

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of GROVECO,) DOCKET NO. 930567-EI
INC., against FLORIDA POWER AND) ORDER NO. PSC-93-1094-FOF-EI
LIGHT COMPANY regarding rate) ISSUED: July 27, 1993
schedules.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING COMPLAINT

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 formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

On December 15, 1992, Mr. Peter Lindley, on behalf of Groveco, Inc. filed a complaint against Florida Power & Light Company (FPL) with the Commission's Division of Consumer Affairs. The complaint concerns the customer's belief that FPL should have billed this customer on the General Service Demand-Time-of-Use (GSDT-1) rate instead of the General Service Demand (GSD-1) rate. The customer would have realized a substantial savings in his electric bills if the customer had been billed on the GSDT-1 rate. The customer claims he was not informed of time-of-use (TOU) option and seeks to recover the difference between what he paid on the GSD-1 rate and what he would have paid on the GSDT-1 rate.

In a report dated January 5, 1993, FPL advised Consumer Affairs that Mr. Lindley called FPL on December 7, 1992 and requested a field investigation to determine if one of their pump accounts was being billed on the correct rate. Following the field visit a rate comparison between the GSDT-1 and GSD-1 rate was prepared. Subsequently, the customer requested to receive service on the GSDT-1 rate. The customer was switched to the GSDT-1 rate on December 17, 1992. FPL had no record of a previous request by the

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customer to place the account on the GSDT-1 rate. FPL did, however, offer a partial credit to the customer for the purpose of maintaining good customer relations. The customer refused the offer.

Based on its investigation, staff advised the customer on March 3, 1993 that it did not appear further credits should be required.

In a letter dated April 9, 1993, Mr. Lindley requested an informal conference on his complaint. The conference was held pursuant to Commission rules on May 28, 1993 in Stuart, Florida. Mr. Cliff Burg, owner of Groveco, Inc., was present at the conference. No settlement was reached at the informal conference.

We find that FPL did not violate any Public Service Commission rules by not discussing optional rate schedules when establishing the account in question for Groveco, Inc.

Rule 25-6.093(2), Florida Administrative Code, provides that:

Upon request of any customer, the utility is required to provide to the customer a copy and/or explanation of the utility's rates and provisions applicable to the type or types of service furnished or to be furnished such customer, and to assist the customer in obtaining the rate schedule which is most advantageous to the customer's requirements.

Rule 25-6.093(3)(a) states, in pertinent part:

By bill insert or other appropriate means of communication, the utility shall give to each of its customers a summary of major rate schedules which are available to the class of which that customer is a member, and

(b) the utility shall provide the information contained in paragraph (a) to all its customers:

1. Not later than sixty (60) days after the commencement of service, and
2. Not less frequently than once each year, and

3. Not later than sixty (60) days after the utility has received approval of its new rate schedule applicable to such customer.

FPL states that the customer was placed on the GSD-1 rate based upon the customer's description of the load. The customer was automatically billed the demand rate according to the demand that registered during the first month of usage. Further, FPL advised that an informational brochure describing the various rate options available to commercial customers was included in the customer's first bill in March 1991, in the June 1991 bill, and again in the October 1991 bill. FPL has no record of a request by Groveco, Inc. to place the account on a different rate or to discuss other rate options prior to December 7, 1992.

We find that the adjustment offered to the customer by FPL is reasonable. FPL made a field visit on December 10, 1992 at the request of the customer. Following the field visit, a rate comparison between the GSDT-1 rate and the GSD-1 rate revealed there would be savings if Groveco was switched to the TOU rate. In an effort to retain the customer's goodwill, FPL offered the customer a \$937 credit. The credit is fifty percent of the amount the customer would have saved on the GSDT-1 rate if all electric consumption occurred in the off-peak periods between March 6, 1991 to June 26, 1991. The time frame begins with the day service was initially established and extends until the second rate options brochure was mailed out. FPL offered to credit only fifty percent of the savings because it was unsure exactly how much consumption would occur in the off-peak periods.

At the informal conference FPL explained that when a customer requests the TOU rate, the first billing, following a meter change from the existing meter to a TOU meter, does not have a full month of use on the TOU meter. Therefore, the usage is billed on the existing rate in the customer record. Consequently, this customer would have only been eligible to be billed at the TOU rate for the three month period prior to the second mailing of the optional rate information, which constitutes a total savings of \$1,426.00. This makes the amount of credit offered by FPL actually 66% of the total savings that the customer would have been eligible to receive.

FPL increased the offer during the informal conference to \$1,426.00, because a consumption pattern had been established and all of the customer's consumption did occur in the off-peak time periods. The customer refused the offer, stating FPL should have

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told him when service was established that a time-of-use rate was available. Consequently, the customer is requesting total credit of \$8,579. The dollar amount represents the savings that would have occurred if GSDT-1 service was established on March 6, 1991, the day initial service was established, until December 17, 1992, the day the customer was switched to the GSDT-1 rate.

We find that no further credit, in addition to the \$1,426 offered by FPL should be required. FPL would not be required to offer any credit under Commission rules. The offer as it stands appears reasonable since options should perhaps have been discussed initially if FPL knew the nature of the service. However, the customer had further notification and opportunity to change the rate schedule after the notices were included with the bills.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the complaint of Groveco, Inc. against Florida Power and Light Company is denied. It is further

ORDERED that the \$1,426 credit offered by Florida Power and Light Company is reasonable and no further credit shall be required. It is further

ORDERED that if there is no protest to this proposed agency action within the time frame set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 27th day of July, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

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by: Kay Dejean
Chief, Bureau of Records

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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 17, 1993.

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 adversely 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.