

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

September 4, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (CULPEPPER) *RC RUE*
DIVISION OF ELECTRIC & GAS (DRAPER) *ESD*
DIVISION OF CONSUMER AFFAIRS (RASBERRY) *RAJ* *JOJ*

RE: DOCKET NO. 960901-EI - COMPLAINT OF SERGE PIQUION AGAINST
FLORIDA POWER & LIGHT COMPANY REGARDING CURRENT DIVERSION
BACKBILLING.

AGENDA: SEPTEMBER 16, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\LEG\WP\960901EI.RCM

CASE BACKGROUND

On November 6, 1995, Mr. Jonathan S. Schwartz from Law Offices of Jonathan S. Schwartz, called the Division of Consumer Affairs on behalf of Serge Piquion (customer). Mr. Schwartz questioned a bill received by the customer resulting from a meter tampering condition found at 19354 NW 28th Ct., Opa Locka, Florida 33056. A complaint was taken and sent to Florida Power and Light Company (FPL) for a full report. On December 1, 1995, a report was received from FPL.

In its response to the complaint, FPL reported the following sequence of events:

- 1) FPL's records indicated that a new meter, number 5C30396, was set at this service address on November 1, 1981.
- 2) Mr. Piquion's service was connected on June 7, 1988.
- 3) On March 22, 1994, the FPL meterman reported a wire inserted through a hole in the bottom of the canopy of meter number 5C30396, stopping the rotation of the disk.
- 4) On March 25, 1994, a revenue protection investigator observed and documented a hole in the bottom of the meter

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canopy. However, at that time, the investigator found no object inserted through the hole.

5) On April 24, 1994, a revenue protection investigator found a wire inserted through a hole in the bottom of meter number 5C30396, stopping the rotation of the disk.

6) On April 26, 1994, the meter was removed and transported to the laboratory for testing.

7) On April 28, 1994, the laboratory test verified that with the wire in the meter canopy, the meter registered at 0%. Without the wire, the meter registered at 100%.

8) On August 31, 1995, the account was rebilled using the average percentage of usage calculation. FPL used the usage consumption for the period after the new meter was set in order to estimate the yearly average to be rebilled. FPL included the cost incurred in correcting the condition. The total amount rebilled was \$7,100.88, including \$314.99 for investigative costs.

Because the company could not identify the exact date on which the manual current diversion condition started, the customer's account was rebilled from July 1988 to May 1994. This time period encompassed the entire period that Mr. Piquion has had service with FPL at 19354 NW 28th Ct., Opa Locka, Florida.

On April 15, 1996, staff sent a letter to the customer's representative, Mr. Jonathan S. Schwartz, agreeing with FPL's rebilling of this account, and explaining that the account was rebilled in accordance with the Commission's rule on the unauthorized use of energy, Rule 25-6.104, Florida Administrative Code.

On May 24, 1996, Mr. David Finkelstein, Esquire, from the Law Offices of Jonathan S. Schwartz, filed a request for an informal conference for his client, Serge Piquion.

On June 28, 1996, an informal video teleconference was held with the customer's representative, David Finkelstein, and FPL representatives. At the end of this conference, Mr. Finkelstein requested, and was granted, until July 17, 1996, to make a post conference filing. The filing was received in Consumer Affairs on July 26, 1996. In that filing, Mr. Finkelstein presented a recalculation of the bill and made a settlement offer of \$2,000. After reviewing this offer for settlement, FPL rejected it and demanded full payment of the rebilled amount of \$7,100.88.

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No settlement was reached; therefore, staff makes the following recommendation.

DISCUSSION OF ISSUES

ISSUE 1: Is there sufficient evidence to believe that electricity was diverted to the residence of Serge Piquion at 19354 NW 28th Ct., Opa Locka, Florida 33055?

RECOMMENDATION: Yes. Prima facie evidence of meter tampering outlined in FPL's reports makes it reasonable to believe that meter tampering occurred at Mr. Piquion's residence. As the customer of record during the entire period, Mr. Piquion should be held responsible for a reasonable amount of backbilling.

STAFF ANALYSIS: FPL documented that electricity was being manually diverted at meter number 5C30396. The meter served the residence of Serge Piquion at 19354 NW 28th Ct., Opa Locka, Florida 33055. An FPL representative documented that he discovered the meter with a wire inserted through a hole in the bottom of the meter canopy. After removing and testing the meter, FPL reported that the meter registered 0% of usage with the wire inserted through the canopy, and 100% without the wire.

On three separate visits to this customer's house FPL representatives found that:

- 1) On March 22, 1994, a wire was inserted in the bottom of the meter;
- 2) On March 25, 1994, a hole was in the bottom of the meter canopy but no wire was found;
- 3) On April 24, 1994, a wire was discovered inserted through the hole in the bottom of the meter canopy (No. 5C30396) stopping the rotation of the disk.

FPL could not identify a point in time in Mr. Piquion's billing history in which a marked drop in consumption occurred. Any such dramatic drop in consumption would have indicated when the diversion had started. The attached kWh history summary (Attachment 1) shows extremely low usage from the time service was established in 1988 through the discovery of the condition in April, 1994. After the new meter was installed, Mr. Piquion's kWh consumption more than doubled (May - September, 1994 vs. May - September, 1993).

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ISSUE 2: Is Florida Power and Light's calculation of a backbilled amount of \$6,785.89 for unmetered electric usage, plus a \$314.99 investigation charge, reasonable?

RECOMMENDATION: Yes. The amounts of \$6,785.89 for electric usage and the \$314.99 investigation charge, totalling \$7,100.88, are reasonable.

STAFF ANALYSIS: In cases such as this, the company can rebill the account for the entire period of service. This account was rebilled for the period July 1988, the customer connect date, through May 1994, when the diversion was corrected. The percentage of usage formula was used to rebill this account. The reading taken from the accurately registering meter was used to project an estimated yearly usage. The estimated yearly usage for this rebilling was 19,258 kilowatt hours (kWh), the kWh amount billed for each full year that the diversion was in effect. The Piquion account was rebilled over a 71-month period for a usage amount of \$6,785.89, plus investigative costs of \$314.99, for a total bill of \$7,100.88.

Staff agrees that the evidence clearly indicates that electricity was manually diverted to 19354 NW 28th Ct., Opa Locka, Florida 33055. As the customer of record, Mr. Piquion is responsible for all electric consumption at that address. Staff also agrees that FPL arrived at the amount to be rebilled properly and in accordance with Rule 25-6.104, Florida Administrative Code. Thus, staff believes that Mr. Piquion should be required to pay the full rebilled amount of \$7,100.88.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the Commission's proposed agency action, timely files a protest within twenty-one days, this docket should be closed.

STAFF ANALYSIS: If no person whose substantial interests are affected, files a timely request for a Section 120.57, Florida Statutes, hearing within twenty-one days, no further action will be required and this docket should be closed.

KWH HISTORY SUMMARY

NAME: Pierre Joseph
 ADDRESS: 19354 NW 28 Court
 ACCT. NO.: 68098-80405 (CURRENT)
 ACCT. NO.: 86-16-205-09030-9 (PREVIOUS)

METER SET DATE: 11/81
 CUSTOMER CONNECT DATE: 6/7/88
 CASE NUMBER: 94F8108
 METER NO.: 5C30398

MONTH	1988	1987	1986	1985	1984	1983
JANUARY						
FEBRUARY						
MARCH						
APRIL						
MAY						
JUNE	221					
JULY	548 A					
AUGUST	531					
SEPTEMBER	1067					
OCTOBER	748					
NOVEMBER	397					
DECEMBER	395					

A: CONDITION STARTED (7/20/88) B: CONDITION DISCOVERED (NEW METER SET 4/26/94)

PREPARED BY: H. Murruchaga
 M. Guruchaga

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Attachment 1
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KWH HISTORY SUMMARY

NAME: Pierre Joseph
 ADDRESS: 19354 NW 28 Court
 ACCT. NO.: 68096-80405 (CURRENT)
 ACCT. NO.: 66-16-205-09030-9 (PREVIOUS)

METER SET DATE: 11/81 METER NO.: SC30396
 CUSTOMER CONNECT DATE: 6/7/88
 CASE NUMBER: 94F6106

MONTH	1989	1990	1991	1992	1993	1994
JANUARY	334	263	395	327	308	349
FEBRUARY	402	216	260	285	367	365
MARCH	308	245	237	321	364	354
APRIL	1294	268	301	319	418	623
MAY	263	422	537	323	477	1148 B
JUNE	564	428	381	397	660	1417
JULY	513	831	24	647	933	960
AUGUST	521	960	636	593	601	1927
SEPTEMBER	755	735	323	689	530	1360
OCTOBER	555	514	337	457	674	585
NOVEMBER	272	326	209	308	423	343
DECEMBER	220	299	279	220	342	343

A: CONDITION STARTED (7/20/88) B: CONDITION DISCOVERED (NEW METER SET 4/26/94)

PREPARED BY: H. M. Gierman
 M. Gierman

KWH HISTORY SUMMARY

NAME: Pierre Joseph METER SET DATE: 11/81 METER NO.: 5C10195
 ADDRESS: 19154 NW 28 Court CUSTOMER CONNECT DATE: 6/7/88
 ACCT. NO.: 68096-80405 (CURRENT) CASE NUMBER 94F6106
 ACCT. NO.: 85-16-205-09030-9 (PREVIOUS)

MTH	1995	1994	1993	1992	1991	1990	1989
JAN	326						
FEB	288						
MAR	302						
APR	342						
MAY	541						
JUN	848						
JUL	916						
AUG	1040						
SEP	973						
OCT	886						
NOV							
DEC							