

BEFORE THE STATE OF FLORIDA
FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
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BROWARD COUNTY, FLORIDA,
Petitioner,

vs.

FLORIDA POWER AND LIGHT
COMPANY,

Respondent.

PETITION FOR
ADMINISTRATIVE HEARING

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FLORIDA PUBLIC
SERVICE COMMISSION
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Broward County, Florida, petitions for a formal hearing pursuant to Section 120.57(1), Florida Statutes, and Rule 25-22.029(4), Florida Administrative Code, regarding the Florida Public Service Commission's Proposed Agency Action Order Denying Refund, Order No. PSC-96-0492-FOF-EI, issued on April 8, 1996, and presents the following statement in compliance with Rule 25-22.036(7)(a), Florida Administrative Code:

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1. The name of the Commission which intends to take the proposed action is the Florida Public Service Commission. The action is proposed to be taken in furtherance of DOCKET NO. 930025-EI.

2. The name and address of the Petitioner are:

Broward County, Florida
Broward County Governmental Center
115 South Andrews Avenue, Room 423
Fort Lauderdale, Florida 33301

DOCUMENT NUMBER-DATE

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3. Broward County's substantial interests will be affected by the Commission's determination because Broward County will be denied a refund for monies improperly charged to it by the Respondent and which it paid in reliance on the correctness of the Respondent's billing.

4. The disputed issues of material fact known to Broward County are:

a. Whether or not Broward County requested or authorized any person to request energy service to the subject street lights which the Respondent billed to Broward County and which Broward County paid.

b. Whether or not Broward County was notified when billings for the street lights were put into its name and, if so, whether the information on the billings was sufficient to put Broward County on notice as which street lights the bills applied.

c. Whether or not Broward County's contractors for installation of street lights and Florida Power and Light routinely initiated electric service for street lights in Broward County's name and, if so, whether or not Broward County had knowledge of such action and permitted it to continue.

d. Whether or not Broward County representatives stated or indicated that Broward County contractors typically initiate service for most or all street light installations.

e. Whether or not it was reasonable for Florida Power and Light to assume that Broward County's contractors were

authorized to represent Broward County for the purpose of initiating street light service in Broward County's name.

f. Whether or not Broward County's contractors represented Broward County in matters related to street light installations.

g. Whether or not Broward County installed all of the street lights for which it was billed and paid.

h. Whether or not Broward County owns all of the street lights for which it was billed and paid.

i. Whether or not Broward County maintains all of the street lights for which it was billed and paid.

j. Whether or not Broward County and American Utility Bill Auditors stated or verified that there is no record that Florida Power and Light was notified of "Traffic Illumination Agreements."

k. Whether or not Section 3(a) of Broward County's Traffic Illumination Agreements suggest that the cities would reimburse Broward County for energy charges after Broward County paid the bill.

l. Whether or not Broward County relied on the correctness of the bills rendered to it by Florida Power and Light and whether such reliance was reasonable.

m. Whether or not Tariff Sheet No. 6.010, Section 1.4, Application by Agents, and Section 2.1, Service and Tariff Sheet No. 6.060, Section 7.8, Change of Occupancy are applicable to Broward County's claim in this matter.

n. Whether or not Florida Power and Light followed it established procedures for the provision of electric service as set out in its tariffs, entitled "General Rules and Regulations for Electric Service," specifically Tariff Sheet No. 6.010, Section 1.4, Application by Agents, and Section 2.1, Service.

o. Whether or not Florida Power and Light followed it established procedures for the provision of electric service as set out in its tariffs, specifically Tariff Sheet No. 6.060, Section 7.8, Change of Occupancy.

p. Whether or not Florida Power and Light has corrected the erroneous billings on a going forward basis.

q. Whether or not the findings and conclusions of the Proposed Agency Action are reasonable.

5. A concise statement of the ultimate facts which Broward County alleges are as follows:

Florida Power and Light improperly opened street light accounts in Broward County's name for Groups I and II without authorization from Broward County to do so. With respect to Group I, Florida Power and Light opened street light accounts either on the assumption or on the contractor's representation that the contractor was an agent for the County. With respect to Group II, Broward County did not order the energy service and had no involvement with these projects with the street lights. With respect to Group III, the provision of street lights within municipal boundaries is the responsibility of the particular municipality since street light services are municipal services. When the street light areas in Group III were annexed, they became the responsibility of the annexing municipality.

6. The rule and statute which entitles Broward County to relief is Rule 25-6.106(2), Florida Administrative Code and Chapter 171, Florida Statutes.

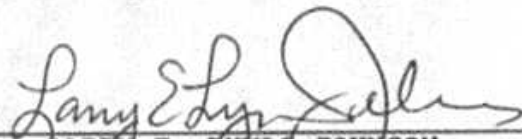
7. Broward County received notice of the Proposed Agency Action dated April 8, 1996, by facsimile transmission on April 18, 1996. The facsimile copy of the order transmitted to Broward County was sent at Broward County's request only after Broward County learned from Florida Power and Light that a proposed order had been rendered. As of the date of this filing, Broward County has not received a signed or conformed copy of the proposed order with exhibits attached.

WHEREFORE, the Petitioner, Broward County, respectfully requests an administrative hearing pursuant to Section 120.57(1), Florida Statutes, an order directing Florida Power and Light to refund all monies paid to it by Broward County pursuant to bills rendered to Broward County for energy service which Broward County did not request, for energy service paid pursuant to bills rendered to Broward County after street lights were annexed into municipal limits, directing Florida Power and Light to pay Broward County's costs and reasonable attorney fees, and such other and further relief as may be just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States mail to Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; Steve Romig, Florida Power and Light Company, P.O. Box 8248, Fort Lauderdale, Florida 33340-8248; and Kenneth Haile, Esquire, attorney for Florida Power and Light Company, Law

Department, P.O. Box 029100, Miami, Florida 33102-9100, on this
23rd day of April 1996.

By 
LARRY E. LYMAN-JOHNSON
Deputy County Attorney
Florida Bar No. 271276

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