

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Mr. Thomas) DOCKET NO. 950541-EI
L. Fuller against Florida Power) ORDER NO. PSC-95-0782-FOF-EI
Corporation regarding high) ISSUED: June 28, 1995
electric bills in Orange County.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION ORDER
ORDER DENYING RELIEF AGAINST FLORIDA POWER CORPORATION

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 a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

On December 27, 1994, Mr. Thomas Fuller (Mr. Fuller) contacted the Public Service Commission's Division of Consumer Affairs to complain that Florida Power Corporation (FPC) had overbilled him. The complaint form shows that Mr. Fuller verbally requested that FPC make arrangements with him immediately to test the meter in his presence on December 28, 1994. At the time of the complaint, Mr. Fuller said he was moving to another state and left a telephone number where he could be reached for a limited time period. Mr. Fuller also said he had made a request to FPC that his service be disconnected on December 24, 1994.

On September 12, 1994, Mr. Fuller initiated his FPC account in the name of Thomas L. Fuller, 2950 N. Pinehill Road #31, Orlando, Florida. FPC's initial reading of Mr. Fuller's meter (Number 0885688) was 93854, and the final reading on December 27, 1994, was 97975. Mr. Fuller had electricity for a 106-day period with a

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total kilowatt hour usage of 4,121 for an average daily use of 39 kilowatt hours. The total amount FPC billed Mr. Fuller during this period was \$323.48.

FPC records indicate that Mr. Fuller contacted its Customer Service Center on Friday, December 23, 1994 before contacting the PSC about his alleged usage and related billing. FPC agreed to send a field agent to re-read the meter for verification. The field order was scheduled for December 27, 1994, however, the customer called FPC on Monday, December 26, 1994, (Observed Christmas Holiday) to place a disconnect service order for Tuesday, December 27, 1994. FPC reported that because of the volume of work over the holiday period, the disconnect was not completed until early Wednesday morning on December 28, 1994. On the same day verification of the meter reading was to occur, the disconnect order was also due. FPC combined the service disconnect order and the investigation of the meter. The out reading occurred when the meter was pulled to be tested, and again at the test facility.

On December 28, 1994, FPC informed staff that Mr. Fuller had moved and that the meter had been pulled from his residence and delivered to FPC's St. Petersburg office for testing. At that time, staff advised FPC to safeguard the meter because of Mr. Fuller's requested meter test.

Mr. Fuller called the Commission on December 30, 1994, and said he wanted to witness the meter test in addition to it being witnessed by a Commission employee.

On January 3, 1995, Consumer Affairs forwarded Mr. Fuller's request to the Commission's Division of Electric and Gas. On January 5, 1995, Mr. Carlos Andino, Engineer III of the Orlando District Office, called Mr. Fuller to discuss his concerns and reiterate his right to witness the actual meter test. Mr. Fuller maintained that FPC had already removed and tested the meter and then refused to go to the testing site.

On January 12, 1995, Mr. Andino went to the FPC testing facility in St. Petersburg and found that no test had been done on the meter. Mr. Andino verified that the meter was tested properly, and was registering at an accuracy level of 99.96% within the accuracy limits of 98% to 102% established in the Rule 25-6.052, Florida Administrative Code (FAC). Mr. Andino also reported that when he visually inspected the meter, he found the company's 1970 manufacturing seal still intact, and no evidence of meter tampering. After the test was concluded, Mr. Andino also verified

Mr. Fuller alleges that his bill for the period ending on December 27, 1994, was higher due to FPC's failure to disconnect his services on the day he requested. Mr. Fuller notified FPC on December 26, 1994, of his desire to be disconnected on December 27, 1994. FPC physically disconnected Mr. Fuller's service on December 28, 1995. Mr. Fuller was charged up to and including for the period ending December 28, 1995.

FPC acted within the confines of its tariff by disconnecting on December 28, 1994. FPC's tariff sheet 4.080 states that "Whenever a customer vacates a premise served by the Company, or when a change of occupancy therein takes place, the outgoing customer shall notify the nearest office of the Company not less than three days prior to the date of vacating or change....". By disconnecting on December 28, 1994, FPC complied with the three day provision of its tariff.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the request for relief of Mr. Thomas Fuller against Florida Power Corporation is hereby denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket should be closed.

that the laboratory testing equipment complied with Rule 25-6.054, FAC, which establishes the standards for accuracy of the laboratory testing equipment.

On January 27, 1995, Consumer Affairs sent a letter of explanation to the customer about the results of the meter test and the PSC interpretation of his complaint. Staff determined that FPC had not violated its tariff or the rules and regulations of the Commission. On February 3, 1995, the customer sent correspondence to Consumer Affairs disputing the final disposition of his complaint and indicating that he desired to continue his complaint with a hearing. On February 8, 1995 as requested by Mr. Fuller, copies of the meter test results were mailed to his known address. The copies were returned with no forwarding address.

On February 25, 1995, Mr. Fuller sent another letter to Consumer Affairs questioning the Commission's ability to conduct an independent investigation of FPC. He also rejected the finding that the meter functioned properly when registering his usage. Again, the customer requested a formal Commission hearing. On March 4, staff attempted to contact Mr. Fuller at his work number to discuss his February 25th letter, but was unable to reach him. A message was left for the customer to return the call. Staff discussed the customer's request for a formal hearing and determined that the customer should first have an informal conference to attempt to settle this matter.

Formal contact was not made with Mr. Fuller until March 23, 1995. Mr. Fuller agreed to attend the informal conference in the interim, although he said he preferred a formal hearing.

On March 28, 1995, Mr. Fuller sent correspondence to formally request an informal conference and on April 12, 1995, staff acknowledged this request and scheduled the informal conference for April 27, 1995 at the PSC Orlando District Office.

On April 27, 1995, the informal conference was held in the PSC Orlando office. Present were Thomas L. Fuller, Customer; Leroy A. Raspberry, Chief, Bureau Complaint Resolution PSC; Carlos Andino, Engineer III PSC; Lynette Vermillion, Director of Customer Service and Energy Distribution, FPC; Tina Hahn, Consumer Affairs Coordinator, FPC; Yvonne Hoey, Customer Service and Marketing Representative, FPC; Jim Schreiber, Manager of Meter Operations, FPC; and Rodney Gaddy, Corporate Counsel, FPC. No agreement was reached at this conference. After the FPC representatives left the meeting, Mr. Fuller remained. He said for his inconvenience and time lost he would be willing to settle this complaint with FPC for \$33,000. This settlement offer was communicated to FPC, and the

company declined to settle for this amount. Since no settlement was reached, the complaint was docketed in accordance with Rule 25-22.032(8).

DECISION

Mr. Fuller maintains that he was incorrectly billed for service at 2950 North Pine Hills Road #31, Orlando, Florida, while service was connected in his name. The customer had service for a total of four billing periods:

<u>DATE</u>	<u>KWH READING</u>	<u>KWH BILLED</u>	<u>NO. DAYS BILL PERIOD</u>
12/28/94*	97975	221	22
12/27/94**			
12/05/94	97754	1548	33
11/02/94	96206	1525	29
10/04/94	94681	827	22
09/12/94***	93854	***	***

- * Date Disconnect was worked
- ** Date Service was taken out of occupant's name.
- *** Date Service was placed in occupant's name.

The total number of days billed is 106; and, the total amount of billed kilowatt hours is 4121--an average usage of 39 kilowatt hours per day.

On January 12, 1995, Mr. Andino, read the meter and verified that it was tested properly. The meter registered at an accuracy level of 99.96%. That percentage is within the accuracy limits of 98% to 102% established in Rule 25-6.052, Florida Administrative Code. The meter reading was verified to be 97975.

Mr. Andino reported that he visually inspected the meter and found the company's 1970 manufacturing seal still intact; and, that there was no evidence of meter tampering. At the conclusion of the test, Mr. Andino verified that the laboratory testing equipment complied with Rule 25-6.054, Florida Administrative Code.

Mr. Fuller alleges that his bill for the period ending on December 27, 1994, was higher due to FPC's failure to disconnect his services on the day he requested. Mr. Fuller notified FPC on December 26, 1994, of his desire to be disconnected on December 27, 1994. FPC physically disconnected Mr. Fuller's service on December 28, 1995. Mr. Fuller was charged up to and including for the period ending December 28, 1995.

FPC acted within the confines of its tariff by disconnecting on December 28, 1994. FPC's tariff sheet 4.080 states that "Whenever a customer vacates a premise served by the Company, or when a change of occupancy therein takes place, the outgoing customer shall notify the nearest office of the Company not less than three days prior to the date of vacating or change....". By disconnecting on December 28, 1994, FPC complied with the three day provision of its tariff.

Based on the foregoing, it is, therefore,

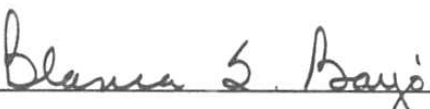
ORDERED by the Florida Public Service Commission that the request for relief of Mr. Thomas Fuller against Florida Power Corporation is hereby denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket should be closed.

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By ORDER of the Florida Public Service Commission, this 28th
day of June, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 19, 1995.

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.

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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 substantially 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.