

State of Florida  
Division of Administrative Hearings

ORIGINAL  
FILE COPY

Sharyn L. Smith  
Director and Chief Judge  
Ann Cole  
Clerk of the Division



The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida  
32399-3060

February 14, 1997

Blanca Bayo  
Director of Records and Recording  
Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

960726-EI

Re: Grosse v. Florida Public Service Commission  
Case No. 96-5784

Dear Ms. Bayo:

Enclosed is my Recommended Order. Copies of this letter will serve to notify the parties that my Order and the record have been transmitted this date.

As required by Section 120.57(1)(k), Florida Statutes, you are requested to furnish the Division of Administrative Hearings with a copy of the Final Order within 15 days of its rendition.

Sincerely,

SUSAN B. KIRKLAND  
Administrative Law Judge

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_ SBK/drk
- CAF \_\_\_\_\_ Enclosures
- CMH \_\_\_\_\_ cc: William Cochran Keating IV, Esquire
- CTR \_\_\_\_\_ Lorna R. Wagner, Esquire
- EAG \_\_\_\_\_ William D. Tallbott, Executive Director
- LEJ \_\_\_\_\_ Rob Vandiver, General Counsel
- MBI \_\_\_\_\_ Bob Stone
- SEP \_\_\_\_\_ Eddy Grosse
- STN \_\_\_\_\_
- TRN \_\_\_\_\_
- W/S \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT IMMEDIATE

01734 FEB 18 97

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

EDDY GROSSE, )  
 )  
Petitioner, ) CASE No. 96-5784  
 )  
vs. )  
 )  
FLORIDA POWER AND LIGHT )  
COMPANY, )  
 )  
Respondent, )  
 )  
and )  
 )  
FLORIDA PUBLIC SERVICE )  
COMMISSION, )  
 )  
Intervenor. )  
\_\_\_\_\_ )

**RECOMMENDED ORDER**

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Administrative Law Judge, Susan B. Kirkland, held a formal hearing in this case on February 14, 1997, in Miami, Florida, by video teleconference.

**APPEARANCES**

For Petitioner: No Appearance.

For Respondent: Robert E. Stone, Esquire  
Post Office Box 029100  
Miami, Florida 352446

For Intervenor: William Cochran Keating IV, Esquire  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0863

**STATEMENT OF THE ISSUES**

Whether Petitioner is responsible for the payment of electric use at a customer's rental property.

DOCUMENT NUMBER-DATE

01734 FEB 18 97

FPSC-RECORDS/REPORTING

2. On August 5, 1996, the Intervenor, Florida Public Service Commission entered a Notice of Proposed Agency Action Order Affirming Liability for Unpaid Balance, holding that Mr. Grosse was liable to the Respondent for the unpaid balance of \$871.12.

3. Mr. Grosse requested an administrative hearing on August 26, 1996.

4. The case was forwarded to the Division of Administrative Hearings on December 9, 1996. On January 9, 1997, the undersigned Administrative Law Judge issued a Notice of Hearing by Video, scheduling the final hearing for February 28, 1997. The Notice was sent to Mr. Grosse.

5. The hearing was scheduled to commence at 9:00 a.m. Because of technical difficulties with the video equipment the hearing actually commenced at 10:00 a.m. Mr. Grosse did not appear at the final hearing and did not notify the Division of Administrative Hearings that he would not be appearing.

#### CONCLUSIONS OF LAW

6. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes.

7. Petitioner has the burden to establish that the allegations of his complaint are correct. Petitioner did not appear and did not present any evidence; thus, Petitioner has failed to establish the allegations of his complaint. His request for an administrative hearing should be dismissed.

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

EDDY GROSSE, )  
 )  
 Petitioner, ) CASE No. 96-5784  
 )  
 vs. )  
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 Respondent, )  
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 COMMISSION, )  
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STATEMENT OF THE ISSUES

Whether Petitioner is responsible for the payment of electric use at a customer's rental property.

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01734 FEB 18 95

FPSC-RECORDS/REPORTING

### PRELIMINARY STATEMENT

On March 12, 1996, Petitioner, Eddy Grosse, filed a complaint with the Intervenor, Florida Public Service Commission, concerning billing to his account for electric use of tenants of his rental property. An informal conference was held on June 3, 1996, and no resolution was achieved. On August 5, 1996, the Florida Public Service Commission entered a Notice of Proposed Agency Action Order Affirming Liability for Unpaid Balance, proposing that Eddy Grosse be found liable for the unpaid balance of \$871.12 for electric use. Mr. Grosse requested an administrative hearing on August 26, 1996. On December 9, 1996, the Florida Public Service Commission forwarded the case to the Division of Administrative Hearings for assignment to an Administrative Law Judge.

On December 23, 1996, the Florida Public Service Commission filed a Motion for Leave to Intervene. The motion was granted by order dated January 9, 1997.

Petitioner failed to appear at the final hearing. Respondent, Florida Power and Light Company moved to dismiss the case at the final hearing. The motion was granted to the extent that a Recommended Order would be entered recommending that the case be dismissed.

### FINDINGS OF FACTS

1. Petitioner, Eddy Grosse, filed a complaint against Respondent, Florida Power and Light Company, alleging that he was not responsible for electric use of tenants of his rental property who failed to pay for their electric use.

2. On August 5, 1996, the Intervenor, Florida Public Service Commission entered a Notice of Proposed Agency Action Order Affirming Liability for Unpaid Balance, holding that Mr. Grosse was liable to the Respondent for the unpaid balance of \$871.12.

3. Mr. Grosse requested an administrative hearing on August 26, 1996.

4. The case was forwarded to the Division of Administrative Hearings on December 9, 1996. On January 9, 1997, the undersigned Administrative Law Judge issued a Notice of Hearing by Video, scheduling the final hearing for February 28, 1997. The Notice was sent to Mr. Grosse.

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#### CONCLUSIONS OF LAW

6. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes.

7. Petitioner has the burden to establish that the allegations of his complaint are correct. Petitioner did not appear and did not present any evidence; thus, Petitioner has failed to establish the allegations of his complaint. His request for an administrative hearing should be dismissed.

**RECOMMENDATION**

Based on the foregoing Findings of Fact and Conclusions of Law, it is

**RECOMMENDED** that a Final Order should be entered dismissing Petitioner's Petition for an Administrative Hearing and finding Petitioner liable for the unpaid balance of \$871.12.

**DONE AND ENTERED** in Tallahassee, Leon County, Florida, this 14<sup>th</sup> day of February, 1997.

*Susan B. Kirkland*

**SUSAN B. KIRKLAND**

Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(904) 488-9675 SUNCOM 278-9675  
Fax Filing (904) 921-6847

Filed with the Clerk of the  
Division of Administrative Hearings  
this 14th day of February, 1997.

**COPIES FURNISHED:**

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Miami, Florida 33174

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3501 Southwest 130 Avenue  
Hollywood, Florida 33027

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Rob Vandiver, General Counsel  
Public Service Commission  
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**NOTICE OF RIGHT TO SUBMIT EXCEPTIONS**

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.