

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Francisco
Mesa against Florida Power &
Light Company regarding alleged
unjustified charges for current
diversion.

DOCKET NO. 961179-EI
ORDER NO. PSC-97-0843-AS-EI
ISSUED: July 14, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

ORDER APPROVING SETTLEMENT AGREEMENT

BY THE COMMISSION:

On April 16, 1996, Francisco Mesa filed a complaint with the Commission's Division of Consumer Affairs concerning a bill received from Florida Power & Light Company (FPL) resulting from a meter tampering condition found at his residence. On April 22, 1996, FPL filed a report in response to Mr. Mesa's complaint. On September 13, 1996, an informal video teleconference was held with the parties and a member of the Commission staff in attendance. The parties failed to reach a settlement.

At the October 29, 1996, agenda conference, we considered addressing Mr. Mesa's complaint and FPL's report. Based upon check readings, FPL's customer records showing the usage billed, meter testing results, and the dimensions, location and appliances serving the house; we concluded that FPL had established prima facie evidence that meter tampering occurred and electricity was manually diverted at Mr. Mesa's residence from the period May 6, 1992, through February 19, 1996. We reviewed the methodology used by FPL to determine the back billed amount and found it to be reasonable. Therefore, on November 5, 1996, we issued Proposed Agency Action Order No. PSC-96-1333-FOF-EI, approving the back

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billing of Mr. Mesa's account for \$6,601.98, including investigative costs of \$323.46.

On November 26, 1996, Mr. Mesa timely filed a protest to our order. This case was then transferred to the Division of Administrative Hearings (DOAH). Thereafter, the parties reached a Settlement Agreement and on May 6, 1997, one day prior to the then scheduled DOAH hearing, Mr. Mesa filed a Voluntary Notice of Dismissal with Prejudice. On May 7, 1997, DOAH issued an order closing the file and canceling the hearing.

Pursuant to the Settlement Agreement, Mr. Mesa agreed to pay FPL \$6,601.98 (the settlement amount). The agreement provides that Mr. Mesa will pay an initial payment of \$3,300.99 on or before June 6, 1997, and \$1,100.33 per month due on or before the "New Charges Past Due" date indicated on Mr. Mesa's regular monthly bills from FPL commencing with the June 1997 monthly bill and continuing thereafter until the total sum plus all late charges are paid in full. In addition, the agreement provides that a late payment charge will be assessed in the amount of 1.5% per month on the unpaid balance. In the event that Mr. Mesa defaults on any payment, the agreement provides that the entire unpaid balance of the settlement amount shall be immediately due and payable and FPL may proceed with immediate disconnection of service in accordance with its tariff and our rules.

The settlement amount referred to in the agreement is the amount which we found was a reasonable back billing, including the investigative charge pursuant to our Proposed Agency Action Order No. PSC-96-1333-FOF-EI. The settlement agreement effectively establishes a payment plan, whereby the amount back billed by FPL will be recovered from Mr. Mesa.

Upon review, we find that the settlement agreement should be approved. The agreement requires that Mr. Mesa pay the entire amount owed for electric service which was consumed, but not billed during the period that meter tampering occurred. As the customer of record during this period, Mr. Mesa is responsible for all electric consumption at the residence. Moreover, the agreement is consistent with our policy which encourages settlement of disputes.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Settlement Agreement between Francisco Mesa and Florida Power & Light Company is hereby approved. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 14th day of July, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

VDJ

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.