

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

July 23, 1993

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES (CHRISTY) *MKG*
DIVISION OF CONSUMER AFFAIRS (STOKES) *AS*
DIVISION OF ELECTRIC AND GAS (BERG) *VBB* *MP* *RLT*

RE : DOCKET NO. 930688-EI - COMPLAINT OF FADYLLA
ABDALLAH AGAINST FLORIDA POWER AND LIGHT
COMPANY REGARDING BACKBILLING FOR ESTIMATED
USAGE OF ELECTRIC CONSUMPTION.

AGENDA: August 17, 1993 - CONTROVERSIAL - PROPOSED
AGENCY ACTION - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

FILE NAME: 930688EI.RCM

CASE BACKGROUND

A complaint was filed with the Public Service Commission's Division of Consumer Affairs on August 7, 1992 by Fadylla Abdallah against Florida Power and Light Company (FPL). The customer stated her account was backbilled for over \$4,000 for current diversion, and she believed the backbilling was improper and requested an investigation.

On August 21, 1992, FPL advised Consumer Affairs that on June 5, 1992, a meter reader observed the meter at Mrs. Abdallah's residence, and reported dial tampering, unknown equipment, disk turning, and missing meter seal. On June 12, 1992, an attempt was made to inspect the meter, but the room that the meter was in was locked. The meter was removed on July 6, 1992, and further observation revealed that the inner meter seal was missing, drag marks on bottom of the disk, and the disk wasn't turning. On July 8, 1992, the meter was tested, and the results indicated that the inner seal was missing, shiny blades, drag marks on the bottom of the disk, tampered bearing screw bottom, and lowered disk. The meter was registering at 8.42% average accuracy, and FPL believes that the current diversion was an inherited condition.

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FPL states the customer's initial service connection date was July 2, 1987, and the average percentage of usage and follow-up meter readings were used to backbill the account \$4,723.81 from July 1987 to July 1992 for 53,998 kilowatt hours (KWH). A new meter was set on July 6, 1992, and the meter reading was checked on July 7 indicating that 60 KWH had been used. That usage was used to established the projected usage of 1800 KWH for July 1992 (60 KWH x 30 days = 1800 KWH). On July 22, 1992, the reading was checked again indicating that 1,049 KWH had been used since the July 7 reading. That usage was then used to established the August 1992 projected usage of 2100 KWH (1049 KWH divided by 15 days = 70 KWH x 30 days = 2100 KWH). The monthly percentages were applied on the July and August 1992 projected usage resulting in a yearly average of 18,447 KWH (1800 KWH divided by 10.14% = 17751 KWH (July) and 2100 KWH divided by 10.97% = 19143 KWH (August) = 36894 KWH divided by 2 = 18447 KWH). The yearly average was multiplied by the monthly percentages from July 1987 to July 1992.

On November 20, 1992, staff advised Mrs. Fadylla Abdallah by letter that FPL had acted properly in calculating the backbilling, but the letter was returned on December 2, 1992. On February 2, 1993, the customer called using a translator and requested a copy of the letter be faxed to her. On March 31, 1993, Consumer Affairs received a letter from the customer's attorney, Mr. David Lawrence, requesting an informal conference on her complaint. The conference, pursuant to Commission rules, was conducted by staff on May 24, 1993 in Miami.

At the conference, Mrs. Abdallah used her brother-in-law, Antonio Vila, as a translator, and she stated that she's using less power now after the new meter was installed. She said that she has a gas stove, her water heater is set at 110 degrees, her air conditioner is only used sometimes, and she has no large electric appliances. She was also concerned about the time it took the company to find the problem, and didn't feel that she should be responsible for payment of the backbilling.

FPL explained that due to the inherited diversion, her billing since the connection date wasn't based on actual usage. FPL stated that when a disk is raised or lowered, the meter will register over a period of time. However, the meter will get so bad over the years that it will gradually come to a complete stop. That's why Mrs. Abdallah was billed for only three kilowatt hours on June 5, 1993. FPL pointed out that her usage for one month after the new meter was set was for 1,777 KWH--more than any usage since her connection date, and customers usually decrease their consumption once they receive a high bill.

Staff attempted to negotiate a settlement between the parties, but no agreement was reached.

Staff received a report from FPL on July 8, 1993 stating that Mrs. Abdallah was contacted on July 7, 1993, and she stated that she will not agree to pay any portion of the backbilling. The report stated Mrs. Abdallah was advised that the negotiations were over, and the total backbilling must be paid.

DISCUSSION OF ISSUES

ISSUE 1: Was FPL proper in backbilling Mrs. Abdallah's account for estimated usage of electric consumption?

RECOMMENDATION: Yes, FPL properly backbilled the customer for estimated usage of electric consumption.

STAFF ANALYSIS Rule 25-6.104, F.A.C., provides that "In the event of unauthorized or fraudulent use, or meter tampering, the utility may bill the customer on a reasonable estimate of the energy used." There is no evidence to support Mrs. Abdallah's belief that she shouldn't pay the backbilling. After the new meter was installed on July 6, 1993, her first month's usage was higher than any consumption since her connection date.

The meter observation revealed that the inner seal was missing, shiny blades, drag marks on the bottom of the disk, tampered bearing screw bottom, disk wasn't turning, and lowered disk. Due to the meter condition, it apparently continued to slow down over the years until it stopped registering. Therefore, it appears that the customer received direct benefit from the current diversion and unbilled electricity. Accordingly, it is recommended that the Commission find that FPL acted properly in backbilling the customer's account.

ISSUE 2: Is the amount backbilled reasonable?

RECOMMENDATION: Yes, the amount is reasonable.

STAFF ANALYSIS: The backbilled amount was calculated using the approved monthly seasonal percentage of usage chart and actual usage from meter readings taken on July 7, 1993 and July 22, 1993. The projected yearly average in 1992 was 18,447 KWH, and the yearly average was applied to the percentages for each month on the seasonal average chart from July 1987 to July 1992. The seasonal average chart was developed by taking the number of KWHS sold to all residential customers in Mrs. Abdallah's service area and dividing it by the number of residential customers to calculate a

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percentage figure (factor) used during each month of a year resulting in a backbilling of amount of \$4,723.81 for a five-year period.

Since the meter test indicated that the meter was only registering 8.42%, which was 89.58% below the minimum accuracy of 98%, we consider the average percentage usage as the most reasonable billing method available. Backbilling based on the percentage of the meter error would be higher.

ISSUE 3: Should Mrs. Abdallah be allowed to pay over the equal time of the backbilling since the current diversion was apparently inherited?

RECOMMENDATION: Yes, Mrs. Abdallah should be allowed to pay over the equal time of the backbilling.

STAFF ANALYSIS: Since the current diversion was apparently inherited and the company took 60 months to find the problem, Mrs. Abdallah should be given that time period to pay the backbilling in installments.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: If no substantially affected person timely files a protest to the Commission's proposed agency action, this docket should be closed.

STAFF ANALYSIS: If no substantially affected person files a request for a Section 120.57, Florida Statutes, hearing within twenty-one days from the date the proposed agency action order, no further action will be required and this docket should be closed.