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May 28, 2004

VIA HAND-DELIVERY

Mr. Sid Matlock
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

040519-E1

RE: CUSTOMER COMPLAINT AGAINST FLORIDA POWER & LIGHT CO.

Dear Mr. Matlock:

On behalf of Walgreens, Inc., Big Lots, Chateaufeu Inn One Inc., and Pep Boys (hereafter referred to as "Customers"), Southeastern Utility Services, Inc. (SUSI), through its undersigned counsel, files this Complaint against Florida Power & Light Company (FPL) pursuant to Rule 25-22.032, Florida Administrative Code (F.A.C.). SUSI is authorized, on behalf of Customers, to witness the removal and testing of Customers' meters and to negotiate on their behalf. Customers' metered accounts are protected under the Florida Public Service Commission's ("FPSC") Rule of Referee, Rule 25-6.060, F.A.C.

Rule 25-6.052(4)(a), F.A.C., requires electric utilities to submit their meter testing procedures for approval by the FPSC prior to using the procedures to assess the accuracy of meters. Pursuant to this rule, FPL has obtained approval of a testing plan. Consistent with the approved testing plan, FPL tested thermal demand meters in accordance with FPL's thermal test board set up data. A copy of the thermal test board set up data is attached as Exhibit A. The test board set up data reflects that meters will be tested at either 40% or 80% of the full scale of the meter on 1U type and 44% to 100% on 4L type. Importantly, if an electric utility proposes to change the approved testing procedure, Rule 25-6.052(4)(c), F.A.C., requires the electric utility

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FPSC-COMMISSION CLERK

to submit its changed testing procedure to the FPSC and obtain the FPSC's approval prior to using the changed procedure to test meter accuracy.¹

On December 9, 10 and 11, 2003, FPL violated Rule 25-6.052(4)(c) by testing Customers' meters using changed procedures which were not previously submitted to and approved by the FPSC, as required by that rule. Specifically, FPL tested Customers' meters at average customer load, rather than pursuant to its approved testing procedures or at 80% of full scale, a figure previously agreed upon by FPL and SUSI.² The unapproved change in testing procedure used by FPL on December 9, 10, and 11, 2003, which employed average customer load, enabled FPL to test Customers' meters at a significantly lower load, thereby minimizing any error as a percent of full scale. Upon information and belief, the change in meter testing procedure was deliberately designed to subvert the approved testing process, prevent true assessment of the accuracy of these meters, and reduce FPL's potential liability for erroneous meters.

Clinton Williams of the FPSC and George Brown and Bill Gilmore of SUSI witnessed the subject tests FPL conducted in December 2003. Prior to the testing, SUSI protested the changed test procedure both to FPL and to the FPSC, but the protests were disregarded, and have been disregarded on at least two other occasions during which SUSI presented Customers' meters for testing.³ FPL's representative, David Bromley, has suggested that the change in testing procedure was in response to the recent PAA issued in docket no. 030623-EI.⁴ However, in fact, the referenced PAA recognized that testing all meters at 80% of full scale is appropriate for meters in dispute between SUSI and FPL.⁵

¹ Rule 25-6.052(4)(c), F.A.C., provides: "Any changes to a previously approved test procedure must be submitted to the Commission's Division of Electric and Gas for approval."

² The Commission's PAA of November 19, 2003, recognizes that SUSI and FPL had agreed to test meters at 80% of full scale. Moreover, as set forth in FPL document 305 TDM, a copy of which is attached as Exhibit C, FPL and SUSI agreed "that all witness tests would be conducted at 80% of full scale, regardless of the full-scale value (high or low).

³ Specifically, on March 30, 2004, SUSI made a second request to FPL to test Customers' meters according to FPL's approved test procedures or at 80% of full scale. FPL again refused to accede to SUSI's request. On April 14, 2004, FPL scheduled testing of additional 1U and 4L meters, to be witnessed by SUSI and the FPSC. SUSI again protested the use of the average customer load testing procedure to test the accuracy of the meters, and requested testing of Customers' meters according to FPL's approved test procedures or at 80% of full scale. FPL reiterated that testing at average customer load was the only method it would use to test any meters presented by SUSI for testing.

⁴ Mr. Bromley's reference was to Order No. PSC-03-1320-PAA-EI, issued November 19, 2003, by the FPSC.

⁵ The PAA (Order No. PSC-03-1320-PAA-EI) states on pages 5-6: "FPL and SUSI have agreed to test the meters at the single point of 80% of full scale....This method is consistent with Rule 25-6.052(2)(a) as a reasonable means to determine whether a meter is inaccurate and whether a customer should receive a refund." As further noted in the Staff Recommendation of October 9, 2003, "[t]esting at 80% of full scale would be at or above most customers' actual demands and would therefore be a fair point for determining the meter error experienced by customers who formerly used Type 1V meters." October 9, 2003, Staff Recommendation re: Docket No. 030623-EI, p.6. To this

David Bromley told SUSI's representatives that FPL would revert back to the approved procedures for its annual testing that is reported to the FPSC. Moreover, in a letter to SUSI's counsel dated February 20, 2004, FPL's counsel suggested that FPL intended to use this revised testing procedure on all meters submitted by SUSI for testing. A copy of this letter is attached as Exhibit C. Given these statements and actions by FPL's representatives, FPL's use of the changed, unapproved testing method to test Customers' meters, FPL violates Rule 25-6.052(4)(c) in that its changes have not been approved.⁶ Certain FPL documents contain a recommendation by David Bromley that suggests if the new changed method is used it is likely less errors will be reported than if testing at 80% of full scale. A copy of this document is attached as Exhibit C. Another FPL document states: "Similar to the 4N, we do not want the 1V meters to become a population that fails. Therefore, we are removing approximately ½ this year and the remainder next year." FPL indicates that these meters will be retained for six months. A copy of this document is attached as Exhibit D. This raises questions in SUSI's mind about how these meters were tested. Since thermal demand meters are essentially the same, except for the voltage and amperage of each class, how could one entire class of thermal demand meters fail as a class, yet another class pass?

For these reasons, SUSI respectfully requests the FPSC to open a generic docket to investigate all meter-testing procedures of FPL, including actions FPL may have pursued to minimize the degree or frequency of error of its thermal demand meters. SUSI also asks the PSC to take appropriate action against FPL for violating rule 25-6.052(4)(c) and prevent further violation of this rule.⁷ SUSI also respectfully requests the FPSC to take appropriate expeditious action to protect thermal demand meters from destruction. Finally, SUSI requests that FPL be ordered to perform tests of all thermal demand meters requested by SUSI as close to full-scale as practical, but under no circumstances at less than 80% of full-scale, consistent with an agreement reached between SUSI and FPL.⁸

Additionally, at the agenda conference on October 21, 2003, Commission Chairman Jaber suggested that a workshop to investigate meter testing and refund procedures would be appropriate. Chairman Jaber indicated that as issues with meter rules had been identified, steps to consider the meter rule should be taken in "the very, very near future". SUSI believes that such a workshop should be scheduled promptly, unless made part of a generic meter docket.

end, the Staff Recommendation states: "[t]he single point error determined by testing the meter at 80% of full scale should be used in calculating any refund." October 9, 2003, Staff Recommendation re: Docket No. 030623-EI, p.4.

⁶ SUSI recently made a public records request of FPL's approved meter testing procedures. No documents were provided by the FPSC reflecting it had even considered, much less approved, FPL's changes in how it tests thermal demand meters.

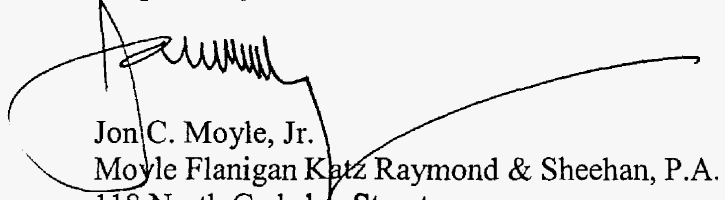
⁷ SUSI is unaware of the FPSC recently approving any change to FPL meter testing procedures. Any change would likely affect SUSI and its clients' substantial interests, and SUSI would ask that it be provided with a clear point of entry in any matter in which FPL seeks PSC approval of a change in its meter testing procedures.

⁸ It should be noted that SUSI's representatives previously have been asked at what point of full-scale it believes meters should be tested to obtain a fair and reasonable assessment of meter accuracy. SUSI always has contended that the highest point of full-scale will give the most accurate test. SUSI believes that its view is consistent with the reasoning FPSC staff adopted in approving the method of testing 1V meters at 80% of full scale.

Mr. Sid Matlock
May 28, 2004
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If there is any additional information you may need, please do not hesitate to contact me.

Respectfully,



Jon C. Moyle, Jr.
Moyle Flanigan Katz Raymond & Sheehan, P.A.
118 North Gadsden Street
Tallahassee, FL 32312
Attorney for Southeastern Utilities Services, Inc.

Cc: William A. Gilmore, SUSI
George Brown, SUSI
Roland Floyd, FPSC
Cochran Keating, FPSC
Ken Hoffman, Counsel for FPL

Attachments: Exhibit A – Thermal Test Board Setup
Exhibit B – 02/20/04 Letter from K. Hoffman to J. Moyle
Exhibit C – FPL Doc. 000305 TDM / Bromley Recommendation
Exhibit D – FPL Doc. 000159 TDM

FC

THERMAL TEST BOARD SET UP DATA

SELF-CONTAINED METERS

FORM	FULL SCALE KW	FULL CURRENT COILS IN SERIES	PHASE ANGLE SELECTOR DEGREES	VOLTS SELECTOR	STARTOR CONTROLS	AMPERAGE SELECTOR	TEST KW TO MUT	VOLTMETER READING	AMMETER READING	STANDARD KW	STANDARD SCALE INDICATION	STANDARD FACTOR HIGH/LOW
NUMBER	HIGH/LOW	SERIES	DEGREES	SELECTOR	CONTROLS	SELECTOR	TO MUT	READING	READING	KW	INDICATION	HIGH/LOW
					ABC							
1S	12	1	0	120	FOO	100	19.2/9.6	120	4.0	.48	66.67	.144
2S	72	1	0	240	FOR	100	38.4/19.2	120	3.0	.48	66.67	.288
2S	48	1	0	240	FOR	100	38.4/19.2	120	3.0	.48	66.67	.288
12S	48	2	0	120	FOF	100	19.2	120	4.0	.48	66.67	.288
12S	112	2	0	277	FOF	100	49.86	120	4.5	.54	75	.665
12S(G)	96/48	2	0	240	FOF	100	44.3	120	4.0	.48	66.67	.665
15S	96/48	2	0	240	FRF	100	36	120	3.75	.45	62.5	.576
14S	72/36	4	0	120	FRF	100	32	120	3.33	.4	55.56	.576
14S	166/83	4	0	277	FRF	100	77.56	120	3.5	.42	58.33	1.3295
16S	72 MA 36	3	0	120	FFF	100	36	120	5.00	.6	83.33	.432
16S	166 MA 72	3	0	277	FFF	100	83.1	120	5.0	.6	83.33	.997
16S	166 MA 72	3	0	240	FFF	100	72	120	5.00	.6	83.33	.864

* STANDARD FACTOR IS A NUMBER WHEN MULTIPLIED BY THE READING THE THERMAL STANDARD WILL RESULT IN THE READING OF A METER UNDER TEST (M.U.T.). THE METER UNDER TEST MUST BE 100% ACCURATE.

THE STANDARD FACTOR IS USED AS FOLLOWS: A GROUP OF 3-PHASE - 4W - 120V - WYE - FORM 14S METERS ARE TESTED AT 64 KW FOR A STANDARD READING OF 55.56.

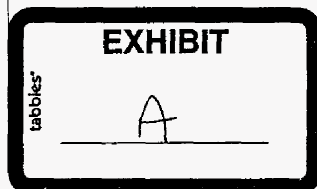
THE BOARD CONTROLS ARE SET AS INDICTED IN THE ABOVE TABLE. AT THE END OF THE LOAD-TEST PERIOD (ONE HOUR) THE STANDARD INDICATES 50.5 AND THE M.U.T.'S INDICATE 62.5 KW. CALCULATE THE % FULL SCALE ERROR OF THE M.U.T.'S

M.U.T.'S READINGS FOR 100%=50.5 X STANDARD FACTOR=50.5 (64/55.56)=50.5 X 1.152 = 58.18 KW

% FULL SCALE ERROR =	M.U.T. KW - KW FOR 100%	62.5 - 58.18 X 100 = + 8.0%	STD-LAB
	M.U.T. FULL SCALE KW	X 100 =	72

*NOTE:DO NOT ADJUST METER WITHIN +OR- 2%.

*NOTE:DO NOT DIVIDE BY THE "FULL SCALE" WHEN TESTING ELECTRONIC METER.



THERMAL TEST BOARD SET UP DATA

INSTRUMENT TRANSFORMER RATED METERS

FPL	FORM	FULL SCALE KW	FULL CURRENT COILS IN	PHASE ANGLE SELECTOR	VOLTS SELECTOR	STARTOR CONTROLS	AMPERAGE SELECTOR	TEST KW TO MUT	VOLTMETER READING	AMMETER READING	STANDARD KW	STANDARD SCALE INDICATION	STANDARD FACTOR HIGH/LOW
SYMBOL	NUMBER	HIGH/LOW	SERIES	DEGREES	SELECTOR	SELECTOR	SELECTOR	TO MUT	READING	READING	KW	INDICATION	HIGH/LOW
ABC													
W	3S	1	1	0	120	FOO	5	.9/45	120	3.75	.45	62.5	0.0072
Q2W	3S	2/1.	1	0	240	FOO	5	1.8/9	120	3.75	.45	62.5	0.0144
Q3W	4S	2/1.	1	0	240	FOR	5	1.8/9	120	3.75	.45	62.5	0.0144
R	5S	2	2	0	120	FOF	5	1.8/9	120	3.75	.45	62.5	0.0144
X	5S	2	2	0	120	FOF	5	1.8/9	120	3.75	.45	62.5	0.0144
S	5S	4	2	0	240	FOF	5	3.6/1.8	120	3.75	.45	62.5	0.0288
U	6S	3/1.5	4	0	120	FRF	5	2.4/1.2	120	2.5	.6	41.67	0.0288
Y	6S	3/1.5	4	0	120	FRF	5	2.4/1.2	120	2.5	.6	41.67	0.0288
V	6S	7/3.5	4	0	277	FRF	5	5.54/2.77	120	2.5	.6	41.67	0.0664
Z	8S	2/1.	2	0	120	FRF	5	1.8/9	120	3.75	.45	62.5	0.0144
T	8S	4/2.	2	0	240	FRF	5	3.6/1.8	120	3.75	.45	62.5	0.0288
TOU	9S	6	3	0	120	FFF	5	3.6/1.8	120	5.0	.6	83.33	0.0216
TOU	9S	12	3	0	240	FFF	5		120	5.0	.6	83.33	0.0432
TOU	9S	12	3	0	277	FFF	5	8.31/4.15	120	5.0	.6	83.33	0.0498

* STANDARD FACTOR IS A NUMBER WHEN MULTIPLIED BY THE READING THE THERMAL STANDARD WILL RESULT IN THE READING OF A METER UNDER TEST (M.U.T.). THE METER UNDER TEST MUST BE 100% ACCURATE.

THE STANDARD FACTOR IS USED AS FOLLOWS: A GROUP OF 3-PHASE - 4W - 120V - WYE - FORM 14S METERS ARE TESTED AT 64 KW FOR A STANDARD READING OF 55.56.

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M.U.T.'S READINGS FOR 100%=50.5 X STANDARD FACTOR=50.5 (64/55.56)=50.5 X 1.152 = 58.18 KW

	M.U.T. KW - KW FOR 100%	62.5 - 58.18	X 100 = + 6.0%	STD-LAB
% FULL SCALE ERROR =	M.U.T. FULL SCALE KW	72		10/16/97

*NOTE:DO NOT ADJUST METER WITHIN +OR- 2%.

*NOTE:DO NOT DIVIDE BY THE "FULL SCALE" WHEN TESTING ELECTRONIC METER.

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February 20, 2004

Jon C. Moyle, Jr., Esq.
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Tallahassee, FL 32301

Re: Testing of Thermal Demand Meters

Dear Jon:

I am advised by FPL that George Brown has requested FPL to remove and test a number of thermal demand meters, primarily 1U thermal demand meters, but has expressed an objection to FPL's intention to test such meters utilizing the most recent 24 months average kw demand. FPL's methodology will result in a meter test that conforms with the requirements of Rule 25-6.052(2)(a), Florida Administrative Code. As in the past, Mr. Brown may attend any meter test for an FPL customer that he or his company has been authorized by the customer to represent.

Sincerely,



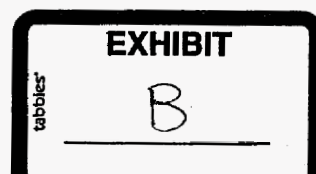
Kenneth A. Hoffman

KAH/rl

FPL\moyle.feb16ltr

MOYLE, PLANAGAN, KATZ,
RAYMOND & SHEFFMAN P.A.

FEB 23 2004



Recommendation by Dave Bromley to change the Witness Test – Test Procedure:

Recommendation:

Change the Witness Test – Test Procedure to evaluate the meter accuracy and the meter percent error the same way, using the customer's 24 month averaged demand as the value at which to perform the thermal demand test.

Current Situation:

Currently, the thermal demand meters are either tested at 40% or 80% of their full-scale value. For the 1V meters, there are two demand scales a 3.5 full scale and a 7.0 full scale. In order to facilitate bulk testing of the meters, the high scale and low scale meters are mixed on the ganged test fixture (max. 18, normally 12 meters). For the same value of energy running through all meters, the low scale meters will test at 80% full scale and the high scale meters will test at 40% full-scale value.

The percent accuracy is calculated as:

$$\text{Percent Meter Accuracy} = \frac{(\text{meter under test (kW)} - \text{reference meter (kW)})}{\text{full scale meter value}} \times 100\%$$

The percent meter accuracy is also used to determine the billing refund if the thermal demand tests above 4.0%.

ANSI C12.1 and the FAC support this method of determining the percent accuracy as explained above, but neither document clearly defines a method of adjusting the billing if a meter fails the test.

ANSI C12.1 says that the thermal meter accuracy test must be conducted at a value that is between 25% - 100% of full scale of the meter. Recently, FPL agreed that all witness test meters would be conducted at 80% full scale, regardless of the full-scale value (high or low).

The PSC:

At the past PSC hearing, the PSC Staff recommended a new method of determining the amount of refund if a thermal demand meter should test as over-registering, only for the 1V meters under that docket. The percent meter accuracy would still be determined by the method explained above. The recommended method would be to retest the demand portion of the meter at the highest and lowest values billed during the past 24 months and use a standard percent error calculation:

$$(\text{meter under test} / \text{reference meter}) \times 100\% = \text{percent error}$$

This would produce two test results, representing the percent error at the highest and lowest billed demand and these values would be averaged to determine the percent over-registration that would be refunded.

Example using Dave's Recommendation:

Step 1. Determine the customer's average demand registration over the past 24 months.

Step 2. Divide that demand value by the transformer ratio at that installation to find the percent of full scale that represents. Ideally this should be between 40% and 80% full scale.

Step 3. Test the meter at this calculated value.

Step 4. Calculate the percent meter accuracy of the meter, if it exceeds 4.0% accuracy (say 4.2%), calculate the refund at that same value as the percent meter accuracy.

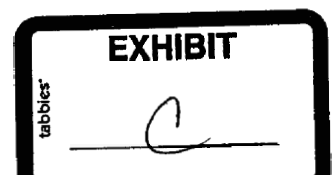
Impact:

Fewer meters might be tested at a time due to separating the high and low scale meters, grouping them and testing them at their average load value. This will increase the time for testing for MTC and the witnesses.

Fewer meters will fail the test than at 80% full-scale.

Testing at the customers' average load more accurately represents the thermal meters' operating point.

000305 TDM



1. Determine the number of years or time span for applicable refunds of overbilled customer accounts.

Refer to 25-6.103(1)

Rate class adjustment – consistent with current practices; for fast meters refer to 25-6.103(1)

2. Determine agreed causes for thermal meters to over register.

The same type of causes meters to over and under register

2 types of errors – measurement errors and dial setting inaccuracies (0 adjustment and full load adjustment)

3. Determine a method to validate that a meter change indicates a before and after energy pattern change, and the most representative time period to determine the degree of error.

This is not contemplated by the rules – rules refer to the use of the meter test to determine error

For 1V purposes/settlement purposes FPL used new meter history vs. same months in previous year(s)

4. Interpretation of various PSC rules pertaining to backbilling undercharges.

Rate class adjustment - For fast meters refer to 25-6.103(1)

5. Protocol for meter removal and testing.

The meters referenced above were part of the first group of 1V meters identified by Mr. Brown to be tested under F.A.C. 25-6.060 Meter Test - Referee. The boxes were transported to FPL's Meter Test Center via FEDEX. These eight meter boxes were accidentally opened because they were not recognized as meters subject to the "meter test - referee" rule. Approximately 1 week prior to the scheduled meter test for the first group of 1V meters (a total of 21 meters), FPL realized that 8 of the 21 meters scheduled for witnessed meter testing had not been accounted for by the Meter Test Center. After conducting a search, 1 meter was located in a supervisors office and the other 7 meters were located in storage bins, used to store all of the other non-referee 1V meters. All eight of these meters still had the uniquely numbered seal intact that was placed on the rear lugs of the meter at the time it was removed. Once located, these meters were immediately placed in a locked, secured room with the other meters to be witnessed. FPL has taken measures to assure that future boxes containing meters tested under F.A.C. 25-6.060 are more clearly marked and identified.

6. Discuss the reaction of thermal demand meters when exposed to solar radiant heating.

Refrigerator door – when cooled, demand meter exceeded appropriate measuring point

50 1V meter sample

100 1V meter sample

No other meter showed problem similar to Refrigerator Door problem

7. Have FPL disclose the purpose and process of changing 1U thermal demand meters.

Similar to the 4N, we do not want the 1V meters to become a population that fails

Therefore, we are removing approx. ½ this year and the remainder next year

We are planning to retain these meters for 6 months

000159 TDM

