

**ORIGINAL**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Proposed amendment of Rule 25-6.049, F.A.C., Measuring Customer Service.**

**DOCKET NO. 981104-EU  
FILED: June 18, 1999**

**POSTHEARING COMMENTS OF STAFF**

The staff of the Florida Public Service Commission submits the following posthearing comments on the proposed amendment of Rule 25-6.049, Florida Administrative Code:

The purpose of the hearing was to address a rule amendment proposed by staff at the February 2, 1999 Agenda Conference. The amendment was proposed as a clarification to Rule 25-6.049, Florida Administrative Code, concerning the applicability of the individual metering requirement to buildings whose construction commenced prior to January 1, 1981. The hearing convened initially on March 15, 1999 and was continued on May 5, 1999.

Staff proposed the rule amendment in response to Commission Order No. PSC-098-0449-FOF-EI issued on March 30, 1998 in Docket Number 971542-EI. In that docket, Florida Power Corporation (FPC) requested a declaratory statement on the applicability of the individual electric metering requirement to buildings whose construction commenced prior to 1981. In Order No. PSC-098-0449-FOF-EI, staff was instructed to initiate rulemaking to determine whether paragraph (5)(a) of Rule 25-6.049 should be amended to clarify the application of 1981 cut-off date.

**Docket No. 981452-EI**

At issue was whether the rule allowed those multiple-occupancy buildings that were built before 1981, but are currently individually metered by the utility, to convert to a single master meter. FPC's request cited a specific instance where they had allowed a pre-1981 residential condominium (Redington Towers Two) which was individually metered, to be converted to a master meter. FPC subsequently came to believe that this conversion request was granted in error, and should have been denied based on the requirements of the rule. FPC then denied requests by two similarly situated condominiums (Redington Towers One and Three) to convert to master metering. They subsequently filed a request for a declaratory statement that would clarify the meaning of the provision regarding pre-1981 buildings.

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- RRR \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

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FPC-RECORDS/REPORTING

The Redington Towers case involved two distinct interpretations of the rule for facilities constructed before January 1, 1981. The interpretation used by FPC to allow the Redington Towers Two conversion would essentially allow all pre-1981 buildings, regardless of whether they were originally master metered or individually metered, to opt for master metering at any time. This interpretation creates a special class of customers who, solely by virtue of their age, can choose between master and individual metering at any time.

The second interpretation views the pre-1981 language as a grandfather provision intended to mitigate any hardships that would have been created for existing master metered buildings at the time of the effective date of the individual metering requirement. The January 1, 1981 date was chosen to follow closely the November 26, 1980 effective date of the individual metering requirement in Rule 25-6.049, Florida Administrative Code. Under this interpretation, facilities that were master metered at the time the requirement for individual metering was imposed would not be forced to undergo potentially costly conversion to individual metering. However, the rule would not allow pre-1981 buildings to convert from existing individual metering to master metering. In these situations, the application of the new individual metering requirement imposes no conversion costs, because the facilities are already individually metered.

It is this latter interpretation that the Commission adopted in its order on FPC's request for a declaratory statement. In that order, the Commission declared that the individual occupancy units in Redington Towers Condominiums One and Three are not eligible for conversion to master metering. In addition, the Commission directed the staff to initiate rulemaking to decide whether paragraph 5(a) of Rule 25-6.049, Florida Administrative Code should be amended.

#### **Proposed Rule Change**

The staff's proposed amendment clarifies the pre-1981 provision in the rule to comport with the Commission's decision in the cases of Redington Towers One and Three by making clear that pre-1981 buildings that are currently individually metered by the utility are not eligible for conversion to master metering. Staff believes that this proposed rule amendment reflects the only logical interpretation of the pre-1981 provision. The pre-1981 provision was adopted to avoid imposing hardship on those facilities that were already master metered at the time the prohibition was enacted. It was not intended to allow the creation of additional master metered facilities.

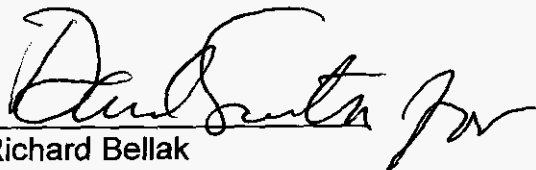
During the rule hearing there was some questioning of the staff regarding the origins and purposes of the prohibition against master metering found in Rule 25-6.049(5)(a), Florida Administrative Code. Staff believes that there are valid public policy goals that are

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advanced through the prohibition of master metering, including the encouragement of conservation and consumer protections; however, staff believes that a discussion of the merits of the master metering are not relevant to the proposed rule amendment that was the subject of this hearing, since the amendment merely clarifies the provisions of the existing rule with regard to buildings constructed before 1981.

Staff also believes that section 366.05(1), Florida Statutes should be included in the "Law Implemented" notice. That statutory section gives the commission the authority to prescribe "standards of quality and measurements," such as the individual metering requirement at issue.

Respectfully Submitted,



Richard Bellak  
Associate General Counsel  
Florida Bar No. 341851  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0862  
(850) 413-6092

1 **25-6.049 Measuring Customer Service.**

2 (1) All energy sold to customers shall be measured by  
3 commercially acceptable measuring devices owned and maintained by  
4 the utility, except where it is impractical to meter loads, such as  
5 street lighting, temporary or special installations, in which case  
6 the consumption may be calculated, or billed on demand or connected  
7 load rate or as provided in the utility's filed tariff.

8 (2) When there is more than one meter at a location the  
9 metering equipment shall be so tagged or plainly marked as to  
10 indicate the circuit metered. Where similar types of meters record  
11 different quantities, (kilowatt-hours and reactive power, for  
12 example), metering equipment shall be tagged or plainly marked to  
13 indicate what the meters are recording.

14 (3) Meters which are not direct reading shall have the  
15 multiplier plainly marked on the meter. All charts taken from  
16 recording meters shall be marked with the date of the record, the  
17 meter number, customer, and chart multiplier. The register ratio  
18 shall be marked on all meter registers. The watt-hour constant for  
19 the meter itself shall be placed on all watt-hour meters.

20 (4) Metering equipment shall not be set "fast" or "slow" to  
21 compensate for supply transformer or line losses.

22 (5) (a) Individual electric metering by the utility shall be  
23 required for each separate occupancy unit of ~~new~~ commercial  
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CODING: Words underlined are additions; words in  
~~struck through~~ type are deletions from existing law.

1 establishments, residential buildings, condominiums, cooperatives,  
2 marinas, and trailer, mobile home and recreational vehicle parks  
3 ~~for which construction is commenced after January 1, 1981.~~

4 Individual electric meters shall not, however, be required:  
5

6 1. For each separate occupancy unit of commercial establishments,  
7 residential buildings, condominiums, cooperatives, marinas, and  
8 trailer, mobile home and recreational vehicle parks for which  
9 construction commenced prior to January 1, 1981 and which are not  
10 currently individually metered.

11  
12 24. In those portions of a commercial establishment where the  
13 floor space dimensions or physical configuration of the units are  
14 subject to alteration, as evidenced by non-structural element  
15 partition walls, unless the utility determines that adequate  
16 provisions can be made to modify the metering to accurately reflect  
17 such alterations;

18 32. For electricity used in central heating, ventilating and air  
19 conditioning systems, or electric back up service to storage  
20 heating and cooling systems;

21 43. For electricity used in specialized-use housing accommodations  
22 such as hospitals, nursing homes, living facilities located on the  
23 same premises as, and operated in conjunction with, a nursing home  
24 or other health care facility providing at least the same level and  
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1 types of services as a nursing home, convalescent homes, facilities  
2 certificated under Chapter 651, Florida Statutes, college  
3 dormitories, convents, sorority houses, fraternity houses, motels,  
4 hotels, and similar facilities;

5 54. For separate, specially-designated areas for overnight  
6 occupancy at trailer, mobile home and recreational vehicle parks  
7 and marinas where permanent residency is not established.

8 65. For new and existing time-share plans, provided that all of  
9 the occupancy units which are served by the master meter or meters  
10 are committed to a time-share plan as defined in Section 721,  
11 Florida Statutes, and none of the occupancy units are used for  
12 permanent occupancy. When a time-share plan is converted from  
13 individual metering to master metering, the customer must reimburse  
14 the utility for the costs incurred by the utility for the  
15 conversion. These costs shall include, but not be limited to, the  
16 undepreciated cost of any existing distribution equipment which is  
17 removed or transferred to the ownership of the customer, plus the  
18 cost of removal or relocation of any distribution equipment, less  
19 the salvage value of any removed equipment.  
20

21 (b) For purposes of this rule:

22 1. "Occupancy unit" means that portion of any commercial  
23 establishment, single and multi-unit residential building, or  
24 trailer, mobile home or recreational vehicle park, or marina  
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1 which is set apart from the rest of such facility by clearly  
2 determinable boundaries as described in the rental, lease, or  
3 ownership agreement for such unit.

4 2. The construction of a new commercial establishment,  
5 residential building, marina, or trailer, mobile home or  
6 recreational vehicle park shall be deemed to commence on the  
7 date when the building structure permit is issued.

8 3. "Overnight Occupancy" means use of an occupancy unit for  
9 a short term such as per day or per week where permanent  
10 residency is not established.

11 4. The term "cost", as used herein means only those charges  
12 specifically authorized by the electric utility's tariff,  
13 including but not limited to the customer, energy, demand,  
14 fuel, and conservation charges made by the electric utility  
15 plus applicable taxes and fees to the customer of record  
16 responsible for the master meter payments. The term does not  
17 include late payment charges, returned check charges, the cost  
18 of the distribution system behind the master meter, the cost  
19 of billing, and other such costs.

20  
21 (6)(a) Where individual metering is not required under  
22 Subsection (5)(a) and master metering is used in lieu thereof,  
23 reasonable apportionment methods, including sub-metering may be  
24 used by the customer of record or the owner of such facility solely  
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1 for the purpose of allocating the cost of the electricity billed by  
2 the utility.

3 (b) Any fees or charges collected by a customer of record for  
4 electricity billed to the customer's account by the utility,  
5 whether based on the use of sub-metering or any other allocation  
6 method, shall be determined in a manner which reimburses the  
7 customer of record for no more than the customer's actual cost of  
8 electricity.

9  
10 (7) Each utility shall develop a standard policy governing  
11 the provisions of sub-metering as provided for herein. Such policy  
12 shall be filed by each utility as part of its tariffs. The policy  
13 shall have uniform application and shall be nondiscriminatory.

14 **Specific Authority 366.05(1) FS.**

15 **Law Implemented 366.05(3), 366.05(1), FS.**

16 **History--Amended 7-29-69, 11-26-80, 12-23-82, 12-28-83, Formerly**  
17 **25-6.49, Amended 7-14-87, 10-5-88, 3/23/97.**

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Customer Service. )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing  
Posthearing Comments of Staff have been furnished by U.S. Mail this  
18th day of June, 1999, to the following parties:

Jon C. Moyle, Jr.  
Moyle, Flanigan, Katz, Kolins,  
Raymond & Sheehan  
210 South Monroe Street  
Tallahassee, Florida 32301

Mark Laux  
101 North Monroe Street  
Suite 1060  
Tallahassee, Florida 32301

James A. McGee  
Florida Power Corporation  
Post Office Box 14042  
St. Petersburg, Florida 33733-4042

Kenneth A. Hoffman  
Rutledge, Ecenia, Underwood,  
Purnell & Hoffman  
Post Office Box 551  
Tallahassee, Florida 32302-1050



RICHARD BELLAK