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MAIL ROOM

October 5, 2000

ORIGINAL

Florida Public Service Commission
Attn: Ms. Blanca S. Bayo
Director, Division of Records & Reporting
2540 Shumart Oak Blvd
Tallahassee, Florida 32301

001543 - EI

Dear Ms. Bayo:

Enclosed for filing with the Florida Public Service Commission, please find an original and seven (7) copies of the following documents:

- 1) Petition of Sundestin International Homeowner's Association, Inc. for Variance or Waiver From Rule 25-8.049(5)(a) of the F.A.C.
- 2) Letter from Sundestin Homeowner's Association requesting representation by Marc Mazo.
- 3) Affidavit of Marc Mazo Re: Qualifications

Thank you very much for your cooperation and attention to this matter.

Sincerely,

Marc Mazo
Authorized Representative
Sundestin International Homeowner's Association, Inc.

DOCUMENT NUMBER-DATE

12843 OCT-98

STATE OF FLORIDA
BEFORE THE PUBLIC SERVICE COMMISSION

ORIGINAL

IN RE:

SUNDESTIN INTERNATIONAL
HOMEOWNERS ASSOCIATION, INC.

DOCKET NUMBER 001543-EU

Petitioners
_____ /

**PETITION FOR VARIANCE OR WAIVER
FROM RULE 25-6.049(5) (a)
OF THE FLORIDA ADMINISTRATIVE CODE**

COMES NOW the Petitioner Sundestin International Homeowners Association, Inc., (hereinafter "SIHOA") and hereby petitions the Florida Public Service Commission for a variance or waiver pursuant to Section #120.542 of the Florida Statute and Section #28-104.002 of the Florida Administrative Code.

I. Applicable Rule : The applicable rule from which petitioner seeks a variance or waiver is Rule 25-6.049(5) of the Florida Administrative Code, which states in pertinent part that;

(5)(a) "Individual electric metering by the utility company shall be required for each separate occupancy unit of new commercial establishments, residential buildings, *condominiums*, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks for which construction is commenced after January 1, 1981.

However, Section 25-6.049(5)(a)(3) of the rule provides certain exceptions to the individual metering requirement.

(5)(a)(3) "For electric used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and occupied operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent home, facilities certificated under Chapter 651, Florida Statutes, college dormitories, convents, sorority houses, fraternity houses, *motels, hotels, and similar facilities.*" (Emphasis Supplied)

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FPSC-RECORDS/REPORTING

"SIHOA" operates in accordance with Chapter 509.242 of the Florida Statutes as a Public Lodging Establishment and most appropriately fits the definition in such statute as a "Hotel". "[A] hotel is any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally recognized as a hotel in the community in which it is situated or by the industry. Chapter 509.242(a), Florida Statutes. Therefore, Petitioner believes under the rule the exception of hotels from the individual metering requirement should apply to "SIHOA" and it be allowed to master meter the facility.

II. Underlying Statute F.S. 366.05(1): The applicable portion of the underlying statute indicates that the commission shall have the power to prescribe fair and reasonable rates and charges, classifications, standards of quality measurements, and service rules and regulations to be observed by each public utility. Rule 25-6.049(5)(a) & 25-6.049(5)(a)(3) has been adopted to accomplish this principle. The implementation of fair and reasonable rates and charges by the public utility companies in Florida is a goal of the Public Service Commission established by the legislature. See F.S. 366.03.

In addition, pursuant to docket # 810308-EU September 2, 1981, it appears that the intent of Rule 25-6.049(5)(a) and Rule 25-6.049(5)(a)(3) is to serve the public interest regarding energy conservation. Petitioner believes both the underlying statute requiring fair and reasonable rates, and the purpose of energy conservation are both better served, if in fact, petitioner is allowed to master meter the facility.

III. Type of Action Requested: Petitioner requests the Commission grant a variance or waiver from the real or perceived requirement of Rule 25-6.049(5)(a) wherein condominiums must be individually metered, and allow petitioner, who operates as a hotel, to master meter its facility.

IV. Facts Which Demonstrate Substantial Hardship or Violation of Principles of Fairness: "SIHOA" is an association which represents investor/owners of condominium units at 1040 E HWY 98, Destin, Florida, 32540. "SIHOA" operates under the name of Sundestin Condominium Hotel (hereinafter "Sundestin").

Sundestin is a popular beach front property that operates pursuant to Chapter 509.242 of the Florida Statutes as a public lodging establishment most appropriately fitting the definition in paragraph 509.242(a) Hotel. The statute defines a hotel as "any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally recognized as a hotel in the community in which it is situated or by the industry". Chapter 509.242(a), Florida Statutes.

"Sundestin" is registered with and licensed by the Florida Department of Business and Professional Regulation to engage in the business of providing transient lodging accommodations and is registered with the Florida Department of Revenue to collect and remit sales taxes on revenue realized from providing such transient accommodations.

"SIHOA" operating under the name of Sundestin Condominium Hotel, is engaged in the business of providing short term (daily, weekly) lodging to vacationers as do hotels and motels in the

adjacent and surrounding areas. Petitioner competes directly for room night business with nearby hotels and motels in Ft. Walton Beach, Destin, and surrounding areas. Sundestin has a full services restaurant on its premises with a health facility and spa in addition to convention meeting rooms. To maintain its market share petitioner regularly advertises and promotes its business with travel agents and in trade shows both in this country and abroad. Petitioner utilizes a full color-marketing brochure as one of the many methods to promote its business and keep the units occupied with guests. A copy of the marketing brochure is attached as Exhibit "A".

Sundestin maintains a twenty-four registration desk with a large lobby area where guests must check-in to receive their room assignments. Registration, check-in, and checkout are accomplished in the same manner as comparable resort hotel's.

Telephone service for the petitioner is provided through a master telephone PBX with all calls ringing directly into the switchboard as a hotel or motel. Guestrooms are furnished with calling instructions and all charges are listed in compliance with the Department of Business Regulation, the FCC, and the PSC. A copy of petitioner's guest telephone information and instruction card is attached as Exhibit "B". To maintain this expensive type of telephone operation, which is identical to most modern day hotels and motels, requires an investment of capital and time and effort of management.

Sundestin employs a general manager who is responsible for the supervision of the operation and care of the resort. His job duties are similar to those persons holding the title of general

manager in any other resort hotel of its size, including oversight and supervision of housekeeping, maintenance, security, guest services, marketing and advertising. It is the general manager's responsibility to operate the resort in a fiscally responsible manner.

It is also the responsibility of the general manager to do the best job he can to insure his property competes well with other hotels and motels in the area for guestroom nights. To accomplish this rates for such room nights must be kept in line with other similar facilities. Advertising dollars must also be expended to fill the needed amount of room nights. These principles exist for resort hotels throughout Florida and also exist for the Petitioner based on its manner of operation.

Without being allowed to master meter its facility, the Petitioner will pay approximately 25%-30% more for the same electric to operate as competing hotels and motels. This creates a substantial hardship on the petitioner in its efforts to compete in the room rental business and pay all the associated costs (including taxes), of operating a resort hotel facility. It also violates principles of fairness in that other hotels and motels in the surrounding area will spend less money on electricity and be able to spend more on advertising or upgrading their facilities to attract the traveling public.

In addition, according to staff report filed September 5, 2000, in Docket No. 000643-EU, it appears that the type of facilities exempted from the individual metering requirement are those that operate similar to hotels and motels where the

occupants of the units are not billed for their use of electricity. Sundestin falls into this category.

It is impractical, if nearly impossible, to attribute and bill electric usage to the daily and weekly guests of the resort. They are billed a bundled rate for the limited use of the rooms rented while vacationing at Sundestin.

Petitioner requested a study be conducted by Tom Saxon, former Commissioner of the City of Madeira Beach and former employee of Florida Power who has worked with the hospitality industry for many years, including the time he was employed by FPC. A copy of his report is attached as Exhibit "C".

V. Conservation Issue: The development of Rule 25-6.049 F.AC. was in great part to encourage conservation of electricity. The PSC, its Staff, and IOU's in Florida have adhered to the philosophy that the end user will be more inclined to be conscious of conservation if such user is made aware of his or her electric use and associated costs. Section(5)(a) of the rule follows this theory by requiring individual metering. However, the implication which can be derived from this section is that the condominiums required to be individually metered are those that are residential in nature. By requiring individual metering for a residential condominium the owner occupant will be made aware of monthly electric usage and associated costs and will be more inclined to conserve electricity.

This theory is not applicable in the instant case since Petitioner operates as a resort hotel catering to the transient public. The owner/investors of units at "SIHOA" are not the ones responsible for energy conservation at the resort. The chief

engineer and maintenance staff at Sundestin have the primary responsibility for energy conservation just like their counterparts in nearby hotels and motels. The monthly electric bills are forwarded by the Power Company to over 298 owners in all parts of the country.

Recognizing that timeshare resorts are similar in nature to hotels and motels, the Commission recently amended Rule 25.6-049(5)(a)(3) to include timeshare resorts in the exception from the individual metering rule. The theory being that conservation would be better served by the resort receiving one master bill for electric instead of many individual bills. In this manner the resort manager would have more awareness of total electric usage for the timeshare resort and hopefully, as a result, pay closer attention to energy conservation methods which reduce electric consumption and lower costs.

The nature of timeshare resorts did not change by the commission's action. Nor did the characteristics of their electric usage. Timeshare resorts are still owned and operated as condominiums and used primarily by the owners for vacation weeks. Transient rentals are minimal, and as a result the petitioner's electric load data is substantially more like a hotel or motel than most timeshare resorts in Florida.

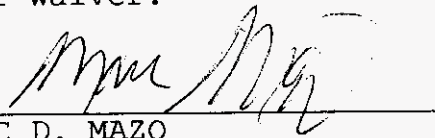
Many timeshare owners live in their units for a week or more at a time during their vacation, while Petitioner's regular transient rental business is generally for shorter periods. As such, "ICA's" electric usage characteristics are more similar to hotels or motels than that of most timeshare resorts in Florida. Yet the owners of timeshares in this state now derive the benefit

of lower electric costs as a result of being allowed to master meter the resort. This is patently unfair and discriminatory.

VI. Conclusion By granting Petitioner a waiver or variance from the individual metering requirements of Rule 25.6-049, the interests of the public relating to energy conservation would be better served. By master metering petitioner would be more efficient in his efforts to control and conserve electric. In addition, the principles of fairness would be met in that the owner/investors at "SIHOA" would receive the benefits of lower electric costs due to master metering, as their owner/investor counterparts do in timeshares in Florida. Petitioner would also be able to compete with hotels and motels in the area on a more even basis, as Petitioner would not be paying higher costs for electric than their hotel/motel competitors.

VII. Duration of Variance or Waiver - Recognizing that the rules governing use of the units at "SIHOA" will not change by granting of the variance or waiver from the individual metering requirements of Rule 25.6-049, Petitioner requests the variance or waiver be permanent with the condition that it continues to operate as a hotel, motel, or similar facility" in accordance with Chapter 509.242 of the Florida Statutes and/or Rule 25-6.049 F.A.C. In the event Petitioner's changes its operation from primarily a transient rental facility to primarily a residential facility, the variance or waiver would terminate and the units would be subject to the individual metering requirements of Rule 25.6-049(5) (a).

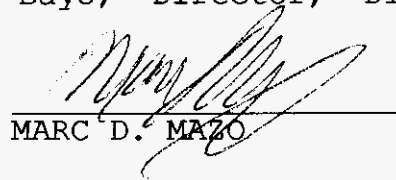
WHEREFORE, for all of the foregoing reasons, Petitioner respectfully requests the Public Service Commission grant its request for a variance or waiver.



MARC D. MAZO
14252 Puffin Court
Clearwater, Florida 33762
Telephone (727) 573-5787
Facsimile (727) 573-5675

Authorized Representative
Sundestin International Homeowners
Association, Inc.

I HEREBY CERTIFY that an original and seven (7) copies of the foregoing Petition for Variance or Waiver have been furnished by U.S. Mail this 5th day of October, 2000 to the Public Service Commission, Attn: Ms Blanca s. Bayo, Director, Division of Records and Reporting.


MARC D. MAZO

Sun Destin

Beach & Meeting Resort
Destin • Florida

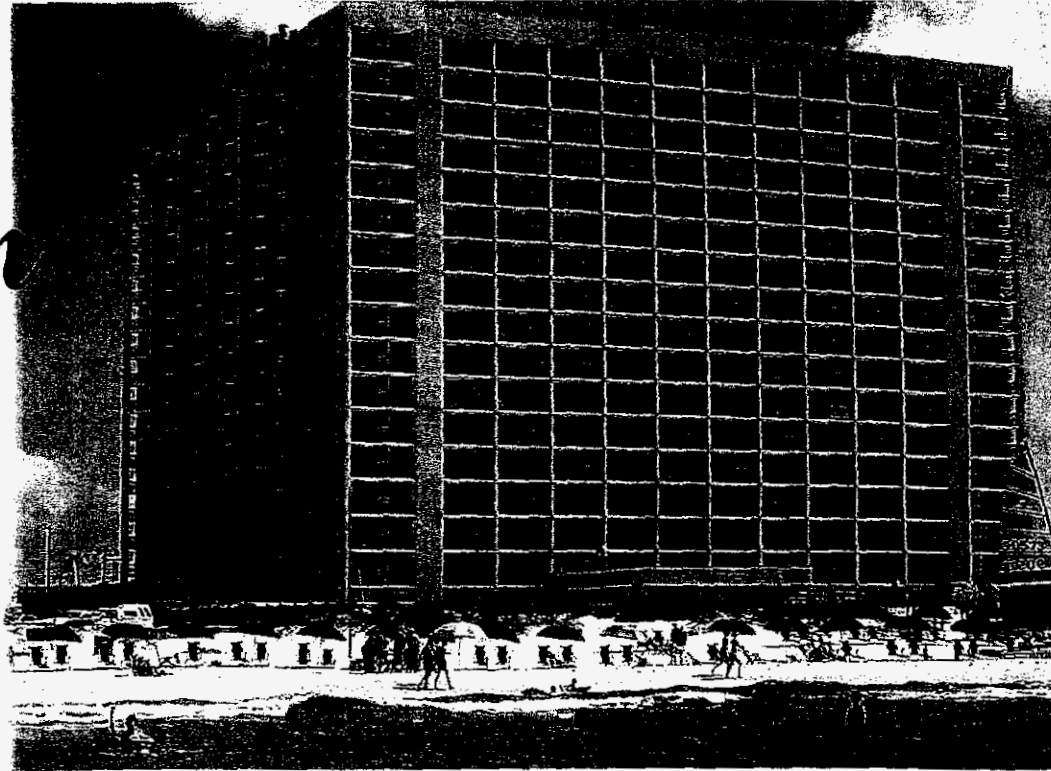
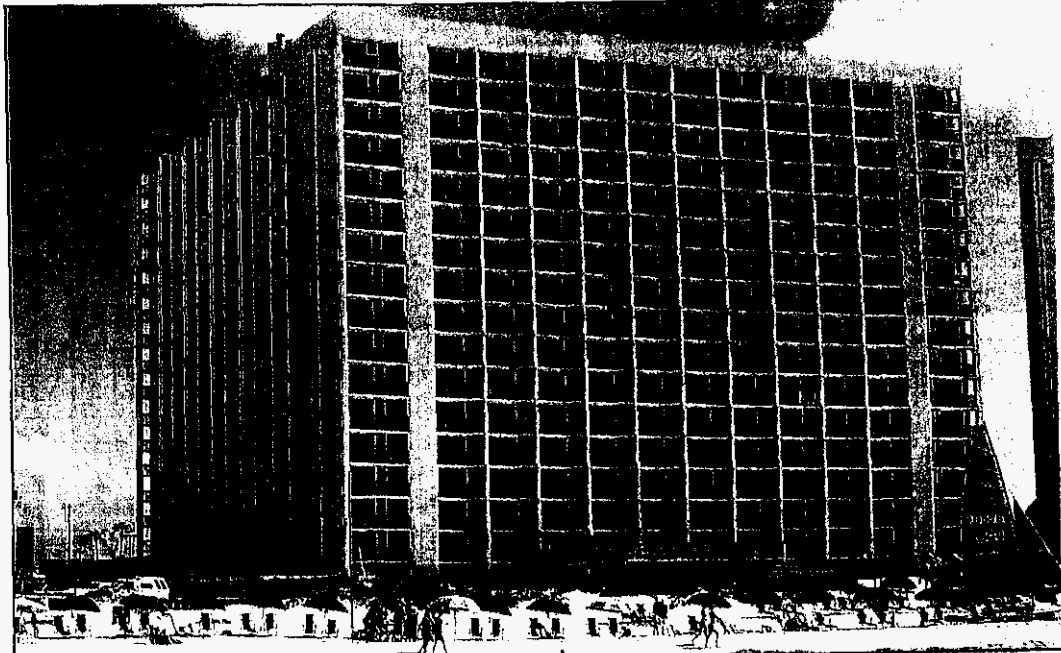
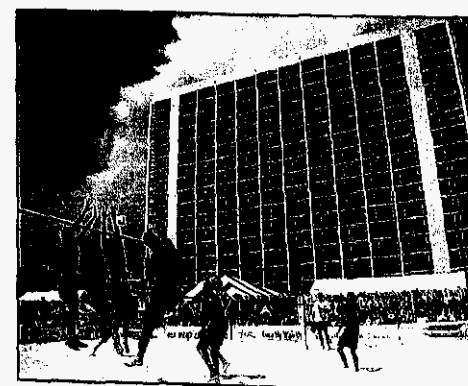
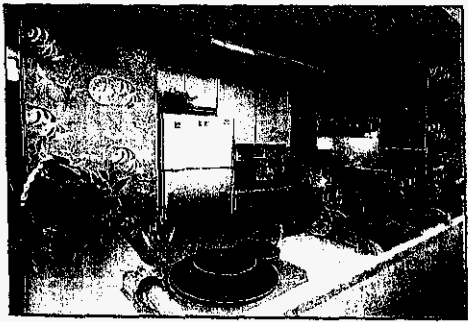


Exhibit "A"

2015-2016

COTTAGES & BEACHSIDE INNS

SUNDESTIN BEACH & MEETING RESORT



1040 Highway 98 East • Destin

The perfect resort for vacationing families, reunions and business meetings. SunDestin is located directly on the Gulf of Mexico with easy access to many of Destin's restaurants and recreational facilities. This high-rise property features **ONE, TWO AND THREE BEDROOM UNITS**.

Special property amenities include 24-hour front desk, fax services, voice mail/wake-up service, two pools (one is indoor and heated), large sundeck, outdoor tiki bar, canopied dining area, picnic courtyard area, bar & grill, Pizza Hut® on-site, over 3,000 sq. ft. of meeting space, convenience store, handicap access to the beach, seasonal beach service available (for a fee), video rentals and video game room.

SunDestin Beach & Meeting Resort has it all!



UNIT	SPRING		SPRING BREAK		SUMMER		PEAK SUMMER		FALL		WINTER	
	DAILY	WEEKLY	DAILY	WEEKLY	DAILY	WEEKLY	DAILY	WEEKLY	DAILY	WEEKLY	DAILY	WEEKLY
1 BR	115-131	693-791	127-150	826-973	158-187	1029-1218	167-197	1085-1281	104-118	623-707	95-107	574-644
2 BR	156-180	938-1085	166-208	1078-1351	207-259	1344-1687	219-274	1428-1785	140-156	840-938	121-131	728-791
3 BR	226	1358	247	1610	308	2002	327	2128	198	1190	155	931

Daily rates based on a three night minimum stay and are subject to change without notice. A higher rate applies for shorter stays. Please inquire about seasonal MONTHLY RATES.



Long Distance Calling Information

Long Distance Operator Services are provided by UniversalCom. Calls can be completed to in-state, inter-state and international locations. You may charge your calls to your telephone company calling cards or major credit cards (see below). UniversalCom will also complete domestic, collect, third party and person-to-person calls.

You may obtain free rate quotes or information on billing methods by reaching an outside line, then dialing: **0 + Area Code + Number**. An operator will assist you. You have the right to reach other long distance carriers from this telephone. You may do so by dialing the access codes provided by that carrier.

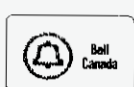
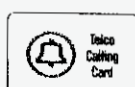
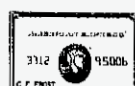
To access a UniversalCom operator, obtain an outside line and dial 00. For operator assisted calls, operator charges will apply in addition to regular long distance charges. For rates on calls within the local exchange's service area, obtain an outside line and contact the local operator by dialing 0.

Establishment's surcharge (billed directly by the establishment): Local Calls: \$.35. Long Distance Direct Dial: Operator Assisted Rates + 50%. All usage will be billed by the hotel (billed to room), your local telephone company, or your credit card company. All charges are subject to applicable state taxes.

To reach emergency services, dial the hotel operator or obtain an outside line and dial 911, or obtain an outside line and dial "0".

Customer inquiries may be addressed to: UniversalCom, P. O. Box 1585, Destin, FL 32540. For customer service, dial 1-800-279-0077. Address consumer comments to FCC, Enforcement Division, Common Carrier Bureau, Mailstop: 1600A2, Washington, DC 20554.

Long Distance calls may be billed to any of the following credit/travel cards:



Dialing Instructions

- ◆ Local Calls Dial 9 + Number
- ◆ Local Operator Dial 9 + 0
- ◆ Long Distance Operator Dial 9 + 00
- ◆ 911 Service Dial 9 + 911

To Charge Long Distance Calls to Room:

Dial 9 + 1 + Area Code + Number

To Make Credit Card Calls:

◆ All Major Credit/Travel Cards:
Dial 9 + 0 + Area Code + Number

◆ AT&T, MCI, Sprint and Other Carriers:
Dial 9 + Toll-Free Access Number provided by your carrier

To Make International Calls:

Dial 9 + 011 + Country Code + City Code + Number



Exhibit "B"

October 4, 2000

Mr. Marc Mazo
Power Check Consultants
14252 Puffin Court
Clearwater, FL 33762

Re: Sundestin Resort

Dear Mr. Mazo:

Per your request, enclosed are my findings regarding your question whether or not Sundestin Resort which is operated by Sundestin International Homeowners Association, Inc. operates like a hotel, motel, or similar facility; and if the property meets the criteria and intent of the Florida Administrative Code 6-25.049 for the exclusion from the individual metering requirement. The following are my findings pertaining to the property:

Sundestin is located on the Gulf of Mexico at 1040 Highway 98 East in Destin Florida and operates like a hotel/motel or similar facility and meets the criteria established for exclusion from individual metering requirement.

The site has:

- A central telephone system or central PBX that serves all units like a hotel.
- Hotel call accounting system used to price calls and bill guests upon checkout.
- Daily maid service available.
- 24 Hour front desk check-in.
- Daily and weekly rentals.
- Central reservation system
- Consistent resort vacation advertising.
- Conservation efforts by engineering staff and management.
- Monthly sales tax reports filed with the Florida Department of Revenue for sales tax on transient room rentals.

As an experienced professional who worked with and in the hospitality industry for over five years, it is my opinion that the subject property clearly operates like a hotel/motel or similar facility and competes regularly for business with area hotels and motels.

Exhibit "C"

Mazo
Page-2-
10-04-2000

Based on my experience working with hotel/motel properties while employed by Florida Power Corporation, Sundestin appears to be paying approximately 20% to 30% more for electric than its hotel/motel competitors.

Rule 6.25-049 Florida Administrative Code was clearly developed to encourage conservation measures by individual home owners i.e. turning off lights, raising or lowering thermostats, using less hot water, etc. The commission also recognized that businesses catering to transient rentals that do not pay or ever see the electric bills will not be encouraged to conserve energy by this code and therefore provided exclusions to the individual metering requirement.

Currently Rule 6-25.049(5)(a)(3) excludes hotels, motels, and similar facilities from the individual metering requirement. As such, based on the continued operation of Sundestin Resort as a public lodging establishment, see Chapter 509.242 Florida Statutes, it is apparent that it should be excluded from the individual metering requirement and be allowed to convert to master metering.

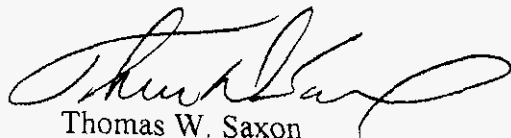
Revenue Factors:

The loss of customer charges for Gulf Power would consist of \$8.07 per unit; however, the loss will be offset by commercial customer charges of \$42 per meter for three meters. Because all other expenses to the customer charge should be negated, i.e. no longer having read 198 meters, not having to process billing information for 298 accounts, and not having to mail bills to 298 individual owners, bills to individual owners, the net impact on this revenue should be no more than \$1 per unit.

The loss of revenue based on a rate change to Gulf Power's General Service Demand rate is estimated to be approximately 15%. Based on 13% profit, the direct impact to Gulf Power should be no more than 2% per unit.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,



Thomas W. Saxon