

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 920160-EI
tampered meter retention/) ORDER NO. PSC-92-0655-FOF-EI
disposal policies of FLORIDA) ISSUED: 07/13/92
POWER AND LIGHT COMPANY)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING RETENTION POLICY AND
REQUIRING NOTICE TO CUSTOMERS

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.

This docket was opened at the request of Staff after a customer of Florida Power and Light Company (FPL) of Arturo Taboada, was back billed in excess of \$5,000.00 based on a tampered meter (Docket No. 900643-EI) Mr. Taboada's meter was disposed of pursuant to FPL's meter retention policy. He argued that FPL's failure to retain the meter should have prevented them from rendering a backbilling. In the Recommended Order from the Division of Administrative Hearings, the Hearing Officer found that FPL presented sufficient evidence of the meter's condition and accuracy (the meter reader's and tester's testimony, plus reports of their results) to support the fact that the meter was only registering approximately one-third of the actual consumption. The Hearing Officer found the backbilling to be proper. That case is now final (Order Nos. 25330 and 25681). While there were extenuating circumstances in the Taboada case, ie, Mr. Taboada did not actively pursue the case for some time, we are sympathetic to his concern that he was effectively foreclosed from challenging the results of the meter test. At the same time, we do not believe FPL, and more importantly its rate-payers, should bear the expense of storing tampered meters indefinitely. On average, FPL has approximately 2,800 tampered meters in inventory.

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No specific time period for retaining tampered meters has been established by law. In the event of a detected diversion condition resulting in a backbilling, FPL's policy is that the meter will be retained until:

- a) The bill is paid in full, or
- b) Two payments have been received toward approved payment arrangements, or
- c) The customer has been final billed over ninety days, no payment received and the customers' location is unknown.

In the event that the company receives a complaint filed by the customer with the Public Service Commission the meter is "tagged" and retain until the complaint proceeding is final. In the case of Mr. Taboada, his first contact with the PSC was more than four months after the final bill was rendered. Thus, the meter was destroyed pursuant to subparagraph "C". No provision of Florida Statutes, Florida Administrative Code or FPL's tariff requires that tampered meters be retained for any period of time. We find that FPL's current retention policy is adequate.

Rule 25-6.059(4), F.A.C. allows a customer to have his meter tested by an independent meter testing facility of his choice at his expense. In no circumstance is this right more important than when a customer is being backbilled thousands of dollars based on a meter not properly registering consumption. We believe that the interests of justice and fundamental fairness require the utility to inform the customer of this right in these type circumstances.

Currently, FPL sends one of three notices to its backbilled customers advising them that a backbilling has been rendered based on an improperly registering or tampered meter. We find that a paragraph should be added to each notice (as appropriate) advising the customer of his right pursuant to Rule 25-6.059(4) to have the meter tested at his expense and that if he fails to act within the stated time period the meter will be destroyed. This action would add little or no expense to the utility or its general body of ratepayers while enhancing the fairness of the process.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that FPL's meter retention policy as outlined in this Order is in compliance with applicable law. It is further

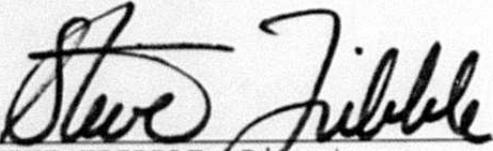
ORDERED that FPL shall include with each backbilling notice to the customer of his right pursuant to Rule 25-6.059(4), F.A.C. to

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have his meter tested by an independent testing facility at the customer's expense. It is further

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 13th day of July, 1992.



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 August 3, 1992.

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 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.