

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Mr. Eddy) DOCKET NO. 960726-EI
Grosse against Florida Power &) ORDER NO. PSC-96-0998-FOF-EI
Light Company concerning billing) ISSUED: August 5, 1996
for electric use at customer's)
rental property.)
_____)

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 AFFIRMING LIABILITY FOR UNPAID BALANCE

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.

CASE BACKGROUND

On March 12, 1996, Mr. Eddy Grosse filed a complaint with the Public Service Commission's Division of Consumer Affairs (CAF). Mr. Grosse objected to Florida Power & Light Company (FPL) transferring unpaid balances from FPL accounts at rental properties he owns to his residential account. Mr. Grosse stated that his tenants had the electric service in their name and that he was not the customer of record at the rental properties.

FPL's report to CAF stated that Mr. Grosse was the customer of record on three accounts that were transferred to his residential account on February 9, 1996. The accounts were:

1. Account #72037-41421, 2231 Filmore Street, #HSE, Miramar, Florida. Active from June 16, 1994 until September 19, 1995

DOCUMENT NUMBER-DATE

08168 AUG-5 96

FPSC-RECORDS/REPORTING

2. Account #87065-27135, 2231 Filmore Street, Apartment 5, Miramar, Florida. Active from April 11, 1995 until August 18, 1995
3. Account #02301-46474, 2233 Filmore Street, Miramar, Florida. Active from September 19, 1994 until August 18, 1995

FPL stated that the accounts were opened in Mr. Grosse's name and deposits were waived by referencing Mr. Grosse's residential account.

Final bills on the three accounts were left unpaid so the balances were transferred to Mr. Grosse's residential account at 3501 South 130th Avenue, Miramar, Florida. The transferred balance of \$871.12 consisted of:

1. \$172.19 from account #87065-27135.
2. \$197.61 from account #02301-46474.
3. \$501.32 from account #72037-41421.

The bills for the accounts in question came directly to Mr. Grosse's office at 1689 North Hiatus Road, Pembroke Pines. Mr. Grosse issued checks in payment of the accounts without questioning their validity.

On April 1, 1996, Mr. Grosse was advised that based on the information reviewed by CAF staff, it appeared that the accounts were established by Mr. Grosse. Therefore, FPL was not in violation of the rules of the Florida Public Service Commission in transferring the outstanding balances to Mr. Grosse's account. Pursuant to Mr. Grosse's request an informal conference was held on June 3, 1996. No resolution was achieved at the informal conference.

DECISION

According to FPL records, the three accounts in question were opened using Mr. Grosse's Social Security number. Deposits were waived since Mr. Grosse was a previous customer. Bills were mailed to Mr. Grosse's office. FPL provided copies of checks used to pay the three accounts. The checks were drawn on an account in the name of Tridessus, Inc. of which Mr. Grosse is president. The checks were signed by Mr. Grosse.

Since the bills for the three accounts in question came to Mr. Grosse's office at 1689 N. Hiatus Road, Pembroke Pines, checks bearing his signature and the account numbers of the three accounts were used to pay the bills, Mr. Grosse knew, or should have known, that the accounts were open in his name. His failure to question FPL concerning the validity of the accounts over a period beginning in June, 1994, and continuing until February 9, 1996, suggests that Mr. Grosse was in agreement that the accounts were legitimate.

Mr. Grosse stated that his agreement with his tenants was that the tenant would establish electric service in the tenant's name. Mr. Grosse was not able to produce a copy of leases in which his tenants agreed to such an arrangement. Mr. Grosse provided copies of rent receipts bearing a note stating that the customer was "responsible for her own utilities." The receipts did not bear the signature of the tenants.

FPL Tariff Number 1.5 states, "The company may refuse or discontinue service for failure to settle, in full, all prior indebtedness incurred by any Customer(s) for the same class of service at any one or more locations of such Customer(s)." FPL has demonstrated that accounts in Mr. Grosse's name were not paid in full and constitute prior indebtedness.

Rule 25-6.105(5)(g), Florida Administrative Code, authorizes an electric utility to discontinue service "for nonpayment of bills or noncompliance with the utilities rules and regulations, and only after there has been a diligent attempt to have the customer comply, including at least 5 working days' written notice..." Therefore, if Mr. Grosse fails to pay the outstanding balance on the accounts at the rental properties, FPL will be justified in discontinuing service at his residence.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Mr. Eddy Grosse, as discussed in the body of this Order, is liable for the unpaid balance of \$871.12. It is further

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

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

By ORDER of the Florida Public Service Commission, this 5th day of August, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay J. [Signature]
Chief, Bureau of Records

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 26, 1996.

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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.