

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: COMPLAINT OF CHARO ROJO
AGAINST FLORIDA POWER & LIGHT
COMPANY FOR ALLEGED OVERBILLING
AND DAMAGES TO EQUIPMENT.

DOCKET NO. 030030-EI
ORDER NO. PSC-03-1127-FOF-EI
ISSUED: October 8, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER DISMISSING COMPLAINT

BY THE COMMISSION:

Background

On January 18, 2001, Ms. Charo Rojo contacted our Division of Consumer Affairs, complaining that her November and December electric bills were estimated, rather than based on an actual reading of the meter. Ms. Rojo also wanted her meter checked because of high electric bills. Florida Power & Light (FPL) was contacted, and the company explained that it could not gain access to the meter for the questioned bills because of a six-foot wooden fence with a locked gate. Therefore, it was necessary to estimate those particular bills. FPL contacted Ms. Rojo and reviewed with her the account in question. Our staff closed this complaint on February 8, 2001.

On February 21, 2001, FPL sent an audit of Ms. Rojo's account, both electronically and via overnight delivery. Although FPL's electronic mail status indicated it had been received and opened, Ms. Rojo denied receiving the online audit. She also refused to accept delivery of the overnight hard copy which had been mailed. On March 2, 2001, the audit was re-sent and Ms. Rojo did confirm

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receipt. In subsequent attempts by FPL to discuss the audit with her, however, Ms. Rojo has refused to speak to them.

On March 7, 2001, the complaint of Ms. Rojo was reopened as a result of the following allegations:

- (1) She is disputing her account in the amount of \$903.38.
- (2) She is demanding a breakdown of the amount in dispute.
- (3) She is complaining about consistently high bills and estimated bills.
- (4) She states that she returned to Spain in November, 2000, due to the death of her father. Though no one was in the house for two weeks, she still had a high bill.
- (5) She would like to know why her meter was changed by FPL two years ago.
- (6) She alleges that in June of 2000, the transformer that provides power to her house blew up, causing a power surge which damaged her computer, refrigerator, stove, and water heater. The power surge is also alleged to have killed her "Yorkie" dog.

Ms. Rojo is requesting that FPL replace all her appliances and her dog. She indicated that she had been trying to resolve her problem with FPL since June of 2000.

After her complaint was reopened, there were several communications with Ms. Rojo. During that time, she requested that FPL not contact her directly but, rather, through the FPSC. Also, during those communications, Ms. Rojo stated that a BellSouth employee was in her home on Easter Sunday to repair her telephone. The repairman showed her a connection in her telephone system which appeared to be badly burned. When staff contacted BellSouth, however, it was determined that Ms. Rojo was not a BellSouth customer and was likely served by an ALEC.

On May 2, 2001, a field investigation was conducted jointly by FPSC and FPL staff. The investigation disclosed the following:

- A) The transformer which feeds the home of Ms. Rojo also feeds 11 other homes. The transformer was found to be well maintained and had properly installed lightning arresters in place. FPL has not had occasion to replace the transformer in question and there have been no similar complaints from the other customers served by that transformer. Our staff was shown a charred telephone outlet, but when they explained to Ms. Rojo that the telephone line carried its own low voltage and would not be affected by a surge in the FPL supply she changed her story and said that the telephone incident happened much later.
- B) There were no outlets in the vicinity where it was reported the dog had died. There were, however, electrical extension cords running along the hall where the dog died. Our staff noted that one of those cords was frayed and appeared to have been chewed.
- C) Regarding the high bills, FPL scheduled with Ms. Rojo for an energy audit to be conducted on February 5, 2001. The FPL representative arrived timely and found no one at home. He waited for an hour and left. The audit was rescheduled for February 13, 2001. On that occasion, Ms. Rojo was at home, but would not allow the FPL representative to enter the house. Subsequently, Ms. Rojo agreed to allow FPL to conduct the audit if a FPSC staff member were also present. The audit was scheduled and accomplished on May 2, 2001, with the following findings:
1. The air conditioning coils needed to be cleaned, the filter was incorrectly installed, and the air handler was leaking.
 2. The water heater thermostat was malfunctioning and kept the heater running all the time. Both the water heater and the circuit breaker were extremely hot. FPL estimated that alone was costing the customer about \$75 extra per month.

3. The refrigerator was set to the very coldest setting and ran continuously.
4. The exterior doors to the home were damaged, allowing warm outside air to enter the home and placing an even greater demand on the malfunctioning air conditioner.
5. The customer refused to allow the meter to be tested for accuracy.
6. Since the customer was adamant that her drop line was defective and she was not getting enough "juice" into her home, a Recording Volt Meter was placed on the line where it enters the meter, and another one at the transformer. The meters were left in place for five days. During that time the maximum recorded voltage was 123 volts and the minimum was 121 volts, well within the allowable limits established by Commission rule.

Continuing attempts by both the PSC and FPL to contact Ms. Rojo were unsuccessful. Accordingly, on September 6, 2001, our staff sent Ms. Rojo a letter closing the complaint, along with a copy of the account audit. On September 10, 2001, the customer called and stated that she did not agree with the proposed resolution and would seek an informal conference. An informal conference was held on November 30, 2001, but no agreement was reached.

Subsequent to the informal conference, continued attempts were made to resolve the matter. FPL offered to write off \$903.38 and allow the customer to make payments on the then current balance (\$2,713.63) at the rate of \$100 per month. That offer was rejected by the customer. The customer was again advised by us on February 28, 2002, to begin making payments on the then current balance. We requested of FPL that she not be disconnected while the matter was pending before us.

The case was then referred to our legal division for possible mediation. However, it was the opinion of our legal staff, based on a detailed review of the transcript of the informal conference

and other records, that mediation would not resolve the issues in this matter. Accordingly, a recommendation was filed by our staff on January 24, 2003, that the complaint be dismissed and this matter be closed. The recommendation was scheduled for consideration on the February 14, 2003, Agenda Conference. Ms. Rojo was provided a copy of the recommendation and began contacting various officials regarding her complaint. As a result of those contacts, on February 12, 2003, a legislator submitted a written request that the matter be deferred from the February 14 Agenda to allow him time to review the complaint. Based on that request, the recommendation was rescheduled for the February 28, 2003, Agenda Conference, but, prior to that date, deferred indefinitely.

During the ensuing months, the legislator met with the complainant and FPL personnel on more than one occasion in an effort to negotiate a resolution of the matter. Those efforts were unsuccessful and, thereafter, FPL made numerous unilateral and unsuccessful efforts to resolve the complaint.

We were subsequently advised by FPL that the account in question was not in the name of the complainant but, rather, in the name of Solamente, Inc., a now defunct corporation. FPL was unable to find any nexus between Ms. Rojo and Solamente, Inc. It appears that the premises in question were originally owned by that corporation, and when Ms. Rojo moved in she just did not change the service into her name, and merely assumed that account. Absent a customer initiative, FPL has no way of knowing of a change in ownership or residency.

Between the months of February and August, 2003, FPL made numerous offers of settlement to Ms. Rojo in an effort to resolve the matter. Each of the offers was summarily rejected by the complainant. During that same period of time, FPL attempted to convince Ms. Rojo that she would need to put the account in her own name with updated information in order to continue receiving service at that address. Ms. Rojo consistently refused to apply for the account to be placed in her name.

On August 8, 2003, we contacted the office of the interested legislator and inquired whether he desired further time before bringing this matter to closure. We were advised that the

complaint should be handled normally and he would not be further involved.

On August 12, 2003, FPL served a letter on Ms. Rojo, advising her that FPL's rules and regulations require a valid customer name on record for every customer account. Accordingly, the account of Solamente, Inc., a corporation which does not exist, would be closed on August 19, 2003. The letter further advised that, in order for the service to be continued at that address, Ms. Rojo would need to complete an application for a new account in her own name prior to that date. Pursuant to the FPL tariff, Ms. Rojo would be required to provide a deposit with the application, in the amount of two months of the estimated bill for that address. Ms. Rojo's response was to contact a number of FPSC staff members, complaining that FPL was attempting to coerce her. However, she did complete an application for new account in time to avoid a disconnect of her service.

As of the date of this Order, the FPL account reflects a balance in excess of \$10,000. It should be noted that for the past three years Ms. Rojo has not even made current payments, even on the nondisputed portion of her FPL account.

Analysis

The original complaint from Ms. Rojo, in January of 2001, concerned only the question of the estimated billing for the November and December bills. It was determined that the reason for the estimate was a locked gate. When the meter was actually read, it was discovered that the estimate was actually low. The bill was explained to the customer, and the complaint was closed.

Two months later, the complaint was reopened and expanded to include the issues of higher than normal bills and an alleged transformer explosion which Ms. Rojo claims to have damaged the customer's appliances and killed her dog.

The customer's lack of cooperation made investigation of the complaint more difficult, but eventually an evaluation of the customer's premises was largely completed. Several major factors were found at the home which would more than account for the high bills. Those factors are detailed earlier in this Order. Ms. Rojo

refused to allow the meter to be removed for an accuracy check. The customer was told by FPL that if she would correct the deficiencies and show proof of the corrections she would be given a "non-beneficial use" credit for the excess electricity caused by those deficiencies. As of this date, however, Ms. Rojo has not produced any documentation showing that corrections have been made.

There is no evidence to support Ms. Rojo's claim that her transformer exploded, damaging her appliances and killing her dog. The evidence suggests that it is more likely the dog may have been killed by chewing on one of the several extension cords in the area where he died. Had there been a power surge caused by a transformer explosion, the other 11 customers served by that same transformer would have been equally affected. However, none of those customers have made any complaint regarding their electric service. Also, FPL records indicate that the transformer in question has not been replaced and shows no indication of damage or malfunction. The investigation of this complaint disclosed only one thing akin to an explosion. That was an incident where there was an attempt to illegally bypass the meter with car jumper cables, creating an explosion which totally destroyed the customer's meter can. That was not the only occasion when illegal jumpers had been placed in this customer's meter box.

We believe we have done all within our power to resolve this complaint. We have, on three occasions, arranged for a home energy audit for Ms. Rojo; we have negotiated with FPL for monthly payment arrangements on her account arrearage; our engineer has walked through her home with an FPL engineer and examined her equipment and wiring; we have contacted various agencies in South Florida in an effort to find help for her in fixing up her home; and we have conducted an Informal Conference, as well as a legal review for mediation potential, in an effort to resolve the complaint. In addition, FPL has gone far beyond what is required in an effort to appease Ms. Rojo. No effort by us or FPL has been successful in satisfying Ms. Rojo.

Also, although it is difficult to determine exactly what relief Ms. Rojo is seeking, it appears that she is seeking damages in the form of FPL replacing her appliances and her dog. As we have advised Ms. Rojo, a claim for such damages must be prosecuted in court, as this Commission may not award damages of the nature

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being requested by the complainant. Also, we may not appropriately consider the complex issues concerning responsibility for the account while in the name of Solamente, Inc.

We can not prohibit FPL from closing the account of a non-existent entity, having provided adequate notice to the current resident that such service would be disconnected. That leaves nothing for us to consider. The account is now in Ms. Rojo's name, and she is not at this time in default or threatened with disconnection. Indeed, so long as Ms. Rojo's payments remain current on her new account, there will be no danger of disconnection. Accordingly, this complaint will be dismissed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the complaints of Ms. Rojo detailed in this Docket are hereby dismissed. It is further

ORDERED that this Docket be closed.

By ORDER of the Florida Public Service Commission this 8th Day of October, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: _____

Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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 after the issuance 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.