

Diamond Williams

110085 E1

From: Joe [attorneyjoe@aol.com]
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Subject: Electronic Filing - Mediterranean Manors Condominium/Progress Energy Florida
Attachments: PSC.FormalComplaint.pdf

Please see attached.

Sincerely,
Daniel J. Greenberg, Esq.

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3/28/2011

110085-E1

MEDITERRANEAN MANORS ASSOCIATION, INC.
a Florida not-for-profit corporation,
Petitioner,

vs.

PROGRESS ENERGY FLORIDA, INC., a Florida corporation,
Respondent.

_____ /

COMPLAINT AND INITIATION OF FORMAL PROCEEDINGS

Petitioner, MEDITERRANEAN MANORS ASSOCIATION, INC., (“Petitioner” or “Mediterranean Manors”) a Florida not-for-profit corporation, by and through its undersigned counsel, files this complaint against Respondent, PROGRESS ENERGY FLORIDA, INC., (“Respondent” or “Progress Energy”) a Florida corporation and alleges as follows:

JURISDICTION

1. This is a complaint seeking a declaratory judgment from the Public Service Commission concerning Respondent’s responsibilities under Florida Administrative Code and its Tariff.

2. Pursuant to Florida Administrative Code Section 25-6.033(1):

Each utility may adopt such additional non-discriminatory rules and regulations governing its relations with customers as are necessary and which are not inconsistent with these rules or orders of the Commission. Such rules and regulations shall constitute an integral part of the utility’s tariffs and shall be filed with them.

3. Pursuant to Florida Administrative Code Section 25-6.037:

Each utility, unless specifically relieved in any case by the Commission from such obligations, shall operate and maintain in safe, efficient, and proper condition, pursuant to the standards referenced herein, all of the facilities and equipment used in connection with the production transmission, distribution, regulation, and delivery of electricity to any customer up to the point of delivery. The utility is also responsible for the safe, efficient measurement of electrical consumption consistent with test procedures and accuracies prescribed by the Commission.

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4. The Public Service Commission has jurisdiction under Florida Administrative Code Section 25-6.004 to adjudicate a dispute concerning the above-referenced Code sections.

THE PARTIES

5. Petitioner, MEDITERRANEAN MANORS ASSOCIATION, INC., is a not-for-profit corporation incorporated under the laws of the State of Florida and doing business in Pinellas County, Florida, located at 2700 Bayshore Boulevard, Dunedin, FL 34698.

6. Respondent, PROGRESS ENERGY FLORIDA, INC., is a corporation incorporated under the laws of the State of Florida and doing business in Pinellas County, Florida, with its corporate office located at P.O. Box 1551, Raleigh, NC 27602-1551.

FACTUAL ALLEGATIONS

7. Mediterranean Manors is comprised of eleven Condominiums located in Dunedin, Florida, with a total of twenty-seven buildings that house four hundred units.

8. Respondent provides utility services to Mediterranean Manors.

9. In and around January 2006, Respondent undertook to repair a set of underground electrical cables running from a pad-mount transformer to the service entrance on buildings five and six of Mediterranean Condominium IX, which collectively house seventy-two units.

10. During the course of the 2006 repair, Respondent spliced and repaired the cable in question.

11. At the time of the 2006 repair, Respondent did not disclaim responsibility for maintaining or repairing the underground cable. Subsequent to the 2006 repair, Respondent has not provided any indication to Petitioner that it was not responsible for the underground cables.

12. Respondent continued to provide uninterrupted utility services to Mediterranean Manors after the 2006 repair, and neither Respondent nor any third party, including Petitioner, touched or disturbed the underground cables in any way.

13. On or about August 26, 2009, an electrical explosion occurred at the exact location of the 2006 repair. A jet of fire approximately five feet tall shot out of the ground.

14. Witnesses called 911 and the Dunedin Fire Department was dispatched to the scene. The Fire Department called Respondent and instructed them to shut the power off to the affected cable. It took Respondent approximately one hour to show up to the property, and approximately another two hours to shut the power off at the affected area.

15. On or about August 26, 2009, Petitioner and Respondent examined the cables, and three noticeable splices were observed in the cables in the immediate area of the explosion. At that time, Respondent informed Petitioner that Progress Energy was no longer responsible for the damaged cables.

16. As a result of Respondent disclaiming responsibility for its previous repair, Petitioner engaged Dunedin Electric to assume control of the situation.

17. Working through August 27, 2009, Dunedin Electric was able to make the necessary repairs, replacing the cables between the transformer and the meters and bringing the system up to code.

17. The total cost of the services performed by Dunedin Electric was approximately \$70,057.00.

18. Subsequently, a series of letters were exchanged between Mediterranean Manor's attorney, Respondent and the Public Service Commission (PSC). The message received from Respondent has been inconsistent at best. Respondent first categorized Mediterranean Manors as a commercial entity for purposes of interpreting the tariff. The PSC seemed to accept Respondent's characterization, as evidenced in its February 5, 2010 letter in which it refers to tariff section 1.1 for "underground service other than residential" and makes reference to the fact that Respondent "does not maintain existing, or run new underground commercial and industrial services."

19. Respondent subsequently has classified Mediterranean Manors as a multiple-occupancy residential building, but has steadfastly denied responsibility for the cables at issue. Mediterranean Manors would appear to fall under the residential classification for condominiums outlined in tariff section 1.02(1)(A). Section 1.02(1)(A) even provides a four-part test which Mediterranean Manors clearly meets.

RELIEF REQUESTED


20. A formal declaration from the Public Service Commission to resolve the following issues:

- a. How should Mediterranean Manors be classified under Respondent's Tariff?
- b. What is the appropriate point of delivery under Respondent's Tariff?
- c. Is Respondent responsible for maintenance of the underground electrical cables running from the pad-mount transformer to Petitioner's service entrance?
- d. Considering that Respondent undertook repairs to the cables in 2006, what duty did Respondent have to notify Petition that it would no longer be responsible for maintenance of the cables.

DATED this 23 day of March, 2011.

JOSEPH R. CIANFRONE, P.A.

By:



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