date and Time: 11/19/2003 11:14:00 AM
Docket Number: 030623-EI
Filename / Path: 030623or.wpd

Notice of Proposed Agency Action Order Resolving Complaints.

Number of pages in order - 13.

Thanks "J"

5 mailed

CCA Official Filing
6/9/2004*****

1:50 PM*****

Timolyn Henry*****1

Timolyn Henry

0581-PC0

From: Jackie Schindler
Sent: Wednesday, June 09, 2004 1:03 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

15

Date and Time: 6/9/2004 1:01:00 PM
Docket Number: 030623-ei
Filename / Path: 030623-ord-est-proc.mah.doc

RECEIVED 11:50
JUN - 9 PM 1:50
COMMISSION
CLERK

an order establishing procedure has been signed and moved to gc orders for issuance today - the order will come on our next run

thanks

js

attach's online.

4/0.

Matilda Sanders

0591-PCD

From: Janice Banka
Sent: Friday, June 11, 2004 9:24 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

7

Date and Time: 6/11/2004 9:23:00 AM
Docket Number: 030623-EI
Filename / Path: 030623\030623-or.mah.doc
Order Type: Signed / Hand Deliver

RECEIVED FPSC
JUN 11 AM 10:32
COMMISSION CLERK

Order Dismissing SUSI As a Petitioner and Denying FPL's Motion to Strike.

Number of pages in order - 7.

Thanks "J"

4/11
+
mailed.

Matilda Sanders

From: Carolyn Craig
Sent: Wednesday, August 18, 2004 3:53 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

3 pg

Date and Time: 8/18/2004 3:52:00 PM
Docket Number: 030623-EI
Filename / Path: 030623hrnotice.wck.doc
Notice Type: Prehearing/Hearing

CCS ✓

Notice of Hearing and Prehearing Conference

43/17

269 public officials

Matilda Sanders

0862 - PCO

From: Mary Diskerud
Sent: Friday, September 03, 2004 9:27 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

3

Date and Time: 9/3/2004 9:26:00 AM
Docket Number: 030623-EI
Filename / Path: recusalorder-deason.wck.doc
Order Type: Signed / Hand Deliver

RECEIVED-FPSC
04 SEP - 3 AM 10: 53
COMMISSION
CLERK

Copied to gcorders

4/4

Matilda Sanders

0863-PCD

From: Mary Diskerud
Sent: Friday, September 03, 2004 9:26 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

3

Date and Time: 9/3/2004 9:25:00 AM
Docket Number: 030623-EI
Filename / Path: recusalorder-bradley.wck.doc
Order Type: Signed / Hand Deliver

RECEIVED-PPSC
04 SEP -3 AM 10: 51
COMMISSION
CLERK

Copied to gorders

4/4

Marguerite Lockard

PSC-04-0881-PCO-EI

From: Mary Diskerud
Sent: Wednesday, September 08, 2004 1:33 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

030623-EI

Copied to gcorders

5pg

4/4

CCA Official Filing

9/17/2004 2:48 PM*****

Matilda Sanders*1

Matilda Sanders

PSC-04-0911-PCO-EI

RECEIVED-TPSC

SEP 17 PM 3:17

From: Janice Banka
Sent: Friday, September 17, 2004 2:44 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

COMMISSION
CLERK

Date and Time: 9/17/2004 2:34:00 PM
Docket Number: 030623-EI
Filename / Path: 030623/030623or3.wck.doc
Order Type: Signed / Hand Deliver

Order Granting Stipulated Motion to Re-File Direct Testimony and Granting Motion to Withdraw Notice of Intent.

THIS ORDER NEEDS TO BE ISSUED TODAY.

Number of pages in order - 3.

Thanks "J"

4/4

CCA Official Filing
9/17/2004 2:48 PM*****

Matilda Sanders*1

Matilda Sanders

PSC-04-0912-PCO-ET

RECEIVED-YPSC

From: Janice Banka
Sent: Friday, September 17, 2004 2:46 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

SEP 17 PM 3:17

COMMISSION
CLERK

Date and Time: 9/17/2004 2:45:00 PM
Docket Number: 030623-EI
Filename / Path: 030623/030623or2.wck.doc
Order Type: Signed / Hand Deliver

First Order Revising Order Establishing Procedure and Granting Request for Extension of Time to File Rebuttal Testimony.

Number of pages in order - 3.

THIS ORDER NEEDS TO BE ISSUED TODAY. COCHRAN SHOULD HAVE CALLED ALREADY TO ALERT CCA.

Thanks "J"

4/4

Timolyn Henry

0922-PCO

From: Janice Banka
Sent: Tuesday, September 21, 2004 10:23 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

13

Order Granting in Part and Denying in Part Motion to Compel.
8 PAGES ARE NOT ON LINE.

ORDER NUMBER ALREADY ISSUED: PSC-04-0922-PCO-EI.

Number of pages in order 13.

Thanks "J"

RECEIVED PSC
04 SEP 21 AM 10:26
COMMISSION
CLERK

4 faxed / 8 mailed

CCA Official Filing

9/22/2004 7:17 AM*****

Matilda Sanders*1

RECEIVED-PPSC

Matilda Sanders

0923-PCO

09 SEP 22 AM 10:46

From: Janice Banka
Sent: Tuesday, September 21, 2004 4:10 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

4

COMMISSION
CLERK

Date and Time: 9/21/2004 4:09:00 PM
Docket Number: 030623-EI
Filename / Path: 030623/030623or7.wck.doc
Order Type: Signed / Hand Deliver

Order Denying Motion to Strike Rebuttal Testimony.

Number of pages in order - 4.

Thanks "J"

4/4

Matilda Sanders

0932-PCD

From: Mary Diskerud
Sent: Wednesday, September 22, 2004 1:53 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Date and Time: 9/22/2004 1:52:00 PM
Docket Number: 030623-EI
Filename / Path: 030623or6.wck.doc
Order Type: Signed / Hand Deliver

Copied to gorders

attach not online

RECEIVED-FPSC
01 SEP 22 PM 2:16
COMMISSION
CLERK

4 faxed

8 mailed.

*3:00 pm
9/22/04*

Matilda Sanders

P5C-04-0933-PHO-EI

From: Carolyn Craig
Sent: Wednesday, September 22, 2004 3:51 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Date and Time: 9/22/2004 3:50:00 PM
Docket Number: 030623-EI
Filename / Path: 030623/030623phorder.doc
Order Type: Signed / Hand Deliver

21ppp

RECEIVED-PPSC
04 SEP 22 PM 3:56
COMMISSION
CLERK

Prehearing Order signed by Commissioner Davidson

4/4

Matilda Sanders

PSC-04-0934-PCO-EI

From: Carolyn Craig
Sent: Wednesday, September 22, 2004 3:52 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Date and Time: 9/22/2004 3:51:00 PM
Docket Number: 030623-EI
Filename / Path: 030623/030623or8.wck.doc
Order Type: Signed / Hand Deliver

RECEIVED-PPSC
04 SEP 22 PM 3:56
COMMISSION
CLERK

Order Denying Motion to Amend Petition for Formal Administrative Hearing

4 pgs

4/4

Matilda Sanders

PSC-04-0935-PCO-EI

From: Carolyn Craig
Sent: Wednesday, September 22, 2004 3:52 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Date and Time: 9/22/2004 3:52:00 PM
Docket Number: 030623-EI
Filename / Path: 030623\030623or5.wck.doc
Order Type: Signed / Hand Deliver

RECEIVED-PSC
09 SEP 22 PM 3:56
COMMISSION
CLERK

Order Denying Motion to Compel

9 pgs

att's not online

8 mailed.

Marguerite Lockard

From: Janice Banka
Sent: Monday, October 04, 2004 4:52 PM
To: CCA - Orders / Notices; Sandy Moses
Subject: Order / Notice Submitted

Notice of Rescheduled Commission Hearing.

030623

Number of pages in Notice - 2.

Thanks "J"

60/10 -

269 Little
Officials.

Matilda Sanders

0992 - PCO

From: Janice Banka
Sent: Monday, October 11, 2004 11:44 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Date and Time: 10/11/2004 11:43:00 AM
Docket Number: 030623-EI
Filename / Path: 030623/030623oceanorder.rg.doc

RECEIVED-PT30
04 OCT 11 PM 1:43
COMMISSION
CLERK

Order Denying Motion and Cross-Motion for Partial Summary Final Order.

Number of pages in order - 10.

Thanks "J"

4/5

Marguerite Lockard

P5C-04-1069-PO-EI

From: Janice Banka
Sent: Monday, November 01, 2004 4:30 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

RECEIVED-FPSC

04 NOV -1 PM 4:33

COMMISSION
CLERK

Date and Time: 11/1/2004 4:28:00 PM
Docket Number: 030623-EI
Filename / Path: 030623/030623or9.wck.doc
Order Type: Signed / Hand Deliver

Order Denying Motion for Protective Order, Granting Motion to Compel, Denying Motion for Sanctions, and Denying Request for Confidentiality Ruling.

Number of pages in order - 7.

THE COMMISSIONER WANTS THIS ISSUED TODAY. I AM BRINGING THE HARD COPY NOW.

Thanks "J"

4/4

Marguerite Lockard

PSC-04-1160-PCO-EI

From: PattiZellner
Sent: Monday, November 22, 2004 1:44 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

030623-EI

ORDER DENYING MOTIONS FOR RECONSIDERATION

10 pgs

4/4

Matilda Sanders

1167-PAA

From: PattiZellner
Sent: Tuesday, November 23, 2004 11:54 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Date and Time: 11/23/2004 11:53:00 AM
Docket Number: 030623-EI
Filename / Path: 030623\030623PAArulewaiver.wck.doc

NOTICE OF PROPOSED AGENCY ACTION ORDER DENYING PETITION FOR VARIANCE OR WAIVER OF RULE

Patti Zellner, Deputy Clerk
Public Service Commission
Office of the General Counsel
phone: (850) 413-6208

4/5

CCA Official Filing

12/20/2004 11:27 AM*****

Matilda Sanders*1

Matilda Sanders

1261-00

From: Patti Zellner
Sent: Monday, December 20, 2004 11:27 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

2

Date and Time: 12/20/2004 11:27:00 AM
Docket Number: 030623-EI
Filename / Path: 030623\030623ConsumeOrd.WCK.doc

CONSUMMATING ORDER

4/5.

CCA Official Filing

*****2/25/2005 10:23 AM*****

*****Matilda Sanders*****

****1**

Matilda Sanders

0226 - FOF

From: Patti Zellner
Sent: Friday, February 25, 2005 10:20 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

16

Date and Time: 2/25/2005 10:20:00 AM
Docket Number: 030623-EI
Filename / Path: 030623FINALORDER.wck.doc

FINAL ORDER RESOLVING COMPLAINTS

4/5.

1034-FOF

Matilda Sanders

From: Patti Zellner
Sent: Friday, October 21, 2005 10:32 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

9

Date and Time: 10/21/2005 10:31:00 AM
Docket Number: 030623-EI
Filename / Path: 030623-Order.reconsider.10-4.wck

ORDER DENYING MOTION FOR RECONSIDERATION

4/5