

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: COMPLAINT OF CARRIE A. MASTRONARDI)	DOCKET NO. 891146-EI
AGAINST FLORIDA POWER AND LIGHT COMPANY)	
REGARDING HIGH BILLS FOR ELECTRIC)	ORDER NO. 22089
CONSUMPTION)	
_____)	ISSUED: 10-25-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTIONORDER DENYING REFUND

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

On March 31, 1988, Mrs. Carrie Mastronardi of Miami Beach filed a complaint with the Commission alleging that Florida Power & Light Company (FPL) was overbilling her for electric consumption. Mrs. Mastronardi had been participating in budget billing but after receiving a bill for over \$200, she left the plan and was liable for the deferred balance. She requested an audit. On March 31, April 1, and April 7, 1988, an FPL representative contacted Mrs. Mastronardi regarding her complaint and offered to visit her residence to investigate possible reasons for her higher kilowatt hour consumption. She declined and, instead, asked that her meter be tested for accuracy. On April 4, 1988, her meter was replaced with a tested meter. Test results indicated that the old meter registered at a weighted average accuracy of 100.12%; the

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replacement meter registered at 99.90%. Both operated within the Commission accuracy standard of $\pm 2\%$ zero error. On April 13, 1988, FPL mailed the account audit to her.

By letter dated July 21, 1988 to the Commission, Mrs. Mastronardi complained that her bills had increased from \$100.24 in March 1987 to \$263.02 when the meter was replaced on April 4, 1988, and then dropped to \$110.50. She sought a refund from FPL for overcharges resulting from an "over-registering" watt-hour meter. FPL refused arguing that both the meter and its replacement had been calibrated and found to register within the Commission's accuracy standards. After the Division of Consumer Affairs conducted an informal investigation and reviewed records provided by FPL, staff advised Mrs. Mastronardi, by letter dated September 15, 1988, that the Commission could not require FPL to adjust her bill because it was found that both her meter and its replacement were operating within the established limits, and the proper rates had been applied.

By letter dated October 7, 1988, Mrs. Mastronardi requested further review of her case and suggested a 10 year life-span should be assigned to watt-hour meters; her meter was over 30 years old. Informal investigation findings dated October 13, 1988, indicate that Commission staff found not only that the watt hour meter correctly measured electric energy use which passed through electrical appliances located at Mrs. Mastronardi's residence, but that kwh usage fell basically along seasonal patterns. On May 1, 1989, Mrs. Mastronardi filed a claim in Dade County Court stating that after FPL replaced her meter, her bills dropped evidencing that the old meter was defective. On May 10, 1989, the cause was dismissed for lack of subject matter jurisdiction.

By letter dated May 23, 1989, directed to the Commission, Mrs. Mastronardi informed that she lived in "a one bedroom and bath," and had calculated that she had been subject to a \$2,364 overcharge by FPL. She also suggested a relationship between the fact that the month after FPL had been served with a subpoena relating to her dismissed civil action, her electric bill dropped to \$78.00.

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By memorandum dated June 13, 1989, directed to FPL, staff questioned Mrs. Mastronardi's representation that she lives in a one bedroom and bath [apartment]. Staff noted that she is served by a watt-hour meter with a conversion factor of 30, typically used to serve larger residences with a potential for larger consumption. By letter dated June 30, 1989, FPL informed staff that the customer resides in a large single family residence and that the customer was billed \$78.31 for 996 KWH for service used from September through October 1988, while the subpoena was served on FPL on April 4, 1989.

On July 3, 1989, staff received another letter from Mrs. Mastronardi seeking further Commission review of her case. By letter dated July 14, 1989, directed to Mrs. Mastronardi, staff advised that the decline in electric energy usage after the April 5, 1988, meter replacement and after the service of the subpoena coincided with reduced seasonal demands, and maintained billing had been according to measurements taken from an accurately registering watt-hour meter. Staff advised Mrs. Mastronardi of the availability of an informal conference which was held on September 7, 1989, after which the complaint remained unresolved.

On September 11, 1989, FPL visited Mrs. Mastronardi's home to conduct a home energy survey. The residence was found to consist of a main house with an exhaust fan built into the foyer ceiling to draw out hot air, a 6,000 BTU carrier wall unit, and a 40 gallon electric water heater; a 900 square foot guest cottage with a two-ton central air conditioning unit and an electric water heater; and a swimming pool with a pump on a timer set to run from 7 a.m. to 3 p.m., eight hours a day. On September 12 and 13, meter readings were taken indicating Mrs. Mastronardi's residence used 30 kwh of electricity within a 24 hour period. By letter dated October 3, 1989, staff advised Mrs. Mastronardi that the Commission would review her complaint at its October 17, 1989 agenda conference and at that time prepare a Proposed Agency Action (PAA). Included was staff's recommendation dated September 27, 1989 tracing her complaint and finding that FPL had not over-billed her for electric consumption.

By letter dated October 10, 1989, Mrs. Mastronardi, reiterating prior allegations regarding FPL's billing

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practices, advised staff she intended to take her complaint to "a superior court" with "2 prominent lawyers to defend me". Mrs. Mastronardi declined to appear at the October 17, 1989 agenda conference at which the Commissioners approved staff's recommendation. By letter dated October 13, 1989 and received by Commission staff on October 17, 1989, subsequent to agenda conference, Mrs. Mastronardi indicated she could not travel due to ill health and that she believed appearing at the agenda conference would be "useless" in that [t]he arguments are the same."

A review of the foregoing facts indicates that both the representatives of FPL and Commission staff not only made good faith attempts to investigate and resolve Mrs. Mastronardi's complaint that she had been over-billed approximately \$2,364 by FPL due to a defective meter, but accommodated and indulged her at every juncture. A review also indicates that after having pushed her complaint to its procedural limits, as is her right, Mrs. Mastronardi then declined to appear and pursue her complaint at the scheduled October 17, 1989 agenda conference, unilaterally declaring such forum to be "useless" and the arguments to be presented there "the same".

We find that the facts indicate that the electric energy usage billed to Mrs. Mastronardi's account by FPL reflect the actual consumption registered by the electric meter which was in proper working condition and registering within the Commission's prescribed accuracy standard as determined by a meter test conducted on April 4, 1988. We also find that the Commission should not grant the \$2,364 refund requested. It is, therefore

ORDERED that Mrs. Mastronardi's complaint requesting a \$2,364 refund from FPL is denied. It is further

ORDERED that this docket shall become final and this docket closed unless a petition or formal proceeding is received by the close of business day on November 15, 1989.

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By ORDER of the Florida Public Service Commission,
this 25th day of OCTOBER, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

BAB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 15, 1989.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.