

ORIGINAL

040558-ET

FORMAL COMPLAINT FILED
WITH THE FLORIDA PUBLIC
SERVICE COMMISSION

Jose Antonio Rodriguez,
Plaintiff/Complainant
v.

Jose Antonio Rodriguez A/C # 97231-67202
Prior Inquiry No.: 570571E

Florida Power and Light Company
Defendant

COMMISSION
CLERK
JUN 16 AM 9:35

RECEIVED-FPSO

COMPLAINT

Jose Antonio Rodriguez ("Rodriguez"), by and through his undersigned counsel, hereby files his formal complaint against Defendant, Florida Power and Light Company ("FP&L"), for failing to comply with the Florida Administrative Code and in support states:

FP&L Violated Florida Administrative Code 25-6.104

1. On April 21, 2003, FP&L wrote to Rodriguez advising him that it "had discovered an unauthorized meter condition at your residency specifically, hole in canopy with object" and enclosing a back bill covering the prior 5 years in an amount of \$8,210.43.

2. Florida Administrative Code 25-6.104 Unauthorized use of Energy states "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."

3. The back bill for \$8,210.43 is not "a reasonable estimate of the energy used" for the following reasons:

- The selection of the start date of July 1998, using criteria -- a significant drop in recorded monthly usage of electricity -- that would equally apply

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FPSC-COMMISSION CLERK

to a start date in any of the following four years, October, 1999, July, 2000, April 2001, and September, 2002 per FP&L's own record of usage attached as Exhibit "A:"

- The use of a single month's reading on which to estimate and re-bill five years' usage of electricity of the single month's reading the property which was taken when the property was at its highest ever occupancy of three adults and two children, while during the 5-year period the level of occupancy of the dwelling had fluctuated, and at times had been unoccupied.
- FP&L's refusal to consider a recalculation of electricity usage indicating the back bills were excessive by 42.5% during the re-billed 5-year period when the level of occupancy of the dwelling fluctuated based on actual metered water usage records that FP&L itself had proposed would approximate occupancy, per attached Composite Exhibit "B."

FP&L Violated Florida Administrative Code 25-6.103

4. Florida Administrative Code 25-6.103 Adjustment of Bill for Meter Error states the "customer may extend the payments of the backbill over the same amount of time for which the utility issued the backbill."
5. The above is a practical solution that allows the customer the same time period to pay off a back billed liability as the time period over which it accrued.
6. FP&L refused to allow Rodriguez to pay off the back billed amount over the coming 5 years to mirror the period over which it accrued because it claimed that such provision did apply to unauthorized use, but instead demanded an initial payment of 50%

of the back billed amount and when this was not paid in timely fashion disconnect the supply of electricity to the dwelling.

7. FP&L relies for this decision on the instruction in that section of the Code that states "Nothing in this subsection shall be construed to limit the application of Rule 25-6.104, F.A.C.," but since this deals solely with the calculation of a "reasonable estimate of the energy used" and not with the payment thereof, it is unclear as to how this negates the customer's right to extended payment terms.

8. Moreover, this hard-line demand for payment seems used to merely deflect criticism of FP&L for its slowness in taking five years to investigate the alleged meter tampering inherited by Rodriguez.


WHEREFORE, Rodriguez seeks a determination of a reasonable estimate of the energy used, a payment plan set up to cover the same period over which the liability accrued, and the immediate restoration of the supply of electricity to his dwelling.

CERTIFICATE OF SERVICE

14th I HEREBY CERTIFY that a true and correct copy was sent by U.S. Mail this day of June, 2004, to Mrs. Cochran, Revenue Protection Specialist, Florida Power and Light Company, P.O. Box 029100, Miami FL 33102-9100

Michael Cummings, Esq.
777 Brickell Avenue, Suite 1114
Miami, FL 33131
Tel: 305.372.8884
Fax: 305.372.8842

BY: _____


~~Michael Cummings, Esq.~~
Fla. Bar No.: 0518018

MICHAEL CUMMINGS
ATTORNEY AT LAW

777 BRICKELL AVENUE
SUITE 1114
MIAMI FL 33131

TEL: 305 372 8884
FAX: 305 372 8842

BY FAX ONLY 305 552 4831

25 July 2003

ATTN: LINDA COCHRAN
Florida Power and Light Company

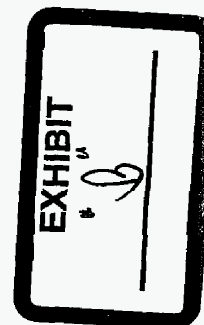
Re: Jose Antonio Rodriguez A/C # 97231-67202

Dear Ms. Cochran:

As you are aware from our conversations, and also from my complaint to FPL and the FPSC on behalf of my client, we have always disputed the amount and validity of FPL's re-bills for the period July 1998 through January 2003 that totaled more than \$8,000.00. In this regard, I have previously taken issue with 1) the selection of the start date of July 1998 using criteria that would equally apply to a start date in any of the following four years, 1999 through 2002; 2) using a single month's reading on which to estimate and re-bill five years' usage of electricity; 3) FPL's unflinching certainty that these calculations of re-bills are correct, without accepting responsibility for its slowness to investigate the alleged meter tampering earlier than the almost five years it took; 4) FPL's failure to entertain the claim that during the re-billed 5-year period the level of occupancy of the dwelling fluctuated; and 5) FPL's unwillingness to accept a payment plan and reconnect supply of electricity to the dwelling without an initial payment of 50% of the amount demanded.

With regard to 4) above, I suggested that I would have my client prepare an affidavit of the level of occupancy of the dwelling at various times during the 5-year period, including the times it was unoccupied. While you said that this would not be acceptable you stated that the metered water usage of the dwelling would constitute a reliable indication of the level of occupancy. I had my client obtain such records commencing for the quarterly billing ending 5 March, 1999, through the quarterly billing ending 6 June, 2003.

Using FPL's actual metered electricity usage for March, April and May, 2003, totaling 6713 Kw/Hrs obtained from a meter you advised me, in your letter of June 17, 2003, had



Jose Antonio Rodriguez

25 July, 2003

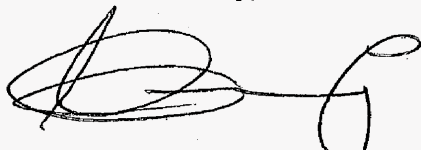
Page 2

been tested, and found to have a percentage registration of 99.81%, I compared this to water metered usage of 24000000 units for the three months ended 6 June, 2003, to obtain a rate of 0.000292 Kw/Hrs per unit of water metered during approximately the same three-month period. I then applied this rate to all previous metered water units used at the dwelling to determine correspondent electricity usage during the periods re-billed, and compared the resultant Kw/Hrs amounts to those Kw/Hrs re-billed. This comparison showed that the re-billed amounts exceeded the expected amounts of usage based on water consumption by 42.5%. Put another way, only 57.5% of the re-billed amounts over the five-year period are supportable, based on the occupancy levels of the dwelling indicated by metered water usage.

I am enclosing a copy of the spreadsheet calculations used in reaching the above conclusion, and a copy of the water usage data employed therein, for your perusal. Section 25-6.104 Unauthorized Use of Energy of the Florida Administrative Code states that "the utility may bill a customer on a reasonable estimate of the energy used." Given all the above, FPL's total of the amounts re-billed appears not to be a "reasonable estimate of energy used" when the changes in occupancy, corroborated by water usage, are factored into the calculation.

Please reflect the above, by reducing the total amount that FPL has re-billed my client by 42.5%, and let us discuss a payment plan for my client that will allow for the immediate reconnection of supply of electricity.

Yours Sincerely,



Michael Cummings, Esq.

Encls

	A	B	C	D	E	F	G	H	I
1									
2			Recalculation of Rebilled Electricity based on Actual Water Usage						
3									
4			Jose Antonio Rodriguez A/c # 97231-67202						
5									
6									
7	Month/Yr	Original	3 months	Rebill	Water	Mar, Apr,	"Rate"	3 months	Over-
8		Billed	of Original	Kw/Hrs	Usage	& May, 03	applied to	Rebill	(Under)-
9		Kw/Hrs	Billed		Billed	actual bill	Actual	Kw/Hrs	charged
10			Kw/Hrs		Qrtly	Kw/Hrs	Water	equal to	Kw/Hrs
11			equal to			compared	Qrtly Bills	Water	by Rebills
12			Water			to Water	equating	Qrtly Bills	
13			Qrtly Bills			Qrtly Bills	to Kw/Hrs		
14						"Rate"	Usage		
15									
16									
17	Jan-98	258							
18	Feb-98	949							
19	Mar-98	923							
20	Apr-98	1599							
21	May-98	2001							
22	Jun-98	2153							
23	Jul-98	1084		3250					
24	Aug-98	555		3185					
25	Sep-98	849		3217					
26	Oct-98	915		2971					
27	Nov-98	1000		2403					
28	Dec-98	1056		2236					
29	Jan-99	987		2233					
30	Feb-99	530	2573	1879	14000000	0.000292	4088	6348	2260
31	Mar-99	614		1701					
32	Apr-99	935		2093					
33	May-99	1017	2566	2415	19000000	0.000292	5548	6209	661
34	Jun-99	1402		2694					
35	Jul-99	1686		2905					
36	Aug-99	1454	4542	3339	16000000	0.000292	4672	8938	4266
37	Sep-99	1809		3214					
38	Oct-99	611		2884					
39	Nov-99	473	2893	2313	8000000	0.000292	2336	8411	6075
40	Dec-99	481		2064					
41	Jan-00	481		1954					
42	Feb-00	234	1196	1722	8000000	0.000292	2336	5740	3404
43	Mar-00	1006		1823					
44	Apr-00	770		2001					
45	May-00	712	2488	2807	16000000	0.000292	4672	6631	1959
46	Jun-00	1882		3000					
47	Jul-00	1067		3134					
48	Aug-00	925	3874	3134	12000000	0.000292	3504	9268	5764
49	Sep-00	1299		3101					
50	Oct-00	825		2837					
51	Nov-00	725	2849	2168	21000000	0.000292	6132	8106	1974
52	Dec-00	914		2055					
53	Jan-01	193		2209					
54	Feb-01	612	1719	1927	24000000	0.000292	7008	6191	-817
55	Mar-01	1343		2016					

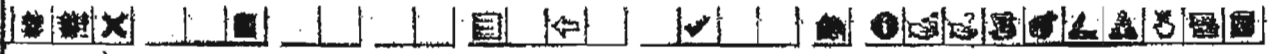
	A	B	C	D	E	F	G	H	I
56	Apr-01	734		2105					
57	May-01	436	2513	2159	9000000	0.000292	2628	6280	3652
58	Jun-01	567		2748					
59	Jul-01	911		3015					
60	Aug-01	580	2058	3033	15000000	0.000292	4380	8796	4416
61	Sep-01	812		3274					
62	Oct-01	547		2721					
63	Nov-01	871	2230	2299	31000000	0.000292	9052	8294	-758
64	Dec-01	367		2230					
65	Jan-02	850		2209					
66	Feb-02	548	1765	1927	18000000	0.000292	5256	6366	1110
67	Mar-02	814		2016					
68	Apr-02	773		2105					
69	May-02	793	2380	2159	10000000	0.000292	2920	6280	3360
70	Jun-02	521		2748					
71	Jul-02	961		3015					
72	Aug-02	1215	2697	3033	10000000	0.000292	2920	8796	5876
73	Sep-02	680		3274					
74	Oct-02	513		2721					
75	Nov-02	402	1595	2299	3000000	0.000292	876	8294	7418
76	Dec-02	673		2230					
77	Jan-03	588		2111					
78	Feb-03	1380	2641		19000000	0.000292	5548		
79	Mar-03	2248							
80	Apr-03	1878							
81	May-03	2587	6713		23000000	0.000292	6713		
82				138315	Total Rebilled Kw/Hrs July 98 through Jan 03				
83						0.000292			50620
84							68328		
85								118948	
86									
87	Error Rate Calculation								
88									
89		118948		Rebilled Kw/Hrs from Dec 98 through Nov 02					
90									
91		68328		Recalculated Kw/Hrs from Dec 98 through Nov 02					
92				in line with water usage					
93		50620		Net Overbilled Kw/Hrs from Dec 98 through Nov 02					
94				compared with recalculation based on water usage					
95									
96									
97		Overbilled error rate		0.425564	(50620/118948)				
98									
99		Correct bill rate		0.574436	(68328/118948)				
100									
101		True rebill amount reflecting correct bill rate					79453.1		
102									
103		Overcharged by Rebill calculation					58861.9		
104									
105		Reconciliation to Total Rebilled Kw/Hrs July 98 - Jan 03					138315		

MRS RODRIGUEZ,

305-485-9330

meter Mtr Reads Inquiry - Billable Reads History

File Edit View Go Favorites Use Inquiry Review Interface Help



Billable Reads

Meter: 6/8 INCH WATER METER / 90395373

Mtr ID: 4702240200

Register: CPW / format 4.0 / const 1

Reg ID: 4702240082

	Read Date/Time	Read Difference	Register Reading	Hi/Ls Failed	Low Limit	High Limit	Read Type
1	08/05/2003 8:43AM May	22.000000	920.000000		901.000000	965.000000	Regular
2	03/05/2003 8:19AM Feb	19.000000	897.000000		878.000000	887.000000	Regular
3	12/04/2002 8:18AM Nov	3.000000	878.000000		877.000000	914.000000	Regular
4	09/05/2002 9:18AM Aug	10.000000	876.000000		867.000000	905.000000	Regular
5	08/05/2002 7:39AM May	10.000000	865.000000		869.000000	929.000000	Regular
6	03/05/2002 12:00AM Feb	18.000000	855.000000		844.000000	857.000000	Regular
7	12/05/2001 8:39AM Nov	31.000000	837.000000		809.000000	851.000000	Regular
8	08/05/2001 12:00AM Aug	15.000000	808.000000		0.000000	0.000000	Regular
9	06/05/2001 12:00AM May	9.000000	791.000000		0.000000	0.000000	Regular
10	03/05/2001 12:00AM Feb	24.000000	782.000000		0.000000	0.000000	Regular
11	12/05/2000 12:00AM Nov	21.000000	758.000000		0.000000	0.000000	Regular
12	09/05/2000 12:00AM Aug	12.000000	737.000000		0.000000	0.000000	Regular
13	06/05/2000 12:00AM May	15.000000	725.000000		0.000000	0.000000	Regular
14	03/03/2000 12:00AM Feb	8.000000	709.000000		0.000000	0.000000	Regular
15	12/05/1999 12:00AM Nov	8.000000	701.000000		0.000000	0.000000	Regular
16	09/03/1999 12:00AM Aug	16.000000	695.000000		0.000000	0.000000	Regular
17	06/03/1999 12:00AM May	19.000000	679.000000		0.000000	0.000000	Regular
18	03/05/1999 12:00AM Feb	14.000000	688.000000		0.000000	0.000000	Regular

CIPROD Billable Reads

Update/Display

Start Enter Meter Reads - L... MAINFRAME - EXTRA P... Inbox - Microsoft Outlook

4:49 PM

Revenue Protection Management System Main Menu

File Edit Screens Reports Maintenance Window Help

Print Field Info Close All RPT Accounts Case Court Case Court Status Detail Generic Inspection Meter Test Remarks Close Layer

Casefile

97231-67202 81 21 254 01/21/98 1 44 5C 49983

JOSE ANTONIO RODRIGUEZ W: 786 402-2581
12884 SW 10TH ST H: 305 485-9330
MIAMI FL 33184 S 594532999

	2003	2002	2001	2000	1999	1998	1997
January	588	850	193	481	987	258	0
February	1380	548	612	234	530	949	0
March	2248	814	1343	1006	614	923	0
April	1878	773	734	770	935	1599	0
May	2587	793	436	712	1017	2001	0
June	0	521	567	1882	1402	2153	0
July	0	961	911	1067	1686	1084	← START
August	0	1215	580	925	1454	555	0
September	0	680	812	1299	1809	849	0
October	0	513	547	825	611	915	0
November	0	402	871	725	473	1000	0
December	0	673	367	914	481	1056	0

2003 2002 2001 2000 1999 1998 1997

2003 2002 2001 2000 1999 1998 1997

Revenue Protection Management System

Jorge Zamora

Revenue Protection

