

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Jorge ) DOCKET NO. 961381-EI  
Morales against Florida Power & ) ORDER NO. PSC-97-0010-FOF-EI  
Light Company regarding alleged ) ISSUED: January 2, 1997  
current diversion/meter )  
tampering rebilling for )  
estimated use of electricity. )  

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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 APPROVING REBILLING DUE TO METER TAMPERING

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.

On April 30, 1996, Mrs. Elia Morales, on behalf of her husband, Jorge, contacted our Division of Consumer Affairs (CAF) complaining that his account was unjustifiably charged with current diversion by Florida Power & Light Company (FPL or Company). FPL had billed the account for a total of \$2,060.59, which includes \$1,795.63 for unmetered electric usage from November, 1994, to February, 1996 plus \$264.96 investigative charges.

After reviewing the complaint, on July 26, 1996, CAF notified Mr. Morales by letter that FPL's billing appeared to be in compliance with our rules. No agreement was reached by the parties at the informal conference held on October 25, 1996. For the reasons set forth below, we find that there is sufficient cause to believe that the meter serving the Morales residence had been tampered with and that FPL's billing is appropriate.

DOCUMENT NUMBER-DATE  
00017 JAN-25  
FPSC-RECORDS/REPORTING

The account in question was established in the name of Jorge Morales on December 6, 1985, for service to 6550 SW 17 Street, Miami, Florida 33155. In its report filed in response to Mr. Morales' complaint, FPL states that this account is one of four accounts that were billed for dial tampering at the same time which involve individuals who are family members.

The Company reports that on August 31, 1994, it installed a new factory-direct meter, No. 5C67708, at Mr. Morales' residence. FPL did not document any particular reason for the meter change-out. Thereafter, on February 6, 1996, a FPL revenue protection investigator reported that the meter dial had been tampered with.

For the month of February, 1996, FPL billed Mr. Morales' account for 1105 kilowatt hours (kwh) which is based on the regular monthly reading taken on January 12, 1996 of 26374 and the regular reading on February 13, 1996 of 27479.

FPL conducted a check reading on February 6, 1996 to determine an estimate of the actual usage. Check readings are meter readings taken between normal monthly meter read dates. The check reading showed 28707, which is more than the reading taken on the February 13. This indicates that the meter dial was turned back resulting in a "regressive" reading whereby the meter does not register all electricity consumed. Using the February 6 check reading, FPL projects that the customer would use 2800 kwh per month. Another check reading was taken on February 14, 1996, which showed a usage of 89 kwh in one day.

On February 29, 1996, FPL removed meter number 5C67708 and replaced it with meter number 5C69683. FPL then inspected meter number 5C67708 and noted that the external seal of the meter had been rigged to appear intact, the inner seal was broken, and the dial had been tampered with.

Meter number 5C67708 was tested on March 12, 1996. The meter registered 100.21% under a full load and 100.16% under a light load. The weighted average is 100.20%. Even though the tests showed that the meter registered within acceptable tolerance levels, FPL states that in meter dial tampering cases, the calibration of the meter is not affected because the meter dials are manually turned back before the meter read date. Documentation prepared at the time of the test also indicates a broken inner seal, an off-scale registration, and apparent dial tampering.

FPL's customer usage chart for Mr. Morales' account shows a very low level of kwh usage since April, 1994. It appears to indicate that the meter has been manipulated over an extended

period of time, particularly since the residence served by the meter has approximately 1500 square feet. In addition, Mr. Morales stated that the house has central air-conditioning, a washer and dryer, electric refrigerator, electric stove, an electric water heater, and a swimming pool. During the informal conference, Mr. Morales explained that his usage is low because he "saves as much electric power" as he can and his electricity usage fluctuated with his income.

Given the condition of meter number 5C67708 when it was removed, the fluctuations in the customer's usage, and the regressed reading which was noted, we believe FPL has provided sufficient evidence to show that the meter tampering occurred and that the customer has consumed, but not has not paid for electricity. Thus, pursuant to Rule 25-6.104, Florida Administrative Code, FPL is permitted to bill the customer a reasonable estimate of the energy used. FPL's calculation of the estimate is discussed below.

Due to the nature of this diversion, FPL rebilled this account based on a seasonal average percentage of usage chart which takes into consideration seasonal variations in heating and cooling demands in the customer's area. The chart is a useful estimating tool for rebilling cases like this one where the meter is registering within acceptable tolerance, but the dials have been manually manipulated. FPL applied the seasonal average percentage of usage method to Mr. Morales' account from the November 14, 1994 billing period, when a noticeable drop in consumption occurred, to the February 13, 1996 billing period. FPL chose three separate meter readings that it believed to be accurate in order to determine a fair average usage. These readings were performed on October 12, 1994, September 12, 1995, when the meterman reported he was seen prior to reading the meter, and February 13, 1996, after the new meter was installed.

Using the consumption for the three readings discussed above and the corresponding month's percentage of usage of the annual system total, FPL estimated annual usage for the account to be 34,604 kwh. This amount was multiplied by each month's percentage usage from November, 1994 to February, 1996 to determine the estimated monthly kwh usage. FPL then compared the estimated monthly kwh usage to the actual kwh which was billed for each month. To determine the amount to rebill, FPL applied the rates in effect to the monthly kwh usage estimates. The total amount rebilled is \$2,060.59 which is comprised of the estimated usage for the period November, 1994 to February, 1996 of \$1,795.63 plus \$264.96 for investigative charges.



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We reviewed the billing history records and other documentation provided by FPL to support its calculation of the rebilled amount for Mr. Morales' account. We find that FPL's calculation is reasonable and in accordance with Rule 25-6.104, Florida Administrative Code. The inclusion of investigative charges in the rebilling is in accordance with FPL's tariff no. 6.061. Because Mr. Morales was the customer of record for the entire period that meter tampering occurred, he shall be required to pay the rebilled amount of \$2,060.59.

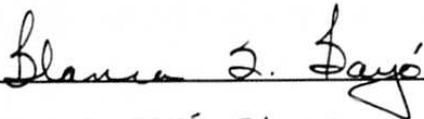
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's billing of the account described in the body of this Order is found to be reasonable. 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 shall be closed.

By ORDER of the Florida Public Service Commission, this 2nd day of January, 1997.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

VDJ

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 January 23, 1997.

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 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.