

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaints by Southeastern Utilities)
Services, Inc., on behalf of Ocean Properties,)
Ltd., J.C. Penney Corp., Dillards Department)
Stores, Inc., Target Stores, Inc., and)
Southeastern Utilities Services, Inc., against)
Florida Power and Light Company concerning)
thermal demand meter error.)

Docket No.: 030623
Filed: September 8, 2004

MOTION TO AMEND PETITION
FOR FORMAL ADMINISTRATIVE HEARING

Target Stores, Inc. (one of the “Customers” in the above referenced docket), pursuant to Rule 28-106.202 and Rule 28-106.204, Florida Administrative Code, moves to amend its Petition for Formal Administrative Hearing to correct an error. The factual and legal grounds for this Motion are as follows:

1. Target Stores, Inc., along with other Customers and Southeastern Utility Services, Inc., filed a Petition for Formal Administrative Hearing on December 10, 2003, challenging certain actions of the Florida Public Service Commission (“FPSC”) set forth in the FPSC’s November 19, 2003 Proposed Agency Action, Order No. PSC-03-1320-PAA-EI.

2. Target identified, by store location (address and city), eight stores whose electric meters were affected by the PSC’s ruling.

3. Recently, while responding to discovery propounded by Florida Power & Light (“FPL”), Target became aware that it included one location in its Petition that it should not have, and omitted one store that should have been included in its Petition. Specifically, the Target Bonita Springs store, meter number 1V5774D, located at 26831 South Tamiami Trail, Bonita Springs, Florida was mistakenly included in the original Petition whereas the Target Boca Raton store, meter number 1V5885D, located at 21637 State Road 7, Boca Raton, should have been included in the original Petition. The meter at the Target Boca Raton store was tested by FPL on May 21, 2003 at 80% of full scale, and over registered demand +4.85 percent. It is this error in misidentifying these two meters that Target now seeks to correct with this Motion.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

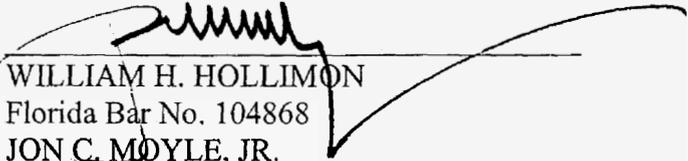
4. This error was an oversight, and Target would respectfully request that this Commission permit its original Petition to be amended to address this error as set forth in paragraph 3 above.

5. Target has contacted counsel for FPL and is authorized to represent that FPL opposes this motion. Target would not object to FPL taking any necessary and needed corrective action to reflect the inclusion of the Target Boca Raton store in this docket.

6. While FPL may argue that the PSC's previous PAA Order precludes the simple amendment sought by Target, FPL's argument would be more persuasive if a new party was attempting to insert itself into this case. Instead, Target simply seeks to amend its original Petition to insert the correct meter into the docket associated with its store in Boca Raton, Florida, something expressly allowed by Rule 28-106.202 F.A.C.

7. Case law supports the notion that leave to amend should be freely granted. Willard v. Willingham, 374 So.2d 556 (Fla. 4th DCA 1979). Customers and PSC staff have both filed testimony directed to the Boca Raton Target meter seeks to include in the docket and would not suffer prejudice.

WHEREFORE, for the foregoing reasons, Target respectfully requests the entry of an order permitting the amendment of its original petition as set forth in paragraph 3 of this motion.



WILLIAM H. HOLLIMON
Florida Bar No. 104868
JON C. MOYLE, JR.
State Bar No. 727016
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)
Attorneys for Target Stores, Inc.

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 the 8th day of September, 2004.

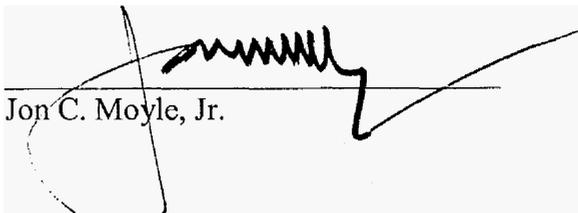
*Cochran Keating
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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
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.