

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Mrs. Felicia)	DOCKET NO. 910287-EI
Perez against Florida Power and)	ORDER NO. 24346
Light Company regarding rebilling)	ISSUED: 4/10/91
for estimated usage of electricity)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING COMPLAINT REGARDING BACKBILLING

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On October 16, 1990, Mr. Juan Corzo filed a complaint with the Florida Public Service Commission Division of Consumer Affairs against Florida Power and Light Company (FPL). The complaint concerns a bill his mother, Mrs. Felicia Perez, received in the amount of \$3,619.40, for unbilled electricity and investigation expenses. Mr. Corzo filed the complaint on behalf of Mrs. Perez because Mrs. Perez speaks no English.

In a report dated October 24, 1990, FPL advised Consumer Affairs that a meter reader reported on August 23, 1990 that the meter disk at the Perez residence appeared to be running backwards. On August 28, 1990 a meterman inspected the meter and removed it for testing. A new meter was set on that date.

The removed meter was tested on September 10, 1990 and registered a weighted average accuracy of 43.34 percent. FPL noted that the inner seal was broken and the air gap was altered. In a supplemental report dated November 5, 1990, FPL explained that the size of the air gap would affect the accuracy of the meter. There is a dampening magnet within the meter. Its strength and position in relation to the disk are designed by the manufacturer. The reluctance between the poles is dependent upon the distance between them. The space between the poles is known as the air gap and is a high reluctance path between the poles.

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The air gap is set at the factory at .106 inches. A measurement of the air gap on the meter removed from the Perez residence taken by a digital outside micrometer showed a distance of .179 inches between poles. FPL maintains that this difference can only occur by a physical alteration of the meter. Widening of the air gap results in a loss of registration of usage.

FPL stated that the type of tampering done to this meter was such that the meter will always test the same percentage of accuracy. Since no inner moving parts were altered, the subsequent tests will not deviate from the 43.34 percent finding in the original test.

Mr. Corzo maintains that his parents knew nothing about the tampering and questioned the reliance on the utility's meter test as the basis for the backbilling. Mr. and Mrs. Perez have resided at this service address since April 9, 1976. A new meter was installed at this location in May of 1982.

We find that Mrs. Perez's electric meter was not registering the full amount of electricity consumed, due to the broken inner seal and tampered air gap. We find that FPL is permitted to backbill the customer for the estimated electricity consumed and investigative charges. Rule 25-6.104, F.A.C., provides that "In the event of unauthorized or fraudulent use, or meter tampering the utility may bill the customer on a reasonable estimate of the energy used." FPL rebilled Mrs. Perez's account from September 20, 1985 (the date from which records are available) through the date the tampered meter was removed. In addition to the usage rebilling, investigative expenses of \$221.97 were billed since the Perez's have been the only customers on that meter, and could not have inherited the condition.

Accordingly, the complaint of Felicia Perez against Florida Power and Light Company is hereby denied.

In consideration of the foregoing, it is

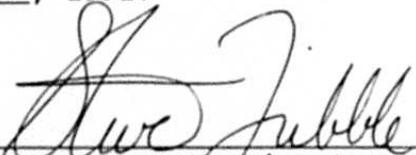
ORDERED by the Florida Public Service Commission that Felicia Perez's complaint against Florida Power and Light Company is hereby denied. It is further

ORDERED that the backbilled amount shall be paid as follows: \$1809.70 (one half the total due) is due immediately and the balance shall be paid in three monthly installments. It is further

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ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission this 10th day of APRIL, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 1, 1991.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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 of the effective date 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.