

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint by John Aseere against  
Florida Power & Light Company regarding  
backbilling for alleged meter tampering.

DOCKET NO. 040977-EI  
ORDER NO. PSC-04-1221-PAA-EI  
ISSUED: December 10, 2004

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER  
APPROVING BILLING 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.

Background

On February 5, 2004, complaint number 582806E was filed against Florida Power and Light Company (FPL) on behalf of John Aseere (customer). The customer stated that FPL notified him of an unauthorized meter condition at his residence that resulted in his electric usage not being properly recorded. As a result, FPL is backbilling Mr. Aseere more than \$4,500.00 for a 3 year period beginning September 2000. The customer denies tampering with his meter.

FPL offered Mr. Aseere a reduction of 25% off the back billed amount and payment arrangements on the remaining balance. The customer declined the offer and counter offered with a payment plan of \$5.00 a month, along with payment of his regular monthly bill.

Our staff conducted an informal conference on July 28, 2004. No resolution was reached. On August 4, 2004, the customer contacted our staff indicating that he was concerned about receiving high bills. Our staff contacted FPL and requested an energy audit of Mr. Aseere's residence. According to FPL, attempts to schedule the audit were unsuccessful. The customer has turned down all offers made by the company.

This Order addresses Mr. Aseere's complaint against FPL for backbilling for alleged meter tampering. We have jurisdiction pursuant to Sections 366.04 and 366.05, Florida Statutes.

DOCUMENT NUMBER-DATE  
13033 DEC 10 04

Evidence of Meter Tampering

Rule 25-6.104, Florida Administrative Code, states that “[i]n the event of unauthorized or fraudulent use, or meter tampering, the utility may bill the customer on a reasonable estimate of the energy used.” This rule allows the utility to backbill the customer for a reasonable estimate of the electricity used but not metered due to meter tampering. The utility need not demonstrate who tampered with the meter. FPL must only show that the meter was tampered with, and that the customer of record benefited from the electricity.

In support of its conclusion that meter tampering occurred at 3939 NW 18<sup>th</sup> Avenue, Fort Lauderdale, Florida, FPL documented several events. According to the company’s report, Mr. Aseere established service with FPL at 3939 NW 18<sup>th</sup> Avenue, Fort Lauderdale, Florida on May 28, 1992. The assigned meter of record was 5C25097. FPL’s records indicate that on February 27, 2003, a meter reader issued a request to FPL’s Revenue Protection Department to investigate an unauthorized meter condition. The meter reader noted that the meter can was damaged and the meter seal was rigged. FPL reported that at various times during its investigation, the company projected Mr. Aseere’s monthly usage based on actual consumption data obtained via a “check” reading and compared it to the customer’s monthly meter reading.

“Check” readings were done on June 4, 2003, July 22, 2003, September 10, 2003, and September 17, 2003. Based on the “check” readings, FPL projected Mr. Aseere’s KWH consumption. In every instance, according to FPL’s report, the KWH consumption determined on the regular meter read date was much less than the projected KWH consumption. FPL also noted that the meter reading on September 17, 2003, was regressive from the reading of September 10, 2003 (regressed 312 KWH). The company provided meter readings taken from Mr. Aseere’s residence prior to the filing of this complaint. They are reflected in the table below.

Meter Reading Date	Reading	KWH Usage	Days in Cycle
January 28, 2003	13968	1147	33
February 27, 2003	15427	1459	30
March 28, 2003	15854	427	28
April 28, 2003	17644	1790	32
May 28, 2003	18827	1183	30
June 4, 2003*	19485	658	7
June 26, 2003	20272	787 (2820 Projected)	22
July 22, 2003*	21173	901	26

Meter Reading Date	Reading	KWH Usage	Days in Cycle
July 28, 2003	21787	1515 (3070 Projected)	6
August 26, 2003	23184	1397	29
September 10, 2003*	24399	1215	15
September 17, 2003*	24087	-312	7
September 25, 2003	24872	1688 (2430 projected)	8
October 24, 2003**	26485	1608	29
November 24, 2003	02059	2059	31

FPL reported that the meter (#5C25097) at Mr. Aseere's residence was removed on October 24, 2003, and a new meter (#5C26522) was installed. The meter that was replaced (#5C25097), which was tested on October 28, 2003, tested in an upside-down position with a Full Load at 83.83%, a Light Load at 0%, and a Weighted Average Registration of 67.07%. In addition to reporting that the meter was not accurately registering usage, the test report also noted that Mr. Aseere's meter reflected blade wear indicative of the meter being turned upside down, a tampered outer seal, an intact inner seal, and a bent canopy ring. While FPL reported that the meter was not found in the upside-down position, it asserts that the projections and regressive reading clearly indicate tampering indicative of these conditions.

On the regular read date of November 24, 2003, the meter reading on the newly installed meter was 02059. Mr. Aseere was billed for 2059 KWH. The usage was based on 31 days, and it was in line with the projections made by FPL's investigator when he obtained the check readings.

Based on the information contained in FPL's reports, we find that FPL has demonstrated that meter tampering occurred at 3939 NW 18<sup>th</sup> Avenue, Fort Lauderdale, Florida. In addition, FPL stated that John Aseere has been the customer of record at that address since May 28, 1992. Therefore, pursuant to Rule 25-6.104, Florida Administrative Code, because the account was in Mr. Aseere's name during the entire period in question, we find it appropriate to hold him responsible for a reasonable amount of backbilling.

#### Calculation of Backbilled Amount

Upon finding evidence of meter tampering as described above, FPL backbilled Mr. Aseere's account from September 25, 2000, when a significant and sustained drop in KWH registration began, through October 24, 2003, when the new meter was installed. The original billing for this period, totaling \$4,701.99, was cancelled and rebilled for \$9,098.88, a difference

of \$4,396.89. Investigation charges of \$350.61 were assessed by FPL bringing the total backbilled amount to \$4,747.50 (\$4,396.89 + \$350.61). The rebilling was based by calculating the actual consumption of the years 1999 and 2000, usage on the new meter, along with the seasonal average.

For the foregoing reasons, we find that the total backbilled amount of \$4,747.50 for unbilled consumption, including \$350.61 for investigative charges, was calculated in a reasonable manner as required by Rule 25-6.104, Florida Administrative Code. The customer is encouraged to contact FPL immediately to make payment arrangements for this amount in order to avoid discontinuance of service without notice, which is authorized pursuant to Rule 25-6.105(5)(i), Florida Administrative Code.

Based on the foregoing, it is

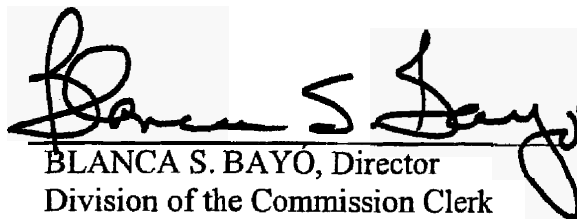
ORDERED by the Florida Public Service Commission that sufficient evidence of meter tampering occurred at Mr. Aseere's address, 3939 NW 18<sup>th</sup> Avenue, Fort Lauderdale, Florida, to warrant backbilling. It is further

ORDERED that the amount of reasonable backbilling of Mr. Aseere's account is \$4,747.50 for unbilled consumption from September 25, 2000, to October 24, 2003, including \$350.61 for investigative charges. The customer is encouraged to contact Florida Power & Light Company immediately to make payment arrangements for this amount in order to avoid discontinuance of service without notice. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" 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 10th day of December, 2004.

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

(SEAL)

JAR

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 31, 2004.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.