

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: December 7, 2006

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

FROM: Office of the General Counsel (Bennett)
Division of Economic Regulation (Kummer)
Division of Regulatory Compliance & Consumer Assistance (Plescow)

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

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

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

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

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

Case Background

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

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

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

Discussion of Issues

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

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

Staff Analysis:

Tariff and Rule Under Review:

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

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

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

Streamline Hotel's Argument

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

FPL's Argument

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

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

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

Analysis

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

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

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

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

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

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

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

¹ Rule 25-6.003(d), F.A.C.

² FPL Tariff Sheet 6.030, 4.1 Customer Installation.

³ P.1, Order No PSC 18893

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

Conclusion

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

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

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Issue 2: Should this docket be closed?

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

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