

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of JORY) DOCKET NO. 930599-EI
BRICKER, against FLORIDA POWER) ORDER NO. PSC-93-1180-FOF-EI
CORPORATION regarding high) ISSUED: August 11, 1993
electric bills)
_____)

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 March 1, 1993, Ms. Jory Bricker filed a complaint against Florida Power Corporation (FPC) with the Commission's Division of Consumer Affairs. The complaint concerns the customer's belief that she has been paying unduly high electric bills. Ms. Bricker has had a history of complaints and problems with FPC dating back to 1989.

In August of 1989, Ms. Bricker complained to Florida Power Corporation (FPC) that her drop wire had burned. Upon inspection, FPC discovered that a temporary connection had been made. FPC reported that when an electrician does work that requires the service to be taken down, the electrician will then make a temporary splice to restore the service, and call the electric company for a permanent connection. The company had no record of a request for connection. When called to the residence about the burned splice, the company made a permanent connection.

On September 1, 1989 the customer filed a claim with FPC for damage to her appliances resulting from the "burnt wire on the

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1993 RECORDS/REGISTRATION

outside line connecting to the house." Florida Power agreed to pay \$194.01 of the damage claim, although the company noted in its response to Ms. Bricker that "there is some question in this matter as to (sic) may be responsible for the problem occurring at your home..." FPC later reported to Consumer Affairs that it paid the claim "in the interest of good public relations."

In November, 1989, Ms. Bricker filed a high bill complaint with the Commission's Division of Consumer Affairs. FPC records indicate that an energy audit was done and the meter was tested as accurate, with results forwarded to the Commission.

In September, 1990, Ms. Bricker filed another high bill complaint with the Commission. FPC again visited the residence, and noted that no conservation measures recommended in the previous energy audit had been implemented, and in fact the temperature on the hot water heater (which had been reduced with customer permission during the 1989 energy audit) had been raised. FPC discussed usage again with Ms. Bricker, and the staff of our Consumer Affairs Division wrote her a letter indicating their understanding that everything had been resolved.

On December 7, 1990, Ms. Bricker called the Commission again to complain that her bills continued to be too high. Ms. Bricker believed that the replacement of the drop in August, 1989 may have had something to do with the high bills. In response to this additional call, FPC visited the residence, inspected the service and meter can, checked the attic and found little insulation, and placed two test meters to record the energy use of the refrigerator and hot tub. After 10 days, check readings on these meters indicated the hot tub was registering 26 kwh per day (780 kwh per month) and the refrigerator was found to register 5 kwh per day (150 kwh per month). Ms. Bricker requested that FPC check her internal wiring, and FPC advised her to contact an electrician. The company reported that Ms. Bricker was "satisfied with our investigation and now understands what is utilizing electricity in the residence."

Ms. Bricker did not file any complaints during 1991 or the first half of 1992. On September 2, 1992, she called the Commission again to complain that her last two bills were too high. FPC requested an appointment, both verbally and in writing, to check the meter, but Ms. Bricker had not responded as of October 6, 1992, and the Commission case was closed. Ms. Bricker later called

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FPC, and the company reported the meter was tested as accurate in November, 1992.

In March, 1993, Ms. Bricker filed this high bill complaint with the Division of Consumer Affairs. Ms. Bricker also complained about power surges and suggested they might be the cause of the high bills.

In response to this complaint, FPC again met with Ms. Bricker at her home. A recording voltmeter was installed, and the graphs reflected consistent, normal voltage, with no surges. FPC discussed the test results with Ms. Bricker on March 9, 1993. Ms Bricker continued to have concerns about her inside wiring, and advised the company that the distribution box on her hot tub had melted. The company again advised Ms. Bricker that she might want to have an electrician check inside, but she was concern about the cost.

FPC scheduled a March 12, 1993 meeting with Rudi Masi, an Energy Services Specialist for FPC, to bring in a piece of test equipment normally used for identifying harmonic distortion in electronic equipment for commercial accounts. The company reported that this equipment could also assist in identifying wiring abnormalities.

Mr. Masi reported his investigation revealed several problems at the main panel and some of the individual electric outlets. He said several circuits were "piggybacked" in the panel indicating rewiring had been done inside the home. He noted the circuit for the hot tub was "double lugged" with the bedroom circuit and the wire size for the hot tub was not adequate. Some of the outlets also showed reversed polarity, and Mr. Masi reported one appliance was being powered with an undersized extension cord.

Mr. Masi then checked the ground wire on the customer's side of the meter. Ms. Bricker told him she had an electrician repair the ground wire on March 9, 1993, and it was burned. She was upset Florida Power had not found the broken ground wire previously.

Florida Power provided a report to Consumer Affairs on March 22, 1993 stating that Mrs. Bricker's internal wiring had not caused her bill to increase and that "the increase in usage was a result of how she used her various appliances and the inefficiencies noted in the energy audit performed at her home." The company went on to comment that Ms. Bricker "is still concerned about the monthly

billing amounts. The root cause is always the fact that she cannot pay the bills. We have worked with Ms. Bricker repeatedly in the past and commitments have not been kept. We do feel the next time Ms. Bricker cannot meet a bill payment, she will call the Commission again."

On March 26, 1993, Consumer Affairs staff wrote Ms. Bricker and advised her that her bills appeared to be correct. On April 2, 1993 Consumer Affairs received a letter from Ms. Bricker complaining about her appliances which she claimed had been damaged since 1989, continuing power surges, and Florida Power's "failure to check the ground wire." Ms. Bricker concluded "fair billing arrangements must be arranged until this matter is resolved."

On April 6, 1993, Ms. Bricker called the Commission to prevent FPC from disconnecting her electric service. Ms. Bricker stated that she had documentation from an electrician regarding her electric problems. FPC advised our staff that Ms. Bricker's current outstanding balance was \$768.61. This bill had been accrued for the most part since July, 1992, because since that time only partial payments had been made. Payment arrangements had been made for the customer to pay the current bill plus \$50 of balance each month, but the arrangements had not been kept. Service was disconnected on April 7 for the outstanding balance. FPC advised it would reconnect for a payment of \$72.10, which was apparently the balance of the February bill of \$112.10.

Ms Bricker told Consumer Affairs that she would not pay \$72.10, because she was disputing the February bill, and would only pay \$30. Consumer Affairs asked FPC to restore service when the \$30 payment was made, and advised Ms. Bricker that she had until April 13 to provide the additional documentation mentioned to Consumer Affairs.

On April 13, 1993 Ms. Bricker faxed a statement from Circle Electric that "the lightning strike may have caused the ground wire to break." An invoice from Circle Electric's March 9 visit had been provided previously which listed work performed as "check power" and noted the ground clamp was broken and replaced.

Additional information was requested from Florida Power by staff, and the company provided a further report on April 19, 1993. This report stated that the failure of the temporary connection made to the home in 1989 would not have caused high bills, although it could have possibly affected motors and 220 volt appliances.

The company also reported that replacement of the ground clamp on March 9 had not affected the customer's bill.

Consumer Affairs staff advised Ms. Bricker by letter dated April 23, 1993 that she was responsible for the electric bills as rendered and service could be denied if payment was not made.

On April 26, 1993 Consumer Affairs received a note from Ms. Bricker and pictures of her drop wire and the burned hot tub distribution box. On April 30, 1993 Ms. Bricker faxed a letter to Consumer Affairs disputing the division's finding on her complaint. This letter was treated as a request for informal conference on the dispute. A staff member who had not had prior contact with the complaint was assigned to review the case and conduct proceedings in accordance with Rule 25-22.032, Florida Administrative Code. (Customer Complaints.) Section (10) of the rule provides;

During the pendency of the complaint proceedings, a utility shall not discontinue service to a customer because of an unpaid disputed bill. However, the utility may require the customer to pay that part of a bill which is not in dispute. If the parties cannot agree as to the amount in dispute, the staff member will make a reasonable estimate to establish an interim disputed amount until the complaint is resolved. If the customer fails to pay the undisputed portion of the bill the utility may discontinue the customer's service pursuant to commission rules.

As of May 1, the total amount past due on Ms. Bricker's account was \$871.59. Florida Power maintained the entire amount was due. Ms. Bricker maintained the entire amount was in dispute. Staff established an interim disputed amount of \$354.21. This amount was based on a number of factors, including complaint history, kwh usage before and after replacement of the ground wire, and payment records. It was obtained by establishing a disputed period from July, 1992 through March, 1993 (which was the period when bills were highest and the account became seriously delinquent) and applying an average reasonable usage of 1500 kwh to those months. This calculation resulted in an interim disputed amount of \$354.21, which was the amount over 1500 kwh billed during the nine months in question. The remaining interim undisputed

balance, which was due for payment, was \$517.38. In addition, the customer's April bill in the amount of \$101.74 was also due.

Consumer Affairs sent Ms. Bricker a letter dated May 12 advising her of the interim disputed amount established, and that a total amount of \$619.12 should be paid by May 27 or her service could be interrupted. No payment was received by FPC, and Ms. Bricker's service was denied for nonpayment on May 28. FPC found that the service had been restored by someone other than the company on June 2, and the meter was removed and service cut at the pole. The meter was tested at 99.71% weighted average accuracy.

On June 9, the customer's May bill of \$124.12 became past due. Both the April bill of \$101.74 and the May bill of \$124.12 were rendered for billing periods subsequent to the replacement of the ground clamp on March 9.

An informal conference, pursuant to commission rules, was conducted on the complaint on June 16, 1993, in Largo. No agreement was reached, and the complaint was docketed.

Subsequent to the conference, Ms. Bricker's June bill for 860 kwh for 16 days of service was rendered in the amount of \$71.79. Deposit interest of \$12 was applied in June, leaving a total outstanding balance on the account of \$1157.24. No payment has been made since the \$30 payment was received on April 7.

Ms. Bricker maintains that either the burned connection found in August, 1989 damaged her appliances and internal wiring, causing high bills, or the broken ground wire found in March, 1993 caused the bills. She believes that both problems should have been found or corrected by Florida Power earlier than they were.

Florida Power maintains that the 1989 condition was corrected upon the customer's call to the company, and that it was left by someone doing wiring in the home and was not the company's responsibility. The company also maintains that the broken ground wire was on the customer's side of the meter, and was not the responsibility of the company. The company has also stated that neither the broken ground wire or the frayed drop would have caused an increase in Ms. Bricker's electric bills.

A review of Ms. Bricker's billing history reflects an average consumption of 978 kwh per month for the first six months of 1989. For July through December, 1989, average consumption increased to

1578 kwh per month. The consumption has continued at approximately that level or higher:

<u>Billing Period</u>	<u>Months Averaged</u>	<u>Average KWH Per Month</u>
1989 (Jan. - June)	six	978
1989 (July - Dec.)	six	1578 ¹
1990 (annual)	twelve	1574
1991 (annual)	twelve	1511
1992 (Jan. - June)	six	1690
1992 (July - Dec.)	six	2320 ²
1993 (Jan. - March)	three	1635
1993 (April - June)	three	1435 ³

¹initial problem reported August, 1989

²period of high bills staff selected as beginning point in calculating interim disputed amount

³billing for three bills for usage subsequent to the replacement of the ground wire on March 9. The June bill was for 16 days, and from that reading an average kwh per day was figured and multiplied by 30 to obtain bill for June to use in the average.

We find that Florida Power Corporation has correctly billed Ms. Bricker for electricity used at her residence at 5952 Webley Drive, and Ms. Bricker is not entitled to a credit for overbilling. There was undoubtedly a substantial increase in Ms. Bricker's bills beginning in July, 1989, but there is no evidence that this billing increase was caused by the faulty connection found in August, or by damage to appliances. At the informal conference, Ms. Bricker stated that she had a hot tub installed during the summer of 1989. Florida Power subsequently placed a test meter on the tub and found that it draws an estimated 780 kwh per month. It appears likely that the use of the hot tub has been one major contributor to Ms. Bricker's high bills. It is also possible that the electric service to the residence was taken down when the hot tub was installed and wired in, which would account for the temporary connection Florida Power found in August, 1989. This would also explain why the high bills coincide with the discovery of the temporary connection.

Ms. Bricker also maintains that the high bills may have been caused by the broken ground wire which was replaced on March 9, 1993. There is no evidence to support the contention that a broken

ground could cause an increase in bills. Ms. Bricker received bills for April and May, two full months of service subsequent to the replacement of the ground wire. The bills show no substantial change from the period of bills that Ms. Bricker disputes. On the chart below, the months in bold are for the billing period Ms. Bricker disputes. While bills did increase after 1989, there has been no substantial change in the kwh consumption since the ground was replaced March 9.

Comparison of April Bills

4/93 - 1203 kwh
4/92 - 1445 kwh
4/91 - 1203 kwh
4/90 - 1293 kwh
4/89 - 797 kwh

Comparison of May Bills

5/93 - 1482 kwh
5/92 - 1634 kwh
5/91 - 1200 kwh
5/90 - 1191 kwh
5/89 - 678 kwh


Furthermore, Ms. Bricker has had three tests performed on the meters serving her since 1989. On all three occasions, the meter tested within the accuracy limits established in Rule 25-6.052. For the reasons explained above, we find that Florida Power Corporation is not required to restore Ms. Bricker's electric service unless the total outstanding charges of \$1157.24 are paid. FPC may make payment arrangements with Ms. Bricker, if it chooses.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the complaint of Jory Bricker against Florida Power Corporation is denied. 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 11th day of August, 1993.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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 September 1, 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.