

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Fadylla) DOCKET NO. 930688-EI
Abdallah against Florida Power) ORDER NO. PSC-93-1325-FOF-EI
and Light Company regarding) ISSUED: September 9, 1993
Backbilling for estimated usage)
of electric consumption.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING COMPLAINT

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On August 7, 1992, a complaint was filed with this Commission by Fadylla Abdallah (Mrs. Abdallah) against Florida Power and Light Company (FPL). It alleged that Mrs. Abdallah was billed for current diversion, and that the backbilling was for \$4,723.81.

An informal conference, pursuant to Rule 25-22.032(4), F.A.C., was conducted by a staff member of the Commission's Division of Consumer Affairs on May 24, 1993 in Miami, Florida. Also attending were representatives of FPL.

At the conference, Mrs. Abdallah used her brother-in-law, Antonio Vila, as a translator, and she stated that she's using less power now after the new meter was installed. She said that she has a gas stove, her water heater is set at 110 degrees, her air conditioner is only used sometimes, and she has no large electric appliances. She was also concerned about the time it took FPL to find the problem, and didn't feel that she should be responsible for payment of the backbilling.

DOCUMENT NUMBER-DATE

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FPC-RECORDS/REPORTING

FPL presented evidence that on June 5, 1992, a meter reader observed the meter at Mrs. Abdallah's residence, and reported dial tampering, unknown equipment, disk turning, and missing meter seal. On June 12, 1992, an attempt was made to inspect the meter, but the room that the meter was in was locked. The meter was removed on July 6, 1992, and further observation revealed that the inner meter seal was missing, drag marks on the bottom of the disk, and the disk wasn't turning. On July 8, 1992, the meter was tested, and the results indicated that the inner seal was missing, shiny blades, drag marks on the bottom of the disk, tampered bearing screw bottom, and lowered disk. The meter was registering at 8.42% average accuracy, and FPL believes that the current diversion was an inherited condition.

FPL indicated that due to the inherited diversion, her billing since the connection date wasn't based on actual usage. FPL stated that when a disk is raised or lowered, the meter will register over a period of time. However, the meter will get so bad over the years that it will gradually come to a complete stop. That's why Mrs. Abdallah was billed for only three kilowatt hours on June 5, 1993. FPL pointed out that her usage for one month after the new meter was set was for 1,777 KWH--more than any usage since her connection date, and customers usually decrease their consumption once they receive a high bill.

According to FPL the customer's initial service connection date was July 2, 1987, and the average percentage of usage and follow-up meter readings were used to backbill the account \$4,723.81 from July 1987 to July 1992 for 53,998 kilowatt hours (KWH). A new meter was set on July 6, 1992, and the meter reading was checked on July 7 indicating that 60 KWH had been used. That usage was used to establish the projected usage of 1,800 KWH for July 1992 (60 KWH x 30 days = 1,800 KWH). On July 22, 1992, the reading was checked again indicating that 1,049 KWH had been used since the July 7 reading. That usage was then used to estimate the August 1992 projected usage of 2,100 KWH (1,049 KWH divided by 15 days = 70 KWH x 30 days = 2,100 KWH). The monthly percentages were applied on the July and August 1992 projected usage resulting in a yearly average of 18,447 KWH (1,800 KWH divided by 10.14% = 17,751 KWH (July) and 2,100 KWH divided by 10.97% = 19,143 KWH (August) = 36,894 KWH divided by 2 = 18,447 KWH). The yearly average was multiplied by the monthly percentages from July 1987 to July 1992.

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It should be pointed out that FPL at the informal conference offered to reduce the bill by half with a payment arrangements of 60 months, but the customer wanted her lawyer to review that offer. Subsequently, Mrs. Abdallah rejected the offer by FPL, which was then withdrawn as a result of the rejection.

After reviewing the evidence presented at the informal conference and the post-conference filings submitted by the parties, Staff found that FPL had complied with all applicable statutes and rules in regard to this backbilling.

We find that the electric meter at Mrs. Abdallah's residence had been tampered with, it was not accurately registering. We also find that FPL acted properly in backbilling Mrs. Abdallah. We further find that the amount of backbilling is reasonable and the offer by FPL to reduce that amount in half should be the amount that Mrs. Abdallah should be required to repay FPL over a sixty-month period of time.

Accordingly, the complaint of Mrs. Fadylla Abdallah against Florida Power and Light Company is hereby denied.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that Mrs. Fadylla Abdallah's complaint against Florida Power and Light Company is hereby denied. It is further

ORDERED that Florida Power and Light Company is hereby ordered to backbill to Mrs. Fadylla Abdallah \$2,361.91 to be repaid over a sixty-month period of time. 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 9th day of September, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
MRC:bmi

Commissioner Julia Johnson dissented as follows:

In the instant case, the facts clearly demonstrate that the current diversion was an inherited condition outside of the control and knowledge of Mrs. Abdallah. The current diversion appears to have existed from the date of initial service connection, July 1987, until July 1992. It is clear, therefore, that Mrs. Abdallah received a benefit from the current diversion and un-billed electricity.

The question is how much should she be required to pay and over what time period. The PSC staff recommended that Mrs. Abdallah be required to pay \$4,723.81 over a five-year period. The \$4,723.81 amount was based on calculations using approved monthly seasonal percentage of usage charts and actual usage meter readings. The payment plan would have required Mrs. Abdallah to incur an additional \$80 per month expense. On its face the amount appears unreasonably high. My fellow commissioners determined that the amount which FPL had offered as a settlement during negotiations was a more reasonable amount (\$2,361 approx.) to require Mrs. Abdallah to pay. Under the \$2,361 plan, Mrs. Abdallah will be required to pay about \$40 per month.

My concern is that the reduced amount may still cause an undue hardship on Mrs. Abdallah. I believe that in cases of inherited diversions back-payment plans should be structured in a manner that will prevent, or at least minimize, undue financial burdens being imposed on innocent customers. They should not be structured by merely mechanically imposing a repayment schedule that is based on how long it took the utility to discover the current diversion.

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 September 30, 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.