

FPL further stated that since neither Mr. Hutchinson nor the complainants paid the relocation costs, and the construction of the home continued, Mr. Henry Vartanian with the Occupational Safety & Health Administration was notified November 20, 1992, about what FPL considered a dangerous situation. FPL reported that Mr. Hutchinson, the building contractor, then agreed to pay the cost of \$1,849 to relocate FPL's facilities. FPL then shortened the appropriate lateral by 20 to 30 feet, removed one pole, and installed a new pole.

The complainants filed a formal complaint with the Commission, asserting that FPL did not remove the pole and the total bill was \$9 more than stated in FPL's February 23, 1992, enumeration of the involved costs. The complainants requested that the \$353 for removal of the pole be refunded and that the \$9 overcharge be refunded. The complainant also requested that a partial refund of the remaining charges be made, alleging that FPL had previously planned on installing a new transformer on the old pole at no cost.

FPL responded that the old pole could not be removed until the local cable television company removed its attachment on the old pole. Once the cable company had removed its attachment, the pole was then removed. FPL further stated that the complainants were not overcharged \$9; instead, the total of \$1840 shown in the cost enumeration was a typographical error. All of the listed costs of the bill actually totaled \$1849. Even though it was not required, FPL refunded the \$9 to the complainants by May 10, 1993.

FPL also explained that the \$1849 paid by the complainants included only the costs for relocating FPL's existing facilities. None of the costs associated with installing a new transformer were included in the total cost of \$1849.

We find that FPL was proper in requiring the complainants to pay for relocating its existing facilities. FPL's tariff, Eighth Revised Sheet No. 6.040, paragraph 5.3 entitled "Relocation of Company's Facilities," which is approved by the Commission, provides that

"When there is a change in the Customer's operation or construction which, in the judgment of the Company, makes the relocation of Company's facilities necessary, or if such relocation is requested by the Customer, the Company will move such facilities at the Customer's expense to a location which is acceptable to the Company."

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It has long been a Commission policy where practical to place additional costs on those customers who cause them, so other ratepayers who do not request special services such as facilities relocation are not required to subsidize those who do. In this case, only the complainants benefitted from the relocation of FPL's existing facilities. Therefore, we find that FPL acted properly in accordance with its tariff in billing the complainants for the work.

We find that the billing of \$1849 was proper and reasonable. We note that the old pole was not moved until April 20, 1993, two weeks after this case was docketed and that perhaps this should have been expedited. FPL has refunded \$9 since the complainants believed that they were overcharged, which brought the disputed amount to \$1840. Consequently, we do not find that any adjustment in the billing should be ordered.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that no adjustments shall be made in the billing of facility relocation costs to the Samales, as discussed in the body of this Order. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission this 13th day of July, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
MAA:bmi

by: Kary Flynn

Chief, Bureau of Records

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 August 3, 1993.

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.

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 wastewater 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.