



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED

DATE: JUNE 4, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO) ^{MAY 27 1998 10:10}

FROM: DIVISION OF LEGAL SERVICES (JAYE) ^{RVE}
 DIVISION OF CONSUMER AFFAIRS (DEMELLO) ^{RZT}
 DIVISION OF ELECTRIC AND GAS (GOAD) ^{RH}

RE: DOCKET NO. 970047-EI - COMPLAINT OF THOMAS W. HART AGAINST
 FLORIDA POWER & LIGHT COMPANY REGARDING BACKBILLING.

AGENDA: 06/16/98 - REGULAR AGENDA - POST HEARING DECISION -
 PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\970047.RCM
 THE ATTACHMENT INCLUDED WITH THE
 RECOMMENDATION IS NOT PART OF THE
 ELECTRONICALLY FILED VERSION

CASE BACKGROUND

On August 14, 1996, Mr. Thomas W. Hart contacted the Division of Consumer Affairs (Consumer Affairs) and complained that Florida Power & Light Company (FPL) had unjustly accused him of current diversion. Mr. Hart also disputed a bill in the amount of \$9,327.01 from FPL for usage not recorded or previously billed because of the alleged meter tampering. This amount also included FPL's investigative charges. An inquiry was taken and sent to FPL for a full report. On August 26, 1996, Consumer Affairs received a report from the company outlining the activities of the two parties in attempting to resolve the issue of current diversion and backbilling.

On September 30, 1996, Mr. Hart was notified by letter that, based on the information received by staff, the amount of FPL's

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rebilling appeared to be reasonable. On October 10, 1996, by letter, Mr. Hart requested an informal conference. The informal conference was held on Friday, December 6, 1996. In attendance were Mr. Hart, FPL representatives, and Consumer Affairs staff. No settlement was reached by the parties at the informal conference.

Staff filed a recommendation to the Commission February 4, 1997, which recommended dismissal of Mr. Hart's complaint. This recommendation was approved as proposed agency action in Order No. PSC-97-0215-FOF-EI issued on February 24, 1997. Mr. Hart timely protested the Order and the matter was referred to the Division of Administrative Hearings (DOAH). The Commission was granted leave to intervene.

While the matter was pending at DOAH, Mr. Hart and FPL reached a settlement. The agreement is attached as Attachment One to this Recommendation. This settlement disposed of the controversy and resulted in the dismissal with prejudice of Mr. Hart's case at DOAH. DOAH relinquished jurisdiction over the matter and returned the matter to the Commission for final disposition in an Order Closing File dated April 30, 1998.

DISCUSSION OF ISSUES

ISSUE 1: Should the Settlement Agreement between Mr. Thomas W. Hart and Florida Power & Light Company be approved?

RECOMMENDATION: Yes. Staff believes that the Settlement Agreement is a satisfactory resolution of the pending issues and comports with the requirements of Rule 25-22.032(11), Florida Administrative Code. Therefore, the Settlement Agreement should be approved. [JAYE]

STAFF ANALYSIS: The Settlement Agreement provides for payment of \$4,621.70, or approximately one half the backbilled amount. This sum is to be paid by Mr. Hart to FPL in monthly installments of \$400.00. FPL has waived the 1.5% late payment charge as long as Mr. Hart does not default on any monthly payments. If Mr. Hart defaults, the entire unpaid balance is due and payable, the late charge shall accrue, and FPL may proceed with immediate disconnection of electric service in accordance with its approved

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tariff and Commission Rules. The parties agree that this settlement is binding upon them. They have waived any right to further review by the Commission in accordance with Rule 25-22.032(11), Florida Administrative Code.

The parties agree that the Settlement Agreement is a satisfactory resolution of Docket No. 970047-EI. Staff believes that the Settlement Agreement complies with the requirement of Rule 25-22.032(11), Florida Administrative Code, requiring the Agreement must be binding upon the parties and that the parties waive any right to further review or action by the Commission.

Therefore, staff recommends that the Settlement Agreement be approved as a satisfactory resolution of the pending issues and as consistent with the requirements of Rule 25-22.032(11), Florida Administrative Code.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed. [JAYE]

STAFF ANALYSIS: No further action by the Commission is necessary in this docket. Therefore, this docket should be closed.

legal



Florida Power & Light Company, P. O. Box 029100, Miami, FL 33102-9100

(305) 552-4657



May 5, 1998

Beverlee DeMello, Director
Division of Consumer Affairs
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

FEDERAL EXPRESS

Re: **Complaint of Thomas W. Hart against Florida Power & Light Company
FPSC Docket No. 970047-EI**

Dear Ms. DeMello:

Pursuant to Rule 25-22.032 (11) enclosed for filing please find the original fully executed
Settlement Agreement for the above referenced matter.

Very truly yours,

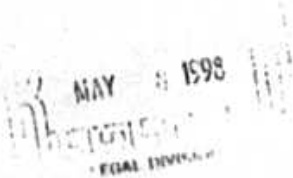
Robert E. Stone
Attorney

98 MAY -6 AM 12:02
MAIL ROOM

RES:bb

Enclosure

cc: Jeremy Koss, Esq.
Grace Jaye, Esq.



SETTLEMENT AGREEMENT

In Re: Complaint of Thomas W. Hart
against Florida Power & Light Company

FPSC Docket No. 970047-EI

THIS AGREEMENT is between Florida Power & Light Company (referred to as "FPL"), and Thomas W. Hart (referred to as "Customer").

FPL asserts a claim against Customer, based on the following facts and consideration: FPL backbilled the Customer in the amount of \$9,327.01 for unmetered electric usage and/or investigation charges at 301 NE 6th Court, Dania, FL 33004. The backbilling covered the period from June 21, 1998 through May 13, 1998. Customer has disputed the backbilling.

Both Parties to this Agreement wish to reach a full and final settlement of the backbilling dispute set forth above.

The Parties to this Agreement, in consideration of the mutual covenants and agreements to be performed, as set forth below, agree as follows:

1. Customer agrees to pay FPL the total sum of \$4,621.70 (referred to as "Settlement Amount"), as follows:

\$ 400.00 per month due on or before the "New Charges Past Due" date indicated on Customer's regular monthly bills from FPL commencing with the May, 1998 monthly bill and continuing monthly thereafter until the total sum of the Settlement Amount is paid in full. The late payment charge of 1.5% per month on the unpaid balance of the Settlement Amount is waived as long as the Customer does not default on the monthly payments. In the event the Customer defaults on any payment, the entire unpaid balance of the Settlement Amount shall be immediately due and payable, the late payment charge shall then accrue, and FPL may proceed with immediate disconnection of electric service in accordance with its approved tariff and the rules of the Florida Public Service Commission. The Customer understands these payments are in addition to Customer's regular monthly bills from FPL.

2. The parties agree to bear their own attorneys' fees and costs in this proceeding and in DOAH Case No. 97-1850.
3. The Parties agree that a satisfactory resolution regarding FPSC Docket No. 970047-EI has been reached and understand that the settlement is binding on both parties and that the parties waive any right to further review or action by the Florida Public Service Commission.

Dated 5/22/98, 1998.


Thomas W. Hart


Attorney for

Florida Power & Light Company

By: 

Title: INVESTIGATOR

 5/5/98
Robert E. Stone, Attorney for
Florida Power & Light Company