

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Jesus) DOCKET NO. 910670-EI
Fernandez against FLORIDA POWER) ORDER NO. PSC-92-0566-FOF-EI
AND LIGHT COMPANY regarding) ISSUED: 06/24/92
Current Diversion/Meter)
Tampering Rebilling for Est-)
imated Usage of Electricity)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER DISAPPROVING SETTLEMENT

BY THE COMMISSION:

This docket was opened after Mr. Fernandez objected to Staff's preliminary finding that Florida Power and Light Company (FPL) was correct in backbilling Mr. Fernandez \$9,880.94 for estimated electricity consumed but not metered. The Commission issued Order No. 24767 adopting Staff's recommendation that the backbilling was proper. Mr. Fernandez protested the Notice of Proposed Agency Action and the matter was referred to the Division of Administrative Hearings. At the beginning of the hearing, the parties announced that they had reached a negotiated settlement providing for the payment of \$4,500.00 to FPL by Mr. Fernandez. The Division of Administrative Hearings relinquished jurisdiction to the Public Service Commission. An executed settlement agreement was filed with the Commission on May 6, 1992.

Rule 25-22.032(11), F.A.C. requires that the Commission approve the settlement agreement. A copy of the Agreement is attached as Exhibit "A". Rule 25-22.032(11), F.A.C. requires that the agreement "shall indicate that the settlement is binding on both parties and that the parties waive any right to further review or action by the Commission." No such language is found in or reasonably implied by the agreement. Moreover, the agreement refers to "the unpaid current diversion balance" without specifying which amount (\$9,880.94 or \$4,500.00) is meant. Therefore, we must and hereby disapprove the Settlement Agreement. The parties shall resubmit an agreement or addendum to the Settlement Agreement conforming to the requirements of Rule 25-22.032(11), F.A.C. and

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confirming the fact that "the unpaid current diversion balance" is agreed by both parties to mean the \$4,500.00 amount, if correct.

Based on the foregoing, it is

ORDERED that Jesus Fernandez and Florida Power and Light Company shall resubmit an agreement or addendum to the Settlement Agreement conforming to the requirements of Rule 25-22.032(11), F.A.C. and confirming the fact that "the unpaid current diversion balance" is agreed by both parties to mean the \$4,500.00 amount, if correct, no later than thirty days from the date of this Order.

By ORDER of the Florida Public Service Commission, this 24th day of June, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

by: Kay Ferguson
Chief, Bureau of Records

(S E A L)

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.