

FLORIDA PUBLIC SERVICE COMMISSION

Item 4

VOTE SHEET

December 12, 2017

FILED 12/12/2017  
DOCUMENT NO. 10540-2017  
FPSC - COMMISSION CLERK

**Docket No. 20170138-EI** – Petition for initiation of formal proceedings pursuant to Rule 25-22.036, F.A.C., by Devonson A. Walker.

**Issue 1:** Should the Commission grant FPL’s Motion to Dismiss the Complaint?

**Recommendation:** The Commission should grant in part and deny in part FPL’s Motion to Dismiss the Complaint.

**APPROVED** *with Oral Modification .*

**Issue 2:** What is the appropriate disposition of Mr. Walker’s complaint?

**Recommendation:** Mr. Walker’s formal complaint should be denied. FPL properly handled Mr. Walker’s account in compliance with Commission rules, statutes, and orders and FPL’s tariffs.

**APPROVED**

**COMMISSIONERS ASSIGNED:** All Commissioners

**COMMISSIONERS’ SIGNATURES**

**MAJORITY**

**DISSENTING**

*[Handwritten signatures in blue ink on four lines]*

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**REMARKS/DISSENTING COMMENTS:**

*Oral Modification, assigned DN 10396-2017, is attached.*

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(Continued from previous page)

**Issue 3:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed agency action in Issue 2 files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

**APPROVED**

**Nickalus Holmes**

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**From:** Kathy Shoaf  
**Sent:** Thursday, December 07, 2017 9:54 AM  
**To:** Apryl Lynn; Braulio Baez; Cindy Muir; CLK - Agenda Staff; Commissioners & Staffs; Greg Shafer; John Plescow; Keith Hetrick; Mark Futrell; Mary Anne Helton; Pamela Page; Patti Daniel; Rhonda Hicks; Samantha Cibula  
**Cc:** Kate Hamrick; Jacqueline Moore; Nancy Harrison  
**Subject:** APPROVED - Oral Modification to Agenda Item No. 4 - Docket No. 20170138

Please see the [APPROVED Oral Modification to Agenda Item No. 4 - Docket No. 20170138](#) below.  
Thank you.

**Kathy Shoaf**  
Executive Assistant to  
Braulio Baez, Executive Director  
Florida Public Service Commission  
Telephone: (850)413-6053  
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**From:** Braulio Baez  
**Sent:** Thursday, December 07, 2017 9:36 AM  
**To:** Pamela Page  
**Cc:** Mark Futrell; Kathy Shoaf; Kate Hamrick; Keith Hetrick; Mary Anne Helton; Samantha Cibula; Rhonda Hicks; John Plescow; Cindy Muir  
**Subject:** Re: Oral Modification to Agenda Item No. 4 - Docket No. 20170138

Approved. Thanks

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Pamela Page <[PHPage@PSC.STATE.FL.US](mailto:PHPage@PSC.STATE.FL.US)>  
Date: 12/7/17 8:43 AM (GMT-05:00)  
To: Braulio Baez <[BBaez@PSC.STATE.FL.US](mailto:BBaez@PSC.STATE.FL.US)>  
Cc: Mark Futrell <[MFutrell@PSC.STATE.FL.US](mailto:MFutrell@PSC.STATE.FL.US)>, Kathy Shoaf <[kshoaf@psc.state.fl.us](mailto:kshoaf@psc.state.fl.us)>, Kate Hamrick <[KHamrick@psc.state.fl.us](mailto:KHamrick@psc.state.fl.us)>, Keith Hetrick <[khetrick@psc.state.fl.us](mailto:khetrick@psc.state.fl.us)>, Mary Anne Helton <[MHelton@PSC.STATE.FL.US](mailto:MHelton@PSC.STATE.FL.US)>, Samantha Cibula <[SCibula@PSC.STATE.FL.US](mailto:SCibula@PSC.STATE.FL.US)>, Rhonda Hicks <[RHicks@PSC.STATE.FL.US](mailto:RHicks@PSC.STATE.FL.US)>, John Plescow <[JPlescow@PSC.STATE.FL.US](mailto:JPlescow@PSC.STATE.FL.US)>, Cindy Muir <[CMuir@PSC.STATE.FL.US](mailto:CMuir@PSC.STATE.FL.US)>  
Subject: Oral Modification to Agenda Item No. 4 - Docket No. 20170138

Staff is seeking permission to make oral modifications to Item No. 4, Docket No. 20170318-EI, at the December 12, 2017 Agenda Conference. The purpose of the oral modifications is to remove references to FPL backbilling Mr. Walker's account, because the references do not accurately reflect FPL's actions. FPL did not backbill Mr. Walker; FPL billed him

based on a reasonable estimate of the energy used. Thus, staff is seeking permission to make the following oral modifications to its November 30, 2017 recommendation as reflected in type and strike below:

Last sentence of the first paragraph on page 2:

FPL ~~backbilled him on a reasonable estimate of the energy used~~ due to meter tampering at his premises and billed him for investigative costs related to FPL's investigation of the meter tampering.

Staff's recommendation for Issue 2 remains the same, but the following corrections are made to staff's analysis on page 5 for Issue 2:

**Staff Analysis:** Mr. Walker alleges that FPL ~~backbilled and overbilled him~~ for services not rendered. As discussed in more detail below, staff believes that FPL ~~backbilled~~ Mr. Walker's account on the basis of a reasonable estimate for electric service provided for which he did not pay due to unauthorized conditions at the meter site.

#### **Meter Tampering**

On March 7, 2016, ~~FPL disconnected Mr. Walker's electric service for nonpayment based upon a reduction in service usage. On the same day,~~ FPL's Revenue Protection Department initiated an investigation of meter tampering on Mr. Walker's premises. On April 4, 2016, an FPL service crew, accompanied by police, went to the service address and determined that at this time meter tampering had occurred. The FPL service crew observed that there was no meter in the meter can and unauthorized jumpers were providing Mr. Walker's premises with unmetered electric service. At this time, Mr. Walker's electric service was disconnected at the pole for nonpayment of energy used due to unauthorized jumpers.

On April 22, 2016, FPL billed Mr. Walker's account \$284.17 for current diversion investigative costs as provided in FPL's tariffs. The FPL service crew observed that the meter was missing and unauthorized jumpers were present at Mr. Walker's premises. However, FPL's current diversion investigation did not result in any photographs of the tampering. On October 10, 2016, staff notified FPL that because there were no photographs of the meter tampering, FPL should credit Mr. Walker's account balance for \$284.17 in investigative costs. On October 17, 2016, FPL issued a credit adjustment to Mr. Walker's account in the amount of \$284.17.

#### **Billing Backbilling**

Staff believes the FPL service crew's observation of the state of the meter is sufficient to conclude that unauthorized use of energy occurred at Mr. Walker's premises. Pursuant to Rule 25-6.104, F.A.C., FPL ~~backbilled~~ Mr. Walker's account based on a reasonable an estimate of the energy being used and not paid for because of the unauthorized use of energy through unauthorized jumpers. Staff reviewed the ~~backbilling~~ calculations and notified FPL of a mathematical error on the estimated calculation of kWh used from March 21, 2016, through April 4, 2016 ~~when the unauthorized use was discovered by FPL.~~ On November 4, 2016, FPL issued a credit adjustment on the account in the amount of \$38.44 due to FPL's miscalculation of the estimated kWh used from March 21, 2016, through April 4, 2016. Staff believes that with the credit adjustment issued by FPL on November 4, 2016, FPL's estimated backbilling of Mr. Walker's account comports with Rule 25-6.104, F.A.C.

Staff's conclusion for Issue 2 is changed as follows on page 6:

#### **Conclusion**

Mr. Walker alleges that FPL billed and overbilled him for services not rendered and he is due an additional refund or credit from FPL. Staff identified two areas of concern in the billing of Mr. Walker's account. As discussed above, when staff notified FPL regarding the current diversion investigative costs, FPL made a credit adjustment to Mr. Walker's account. FPL also issued a credit to Mr. Walker's account when advised by staff that a mathematical error had been made in FPL's calculation of the backbilling for unauthorized use of energy. Staff believes that FPL has properly handled Mr. Walker's account in compliance with Commission rules, statutes and orders and FPL's tariffs and that no additional refunds to Mr. Walker are required. Therefore, Mr. Walker's formal complaint should be denied.

*Pamela H. Page*

Senior Attorney

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