

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Shirley) DOCKET NO. 950504-EI
Jaeger against Florida Power &) ORDER NO. PSC-95-0786-FOF-EI
Light Company concerning charges) ISSUED: June 29, 1995
associated with meter tampering.)
_____)

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 DENYING COMPLAINT

BY THE COMMISSION:

CASE BACKGROUND

On May 12, 1993, a meter reader for Florida Power and Light Company (FPL) reported that he found a hole in the canopy of the meter at 745 NW 41st Terrace, Deerfield Beach, the previous residence of Barry Jaeger. On September 30, 1993, a new meter was installed and the old meter was taken for testing and inspection.

On October 5, 1993, an FPL investigator discovered a hole in the meter canopy at 10293 Boynton Place Circle, Boynton Beach, Mr. Jaeger's residence at that time. The Deerfield Beach and Boynton Beach accounts were both opened in the name of Shirley Jaeger. On a subsequent visit on October 10, 1993, an investigator found a wire inserted into the hole that prevented the disk from turning. Several days later, the meter was removed and a new meter installed. During the testing of the old meter, FPL found that, with the wire inserted, the meter could not register any electricity.

FPL discovered another account opened in the name of Shirley Jaeger at 102 NW 48 Court, Pompano Beach. An investigator went to the residence and found a hole in the meter canopy at that location, too. A second field investigator found a wire inserted into the hole, which prevented the disk from turning. When the wire was removed, the disk began to rotate. This meter was also removed and taken for testing and inspection.

DOCUMENT NUMBER-DATE

J6086 JUN 29 88

FPSC-REGULOS/REPORTING

Because current meter tampering conditions were discovered at the Boynton Beach and Pompano Beach addresses, FPL backbilled both accounts for meter tampering. The history of extremely low kilowatt hour consumption at the Deerfield Beach address during the time the account was in Mrs. Jaeger's name, and the presence of the hole in the meter caused FPL to believe that meter tampering had occurred at the Deerfield Beach residence as well.

FPL backbilled all three accounts a total of \$12,509.33. The breakdown for each address is as follows:

ADDRESS	ADDI-TIONAL KWH	INVESTI-GATION CHARGES	BACKBILLED AMOUNT	TOTAL
102 NW 48 Court, Pompano Beach	41,136	282.04	3166.77	3448.81
10293 Boynton Place Circle, Boynton Beach	16,760	332.59	1372.33	1704.92
745 NW 41 Terrace, Deerfield Beach	103,918	216.11	7139.49	7355.60
Totals	161,814	\$830.74	\$11,678.59	\$12,509.33

The Pompano Beach residence, Mrs. Jaeger's current home, was backbilled from the January, 1988 billing period, until October 12, 1993, when the meter was replaced. The Boynton Beach account was backbilled from June 18, 1992, when the account was opened, until October 13, 1993, when the meter was replaced. The Deerfield Beach account was backbilled from December 4, 1987, which is as far back as FPL has records, until June 11, 1992, when the account was closed.

On January 24, 1994, Barry Jaeger filed a complaint with the Florida Public Service Commission's Division of Consumer Affairs (CAF) against FPL on behalf of his mother, Shirley Jaeger. He stated that neither he nor his mother knew anything about the tampering.

On June 17, 1994, CAF staff advised Mrs. Jaeger that FPL's backbilling appeared to be reasonable and in compliance with Commission rules. On July 5, 1994, Mrs. Jaeger, through her attorney, Norman Elliott Kent, requested an informal conference,

later scheduled for September 28, 1994. On September 27, 1994, Mr. Kent advised that Mrs. Jaeger was unable to attend the conference.

Over the next six weeks, CAF staff made efforts to reschedule the conference. Finally, on November 17, 1994, Mr. Kent advised staff that he was no longer handling Mrs. Jaeger's case and that it would be handled by the Senior Citizen's Law Project of the Legal Aid Service of Broward County, Inc. (Legal Aid). Negotiations between FPL and Legal Aid failed to resolve the dispute, so an informal conference was held on April 20, 1995.

In attendance at the informal conference were: Mrs. Jaeger and her attorney, Carrie Kravitz; Charles Steele, Roseanne Lucas, Mert Liin-Jankowski and Darrell Evans of FPL; and Richard Durbin of the Florida Public Service Commission. Ms. Kravitz presented several arguments citing case law and Florida Statutes, but all related to criminal liability rather than administrative procedures. The parties failed to reach a resolution or compromise at the informal conference.

Subsequent to the informal conference, Ms. Kravitz and Darrell Evans continued efforts to make some arrangement for Mrs. Jaeger to pay the backbilled charges. Mr. Evans offered to remove all late charges associated with the backbilling in exchange for a commitment to pay the backbilled amount. Mrs. Jaeger insisted that she was unable to make any payment arrangements.

DECISION

Substantial evidence of meter tampering was discovered at both the Boynton Beach and Pompano Beach residences while the accounts were in Mrs. Jaeger's name. The history of extremely low kilowatt hour consumption during the time the account at 745 NW 41 Terrace, Deerfield Beach, was in Mrs. Jaeger's name, and evidence of similar meter tampering that occurred on two other accounts in her name, lead us to conclude that meter tampering occurred while this account was in Mrs. Jaeger's name. We further hold that Mrs. Jaeger shall be responsible for a reasonable amount of backbilling.

A new meter was installed at Mrs. Jaeger's current residence in Boynton Beach, which registered 1141 kwh for the month of December, 1993. Seasonal average percentage of use charts were used to calculate that at that rate of consumption the residence would consume 14,935 kwh per year. The monthly rebilled amount for the Deerfield Beach residence was based on that usage.

The amount of backbilling at the Pompano Beach residence was also calculated using seasonal average percentage of use charts. The base figures used to establish estimated yearly consumption were taken from consumption after the new meter was set and from consumption for the months of May and August, 1991. The kwh use in those two months is considerably higher than other months and indicates that the wire may not have been inserted into the meter as frequently. FPL maintains that May and August closely reflect the actual kwh used in the residence during those months.

Backbilling for the Deerfield Beach account was based on Mrs. Jaeger's kwh consumption at her current Boynton Beach residence as applied to seasonal average percentage of use charts.

In all three instances, FPL has calculated the backbilled amount in a reasonable manner as required by Rule No. 25-6.104, Florida Administrative Code. FPL has also itemized its investigative costs of \$830.74, which appear to be reasonable. The company is authorized by Commission rules to recover those costs from the customer of record.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the complaint of Shirley Jaeger against Florida Power and Light Company concerning charges associated with meter tampering is denied. It is further

ORDERED that this Order shall become final and effective and this docket shall be closed unless the appropriate petition for formal proceedings is received by the Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, by the close of business on the date indicated on the Notice of Further Proceedings or Judicial Review. It is further

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

ORDER NO. PSC-95-0786-FOF-EI
DOCKET NO. 950504-EI
PAGE 5

By ORDER of the Florida Public Service Commission, this 29th
day of June, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MTR

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 20, 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.

ORDER NO. PSC-95-0786-FOF-EI
DOCKET NO. 950504-EI
PAGE 6

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.