

BEFORE THE FLORIDA 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
Filed February 13, 2004

CUSTOMERS' OBJECTIONS AND RESPONSE TO FLORIDA POWER & LIGHT COMPANY'S FIRST SET OF REQUESTS FOR ADMISSIONS

Petitioners, Ocean Properties, Ltd., J.C. Penney Corp., Dillard's Department Stores, Inc., and Target Stores, Inc. (collectively referred to as "Customers"), through their undersigned counsel and pursuant to Chapter 25-22, Florida Administrative Code (F.A.C.), and Rule 28-106.204, F.A.C., hereby file this Objection and Response to Florida Power & Light Company's (FPL) First Set of Requests for Admission to customers (Nos. 1-8).

RESPONSES TO REQUESTS FOR ADMISSIONS

Request for Admission No. 1. Admit that under Rule 25-6.052(2)(a), Florida Administrative Code, a thermal demand meter test by FPL is not subject to a refund when the amount or level of over-registration does not exceed 4% in terms of full-scale value, when tested at any point between 25% and 100% of full-scale value.

If your answer is anything but an unqualified "yes," describe the basis for your answer.

RESPONSE:

1. Objection. This request is directed solely to a conclusion of law. Rule 25-6.052(2)(a), Florida Administrative Code speaks for itself.

Request for Admission No. 2. Admit that under Rule 25-6.103(3), Florida Administrative Code, the average error that results from a test of a thermal demand meter is determined by the results of the meter test only.

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If your answer is anything but an unqualified “yes,” describe the basis for your answer.

RESPONSE:

2. Objection. This request is directed solely to a conclusion of law. Rule 25-6.103(3), Florida Administrative Code speaks for itself.

Request for Admission No. 3. Admit that under Rule 25-6.103(1), Florida Administrative Code, a thermal demand meter that is tested and determined to have over-registered in excess of the tolerance allowed under Rule 25-6.052(2)(a), Florida Administrative Code, requires FPL to provide a refund to the customer of the amount billed in error as determined by Rule 25-6.058, Florida Administrative Code, for a period not to exceed twelve months unless the customer demonstrated that the error was due to some cause, the date of which can be fixed.

If your answer is anything but an unqualified “yes,” describe the basis for your answer.

RESPONSE:

3. Objection. This request is directed solely to a conclusion of law. Rules 25-6.103(1), 25-6.052(2)(a), and 26-6.058, Florida Administrative Code, speak for themselves.

Request for Admission No. 4. Admit that a thermal demand meter may over-register for a reason or reasons other than miscalibration of the meter when the meter is initially placed in or subsequently returned to service.

If your answer is anything but an unqualified “yes,” describe the basis for your answer.

RESPONSE:

4. Objection. The request is presented as a compound request.

Request for Admission 5. Admit that Rule 25-6.109, Florida Administrative Code, applies to the calculation of interest on any refunds that may be ordered by the Commission in this proceeding.

RESPONSE:

5. Objection. This request is directed solely to a conclusion of law. Rule 25-6.109, Florida Administrative Code, speaks for itself. This legal issue is presently pending before the Commission.

Request for Admission No. 6. Admit that SUSI does not have standing to protest Order No. PSC-03-1320-PAA-EI issued in the above numbered docket.

If your answer is anything but an unqualified “yes,” describe the basis for your answer.

RESPONSE:

6. Objection. This request is directed solely to a legal conclusion that is presently pending before the Commission.

Request for Admission No. 7. Admit the FPL tested all thermal demand meters of the Customers at issue in this docket in compliance with all applicable Florida Public Service Commission rules.

If your answer is anything but an unqualified “yes,” describe the basis for your answer.

RESPONSE:

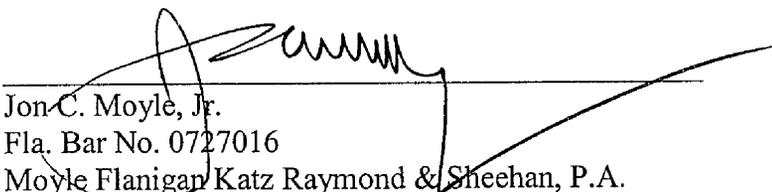
7. Objection. This request calls for a legal conclusion as to “all applicable Florida Public Service Commission rules.” Additionally, this request is overbroad in that it is not limited to specific tests of specific meters within a certain time frames.

Request for Admission No. 8. Admit that FPL calibrated the thermal demand meters at issue in this docket consistent with one of the two methods contained in Landis & Gyr’s Thermal Demand Meter Technical Manual.

If you answer is anything but an unqualified “yes,” describe the basis for your answer.

RESPONSE:

8. Denied. The Landis & Gyr Thermal Demand Meter Technical Manual provides that “when adjusting downscale, the indicating pointer should be moved downscale past the calibration points and then adjusted slowly to the calibration point with the maximum pointer in contact with the indicating pointer.” FPL meterman Brian Faircloth testified in deposition that he did not test thermal demand meters consistent with this provision of the manual. Additionally, as FPL employees calibrated the meters in question without the parties in this docket being present for such calibration, the parties are not able to admit this request, providing a further basis for denial of the request.



Jon C. Moyle, Jr.
Fla. Bar No. 0727016
Moyle Flanigan Katz Raymond & Sheehan, P.A.
118 North Gadsden Street
Tallahassee, FL 32301
Telephone: 850-681-3828
Telefax: 850-681-8788

Attorney for Petitioners

CERTIFICATE OF SERVICE
Docket No. 030623-EI

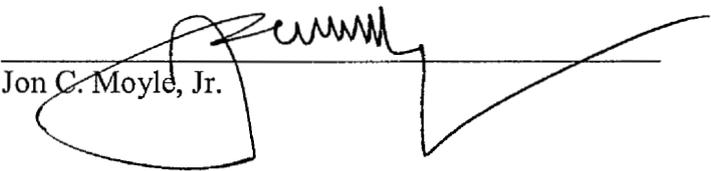
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to those listed below with an asterisk and the remainder by U.S. Mail without an asterisk this 13th day of February, 2004.

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

* Kenneth A. Hoffman, Esquire
Rutledge, Ecenia, Purnell & Hoffman, P.A.
215 South Monroe Street, Suite 420
Tallahassee, Florida 32301

William G. Walker, III
Vice President
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, Florida 32301-1859

R. Wade Litchfield, Esquire
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 22408-0420



Jon C. Moyle, Jr.