

State of Florida



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Public Service Commission

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COMMISSION  
CLERK

**DATE:** January 25, 2005

**TO:** Kay B. Flynn, Chief of Records, Division of the Commission Clerk & Administrative Services

**FROM:** Martha C. Brown, Senior Attorney, Office of the General Counsel *MCB*

**RE:** Docket No. 041169-EI

Please place the attached letters – from Mr. Alcegueire to Chairman Baez and a response from me to Mr. Alcegueire - in the docket file. Thank you.

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
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- OPC \_\_\_\_\_
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FPSC-COMMISSION CLERK

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON  
LISA POLAK EDGAR

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL  
RICHARD D. MELSON  
GENERAL COUNSEL  
(850) 413-6199

## Public Service Commission

January 25, 2005

Mr. Jude Alcegueire  
2913 S.W. 68th Avenue  
Miramar, FL 33023

**Re: Docket No. 041169-EI**

**CERTIFIED MAIL**

Dear Mr. Alcegueire:

Chairman Baez asked me to respond on his behalf to your letter mailed January 21, 2005, and received by his office on January 25, 2005.

As we have previously discussed, the Commission fully complied with the requirements of due process, state administrative law, and PSC rules and regulations in the issuance of its Proposed Agency Action Order Dismissing Complaints (Order No. PSC-04-1252-PAA-EI) and its Order Denying Extension of Time (Order No. PSC-05-0037-PCO-EI).

Because you did not choose to file a timely protest of the Proposed Agency Action (PAA) Order, the Commission has issued Consummating Order No. PSC-05-0097-CO-EI making the PAA Order effective and final, and closing your complaint docket. At this time, there is no further action the Commission can take in regard to your complaints.

As indicated in the "Notice of Further Proceedings or Judicial Review" in the Consummating Order, you have 30 days – until February 24, 2005 – to seek judicial review of the Commission's action, if you choose to do so, by filing a notice of appeal with the Florida Supreme Court.

In brief response to the three points in your letter:

1. As stated in the PAA Order, and as both Mr. Melson and I communicated to you by telephone, you initially had 21 days from the issuance of the PAA order (until January 7, 2005) to file a protest and request an administrative hearing in which you could give your side of the story. That time was ultimately extended to January 21, 2005 by the Prehearing Officer's Order Denying Extension of Time, which required that a protest be received by the Commission Clerk's office by that date. You failed to take advantage of this 35-day period.

Mr. Jude Alcegueire  
January 25, 2005  
Page 2

2. If you had taken advantage of your right to protest the PAA Order, you would have had the opportunity to tell your side of the story in a formal administrative hearing, including your claim that you were denied due process. You were fully advised of this right.

3. The assignment of prehearing officers is guided by Section 2.05.C.4 of the Commission's Administrative Procedures Manual. Under that section, the Prehearing Officer is assigned by administrative personnel based on the rotation schedule established by the Chairman's office. That procedure was followed in this case.

In conclusion, the Commission and its staff can do nothing further at this time to assist you in regard to this matter.

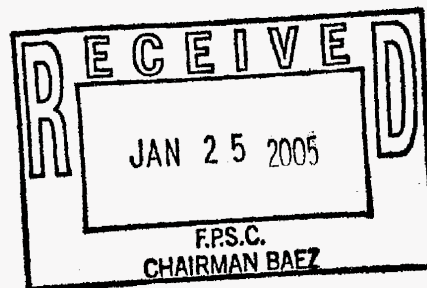
Sincerely,



Martha Carter Brown  
Senior Attorney

cc: Division of Commission Clerk and Administrative Services

From: Jude Alcegueire  
To: The PSC Chairman/ Commissioners



Dear Chairman/Commissioners

I am sending you this letter to appeal to you the Chairman and all the Commissioners at the PSC board a so called a pre-hearing decision draft by a staff member named Ms. Brown instead of a Commissioner of the board who's suppose to be assigned by the Chairman of the Commissioners require by the assignment of proceeding by the Chairman(OPR:CCA) chapter 2-05-1 section 350.01(5) and (7) provide only the Chairman has the authority to assign a pre-hearing officer in this case. I have received an assignment log sheet that is not signed by the **Chairman** as the law requires and

1. The PSC rule and regulation **chapter 25/22/03** gives any party involved in a complaint the right to **adjudicatory proceeding notification under the law** to respond on the reasonable time between twenty-one to thirty day.
2. Only the full board of Commissioners can determine if **due process of law** is no longer valid when a complainant have not received a correspondence by the staff and not have the opportunity to respond and give his side of the story.
3. I have received a letter from four people who are not part of the case, their names are Sandy Moses, Hong Wang, Lee Fultcher, and Nonnye Grant giving order to Ms. Brown to draft herself a letter on behalf of a Commissioner instead of the Chairman as required by law.

I am going to send you some documents that will prove some gross violation of **due process of law, state administrative law and PSC rule and regulation**. Once again I am asking for the whole board of Commissioners and the Chairman to take appropriate action. To preserve the rule of law for the greater good of the publics interest.

Sincerely  
Jude Alcegueire

A handwritten signature in black ink, appearing to read "J. Alcegueire". The signature is fluid and cursive, with a long horizontal stroke at the end.

ORDER NO. PSC-04-1252-PAA-EI  
DOCKET NO. 041169-EI  
PAGE 62

COMMISSIONERS:  
BRAULIO L. BAEZ, CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

STATE OF FLORIDA



TIMOTHY DEVLIN, DIRECTOR  
DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

## Public Service Commission

October 27, 2004

Mr. Jude Alcegueire  
2913 S.W. 68 Avenue  
Miramar, Florida 33023

**RE: Docket No. 041169-EI - Complaint Nos. 445185E, 446514E, 446515E, and 446516E  
Filed by Mr. Jude Alcegueire against Florida Power & Light Company**

Dear Mr. Alcegueire:

Per our October 27, 2004 telephonic conversation, attached is a copy of Rule 25-22.032, Florida Administrative Code entitled General Commission Staff Complaint Investigation.

As we discussed, I plan to attach to the staff recommendation correspondence from you explaining your side of the story. The Commission agenda vote has been changed to November 30, 2004. Please send me by November 12, 2004 a letter showing what is wrong with the staff recommendation. Based on what is in the file and anything you send me by November 12, staff may change its recommendation.

Also, attached is a copy of the staff recommendation that was scheduled for the November 2, 2004 Agenda. As I am sure you are aware, the Commission may vote to approve, deny, or modify any staff recommendation submitted to it.

Sincerely,

Joseph D. Jenkins  
Assistant Director  
Division of Economic Regulation

JDJ/ms  
Attachments

cc: w/o Attachment:  
Docket File No. 041169-EI

right to be represented by an attorney or other representative. For purposes of this rule a representative may be any person the party chooses, unless the Commission sets the matter for hearing. If the Commission sets the matter for hearing, the participants may be represented by an attorney or a qualified representative as prescribed in Rule 28-106.106, Florida Administrative Code, or may represent themselves. Each participant shall be responsible for his own expenses in the handling of the complaint.

(10) At any time the participants may agree to settle their dispute. If a settlement is reached, the participants or their representatives shall file with the Division of Consumer Affairs a written statement to that effect. The statement shall indicate that the settlement is binding on both participants, and that the participants waive any right to further review or action by the Commission. If the complaint has been docketed, the Division of Consumer Affairs shall submit the settlement to the Commission for approval. If the complaint has not been docketed, the Division will acknowledge the statement of settlement by letter to the participants.

(11) Record retention and auditing.

(a) All companies shall retain notes or documentation relating to each Commission complaint for two years, beginning when the complaint was first received.

(b) All companies shall file with the Commission, beginning 60 days after the effective date of this rule and monthly thereafter, a report that summarizes the following information for the preceding calendar month:

1. The total number of calls handled via transfer connect, including the customer's name, a brief description of the complaint, and whether or not the complaint was addressed;

2. The number of complaints handled under the three day complaint resolution procedure; and whether the complaint was resolved.

(c) The Commission shall have access to all such records for audit purposes. Specific Authority 350.127(2), 364.19, 364.0252, 366.05, 367.121, FS.

Law Implemented 364.01, 364.0252, 364.03(1), 364.183, 364.185, 364.15, 364.19, 364.337(5), 366.03, 366.04, 366.05, 367.011, 367.111, 367.121, 120.54, 120.569, 120.57, 120.573, FS.

History - New 01-03-89, Amended 10-28-93, 06-22-00.

**THE LAW**  
25-22.033 - Communications Between Commission Employees and Parties - The Commission recognizes that Commission employees must exchange information with parties who have an interest in Commission proceedings. However, the Commission also recognizes that all parties to adjudicatory proceedings need to be notified and given an opportunity to participate in certain communications. The intent of this rule is not to prevent or hinder in any way the exchange of information, but to provide all parties to adjudicatory proceedings notification of and the opportunity to participate in certain communications.

(1) This rule shall govern communications between Commission employees and parties to docketed proceedings before the Commission. This rule shall not apply in proceedings under sections 120.54, 120.565, 367.0814, Fla. Stat., proposed agency action proceedings before the Commission has voted to issue a proposed agency action order, non-rate case tariffs, workshops or internal affairs meetings. Also exempted are docketed and undocketed audits, telephone service evaluations, and electric and gas safety inspections. Nothing in this rule is intended to modify or supersede the procedural requirements for formal discovery under the Commission's rules and applicable provisions of the Florida Rules of Civil



"value of service involved;

"the effect on consumer relations, regulatory policies, conservation, economy, competition, public health, and safety of the area involved."

5. The prompt, effective handling of prehearing conferences, motions and procedural matters (including changes in time schedules) will improve continuity and responsiveness in the processing of cases. Assignments of responsibilities for such functions vary slightly from one kind of hearing assignment to another. These responsibilities are to be assigned as follows:

a. Cases assigned to the Full Commission:

The Chairman may assign a single Commissioner as Prehearing Officer. The Prehearing Officer is to rule on motions and procedural matters and conduct prehearing conferences. The Chairman will approve changes in oral argument, hearing and decision dates.

b. Cases assigned to panels of Commissioners:

The Chairman will assign a single Commissioner as Prehearing Officer. The Prehearing Officer is to rule on motions and procedural matters and conduct prehearing conferences. Changes in oral argument, hearing and decision dates are to be approved by the Chairman.

c. Cases assigned to a single Commissioner for hearing:

That Commissioner is to rule on motions and procedural matters which occur prior to referral of such cases to the Commission for final decision. Changes in oral argument, hearing and decision dates are to be approved by the Chairman.

d. Cases assigned to a DOAH Administrative Law Judge for hearing:

Section 1 - Bureau of Records Completes

Docket No. 041169-EI Date Docketed: 09/30/2004 Title: Complaint Nos. 445185E, 446514E, 446515E, and 446516E filed Mr. Jude Alceguiere against Florida Power & Light Company for high bills and other alleged violations of Commission rules and statutes.  
 Company: Florida Power & Light Company  
 Jude Alceguiere

Official Filing Date: \_\_\_\_\_ Expiration: \_\_\_\_\_

(“O” indicates OPR)

| Program Module      |               | Staff Assignments                     | Time Schedule                                   |            |            |  |
|---------------------|---------------|---------------------------------------|---|------------|------------|--|
|                     |               |                                       | Due Dates                                       |            |            |  |
|                     |               |                                       | Previous  | Current    |            |  |
| OPR Staff           | M Brown       | <input checked="" type="checkbox"/> 2 | Current CASR revision level                     |            |            |  |
|                     |               | 1.                                    | Close Docket or Revise CASR                     | 01/12/2005 | 01/24/2005 |  |
|                     |               | 2.                                    | Consummating Order if No Protest - Close Docket | 01/11/2005 | 01/24/2005 |  |
|                     |               | 3.                                    |   |            |            |  |
|                     |               | 4.                                    |   |            |            |  |
|                     |               | 5.                                    |   |            |            |  |
|                     |               | 6.                                    |   |            |            |  |
|                     |               | 7.                                    |   |            |            |  |
|                     | Staff Counsel | M Brown                               | 8.  |            |            |  |
|                     |               |                                       | 9.  |            |            |  |
| OCRs (ECR)<br>(RCA) | R Hicks       | 10.                                   |   |            |            |  |
|                     |               | 11.                                   |   |            |            |  |
|                     |               | 12.                                   |   |            |            |  |
|                     |               | 13.                                   |   |            |            |  |
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|                     | 38.           |                                       |   |            |            |  |
|                     | 39.           |                                       |   |            |            |  |
|                     | 40.           |                                       |   |            |            |  |

IT IS TENTATIVE AND SUBJECT TO REVISION.  
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Recommended assignments for hearing and/or deciding this case:

Full Commission  Commission Panel   
 Hearing  Staff

Date filed with CCA: 01/11/2005

Initials OPR \_\_\_\_\_  
 Staff Counsel \_\_\_\_\_

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners |    |    |    |    |    | Hrg Exam | Staff |
|---------------|----|----|----|----|----|----------|-------|
| ALL           | BZ | DS | BD | DV | ED |          |       |
| X             |    |    |    |    |    |          |       |

| BZ | DS | BD | DV | ED |
|----|----|----|----|----|
|    | X  |    |    |    |

Where panels are assigned the senior Commissioner is the identical panel decides the case.  
 Where one Commissioner, a Hearing Examiner or a Staff assigned the full Commission decides the case.



**From:** Hong Wang  
**Sent:** Wednesday, January 05, 2005 12:49 PM  
**To:** Sandy Moses  
**Cc:** Lee Fulcher; Nonnye Grant  
**Subject:** RE: Prehearing Officer assignment

Done.

**From:** Sandy Moses  
**Sent:** Wednesday, January 05, 2005 12:46 PM  
**To:** Hong Wang; Lee Fulcher; Nonnye Grant  
**Cc:** Martha Brown  
**Subject:** Prehearing Officer assignment

Please reassign the PHO from Administrative to Commissioner Deason for Dockets 041169 and 040660.

Trude Muehner  
2913 Sug 68  
MIRAWAR FL

CERTIFIED MAIL



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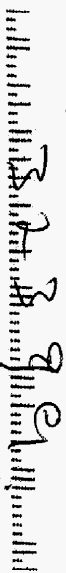


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Florida Public Service  
Commission

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TALLAHASSEE FL



CONFIDENTIAL

ATTN: Brendo L. BAEZ  
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ET 2013 01  
Aiken