

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Richard L. Davis against  
Florida Power & Light Company.

DOCKET NO. 20210136-EI  
ORDER NO. PSC-2021-0375-PAA-EI  
ISSUED: September 28, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman  
ART GRAHAM  
ANDREW GILES FAY  
MIKE LA ROSA  
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING REQUEST FOR HEARING

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 (F.A.C.).

Background

On November 12, 2020, Mr. Richard Davis filed an informal complaint with our Office of Consumer Assistance & Outreach (CAO) regarding his electric account with Florida Power & Light Company (FPL).<sup>1</sup> In his informal complaint, Mr. Davis attached a final notice of disconnection for nonpayment from FPL. He also included a document titled UCC Financing Statement Addendum that he alleged constitutes payment of his FPL account balance. In accordance with Rule 25-22.032, Florida Administrative Code (F.A.C.), the documentation Mr. Davis provided was forwarded to our Office of the General Counsel (GCL) for review. We confirmed that the documentation provided did not constitute payment of his account balance. We also did not identify a violation by FPL of any applicable statutes, rules, or Commission orders. Accordingly, the informal complaint was closed by letter to Mr. Davis dated December 8, 2020.

On February 17, February 19, and February 26, 2021, Mr. Davis sent additional e-mails reiterating his contention that he should not be responsible for payment on his FPL account. In response, CAO staff e-mailed him on February 19, February 22, and February 26, 2021, stating

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<sup>1</sup> Complaint No. 1354387E

that GCL had confirmed that the documentation he provided does not constitute payment of his FPL account balance, and that if he did not pay his account balance in a form of currency acceptable to FPL, his service may be disconnected for nonpayment upon notice pursuant to Rule 25-6.105, F.A.C.

On June 30, 2021, we received new correspondence from Mr. Davis. Since the previous complaint had been closed longer than 30 days, we opened information request 1373066C. Commission staff responded via e-mail on June 30, 2021, again stating that GCL confirmed that the documentation Mr. Davis provided on June 30, 2021, does not constitute payment of his account balance. Mr. Davis then telephoned us requesting an administrative hearing with the Division of Administrative Hearings. Commission staff responded with a letter dated July 29, 2021, informing Mr. Davis of the process for a formal complaint per Rule 25-22.036, F.A.C.<sup>2</sup>

On August 11, 2021, Mr. Davis filed a request for hearing.<sup>3</sup> This order addresses the appropriate disposition of Mr. Davis's August 11, 2021, filing. We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

### Decision

Commission staff sent correspondence dated July 29, 2021, to Mr. Davis informing him of the process for filing a formal complaint pursuant to Rule 25-22.036, F.A.C. The letter included copies of Rules 25-22.032 and 25-22.036, F.A.C., and Section 120.57, F.S.

Pursuant to Rule 25-22.036(3)(b), F.A.C., a complaint shall contain the rule, order, or statute that has been violated; the actions that constitute the violation; the name and address of the person against whom the complaint is lodged; and the specific relief requested, including any penalty sought.

Mr. Davis's request does not meet these requirements. In his request, he does state his FPL account number. He claims to be a non-legal entity and that he has "been unknowingly complicit in a fraud perpetuated by the local providers of utilities." He then alleges that he is not the class of user that is to be billed, he is not using the service in federally regulated activity, and he is not using the service within the territorial jurisdiction of the Constitution's Commerce Clause. He alleges that disconnecting his service for inability to legally pay is cruel and unusual punishment and that it is impossible to pay in Federal Reserve Notes because those are debt obligations and not "money."

Pursuant to Rule 25-22.036(2), F.A.C., a complaint is appropriate when a person complains of an act or omission by a person subject to our jurisdiction that affects the complainant's substantial interests and that is in violation of a statute enforced by us, or of any Commission rule or order. Mr. Davis's request fails to show that FPL's disconnection of his service violates a statute, rule, or order as required by Rule 25-22.036(2), F.A.C.

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<sup>2</sup> DN 09222-2021

<sup>3</sup> DN 09083-2021

As Mr. Davis has been informed by correspondence dated December 8, 2020; February 19, February 22, and February 26, 2021; and June 30, 2021, a UCC Financing Statement Addendum does not constitute payment of his account balance and nonpayment of his account balance in a form of currency acceptable to FPL may result in disconnection for nonpayment upon notice, pursuant to Rule 25-6.105, F.A.C.

In the letter dated December 8, 2020, CAO staff informed Mr. Davis that Rules 25-6.101 and 25-6.105, F.A.C., indicate that an electric bill is considered past due if the payment has not been received within 20 days from the date the utility mailed or delivered the bill. If the company does not receive a payment by the end of the twentieth day, it has to mail a final notice of at least five working days before it can disconnect the customer's service for nonpayment. We learned from FPL that on October 19, 2020, FPL had sent a regular monthly bill to Mr. Davis that included current charges, a late payment charge, and a past due balance. On November 10, 2020, FPL mailed Mr. Davis a final notice requesting the past due balance by November 18, 2020, to avoid a service interruption.

Mr. Davis did not identify any statutes, rules, or orders that FPL violated in handling his account. His request for hearing also did not comply with the other requirements of the applicable rule: the actions that would constitute such a violation, or the specific relief requested, including any penalty sought. Mr. Davis framed his filing as a request for hearing. As has been previously explained to him, however, until such time as we make a decision that affects his substantial interests (such as deciding on a formal complaint), no opportunity to request an administrative hearing is available to him.

Pursuant to Rule 25-22.036(2), F.A.C., a complaint is dismissed with prejudice if no cause of action is stated and an amended pleading will not cure the deficiency. We find that Mr. Davis should be afforded the opportunity to amend his filing to comply with the requirements of Rule 25-22.036, F.A.C. We therefore deny without prejudice Mr. Davis's request for hearing.

ORDERED by the Florida Public Service Commission that Mr. Richard Davis's request for hearing be denied without prejudice. 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, F.A.C., is received by the Commission Clerk, 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 28th day of September, 2021.



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ADAM J. TEITZMAN  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 19, 2021.

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.