

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

OCTOBER 17, 1996

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

FROM: DIVISION OF LEGAL SERVICES (ERSTLING) *RUE*  
DIVISION OF ELECTRIC & GAS (DRAPER) *E19*  
DIVISION OF CONSUMER AFFAIRS (RASBERRY) *JDS*

RE: DOCKET NO. 961179-EI - FLORIDA POWER & LIGHT COMPANY -  
COMPLAINT OF FRANCISCO MESA AGAINST FLORIDA POWER & LIGHT  
COMPANY REGARDING ALLEGED UNJUSTIFIED CHARGES FOR CURRENT  
DIVERSION

AGENDA: 10/29/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\LEG\WP\961179EI.RCM

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CASE BACKGROUND

On April 16, 1996, Mr. Francisco Mesa contacted the Division of Consumer Affairs and complained of being unjustifiably charged with current diversion by Florida Power & Light Company (FPL). Mr. Mesa questioned a bill received from FPL resulting from a meter tampering condition found at 7863 SW 5th Street, Miami, Florida 33144. A complaint was taken and sent to FPL for a full report. On April 22, 1996, a report was received from the company.

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

- 1) According to FPL's records a new factory-direct meter No. 5C20065 was installed at 7863 SW 5th Street, Miami, Florida 33144 on May 1, 1992.
- 2) Service at this same location was established in the name of Francisco Mesa on May 6, 1992.
- 3) On July 31, 1995, a FPL revenue protection investigator reported dial tampering on Meter 5C20065. Meter check readings were started. The regular monthly meter reading done

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FPSC-RECORDS/REPORTING

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for the period June 19, 1995 through July 19, 1995, was at 37591 kilowatt hours (kWh).

4) On July 31, 1996, the check reading taken showed 38687 kWh. Between July 19th and July 31, 1995, 1,096 kWh's were used in a 12 day period. Projecting this amount over a 30 day period shows potential use of 2,740 kwh during the billing cycle.

5) On August 10, 1995, a check reading was taken and the meter showed 39536 kWh. Between July 31, 1995 and August 10, 1995, 849 kWh were used in a ten day period. Projecting this amount over a 30 day period shows potential use of 2,547 during the billing cycle.

6) On August 17, 1995, the regular monthly meter reading for July 19th through August 17, 1995, billing period showed **38627** kWh. This is the first documented **regression** reading; it records 909 kWh hours less than the August 10th check reading of 39536 kWh. FPL billed on the basis of the actual meter readings.

7) On August 18, 1995, another check reading was taken. The meter showed 38716 kWh, which is a one day consumption of 89 kilowatt hours. This one day usage projected over a month would be 2670 kWh.

8) On September 18, 1995, the regular monthly reading for the August 17th through September 18, 1995, billing period was taken. The meter showed 39575 kWh. Again, FPL billed only for the actual meter readings. The 948 kWh billed is 1722 kWh less than the projected estimate of 2670 kWh used.

9) On October 17, 1995, the regular monthly reading for the September 18th through October 17, 1995, billing period was 40451 kWh. Only 876 kWh were billed.

10) On November 16, 1995, the regular monthly reading for the October 17th through November 16, 1995, billing period was 41150 kWh. Only 699 kWh were billed.

11) On December 11, 1995, another check reading of the meter was taken. It showed 42842 kWh. The customer used 1692 kwh in 25 days. This 25 day usage projected over one month would total 2030 KWH.

12) On December 18, 1995, the regular monthly reading for the November 16th through December 18, 1995, billing period.

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The meter showed 41866 kWh. This is another regression reading when compared to the December 11, 1995, check reading of 42842 kWh. FPL billed only for the kilowatt hours shown on the meter.

13) On February 19, 1996, the regular monthly reading for January 19th through February 19, 1996, billing period was 43528 kWh.

14) On February 29, 1996, FPL removed meter number 5C20065 and replaced it with meter number 5C69682. The meter reading was at 44329 kWh indicating a 801 kWh usage over a ten day period. FPL projected this out to a 2403 kWh usage for the month.

15) At the time the meter number 5C20065 was removed, FPL's revenue protection meterman documented a broken inner seal and dial tampering.

16) On March 12, 1996, meter number 5C20065 was tested. Test results indicated that the meter registered 100.16% under a full load and 99.70% under a light load. The weighted average is 100.07%. Documentation at the time of the test also indicate that the inner seal was missing and there were smudges on the meter register.

17) Examination of the meter indicated that the calibration of the meter was not affected. The meter tested within PSC tolerance. In this type of meter dial tampering, the calibration of the meter is not affected because the meter dials are manually turned back before the meter read date. Consequently, the utility has no way to measure the actual percentage lost in order to rebill the account. Therefore, FPL used the seasonal percentage of usage formula. This formula provides a reasonable estimation of electricity used but not paid for.

18) On April 5, 1996, the account was rebilled using the seasonal average percentage of usage calculation. FPL recalculated the usage consumption from the first full month after inception of service. The total amount rebilled was \$6,601.98 including \$323.46 for investigative costs.

Based upon the pattern of low monthly usage from the inception of the account, which sharply contrasted with check readings of kWh usage, FPL established that the meter serving this residence had been tampered with from inception of service. However, FPL chose to rebill from the first full month of service.

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On May 1, 1996, staff sent a letter to Mr. Mesa agreeing with FPL's rebilling of this account in the sum of \$6,601.98. On May 22, 1996, by letter, the customer requested an informal conference. The conference was originally scheduled for June 28, 1996. However, on June 26, 1996, staff was informed that Mr. Mesa had employed counsel. Staff forwarded the customer's file and a copy of Rules 25-6.104 and 25-6.105 to Mr. Mesa's attorney on June 26, 1996. After subsequent delays on the part of Mr. Mesa, an informal video teleconference was held on September 13, 1996. An offer was made by Mr. Mesa, through his counsel, to settle for the recalculated amounts from the period beginning July 31, 1995, forward. No settlement was reached by the parties.

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**ISSUE 1:** Is there sufficient evidence to believe that electricity was diverted to the residence of Francisco Mesa at 7863 SW 5th Street, Miami, Florida 33144?

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

**STAFF ANALYSIS:** FPL's Revenue Protection investigator reported dial tampering on meter number 5C20065, which served the residence of Francisco Mesa at 7863 SW 5th Street, Miami, Florida 33144, and documented this finding with check readings. During the course of the investigation, FPL actually documented two regressive meter readings:

- 1) A check reading taken on August 10, 1995, showed 39536 kWh; the regular monthly reading taken on August 17th showed 38627 kWh.
- 2) A check reading taken on December 11, 1995, showed 42842 kWh; the regular monthly reading taken on December 18th showed 41866 kWh.

Due to the cumulative nature of the meter, readings should not regress. This indicates a physical tampering with the meter dial for the purpose of evading the responsibility of paying the full amount for service received. This is further supported by the physical evidence of the missing inner seal and smudges on the meter register. Because the meter register is covered with a solid plastic canopy seal, ordinarily there would be no marks of any kind on the face of the register.

One of the simplest and most accurate ways to rebill an account for meter failure or tampering is when tests can determine the actual percentage of power not properly measured by the meter. This type of calibration measurement allows the utility to rebill the account by applying the percentage lost to the amount of kWh's actually recorded. This method, however, is not available in the subject meter dial tampering situation where the meter dials are manually turned back before the regular read date. This manual manipulation of the meter dial gives the impression that less kWhs were used.

FPL provided projections based upon the check readings that showed potential usage by this customer during the period of the

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investigation. Based upon these projections and the facts shown in the case background it is reasonable to believe that electricity was consumed at 7863 SW 5th Street, the home of Francisco Mesa, but not billed to him.

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**ISSUE 2:** Is Florida Power and Light's calculation of a backbilled amount of \$6,278.52 for unmetered electric usage, plus a \$323.46 investigative charge, reasonable?

**RECOMMENDATION:** Yes. The amounts of \$6,278.52 for electric usage and the \$323.46 investigation charge, totalling \$6,601.98 are reasonable.

**STAFF ANALYSIS:** On March 12, meter number 5C20065 was tested. Test results indicated that the meter registered 100.16% under full load and 99.70% under a light load, with a weighted average of 100.07%. Under normal circumstances this would be considered an accurately registering meter. The meter remained within proper calibration limits, but the dials were tampered with (turned back) manually. This manual manipulation of the meter dials occurred before the monthly read date to make it appear as though less electricity was used.

FPL documented instances of regressed meter readings as a result of dial tampering. Even though a certain amount of kWh usage was billed every month, the setting back of the meter dial register prevented FPL from receiving full payment for services given. During the entire period of the investigation, FPL billed the customer based on the actual meter readings not the projected greater kWh usage.

Due to the nature of this diversion, the rebilling of this account was based on a seasonal average percentage of usage chart. This chart takes into consideration seasonal variations in heating and cooling demands in the customer's area. The chart is a useful estimating tool for rebilling cases like this one where the meter is registering within acceptable tolerance, but the dials have been manually manipulated.

FPL based its estimate on three projection figures that were documented during the course of the investigation. The projections for August 1995 - 2644 kWh (based on two check readings projected), September 1995 - 2670 kWh, and March 1996 - 2,403 kWh, see case background. Each of these amounts were increased by the seasonal percentage for that period. August was increased by 10.18% to a yearly usage total of 25,972 kWh; September by 10.25% to a yearly usage total of 26,049 kWh, and March 1996 by 5.99% to a yearly usage total of 40,117. The yearly usage figures were then averaged to give an average to be billed per year of 30,713 kWh. After applying this total over a 46 month period and deducting the amount already billed and paid, the total kWh amount rebilled was 73,992 kWh. The billed dollar amount is \$6,278.52, plus the investigative costs of \$323.46, totalling \$6,601.98.

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Attached as Exhibit A is FPL's customer usage chart for 7863 SW 5th Street. The chart indicates a very low level of kWh usage since the inception of service. It would appear to indicate that the meter has been manipulated over an extended period of time, particularly when you consider this house has central air, is not of recent vintage and is located in Miami.

Staff agrees that there is prima facie evidence that meter tampering occurred and electricity was manually diverted at 7863 SW 5th Street, Miami, Florida 33144. As the customer of record, Mr. Mesa is responsible for all electric consumption at this 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. Mesa should be required to pay the full rebilled amount of \$6,601.98.

**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(1), Florida Statutes, hearing within twenty-one days, no further action will be required and this docket should be closed



DOCKET NO. 960363-GU  
 DATE: OCTOBER 17, 1996

Name : FRANCISCO MESA  
 Address : 7863 SW 5TH ST MIAMI  
 Bill Account : 85244-79519  
 OLBA : OLDBA:83-16-296-30984-1

Meter Set Date : 05/01/92  
 Meter Number : 5C20065  
 Customer Connect Date: 5/6/92  
 Case Number : 96C130800951

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 b/e/07/92  
 b/e/08/92  
 b/e/09/92*

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MONTH	1996	1995	1994	1993	1992	1991	1990
JAN	805 <small>1/19/96</small>	964 <small>1/20/95</small>	911 <small>1/20/94</small>	1521 <small>1/19</small>			
FEB	857 <small>2/19/96</small>	885 <small>2/20/95</small>	976 <small>2/18/94</small>	715 <small>2/13</small>			
MAR	1209 <small>3/19</small>	765 <small>3/21/95</small>	1281 <small>3/22/94</small>	655 <small>3/19</small>			
APR		842 <small>4/19/95</small>	1136 <small>4/20/94</small>	740 <small>4/20/93</small>			
MAY		880 <small>5/18/95</small>	1270 <small>5/19/94</small>	716 <small>5/19/93</small>	5/19 425		
JUN		1025 <small>6/19/95</small>	1371 <small>6/20/94</small>	1268 <small>6/18/93</small>	6/18 980		
JUL		1063 <small>7/19/95</small>	1439 <small>7/20/94</small>	1228 <small>7/20/93</small>	7/20 1200		
AUG		1036 <small>8/17/95</small>	646 <small>8/18/94</small>	1599 <small>8/19/93</small>	8/19 772		
SEP		948 <small>9/18/95</small>	1070 <small>9/19/94</small>	928 <small>9/20/93</small>	9/18 595		
OCT		876 <small>10/17/95</small>	1023 <small>10/19/94</small>	1082 <small>10/19/93</small>	10/19 490		
NOV		699 <small>11/16/95</small>	862 <small>11/18/94</small>	1055 <small>11/18/93</small>	11/18 410		
DEC		716 <small>12/18/95</small>	987 <small>12/20/94</small>	1086 <small>12/20/93</small>	12/17 671		
TOTAL	1662	10699	12972	9702			

EXHIBIT A  
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\* = Current Disconnection Documented and New Meter Installation

Prepared By \_\_\_\_\_