

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Jonathan V. Mauk against  
Progress Energy Florida, Inc.

DOCKET NO. 120057-EI  
ORDER NO. PSC-12-0530-PAA-EI  
ISSUED: October 4, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING COMPLAINT AND CLOSING DOCKET

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.

Background

Mr. Jonathan V. Mauk claims he has been overcharged by Progress Energy Florida, Inc. (PEF), for electric service for possibly as long as nine years. In accordance with Rule 25-22.032, Florida Administrative Code (F.A.C.), Mr. Mauk filed an informal complaint, Complaint No. 961496E, with the Bureau of Consumer Assistance (BCA) on August 16, 2010, concerning improper billing. The Informal Complaint No. 961496E was initially assigned to a Regulatory Specialist with the BCA Complaint Resolution Section. The following series of events took place subsequent to Mr. Mauk's informal complaint being assigned to the Regulatory Specialist:

- The Regulatory Specialist determined that Mr. Mauk's meter tested within this Commission's established guidelines, that his account had been properly billed, and that there was no basis for a credit adjustment to Mr. Mauk's Account;
- Mr. Mauk objected to this proposed resolution and requested that he speak with the Regulatory Specialist's supervisor. He spoke with the supervisor on September 10, 2010;

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- After speaking with Mr. Mauk, the supervisor transferred Informal Complaint No. 961496E to BCA's Process Review Section;
- In the Process Review Section, Mr. Mauk's complaint was assigned to a Regulatory Consultant with the BCA, of the Process Review Section;
- After further investigating the complaint, the Regulatory Consultant determined that Mr. Mauk's meter was accurately functioning and that his account had been billed properly, and no refund or credit adjustment to Mr. Mauk's account was warranted. The Regulatory Consultant's findings were presented to Mr. Mauk by letter dated October 6, 2010;
- As documented in the case file, on October 13, 2010, Mr. Mauk made further queries and expressed continued disagreement with the actions taken by the Regulatory Consultant;
- Subsequently, Mr. Mauk's complaint was further reviewed by the Regulatory Consultant's supervisor, a Regulatory Program Administrator;
- As documented in the Regulatory Program Administrator's administrative review letter to Mr. Mauk dated April 11, 2011, Mr. Mauk was once again advised that his account had been properly billed and no refund or credit adjustment was warranted. In the April 11, 2011, letter, Mr. Mauk was advised that the informal complaint process had concluded. He was further advised of his right to file a petition for formal proceedings if he was still not satisfied; and
- On April 26, 2011, Mr. Mauk filed his petition for formal complaint against PEF and Informal Complaint No. 961496E was closed on that same day.

Subsequently, Mr. Mauk's petition for formal proceedings was assigned Docket No. 120057-EI.

This Order addresses Mr. Mauk's petition for formal proceedings. We have jurisdiction pursuant to Sections 366.03, 366.04, and 366.05, Florida Statutes.

#### Formal Complaint

##### Mr. Mauk's Allegations

In his petition, Mr. Mauk states that on July 21, 2010, a PEF technician visited his residence, attached some type of device (voltage meter) on his meter, and told him that his meter dial was spinning much faster than allowed by law; therefore, he was being overbilled. He maintains that the technician told him his meter was "2 points" higher than the law allows, and that his old meter was taken away and a new meter was set in place.

Mr. Mauk states that PEF has no record of a meter replacement at this residence. He further maintains that although the actual meter is different from his old meter, the sticker number on it is the same as his old meter. According to Mr. Mauk, the meter was changed, the technician went to his truck and printed a sticker, returned and placed the sticker on his new meter. When he spoke with a PEF representative by telephone, he was told to read the number to the representative from the meter which was found on the sticker the technician had placed on

his meter. The telephone representative confirmed that the number matched with the information in PEF's files.

The customer further states that during several independent tests he conducted on his own meter, his meter registered more kilowatt hours (kWh) when all appliances were turned off versus when all appliances were on and running. Further, Mr. Mauk stated that he wanted a monetary settlement for his overbilling, and a thorough kWh usage comparison for the full period. He believes that this was intentionally perpetrated so that PEF could cover up the fact that his old meter was defective and running fast, so the company would not have to reimburse him for overbilled consumption. Mr. Mauk stated that he has asked several times for the technicians' names that have visited his residence to test and replace the meter, and that PEF refuses to provide him that information.

#### PEF's Response

In response to our staff's data request, PEF states that its technician tested the meter (Meter No. 1612179) on July 21, 2010. However, PEF alleges that the meter was found to be functioning within our guidelines and was accurately recording usage. Specifically, the tests showed that at full load the meter was registering at 100.07%, and at light load it was registering at 99.95%, with a weighted average of 100.05%. Further, the PEF technician that tested the meter on July 21, 2010, has submitted an affidavit stating that he was the one that tested the meter, and that he did not replace the meter on July 21, 2010, or any date thereafter. PEF states that Meter No. 1612179 was installed on December 28, 2005, has not been replaced, and is still in service to date. PEF also notes that the meter number is affixed by the manufacturer (Itron).

#### Analysis and Conclusion

As stated above, three different Commission staff members have investigated Mr. Mauk's complaint. All three staff members determined that the meter had not been changed since 2005 and that its calibrations were within tolerances set by the rules of this Commission. Further, all three staff members determined that PEF had billed Mr. Mauk at the prescribed rates. Mr. Mauk insists that the meter has been changed out. However, the technician who made the service call on July 21, 2010, filed an affidavit that he did not change out the meter on that date (or any other date). Finally, we note that the meter number is affixed by the manufacturer (Itron), and the meter number corresponds to the number of the meter that was installed in 2005. Based on all the above, we find that the complaint shall be denied based on lack of proof from Mr. Mauk.

Based on the foregoing, it is

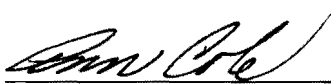
ORDERED by the Florida Public Service Commission that the formal complaint of Jonathan V. Mauk is denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by

the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of this Proposed Agency Action Order, a Consummating Order will be issued, and the docket shall be closed.

By ORDER of the Florida Public Service Commission this 4th day of October, 2012.



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ANN COLE  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

RRJ

#### NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 25, 2012.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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