In re: Initiation of formal proceedings on Complaint No. 1109752E of Brenda Rodriguez against Duke Energy Florida, Inc. for alleged improper billing.

DOCKET NO. 140024-EI

DATED: January 8, 2015



## COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-14-0674-PCO-EI, filed December 5, 2014, the Staff of the Florida Public Service Commission files its Prehearing Statement.

## 1. All Known Witnesses

There are no known witnesses at this time.

## 2. All Known Exhibits

Exhibit No.	Description
(Staff-1)	Duke's responses to Staff's First Set of Interrogatories Nos. 1-6;
(Staff-2)	Duke's responses to Staff's First Request for Production of Documents 1-3

## 3. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

#### 4. Staff's Position on the Issues

ISSUE 1: Is there sufficient evidence that meter tampering occurred at the Rodriguez residence at 185 Anzio Drive, Kissimmee, Florida 34758 to permit Duke Energy Florida to back-bill the Rodriguez account for unmetered kilowatt hours?

POSITION: No position at this time.

**ISSUE 2:** If the answer to Issue 1 is yes, what is the appropriate back-billing period to be used in this case?

**POSITION:** No position at this time.

# COMMISSION STAFF'S PREHEARING STATEMENT DOCKET NO. 140024-EI PAGE 2

**ISSUE 3:** If the answer to Issue 1 is yes, what is the appropriate amount of back-billed charges?

**POSITION:** No position at this time.

**ISSUE 4:** If the answer to Issue 1 is yes, should investigative costs be charged, and if so, what is the appropriate amount?

**POSITION:** No position at this time.

**ISSUE 5:** If the answer to Issue 1 is yes, what are the total costs to be billed?

**POSITION:** No position at this time.

**ISSUE 6:** Are there any mitigating factors that should be taken into account in this case?

**POSITION:** No position at this time.

**ISSUE 7:** Should this docket be closed?

**POSITION:** No position at this time.

# 5. <u>Stipulated Issues</u>

None at this time.

# 6. Pending Motions

None at this time.

## 7. Pending Confidentiality Claims or Requests

None at this time.

#### 8. Objections to Witness Qualifications as an Expert

None at this time.

# 9. Compliance with Order No. PSC-14-0674-PCO-EI

Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

# COMMISSION STAFF'S PREHEARING STATEMENT DOCKET NO. 140024-EI PAGE 3

Respectfully submitted this 8th day of January, 2015.

/s/ Suzanne S. Brownless
SUZANNE S. BROWNLESS
STAFF COUNSEL
FLORIDA PUBLIC SERVICE COMMISSION
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
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In re: Initiation of formal proceedings on Complaint No. 1109752E of Brenda Rodriguez against Duke Energy Florida, Inc. for alleged improper billing.

DOCKET NO. 140024-EI

DATED: January 8, 2015

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of January, 2015, the original of STAFF'S PREHEARING STATEMENT has been filed with Office of Commission Clerk and one copy has been furnished by electronic mail to MATTHEW R. BERNIER, Esq., Duke Energy Florida, Inc., 106 East College Avenue, Suite 800, Tallahassee, Florida 32301, <a href="mailto:Matthew.Bernier@duke-energy.com">Matthew.Bernier@duke-energy.com</a>, and electronic and U.S. Mail to:

Brenda Rodriguez 185 Anzio Drive Kissimmee, Florida 34758 Notarybrenda67@yahoo.com

/s/ Suzanne S. Brownless

E-mail: sbrownle@psc.state.fl.us

SUZANNE S. BROWNLESS STAFF COUNSEL FLORIDA PUBLIC SERVICE COMMISSION Gerald L. Gunter Building 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 Telephone: (850) 413-6218

# Staff-1

DEF's Responses to Staff's First Set of Interrogatories (Nos. 1-6)

In re: Initiation of formal proceedings on Docket No.: 140024-EI Complaint No. 1109752E of Brenda Rodriguez against Duke Energy Florida, Inc. for alleged improper billing.

Filed: December 29, 2014

# **DUKE ENERGY FLORIDA, INC.'S** RESPONSE TO STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-6)

Duke Energy Florida, Inc. ("DEF") responds to Staff's First Set of Interrogatories (Nos. 1-6) as follows:

1. Please explain how Duke Energy Florida, Inc. (Duke) established that meter tampering had occurred at 185 Anzio Drive, Kissimmee, Florida 34758, Brenda Rodriguez's residence.

#### Response:

Upon investigation of Ms. Rodriguez's meter, DEF's Revenue Assurance Department discovered that Ms. Rodriguez's meter had been physically altered to register 0 KWh of consumption, a form of meter tampering known as "pin-tampering." Additionally, DEF's investigators noted that the meter had a broken inner seal, the meter had not been put back together correctly after the inner-seal was broken, and that the meter case was not locked into place correctly.

What does Duke consider to be the appropriate back-billing period to be used in this case?

# Response:

The back-billing time period includes August of 2010 through February of 2013.

3. What does Duke consider to be the appropriate amount of back-billed charges in this case?

# Response:

Ms. Rodriguez's account was billed for \$12,157.52 (meter consumption and Revenue Assurance fees). The total payments/credits applied to the account were \$4,174.08, leaving an unpaid balance of \$7,983.44.

4. What does Duke consider to be the appropriate amount of investigative charges in this case?

# Response:

Total investigation charges equaled \$312.40. \$300 for investigation time (4 hours) and \$12.40 for a security lock securing the meter base.

5. What is the statutory, rule or tariff basis for Duke to impose an investigative charge in this case?

## Response:

DEF's Commission-approved tariff, Third Revised Sheet No. 4.050, Section 5.04, provides: "Unauthorized connections to and tampering with the Company's meters or metering equipment, or indications or evidences thereof, shall subject the Customer to prosecution under the laws of the State of Florida, to adjustment of prior bills for services rendered and liability for payment of the adjusted amount, and to liability for reimbursement to the Company of all extra expenses incurred."

Further, Rate Schedule SC-1 (Service Charges), Section No. VI, Nineteenth Revised Sheet No. 6.110, "Investigation of Unauthorized Use Charge", provides: "The Customer shall be assessed a charge by the Company for reimbursement of all investigative expenses related to a premise for which the Customer has undertaken unauthorized use of service and the Company has not elected to seek full recovery by prosecution under the law. The charge shall not be less than \$75.00, and such charge may be assessed in lieu of proof of actual expenses incurred. In addition to this charge, the Customer is responsible for any damages to the Company's facilities, correction of measured consumption, and/or any other service charges which may be applicable."

6. Please explain why it took Duke approximately two years to investigate potential meter tampering at Ms. Rodriguez's residence even though Duke received two indicators of potential tampering of her meter during the billing period of June 23, 2010 to July 23, 2010.

## Response:

Each month, the Mobile Meter Reading Tamper Flag Report ("Report") provides thousands of leads for potential tampering in Duke Energy Florida's service territory. For example, from July 2012 to July 2013, the Report identified 45,489 potential leads. Not all leads that appear on the report will result in a tampering case. The digital meter technology is still relatively new and the reporting needs for identifying electric theft are still evolving. Therefore, there is a substantial amount of time and resources required to manually research and review the data before a field investigation takes place. Tamper Flags are not prioritized within the system, so DEF determined it was prudent to focus on accounts with larger number of flags in a given month in an effort to prioritize accounts where meter tampering was more likely; thus, DEF prioritized accounts with 6 or more flags.

During the first quarter of 2012, the Revenue Assurance Department discovered there was a new form of electric theft occurring involving the digital metering technology known as 'pin-tampering.' This deliberate act would reduce a customer's billed consumption to zero kWh. This was a new and advanced form of theft which had never been observed before, and which could occur without generating a large number of tamper flags. In April of 2012 a new report was requested in an effort to try and identify premises that could be engaged in this type of electric theft. An extensive review of the data was performed during June and July of 2012. This is the first time that DEF became aware that Ms. Rodriguez could be involved in meter tampering and electric theft but could not be sure until field investigations took place.

DEF involved law enforcement in the investigation phase of the field work which began in August and September of 2012. Due to resource limitations, DEF investigated these potential theft cases on a region-by-region basis. The Orange County area had the most potential instances of theft and in October 2012, 25 homes were visited and 10 were found to have their meters altered deliberately to reduce their billed usage. During November 2012 through January 2013, the Revenue Assurance and Billing Departments finalized calculations for the lost revenues on the impacted accounts and bills were sent to the customers.

DEF then began investigations in Osceola County (including Ms. Rodriguez's account) in February 2013. On March 20, 2013 the field visits occurred and Ms. Rodriguez's meter was identified as tampered with resulting in unauthorized use of the electric service.

Docket No. 140024-EI Duke's Response to Staff's First Set of Interrogatories Nos. 1-6 Staff Exhibit 1, Page 8 of 9

and

# **AFFIDAVIT**

STATE OF FLORIDA )
COUNTY OF SEMINOLE )
Before me, the undersigned authority, personally appeared MAXWELL D.
WRIGHT, who
( ) is personally known to me, or
(X) produced FICILIDA DI IVER LICENSE as identification and who,
being duly sworn, deposes and says that the foregoing answers to Interrogatory Nos. 1, 2, 3, 5, and
6 of Staff's First Set Of Interrogatories (Nos. 1-6) to Duke Energy Florida, Inc. in Docket No.
140024-EI are true and correct to the best of his knowledge, information and belief.
Signature  Maxwell Wright  Print name:  Runne Ascurance Supervisor  Title  12 26 14  Date  Notary Public  State of Florida

My commission Expires:



Docket No. 140024-EI Duke's Response to Staff's First Set of Interrogatories Nos. 1-6 Staff Exhibit 1, Page 9 of 9

# AFFIDAVIT

11	
STATE OF FLORIDA	
COUNTY OF PINELLAS	
Before me, the undersigned	authority, personally appeared CAROLYN E.
MURRAY, who	
(X) is personally known to me, or	
( ) produced	as identification and who,
being duly sworn, deposes and says that the	e foregoing answer to Interrogatory No. 4 of Staff's
First Set Of Interrogatories (Nos. 1-6) to Du	uke Energy Florida, Inc. in Docket No. 140024-EI is
true and correct to the best of her knowledg	ge, information and belief.
	Arrhyn E. Hurray  Signature  Arrhyn E. Murray  Print name:  Serior Contsum of Hairs Specials  Title  12/23/14  Date  Manlyn Clame Relation  Notary Public  State of Florida  My commission Expires: 6-24-17  MARILYN ELAINE HALSTON  MY COMMISSION #FF001274

(407) 398-0153

EXPIRES June 24, 2017

FloridaNotaryService.cem

# Staff-2

DEF's Responses to Staff's First Request for Production of Documents (Nos. 1-3)

In re: Initiation of formal proceedings on Complaint No. 1109752E of Brenda Rodriguez against Duke Energy Florida, Inc. for alleged improper billing.

Docket No. 140024-EI

Filed: December 29, 2014

# DUKE ENERGY FLORIDA, INC.'S RESPONSE TO STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-3)

Duke Energy Florida, Inc. ("DEF"), responds to Staff's First Request for Production of Documents (Nos. 1-3), as follows:

## DOCUMENTS REQUESTED

1. Please provide the workpapers used in answering Interrogatory No. 2.

#### RESPONSE:

Please see the attached documents bearing bates numbers DEF-14FL-00001 through DEF-FL-00003.

Please provide the workpapers used in answering Interrogatory No. 3.

#### RESPONSE:

Please see the attached documents bearing bates numbered DEF-14FL-00004 through DEF-14FL-00005.

3. Please provide the workpapers used in answering Interrogatory No. 4.

### RESPONSE:

### **Investigation Charges totaling \$312.40**

- \$150 2 hours in the field on March 20, 2013.
- \$150 2 hours in the office after the field investigation calculating back-bill amount.
- \$12.40 security lock used to secure meter base for 185 Anzio.
- Total = \$312.40.

Docket No. 140024-EI Duke's Response to Staff'sFirst Request for Documents Nos. 1-3 Staff Exhibit No. 2, Page 1 of 6

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136065521 REGULAR READING B 39290 2988 2007-02-22 2007-04-24 0 0 1 36065521 REGULAR READING B 42157 2867 2007-04-24 2007-05-23 0 0 1 36065521 REGULAR READING B 45630 3473 2007-05-23 2007-06-22 0 0 1 36065521 REGULAR READING B 49680 4050 2007-06-22 2007-07-24 0 0 1 36065521 REGULAR READING B 54024 4344 2007-07-24 2007-08-23 0 1 36065521 REGULAR READING B 58357 4333 2007-08-23 2007-09-24 0 1 36065521 REGULAR READING B 62410 4053 2007-09-24 2007-09-24 0 1 36065521 REGULAR READING B 62410 4053 2007-09-24 2007-10-24 0 1 36065521 REGULAR READING B 68494 2684 2007-11-27 0 0 1 36065521 REGULAR READING B 68494 2684 2007-11-27 2007-12-27 0 1 36065521 REGULAR READING B 68494 2684 2007-11-27 2007-12-27 0 1 36065521 REGULAR READING B 71097 2603 2007-12-27 2008-01-24 0 1 36065521 REGULAR READING B 73295 2198 2008-01-24 2008-02-22 0 DEF-14FL-00001			REGULAR READING	В	34013	2549				
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136065521 REGULAR READING B 49680 4050 2007-06-22 2007-07-24 0 136065521 REGULAR READING B 54024 4344 2007-07-24 2007-08-23 0 136065521 REGULAR READING B 58357 4333 2007-08-23 2007-09-24 0 136065521 REGULAR READING B 62410 4053 2007-09-24 2007-10-24 0 136065521 REGULAR READING B 65810 3400 2007-10-24 2007-11-27 0 136065521 REGULAR READING B 68494 2684 2007-11-27 2007-12-27 0 136065521 REGULAR READING B 68494 2684 2007-11-27 2007-12-27 0 136065521 REGULAR READING B 71097 2603 2007-12-27 2008-01-24 0 136065521 REGULAR READING B 73295 2198 2008-01-24 2008-02-22 0 DEF-14FL-00001			REGULAR READING	В	42157	2867			(7)	
136065521 REGULAR READING B 49680 4050 2007-06-22 2007-07-24 0 136065521 REGULAR READING B 54024 4344 2007-07-24 2007-08-23 0 136065521 REGULAR READING B 58357 4333 2007-08-23 2007-09-24 0 136065521 REGULAR READING B 62410 4053 2007-09-24 2007-10-24 0 136065521 REGULAR READING B 65810 3400 2007-10-24 2007-11-27 0 136065521 REGULAR READING B 68494 2684 2007-11-27 2007-12-27 0 136065521 REGULAR READING B 71097 2603 2007-12-27 2008-01-24 0 136065521 REGULAR READING B 73295 2198 2008-01-24 2008-02-22 0 DEF-14FL-00001			REGULAR READING	В	45630	3473				
136065521 REGULAR READING B 54024 4344 2007-07-24 2007-08-23 0 136065521 REGULAR READING B 58357 4333 2007-08-23 2007-09-24 0 136065521 REGULAR READING B 62410 4053 2007-09-24 2007-10-24 0 136065521 REGULAR READING B 65810 3400 2007-10-24 2007-11-27 0 136065521 REGULAR READING B 68494 2684 2007-11-27 2007-12-27 0 136065521 REGULAR READING B 71097 2603 2007-12-27 2008-01-24 0 136065521 REGULAR READING B 73295 2198 2008-01-24 2008-02-22 0 DEF-14FL-00001	ESTURE		REGULAR READING	В	49680	4050			0	
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Staff Exhibit No 2 Page 3 of 6	Request for Documents Nos. 1-3	Duke's Response to Staff'sFirst	Docket No. 140024-EI

BILL ACCT	PREMISE	SOURCE	S T A T U S		TOTAL KWH	FROM DATE	TO DATE	TOTAL KW
	136065521	REGULAR READING	Х	75715	2420	2008-02-22	2008-03-25	0
	136065521		-	75715	2420	2008-02-22	2008-03-25	0
100	136065521	REGULAR READING	В	78398	2683	2008-03-25	2008-04-25	0
	136065521	REGULAR READING	В В В	81351	2953	2008-04-25	2008-05-22	0
	136065521	REGULAR READING	В	85070	3719	2008-05-22	2008-06-23	0
	136065521	REGULAR READING		88565	3495	2008-06-23	2008-07-23	0
	136065521	REGULAR READING	B B	91881	3316	2008-07-23	2008-08-22	0
	136065521	REGULAR READING	В	96020	4139	2008-08-22	2008-09-24	0
	136065521	REGULAR READING	В	99236	3216	2008-09-24	2008-10-24	0
	136065521	REGULAR READING	В	1833	2597	2008-10-24	2008-11-25	0
	136065521	REGULAR READING	В	4673	2840	2008-11-25	2008-12-29	0
	136065521	REGULAR READING	В	7216	2543	2008-12-29		0
	136065521	REGULAR READING	В	9615	2399	2009-01-26		0
	136065521	REGULAR READING	В	12616	3001	2009-02-24	2009-03-25	0
	136065521	REGULAR READING	В	15875	3259	2009-03-25		0
	136065521	REGULAR READING	В	19763	3888	2009-04-24		0
	136065521	REGULAR READING	В	24026	4263	2009-05-26		0
	136065521	REGULAR READING	В	28532	4506	2009-06-24	2009-07-24	0
	136065521	REGULAR READING	В	32698	4166	2009-07-24		0
	136065521	REGULAR READING	В	36605	3907	2009-08-24	2009-09-25	0
	136065521	REGULAR READING	В	40566	3961	2009-09-25		0
	136065521	REGULAR READING	B B	43816	3250 2636	2009-10-26 2009-11-25	2009-11-25 2009-12-24	0
	136065521	REGULAR READING		46452	3339	2009-11-25	2010-01-25	0
	136065521 136065521	REGULAR READING	ВВ	49791 52072	2281	2010-01-25	2010-01-23	0
	136065521	REGULAR READING	X	54098	2026	2010-01-23	2010-02-23	0
	136065521	REGULAR READING REGULAR READING	В	54098	2026	2010-02-23	2010-03-24	Ö
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	136065521	REGULAR READING	В	59346	3026	2010-03-24	2010-05-25	ő
	136065521	REGULAR READING	В	62503	3157	2010-05-25	2010-06-23	ő
	136065521	REGULAR READING	В	65212	2709	2010-06-23		ŏ
	136065521	REGULAR READING	В	65212	0	2010-07-23		ő
	136065521	REGULAR READING	В	66508	1296	2010-08-24	2010-09-23	0
	136065521	REGULAR READING	В	69527	3019	2010-09-23		0
	136065521	REGULAR READING	В	71974	2447	2010-10-25		0
	136065521	REGULAR READING	В	73995	2021	2010-11-23	2010-12-23	0
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	136065521	REGULAR READING	В	73995	0	2011-01-24	2011-02-22	0
	136065521	REGULAR READING	В	73995	0	2011-02-22	2011-03-25	0
	136065521	REGULAR READING	В	73995	0	2011-03-25	2011-04-25	0
	136065521	REGULAR READING	В	73995	0	2011-04-25	2011-05-24	0
	136065521	REGULAR READING	В	73995	0	2011-05-24	2011-06-23	0
	136065521	REGULAR READING	В	73995	0	2011-06-23	2011-07-25	0
	136065521	REGULAR READING	В	73995	0	2011-07-25	2011-08-23	0
	136065521	REGULAR READING	В	73995	0	2011-08-23	2011-09-22	0
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	136065521	REGULAR READING	В	73995	0	2011-10-24	2011-11-23	0
	136065521	REGULAR READING	В	73995	0	2011-11-23	2011-12-23	0
	136065521	REGULAR READING	В	73995	0	2011-12-23	2012-01-24	0
	136065521	REGULAR READING	B B B	73995	0	2012-01-24	2012-02-22	0
	136065521	REGULAR READING	В	73995	0	2012-02-22	2012-03-23	0

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BILL A	CCT PREMIS	SE SOURCE		S T A T U S	READING	TOTAL KWH	FROM DATE	TO DATE	TOTAL KW
	13606552	21 REGULAR	READING	В	73995	0	2012-03-23	2012-04-24	0
	13606552	21 REGULAR	READING	В	73995	0	2012-04-24	2012-05-23	0
	13606552	21 REGULAR	READING	B B B B B	73995	0	2012-05-23	2012-06-22	0
E SHOW	13606552	21 REGULAR	READING	В	73995	0	2012-06-22	2012-07-24	0
	13606552	21 REGULAR	READING	В	73995	0	2012-07-24	2012-08-23	0
1 500	13606552	21 REGULAR	READING	В	73995	0	2012-08-23	2012-09-24	0
Total Street	13606552	21 REGULAR	READING	В	73995	0	2012-09-24	2012-10-24	0
	13606552	21 REGULAR	READING	В	73995	0	2012-10-24	2012-11-24	0
	13606552	21 REGULAR	READING	В	73995	0	2012-11-24	2012-12-26	0
THE .	13606552	21 REGULAR	READING	В	73995	0	2012-12-26	2013-01-24	0
	13606552	21 REGULAR	READING	В	73995	0	2013-01-24	2013-02-22	0

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### MISC ADJUSTMENT LAYOUT SHEET

Account	#		ļ				
REBILL	Rate 091	Name:	BRENDA	RODRIGUI	EZ-GUERR	Address:	185 ANZIO DR, << <rpi blue="">&gt; KISSIMMEE FL 34758</rpi>
200000000000000000000000000000000000000						Gross	

REBILL	Rate 091	Name:	BRENDAF	RODRIGUE	Z-GUERR		185 ANZIO	DR, << <rp< th=""><th>I BLUE&gt;&gt;</th><th>KISSIMME</th><th>E FL 3475</th><th>Ö</th><th></th><th>-</th><th></th><th></th><th>- V</th><th></th></rp<>	I BLUE>>	KISSIMME	E FL 3475	Ö		-			- V	
Month	Energy	ECCR	CCR	ECRC	Fuel	Gross Receipts	Cnty Utility											KWH
ug-Dec 2010	\$298.69	\$18.22	\$137.73	\$40.02	\$338.63	\$21.37											1 - 1	6,7
an-March 2011	\$224.17	\$15.14	\$77.33	\$24.86	\$246.55	\$15.08	\$39.20									-		5,0
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otal	\$522.86	400.00	\$215.06	****	\$585.18	\$36.45	\$95.52	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	11,8

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NAME

**BRENDA RODRIGUEZ-GUERRA** 

ACC#

**ADDRESS** 

185 ANZIO DR, KISSIMMEE FL 34758

MONTH	ORIGINAL KWH	CORRECT KWH	ORGINAL BILL	CORRCTED BILL
Apr-11	0	2222	\$9.70	\$285.76
May-11	0	3026	\$9.70	\$397.14
Jun-11	0	4263	\$9.70	\$568.53
Jul-11	0	4506	\$9.70	\$602.18
Aug-11	0	4166	\$9.70	\$555.09
Sep-11	0	3907	\$9.70	\$519.20
Oct-11	0	3961	\$9.70	\$526.68
Nov-11	0	3250	\$9.70	\$424.86
Dec-11	0	2636	\$9.70	\$339.79
Jan-12	0	3339	\$9.70	\$450.00
Feb-12	0	2281	\$9.70	\$299.37
Mar-12	0	2026	\$9.70	\$263.05
Apr-12	0	2222	\$9.70	\$294.28
May-12	0	3026	\$9.70	\$408.75
Jun-12	0	4263	\$9.70	\$584.87
Jul-12	0	4506	\$9.70	\$619.46
Aug-12	0	4166	\$9.70	\$571.07
Sep-12	0	3907	\$9.70	\$534.18
Oct-12	0	3961	\$9.70	\$541.87
Nov-12	0	3250	\$9.70	\$437.33
Dec-12	0	2636	\$9.70	\$349.90
Jan-13	0	3339	\$9.70	\$431.94
Feb-13	0	2281	\$9.70	\$286.51
Totals			\$223.10	\$10,291.81

\$10,068.71

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