

Eric Fryson

From: Roddy, Lisa [Lisa.Roddy@pgnmail.com]
Sent: Friday, December 07, 2012 11:55 AM
To: Filings@psc.state.fl.us
Cc: Triplett, Dianne; Larry Harris; Kelly, JR
Subject: E-Filing & E-Service: PEF's Motion to Dismiss and Response in Opposition of Complaint - Dkt# 120297

Attachments: PEF's Motion to Dismiss - Dkt# 120297 (12.7.12).pdf

This electronic filing is made by

Dianne M. Triplett
P.O. Box 14042
St. Petersburg, FL 33733
727-820-5184
dianne.triplett@pgnmail.com

DOCKET No: 120297-EI

On behalf of Progress Energy Florida

Consisting of 6 pages.

The attached document for filing is Progress Energy Florida's Motion to Dismiss and Response in Opposition of Complaint in above referenced docket.

Lisa Roddy

Regulatory Analyst
Progress Energy Florida a subsidiary of Duke Energy
106 E. College Ave., Suite 800
Tallahassee, FL 32301
direct line: (850) 521-1425
VN 249-1425
lisa.rodny@pgnmail.com

DOCUMENT NUMBER-DATE

08024 DEC-7 2012

FPSC-COMMISSION CLERK

12/7/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Marlowe Ragland against
Progressive Energy for alleged improper
disconnections and high bills.

Docket No. 120297-EI

Submitted for Filing: December 7, 2012

PROGRESS ENERGY FLORIDA'S MOTION TO DISMISS AND RESPONSE IN OPPOSITION

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Rule 28-106.204(2), F.A.C., hereby files this Motion to Dismiss portions of the complaint of Marlowe Ragland (the "Petitioner") against PEF for alleged improper disconnections and high bills filed with the Florida Public Service Commission ("FPSC") on November 20, 2012. For the reasons set forth below, the Florida Public Service Commission should dismiss portions of the Petitioner's Complaint and reject the remaining relief sought by the Petitioner.

I. INTRODUCTION

Rule 25-22.036(3)(b), F.A.C. states, ".....*Each complaint, in addition to the requirements of paragraph (a) above shall also contain: (1) The rule, order, or statute that has been violated; (2) The actions that constitute the violation; (3) The name and address of the person against whom the complaint is lodged; and (4) The specific relief requested, including any penalty sought.*" The Petitioner's Complaint does not cite any rule, order or statute that the Company allegedly violated with respect to all but one of his claims as set forth below. As to those claims, the Complaint fails to meet the requirements of Rule 25-22.036 and should be dismissed in part.

DOCUMENT NUMBER DATE

08024 DEC-7 2012

FPSC-COMMISSION CLERK

II. GENERAL RESPONSE AND FACTS

On October 18, 2011, the customer of record, Mr. Marlowe Ragland, contacted PEF to have electric service connected at the premise of 1087 Sailing Bay Drive, Clermont, Florida. Service was connected to the residence on October 20, 2011.

LATE PAYMENT NOTICES AND INTERRUPTION OF SERVICE

The Petitioner states that his service has been disconnected multiple times without receiving disconnection notices. While the Petitioner does not cite a specific rule in his petition, PEF understands that the Petitioner is asserting alleged violations of Rule 25-6.105, F.A.C. Since the inception of the Petitioner's account, late payment notices have been mailed to him on a monthly basis and no mail has been returned to PEF by the US Post Office. To date, thirteen (13) Late Payment Notices have been mailed to the Customer:

11/28/12 Important Notice Sent for \$777.12.
10/30/12 Important Notice Sent for \$897.12.
09/28/12 Important Notice Sent for \$831.19.
08/29/12 Important Notice Sent for \$446.22.
07/30/12 Important Notice Sent for \$334.21.
06/28/12 Important Notice Sent for \$462.12.
05/29/12 Important Notice Sent for \$593.73.
04/30/12 Important Notice Sent for \$304.31.
03/29/12 Important Notice Sent for \$232.98.
02/28/12 Important Notice Sent for \$546.63.
01/30/12 Important Notice Sent for \$523.77.
12/28/11 Important Notice Sent for \$263.17.
11/28/11 Important Notice Sent for \$147.71.

Furthermore, the address of record for the account has remained the same at all relevant times and the Petitioner does not dispute that the aforementioned notices have been sent to the proper address in compliance with Rule 25-6.105(5)(g). Accordingly, the Petitioner's claim that PEF has violated Rule 25-6.105 is factually unfounded.

PAYMENT ARRANGEMENTS AND AGENCY ASSISTANCE

Petitioner alleges that the Company refuses to make payment arrangements or offer any type of assistance. In this regard, the Petitioner has not and cannot cite any statute, rule or order that PEF has allegedly violated, and this claim must be dismissed. Additionally, even though PEF is not obligated to provide payment arrangements for its customers by any statute, rule, or order, PEF did in fact provide payment arrangements for the Petitioner as follows:

- On December 28, 2011, a payment arrangement was granted, via PEF's Voice Response Unit (VRU), to allow the Petitioner to make his payment of \$263.17 by January 22, 2012. The payment was not received by the agreement date, and the arrangement defaulted.
- On June 6, 2012, PEF granted the Petitioner a payment arrangement to pay \$324.73 on June 21, 2012. The payment was not received by the agreement date, and the arrangement defaulted.
- On September 5, 2012, PEF granted the Petitioner a payment arrangement to pay \$446.22 by September 21, 2012. The payment was not received by the agreement date, and the arrangement defaulted.

Furthermore, PEF offered to provide the Petitioner agency assistance telephone numbers on March 21, 2012 and May 7, 2012, but the Petitioner refused to accept the phone numbers. PEF offered agency assistance phone numbers again to the Petitioner on August 16, 2012.

HOME ENERGY AUDIT

Petitioner alleges in his Complaint that he has requested and is waiting for an evaluation of his home, also known as a Home Energy Audit. Again, the Petitioner has not alleged any violation of a rule, statute, or order, and his claim in this regard must be dismissed. In any event, PEF's records do not indicate that the Petitioner has requested a Home Energy Audit to

be performed on his home, but PEF stands ready to perform such an audit under the terms and conditions of PEF's approved demand side management programs should the Petitioner request one. Thus, this claim is ripe to be dismissed as moot in addition to failing to allege any violation of a statute, rule, or order.

INITIAL AND ADDITIONAL DEPOSITS

Petitioner states that the Company is requiring the customer to pay an additional deposit in the amount of \$150.00 and requests that the deposit be waived. Notably, the Petitioner does not allege that PEF has violated a statute, rule or order. Instead, the Petitioner has simply stated that he wants his deposit to be waived. Accordingly, this claim must be dismissed.

Additionally, the deposit history on this account is as follows:

- On October 20, 2011, the Petitioner paid his initial deposit based on twice the average 12-month bill for the premise, which is in accordance with PEF's Tariff.
- On April 18, 2012, the Customer's service was interrupted for a past due balance. An additional deposit was required based on twice the average 12-month bill. A letter was mailed to the petitioner to inform him of the deposit increase. The Petitioner paid this additional deposit.
- On August 16, 2012, the Customer's service was again interrupted for a past due balance. An additional deposit was required based on twice the average 12-month bill for the premise. A letter was mailed to the Petitioner to inform him of the deposit increase.

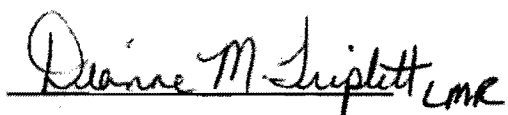
On December 3, 2012, the Petitioner contacted PEF regarding the outstanding additional deposit and PEF offered to provide a payment arrangement. The Petitioner has agreed to pay the additional deposit in two (2) equal installments. PEF will bill half the deposit on the December 2012 bill and the remaining half on the January 2013 bill. Therefore, in

addition to failing to state a violation of a statute, rule, or order, the Petitioner's deposit claim is also moot.

III. CONCLUSION

Based on the foregoing, PEF respectfully requests that the Petitioner's Complaint be dismissed in part and that his remaining request for relief be denied.

Respectfully submitted this 7th day of December, 2012.

A handwritten signature in cursive script that reads "Dianne M. Triplett" followed by the initials "LMR". The signature is written in black ink on a white background.

DIANNE M. TRIPLETT
Associate General Counsel
PROGRESS ENERGY SERVICE COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5184
Facsimile: (727) 820-5519

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via US Mail (* via electronic mail) to the following this 7th day of December, 2012.


Attorney

<p>Mr. Larry Harris, Esq. * Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850</p> <p>Mr. Marlowe Ragland 1087 Sailing Bay Drive Clermont, FL 34711</p>	<p>Mr. J.R. Kelly * Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, #812 Tallahassee, FL 32399</p>
--	--