

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Serge) DOCKET NO. 960901-EI
Piquion Against Florida Power &) ORDER NO. PSC-96-1234-FOF-EI
Light Company Regarding Current) ISSUED: October 3, 1996
Diversion Backbilling.)
_____)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING RELIEF TO COMPLAINANT
AGAINST FLORIDA POWER & LIGHT COMPANY

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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On November 6, 1995, Mr. Jonathan S. Schwartz, from the Law Offices of Jonathan S. Schwartz, filed this complaint on behalf of Serge Piquion (customer or client). Mr. Schwartz argued that Florida Power & Light Company (FPL) had overbilled his client based on an apparent meter tampering condition at Mr. Piquion's residence at 19354 NW 28th Ct., Opa Locka, Florida 33056.

On December 1, 1995, we received a response to the complaint from FPL. In its response, FPL recited the following sequence of events:

- 1) FPL's records indicated that a new meter, number 5C30396, was set at this service address on November 1, 1981.
- 2) Mr. Piquion's service was connected on June 7, 1988.
- 3) On March 22, 1994, the FPL meterman reported a wire inserted through a hole in the bottom of the canopy of meter number 5C30396, stopping the rotation of the disk.

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FPSC-RECORDS/REPORTING

- 4) On March 25, 1994, a revenue protection investigator observed and documented a hole in the bottom of the meter canopy. However, at that time, the investigator found no object inserted through the hole.
- 5) On April 24, 1994, a revenue protection investigator found a wire inserted through a hole in the bottom of meter number 5C30396, stopping the rotation of the disk.
- 6) On April 26, 1994, the meter was removed and transported to the laboratory for testing.
- 7) On April 28, 1994, the laboratory test verified that with the wire in the meter canopy, the meter registered at 0%. Without the wire, the meter registered at 100%.
- 8) On August 31, 1995, the account was rebilled using the average percentage of usage calculation. FPL used the usage consumption for the period after the new meter was set in order to estimate the yearly average to be rebilled. FPL included the cost incurred in correcting the condition. The total amount rebilled was \$7,100.88, including \$314.99 for investigative costs.

Because the company could not identify the exact date upon which the manual current diversion condition started, the customer's account was rebilled from July 1988 to May 1994. This time period encompassed the entire period that Mr. Piquion has had service with FPL at 19354 NW 28th Ct., Opa Locka, Florida.

On May 24, 1996, Mr. David Finkelstein, Esquire, also from the Law Offices of Jonathan S. Schwartz, filed a request for an informal conference for Serge Piquion.

On June 28, 1996, an informal video teleconference was held with the customer's representative, David Finkelstein, and FPL representatives. Following the conference, Mr. Finkelstein asked that he be given until July 17, 1996, to make a post-conference filing. We received Mr. Finkelstein's filing on July 26, 1996. Therein, Mr. Finkelstein presented a recalculation of the contested bill and made a settlement offer of \$2,000 to FPL. After reviewing the offer, FPL rejected it and demanded full payment of the rebilled amount of \$7,100.88.

Decision

Mr. Piquion continues to maintain, through his representative, that he should not have been backbilled based on the evidence of meter tampering. Mr. Piquion asserts that he did not tamper with the meter, nor did he receive the benefit of the current diversion.

In addition to the evidence of meter tampering, FPL provided us with a kWh history summary for the residence at 19354 NW 28th Ct., Opa Locka, Florida, that shows extremely low usage from the time service was established in 1988 through the discovery of the tampered meter in April, 1994. After the new meter was installed, Mr. Piquion's kWh consumption more than doubled (May - September, 1994 vs. May - September, 1993). Based upon the evidence of meter tampering and the increased kWh usage following installation of the new meter, we find that sufficient evidence exists to believe that electricity was diverted to Mr. Piquion's residence at 19354 NW 28th Ct., Opa Locka, Florida. As the customer of record, Mr. Piquion is responsible for all electric consumption at that address.

FPL rebilled the Piquion account for the period July 1988, the customer connect date, through May 1994, when the current diversion was corrected. The percentage of usage formula was used to calculate the amount to be rebilled. The reading taken from the accurately registering meter was used to project an estimated yearly usage. FPL estimated the yearly usage to be 19,258 kilowatt hours (kWh). The estimated kWh amount was then rebilled for each full year that the diversion was in effect. The Piquion account was rebilled over a 71-month period for a usage amount of \$6,785.89, plus investigative costs of \$314.99, for a total bill of \$7,100.88. We find that FPL arrived at the amount to be rebilled properly and in accordance with Rule 25-6.104, Florida Administrative Code. Thus, Mr. Piquion shall be required to pay FPL the full rebilled amount of \$7,100.88.

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that Florida Power & Light Company has not overbilled Mr. Serge Piquion for usage at 19354 NW 28th Ct., Opa Locka, Florida. It is further

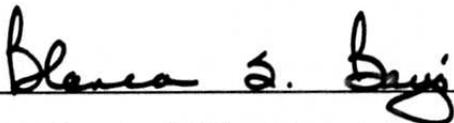
ORDERED that Florida Power & Light Company has calculated the amount to be rebilled to Mr. Serge Piquion in a manner consistent with Rule 25-6.104, Florida Administrative Code. It is further

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ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 3rd day of October, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

BC

DISSENT

Commissioner Johnson dissents from the decision in this Order.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 24, 1996.

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 substantially 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 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 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.