

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080039-EI

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In the Matter of:

COMPLAINT OF SALLIJO A. FREEMAN
AGAINST FLORIDA POWER & LIGHT
COMPANY FOR VIOLATION OF RULE
25-6.105, F.A.C.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 3

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, May 20, 2008

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

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1 PARTICIPATING:

2 SALLIJO A. FREEMAN, representing herself, via
3 telephone.

4 JESSICA CANO, representing Florida Power & Light
5 Company.

6 LISA BENNETT, representing the Florida Public Service
7 Commission staff.

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CHAIRMAN CARTER: Commissioners, we are now on Item 3. And we have a customer calling in, and if you'll just kind of give us one second here and we can get that call patched through.

Ms. Freeman? Okay. It seems like we've got some technical difficulties here.

(Pause.)

MS. FREEMAN: Good morning.

CHAIRMAN CARTER: Good morning. Ms. Freeman?

MS. FREEMAN: Yes. Good morning.

CHAIRMAN CARTER: How are you today?

MS. FREEMAN: I'm not doing so well, sir, right now. I'd like to start my opening statement and I would like to request the Commission to release me as soon as I finish my short statement due to medical reasons, please.

CHAIRMAN CARTER: Okay. Ms. Freeman, since we know that you're not feeling well, you're recognized to go ahead on and make your statement. You're recognized.

MS. FREEMAN: Thank you very much.

Good morning, Chairman Carter --

CHAIRMAN CARTER: Good morning.

MS. FREEMAN: -- ladies and gentlemen of the Commission and representatives of the Defendant. The issue before this Commission today is the question: Did FPL violate

1 the Rule 25-6.105, F.A.C., regarding the five-day notice of
2 suspension of service?

3 I have not had time to prepare an adequate argument
4 to the allegations and the findings of the committee due to my
5 medical condition. A letter from one of my doctors was faxed
6 to the PSC yesterday.

7 FPL stated that a notice was sent in September and
8 that would suffice to allow the disconnection on October 25th,
9 2007, without any additional notice written or verbal.
10 According to the research that I've done regarding
11 disconnection, the disconnect notice does not carry over to any
12 date that FPL deems applicable. The Complainant, myself, seeks
13 to clarify a statement also made in the written recommendation
14 to the Commission. The Complainant, I, did not ask for damages
15 from the Commission, the PSC. The question of damages is a
16 matter for the court.

17 My complaint was quite clear. The issue of damages
18 is going before the circuit court this week. The Complainant,
19 myself, I, lost my business, suffered a stroke January 2007 and
20 have had several mini strokes brought on by the action of the
21 Defendant FPL. The Complainant hereby requests that the
22 Defendant, FPL, be found in violation of the rule and the
23 Commission does not adopt the recommendations of the committee.

24 I would appreciate a copy, I am requesting a copy of
25 the hearing regarding Freeman versus FPL, please. Thank you

1 for your time, Chairman Carter, and members of the Commission.
2 I'm going to terminate this transmission, please, with your
3 permission.

4 CHAIRMAN CARTER: Yes, ma'am.

5 MS. FREEMAN: Thank you again.

6 CHAIRMAN CARTER: Thank you.

7 Commissioners, I know this was a little bit out of
8 order, but because of Ms. Freeman being ill and having surgery
9 and all I thought it would be appropriate to kind of give her
10 an opportunity to be heard. You know, we strive always to hear
11 from the customers. And I know that Issue 1 in this case was
12 should we allow for oral arguments, but I think that that
13 situation was, was significant enough for us to do that.

14 At this point in time we'll allow staff to introduce
15 the case and then we can hear from the parties and proceed
16 further. Staff, you're recognized.

17 MS. BENNETT: Good morning, Commissioners and
18 Chairman. My name is Lisa Bennett, the Office of General
19 Counsel. Item 3 on the agenda is the motion to dismiss Florida
20 Power & Light of the complaint of Sallijo Freeman versus
21 Florida Power & Light.

22 The first issue was whether or not to allow oral
23 argument, and the staff's recommendation was that she be
24 allowed to present her case to the Commission. FPL is here
25 also.

1 In Issue 2 staff is recommending that the case be
2 dismissed. Now staff is not saying dismiss it and Ms. Freeman
3 can never bring a case back. What we are saying is that if she
4 brings a case back, just like she stated, that she not be
5 permitted to argue that she's entitled to monetary damages, and
6 that we, the Commission cannot direct her to -- or FPL to pay
7 those monetary damages. And so staff is recommending that the
8 motion to dismiss be granted. And FPL is here, and you did
9 hear from Ms. Freeman previously.

10 CHAIRMAN CARTER: Thank you. And good morning.
11 You're recognized.

12 MS. CANO: Good morning. My name is Jessica Cano,
13 and I'm appearing on behalf of Florida Power & Light Company.

14 There are currently two bases upon which the
15 Commission can and should grant FPL's motion to dismiss. The
16 first of the two, which was available at the time the motion
17 was filed, is that the customer's complaint which requests an
18 evidentiary hearing has failed to allege sufficient facts to
19 support that request.

20 Rule 25-22.036 requires that a complaint allege an
21 action that constitutes a violation of Commission rules.
22 Rule 28-106.201, however, governs documents that request an
23 evidentiary proceeding. That rule requires the Complainant to
24 include a statement of disputed issues and material fact and a
25 statement of the ultimate facts alleged. Ms. Freeman's

1 complaint only alleges generally that FPL violated a rule. It
2 does not include any sufficient statement of facts. The date
3 of the disconnection, for example, is a fact that given the
4 account history at issue is necessary to support an evidentiary
5 hearing on the alleged violation.

6 The second available basis is the one more fully
7 explained by staff in its recommendation, specifically that the
8 only jurisdictional relief requested by and available to the
9 customer has already been provided by FPL. The customer's
10 electric service was restored on February 28th, 2008, in the
11 process of working with the customer through her concerns. And
12 for that reason, as similarly stated in staff's recommendation,
13 the customer's complaint should be dismissed for failure to
14 state a cause of action upon which relief can be granted.

15 Thank you.

16 CHAIRMAN CARTER: Thank you. Commissioners, we are
17 now in our question phase. Any question of either, well, we
18 don't have Ms. Freeman, but of FPL or staff? Any questions?

19 Commissioner Skop. You're recognized.

20 COMMISSIONER SKOP: Thank you, Chairman Carter.

21 I guess my concern that I'd previously discussed with
22 staff, I'm questionable as to whether it's at issue, but on
23 Page 6 of the staff recommendation and staff analysis it stated
24 that Ms. Freeman's petition has stated a cause of action;
25 however, there's no relief for the Commission to grant

1 Ms. Freeman. I guess my concern was that -- and depending upon
2 how this needs to be handled by the Commission, but I guess I
3 was left with the mystery of whether, in fact, a violation of
4 the rule had occurred and that wasn't answered or delineated
5 within the staff recommendation, and that may be better left
6 for another day. But I'd like to briefly hear from Ms. Bennett
7 on that, if I could.

8 MS. BENNETT: Yes, Commissioners. In the motion to
9 dismiss the technical, legal/technical requirements are that
10 you look at the four corners of the pleading and only that.
11 And so the recommendation really didn't discuss all of the
12 information that staff does have in its possession regarding
13 the timing of the different notices. We felt that it was not
14 an appropriate thing to address in the recommendation, but felt
15 also that if staff were concerned about FPL's treatment, we
16 would have brought it to you in a separate recommendation. But
17 there is the opportunity to investigate Florida Power & Light
18 if the Commission did feel that they were violating a rule.

19 COMMISSIONER SKOP: Thank you for that clarification.

20 CHAIRMAN CARTER: Commissioners, any further
21 questions? Any debate? In debate.

22 Commissioner Skop, you're recognized, sir.

23 COMMISSIONER SKOP: Thank you, Mr. Chairman.

24 I'd like to move that we approve staff's
25 recommendation on this issue.

1 COMMISSIONER McMURRIAN: Second.

2 CHAIRMAN CARTER: It's been moved and properly
3 seconded. Commissioners, any questions, any further questions?
4 Hearing none, all those in favor, let it be known by the sign
5 of aye.

6 (Unanimous affirmative vote.)

7 Those opposed, like sign. Show it done.

8 (Agenda Item 3 concluded.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 27th day of May, 2008.

Linda Boles
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734