

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED-FPSC
13 FEB 21 AM 11:02
COMMISSION
CLERK

DATE: February 21, 2013

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Brown) *MCB PD*
Office of Consumer Assistance and Outreach (Plescow) *JP*
Division of Economics (King, Daniel) *W JWP*

RE: Docket No. 060774-EI – Complaint of Frederick Smallakoff against Florida Power & Light Company concerning alleged improper bills, Case No. 696236E.

AGENDA: 03/05/13 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Schedule immediately preceding Docket No. 120176-EI

FILE NAME AND LOCATION: S:\PSC\GCL\WP\060774.RCM.DOC

Case Background

This consumer complaint was initially filed informally with the Commission's Office of Consumer Assistance and Outreach (CAO) on April 24, 2006. In the complaint Mr. Smallakoff alleged that his electric bills for his account with Florida Power & Light Company (FPL) were unusually high for the months of July, August, and September of 2005, and his efforts to get FPL to reduce the bills had not been successful. The amount in dispute was \$300. CAO staff and technical staff investigated Mr. Smallakoff's complaint and determined that the meter tests and voltage studies that FPL conducted at Mr. Smallakoff's residence were correctly performed and indicated that the facilities were operating within acceptable limits. The staff determined that FPL had not violated any Commission statutes, rules, or orders, and Mr. Smallakoff's bills were

DOCUMENT NUMBER-DATE

00946 FEB 21 2013

FPSC-COMMISSION CLERK

likely due to increased usage in the summer months. The staff indicated that the informal complaint should be closed. Mr. Smallakoff disputed those findings and objected to closing his complaint.

Mr. Smallakoff contacted the Office of Public Counsel (OPC) for assistance in pursuing his complaint, and on November 30, 2006, OPC filed a letter on Mr. Smallakoff's behalf requesting that the Commission open a formal docket to address his continuing concerns. Accordingly this docket was opened on December 1, 2006, and the Commission clerk sent notice of the formal complaint to FPL on December 4, 2006.

On April 12, 2007, OPC sent Mr. Smallakoff a letter (Attachment A) in which it indicated that it had negotiated a settlement of the disputed amount in the complaint and FPL had credited Mr. Smallakoff's account for \$300 on April 2, 2007. OPC declined to assign a lawyer from its office to conduct depositions or assist further in the case. OPC suggested that Mr. Smallakoff could address the Commission himself when the Commission considered his complaint. FPL confirmed that it had credited Mr. Smallakoff's account for the \$300 in a letter to him dated April 18, 2007 (Attachment B).

Staff initially scheduled a recommendation on the complaint for May 23, 2007, for consideration by the Commission at its June 5, 2007 Agenda Conference. Mr. Smallakoff requested additional time to provide additional documentation in support of his continuing complaint against FPL, and on April 19, 2007, staff agreed to reschedule consideration of the complaint. On September 20, 2007, staff again agreed to provide Mr. Smallakoff additional time to provide documentation. Since then staff has revised the Docket schedule every 4 to 6 months, awaiting further documentation from Mr. Smallakoff to support his continuing complaint. No further documentation or information from Mr. Smallakoff has been forthcoming.

Recently FPL contacted Mr. Smallakoff in a further effort to resolve this longstanding complaint and agreed to resolve Mr. Smallakoff's continuing dispute over the timing of his bill payments and late payment charges FPL assessed against his account. FPL again agreed to cancel all outstanding charges for service through June 4, 2012, which amounted to \$406.13. See, letters from Heidi Ellenberger, Regulatory Customer Relations Manager for FPL to Mr. F. Smallakoff, dated June 12, 2012 and September 17, 2012, and FPL's Customer Inquiry Response relating FPL's recent contacts with Mr. Smallakoff (Attachment C).

This recommendation addresses whether Mr. Smallakoff's complaint has been adequately resolved by FPL and should, therefore, be denied. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission deny Mr. Smallakoff's complaint against FPL?

Recommendation: Yes. FPL has resolved this complaint by crediting Mr. Smallakoff's account with the amount in dispute of \$300 and a further amount of \$406.13. There is no credible evidence or documentation showing that FPL is currently in violation of any Commission statute, rule or order with respect to Mr. Smallakoff's account, and therefore there is no relief that the Commission could grant in this matter. (M. Brown, King, Plescow)

Staff Analysis: Although Mr. Smallakoff has indicated that his recent communication with Ms. Ellenberger and FPL's willingness to resolve what he perceived to be continuing billing discrepancies is a satisfactory resolution of his complaint, he has not been willing to withdraw it. The facts indicate, however, that the gravamen of the complaint has been resolved. There are now no additional billing disputes between Mr. Smallakoff and FPL, and there are no outstanding overdue balances on the account. Staff has not uncovered, and Mr. Smallakoff has not provided, any additional credible evidence that FPL has failed to comply with any applicable statute, rule, or order within the Commission's jurisdiction regarding Mr. Smallakoff's account. There is, therefore, no further relief that the Commission could grant in this matter. Staff recommends that the complaint should be denied.

Docket No. 060774-EI
Date: February 21, 2013

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order. (M. Brown)

Staff Analysis: If no person whose substantial interests are affected files a protest to the Commission's proposed agency order within 21 days, the docket may be closed upon issuance of a consummating order.

KEN PRUITT
President of the Senate



Charles J. Beck
Interim Public Counsel

STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-8330

EMAIL: OPC_WEBSITE@LEG.STATE.FL.US
WWW.FLORIDAOPC.GOV

MARCO RUBIO
*Speaker of the House
of Representatives*



April 12, 2007

Mr. Frederick Smallakoff
6651 Coronet Drive
New Port Richey, FL 34655

Dear Mr. Smallakoff:

As you requested in our telephone conversation on Wednesday, April 11, 2007, I am writing you this letter about your case pending before the Florida Public Service Commission.

You contacted the consumer affairs division of the Florida Public Service Commission in April, 2005, concerning your bills from Florida Power & Light Company and other matters related to the company. The Division of Regulatory Compliance and Consumer Assistance at the Florida Public Service Commission Consumer Affairs opened file number 696236E based on your contacts, and their report can be found on the Commission's web site at <http://www.psc.state.fl.us/library/filings/06/11108-06/11108-06.pdf>.

On October 30, 2006, you sent a letter to Mr. Dan Hoppe, Director of the Division of Regulatory Compliance and Consumer Assistance at the Florida Public Service Commission, requesting that your complaint be treated as a formal complaint. A copy of that letter, as well as a letter from Public Counsel Harold McLean forwarding your request to the Director of the Florida Public Service Commission's Division of Records and Reporting, can be found on the Commission's web site at <http://www.psc.state.fl.us/library/filings/06/11091-06/11091-06.pdf>. Your case was assigned docket number 060774 by the Florida Public Service Commission.

We have tried to help you resolve your complaint with Florida Power & Light Company. At our request, on April 2, 2007, Florida Power & Light credited your bill for \$300. You have told me that you are not satisfied with that response from Florida Power & Light Company. Further, you've asked me to assign a lawyer from our office to take depositions in your case, and I have declined to do that.

The Commission's internal calendar shows that that the Florida Public Service Commission staff currently plans to issue a recommendation in your case on May 23, 2007, for

April 12, 2007
Page 2

consideration by the Commission on June 5, 2007. You should be able to address the Commission personally at the agenda conference, or if you prefer I will try to obtain a call-in number that will allow you to address the Commission at their agenda conference by telephone.

Sincerely,

Charles J. Beck
Interim Public Counsel

cc: Martha Carter Brown, Esquire, Office of the General Counsel, Florida Public Service
Commission
Mr. Bill Feaster, Florida Power & Light Company



Florida Power & Light Company, P.O. Box 029100, Miami, FL 33102-9100

✓ Overnight Delivery
U. S. Mail

April 18, 2007

Mr. Frederick Smallakoff
6651 Coronet Drive
New Port Richey, Florida 34655

FPSC Inquiry No. 696236E
FPL Account No: 77742-09931
6651 Coronet Drive

Dear Mr. Smallakoff:

The letter is in reference to your inquiry with the Florida Public Service Commission for the above-reference electric service account.

In an effort to resolve billing concerns with FPL, and at the request of the State of Florida's Office of Public Counsel, FPL has credited your service account for \$300.09 resulting in a current credit balance of (\$86.99 cr.).

A financial audit of your account for the past 12 months depicting your current account status is enclosed for your review. Also enclosed is the most recent billing which reflects billing adjustments made to your account and a copy of the Office of Public Counsel's letter to you dated April 12, 2007.

Should you have further questions or if we may be of further assistance, please free to contact me at 1 (800) 397-6544 extension 2.

Sincerely,

A handwritten signature in cursive script that reads "Ralph Nesbitt".

Ralph Nesbitt
Complaint Resolution Specialist – Regulatory

Attachments

cc: Florida Public Service Commission
State of Florida, Office of Public Counsel

an FPL Group company



Overnight Mail

June 12, 2012

Mr. F. Smalikoff
6851 Coronat Drive
New Port Richey, FL 34655

Re: 512 Riverview Blvd., Daytona Beach, FL 32118
Bill Account No. 77742-09031

Dear Mr. Smalikoff:

It was a pleasure speaking with you today.

As we discussed, in an effort to resolve the on-going disputes regarding your past billing at the Daytona Beach residence, I am cancelling all charges for service through June 4, 2012. This will result in a zero balance on your account. When you receive your July, 2012 bill, there will be no past due balance. The billing has once and for all been removed from your account.

Per your request I am enclosing the June 4, 2012 billing statement reflecting \$406.13. However, there is no need to pay this bill since the entire balance is being cancelled.

I will also call you in August to confirm your satisfaction. I want you to know that you can always contact me at 805-582-2050 for any concern you may have. I am enclosing my business card for easy reference.

Mr. Smalikoff, we desire to serve and please you, and ask that we start on a clean slate and move forward from these prior disputes. I look forward to speaking with you later this summer.

Thank you, and best regards,

W. D. DeLoach
W. D. DeLoach
Regulatory Customer Relations Manager

Enclosures

Florida Power & Light Company
P.O. Box 27000, Miami, FL 33102



Overnight Mail

September 27, 2012

Mr. F. Smalikoff
6054 Coronet Drive
New Port Richey, FL 34655

Re: 512 Riverview Blvd., Daytona Beach, FL 32118
Bill Account No. 77742-09531

Dear Mr. Smalikoff:

I hope this letter finds you doing well.

Mr. Smalikoff, as promised in my June letter, I called you last month to confirm your satisfaction and left a voicemail message. I also tried again today to reach you at (727) 372-8644 and was unable to leave a message.

I am writing to thank you for your prompt payments and confirm that your account is in good order. Please contact me at (305) 352-2960 so I can find out how you're doing and ensure you are satisfied with the resolution we reached. I am enclosing my business card for easy reference.

Best regards,

Hindi Ellenberger
Hindi Ellenberger
Regulatory Customer Relations Manager

Florida Power & Light Company
P.O. Box 679106, Miami, FL 33167



Customer Inquiry Response

Customer's First Name: F
Last / Business Name: SMALLAKOFF
Alternate Name:
Service Address: 512 RIVERVIEW BLVD
DAYTONA BEACH, FL 32119

FPSC Log: 588236E **Received From:** Shonna
Account #: 77742-09931 **Response Type:** Supplemental 3

Response Comments:

FPL records reflect each month bills were rendered and payments have been promptly received in the last six months. See attached financial audit for billing details.

06/12/12 - In light of the age of the billing dispute and in an attempt to settle the matter, Mrs. Ellenberger, Regulatory Customer Relations Manager, reached out to Mr. Smallakoff. Mrs. Ellenberger had a good conversation with Mr. Smallakoff and, as a courtesy and in an effort to start with a clean slate, she offered to bring his account to a zero balance. Mr. Smallakoff accepted the offer and was very appreciative. Mrs. Ellenberger sent Mr. Smallakoff a letter of confirmation and Mrs. Ellenberger offered to re-contact Mr. Smallakoff in August to confirm his satisfaction.

Subsequently, billing and late fees were canceled and the account was left with a zero balance prior to the July 3, 2012 billing statement being issued.

08/13/12 - As a follow up Mrs. Ellenberger made an unsuccessful attempt to contact Mr. Smallakoff. A voice mail message was left requesting a return call.

09/17/12 - Mrs. Ellenberger made another unsuccessful attempt to reach Mr. Smallakoff. The same day, Mrs. Ellenberger sent a letter to Mr. Smallakoff advising of her attempts to contact him. The letter also thanked Mr. Smallakoff for his recent prompt payments and confirmed his account was presently in good order. The letter further requested a return call to ensure he was satisfied.

01/03/13 - Mr. Smallakoff contacted Mrs. Ellenberger. He indicated he had spoken with Ms. Martha Carter Brown at the FPSC, and discussed the docket process. He also indicated he felt FPL had targeted him years ago and issued him erroneous billing, and that he wanted others to know about the treatment FPL had given him. However, he further indicated he was appreciative of the billing adjustment that had been issued. Mrs. Ellenberger apologized for any perceived mistreatment or erroneous billing and assured him FPL does not maliciously target customers. She explained FPL has made a courtesy adjustment on his account more than once and discussed FPL's billing and meter test practices. She assured Mr. Smallakoff that his concerns had not gone unnoticed and the billing adjustments provided was to bring a fresh start and closure to his complaint. She also informed Mr. Smallakoff he could participate in the docket hearing and express his concerns. Mr. Smallakoff understood and agreed to contact Mrs. Ellenberger for any future concerns.

01/14/2013


Presently, the account has a balance of \$74.78 due by January 24, 2013.

Our best efforts were made to satisfy the customer.

Approval Signature: Betty Gobel
Approver's Title: Corporate Resolution Specialist
Date of Approval: 01/11/2013

01/14/2013

2

 Customer Inquiry Response

Customer's First Name: F
Last / Business Name: SMALLAKOFF
Alternate Name:
Service Address: 512 RIVERVIEW BLVD
DAYTONA BEACH, FL 32118

FPSC Log: 696236E **Received From:** Shonna
Account #: 77742-09931 **Response Type:** Supplemental 4

Response Comments:

02/07/13 - Mr. Smallakoff left a voice mail message for Mrs. Heidi Ellenberger, Regulatory Customer Relations Manager, inquiring if she had recently spoken with FPSC Attorney, Martha Brown. He requested a return call from Mrs. Ellenberger. When Mrs. Ellenberger spoke with Mr. Smallakoff she indicated she had not spoken with Ms. Brown and explained that her role at FPL does not usually include direct contact with FPSC Staff. Mr. Smallakoff explained he was concerned that his docket was scheduled for late February, per his recent conversation with Attorney Brown. He stated he had been expecting copies of the documentation that would be used to prepare the Staff Recommendation, since January; however, FPSC staff had not provided the information to him from . Mr. Smallakoff explained he wanted to have the Agenda Conference delayed until he receives the information he requested. Mrs. Ellenberger suggested he advise Ms. Brown or the FPSC Clerk's Office of his request.

Mr. Smallakoff asked Mrs. Ellenberger about the process and various dates involved in the docket. Mrs. Ellenberger explained the Agenda Conference date and other information was available online at the FPSC's web site, and she offered to provide him the URL to the docket information. Mr. Smallakoff advised accessing the internet was difficult for him and he requested the information be faxed to him. Mrs. Ellenberger made arrangements for the information to be faxed to Mr. Smallakoff; however, the fax did not go through successfully. Mr. Smallakoff explained he would try to work on his fax and recontact Mrs. Ellenberger the following day.

During their conversation, Mrs. Ellenberger discussed the two prior credits FPL had provided to him, which more than cancelled out the disputed amount identified in his complaint. She also explained, that based on his 2006 complaint, there did not appear to be an ongoing disputed amount, as that amount had been adjusted twice, as a courtesy, in an attempt to resolve the matter. Mr. Smallakoff requested financial audits showing the two credit adjustments and Mrs. Ellenberger indicated she would mail them to him. Mr. Smallakoff indicated he felt FPL had previously targeted him by maliciously billing an erroneous amount and tampering with his United States Postal Service (USPS) mail. Mrs. Ellenberger apologized for any past perceived mistreatment or erroneous billing issues and assured him FPL does not maliciously target customers. Additionally, she asked Mr. Smallakoff for evidence of his accusations; he indicated he had evidence but did not offer to provide any information. She further assured him the concerns had previously been investigated by FPL and there was no evidence of erroneous billing, that he was maliciously targeted or that anyone from FPL tampered with his mail.

F. Smallakoff
060774EI
Page 2 of 2

Mr. Smallakoff indicated he did have evidence, but again, did not offer to provide any information. Mr. Smallakoff indicated he appreciated Mrs. Ellenberger's assistance in attempting to resolve the matter. He indicated he still wants to participate in the docket hearing to express his concerns.

02/08/13 - Mr. Smallakoff left a voice mail for Mrs. Ellenberger indicating his fax machine was working and requested the docket information be faxed to him. Mr. Ricketts, Corporate Resolution Specialist, contacted Mr. Smallakoff on behalf of Mrs. Ellenberger and successfully sent him a fax of the attached FPSC docket information. Mr. Smallakoff inquired about the two audits showing the prior credits and Mr. Ricketts explained the two audits would be mailed to him the following week; Mr. Smallakoff thanked Mr. Ricketts.

02/11/13 - The two attached audits were mailed to Mr. Smallakoff via overnight delivery.

2/12/13 - Delivery of the audits was confirmed.

Approval Signature:	<u>Rory Ricketts</u>
Approver's Title:	<u>Corporate Resolution Specialist</u>
Date of Approval:	<u>02/13/2013</u>