

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

MEMORANDUM

JANUARY 23, 1997

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

FROM: DIVISION OF LEGAL SERVICES (KEATING) *WKR RVE*  
DIVISION OF ELECTRIC & GAS (GOAD) *RCS*  
DIVISION OF CONSUMER AFFAIRS (DEMELLO) *AS* *JDJ*

RE: DOCKET NO. 970047-EI - COMPLAINT OF MR. THOMAS HART  
AGAINST FLORIDA POWER & LIGHT COMPANY REGARDING ALLEGED  
CURRENT DIVERSION/METER TAMPERING REBILLING FOR ESTIMATED  
USAGE OF ELECTRICITY

AGENDA: 02/04/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\LEG\WP\970047EI.BCM

CASE BACKGROUND

On August 14, 1996, Mr. Thomas W. Hart contacted the Division of Consumer Affairs and complained that he was unjustifiably charged with current diversion by Florida Power & Light Company (FPL). Mr. Hart also disputed a bill from FPL for usage not recorded or previously billed due to the alleged meter tampering and for investigative charges. An inquiry was taken and sent to FPL for a full report. On August 26, 1996, a report was received by Consumer Affairs from the company.

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

- 1) Electric service for the residence at 301 N.E. 5th Court, Dania, Florida 33004, was established in the name of Thomas Hart on October 3, 1983, and service has continued in his name to date.
- 2) On July 20, 1995, an FPL meter reader reported "erratic kilowatt usage" at this residence.

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FPSC-RECORDS/REPORTING

DOCKET NO. 970047-EI  
DATE: JANUARY 23, 1997

3) On August 15, 1995, an FPL meterman inspected the meter at this residence, noted that the meter can face plate was rigged and the canopy seal was missing, and documented these observations. Mr. Hart's account was referred to an investigator for further review.

4) FPL began meter check readings. Four regressive readings were documented by an FPL investigator between August 15, 1995, and December 19, 1995. Based on readings taken on August 15, 1995 (by meterman) and on August 18, 1995 (by meter reader), the projected usage for the August 18, 1995 billing period was 3030 kilowatts. The actual usage billed to Mr. Hart for the August 18, 1995 billing period was 879 kilowatts.

5) On May 13, 1996, FPL removed and replaced meter number 5C47661. At the time meter number 5C47661 was removed, FPL's revenue protection meterman documented that the face plate and outer seal were rigged and the inner seal was missing.

6) On May 21, 1996, meter number 5C47661 was tested. Test results indicated that the meter registered 90.78% under a full load and 0% under a light load. The weighted average is 72.62%. Documentation at the time of the test indicated that the meter had no inner seal and showed signs of dial and bearing tampering.

7) On July 8, 1996, Mr. Hart's account was rebilled using the seasonal average percentage of usage calculation. FPL stated that it did not have any record of the customer's electric consumption prior to June, 1990. Therefore, the customer's account was backbilled from June 21, 1990 to May 13, 1996. The company's records did not indicate that the customer's consumption declined during the backbilling period. Because no noticeable and sustained drop in consumption could be documented, FPL used the actual consumption from readings taken. The total amount rebilled was \$9,327.01, including \$387.99 for investigative costs.

8) On July 16, 1996, Mr. Hart called FPL. FPL representatives explained the meter condition and the rebilling method. Mr. Hart stated that he had no knowledge of the diversion.

9) On August 5, 1996, Mr. Hart met with FPL representatives at the FPL office. The meter reading check list, billing worksheet, and the electric meter condition were explained. Payment arrangements were offered but were not accepted by Mr. Hart.

DOCKET NO. 970047-EI  
DATE: JANUARY 23, 1997

On September 30, 1996, Mr. Hart was notified by letter that, based on the information received by staff, the amount of FPL's rebilling appeared to be reasonable. On October 10, 1996, by letter, the customer requested an informal conference. The informal conference was held on Friday, December 6, 1996. In attendance were Mr. Hart, FPL representatives, and Consumer Affairs staff. No settlement was reached by the parties at or since the conference.

DOCKET NO. 970047-EI  
DATE: JANUARY 23, 1997

**ISSUE 1:** Should the Commission find that meter tampering occurred at the residence at 301 N.E. 5th Court, Dania, Florida 33004?

**RECOMMENDATION:** Yes. FPL's reports provide prima facie evidence of meter tampering at the residence at 301 N.E. 5th Court, Dania, Florida 33004. As the customer of record during the entire period, Mr. Hart is responsible for a reasonable amount of backbilling.

**STAFF ANALYSIS:** FPL's Revenue Protection investigator reported dial tampering on meter number 5C47661, which served the residence at 301 N.E. 5th Court, Dania, Florida 33004, and supported this finding with documented check readings. During the course of the investigation, FPL documented four regressive meter readings.

1) A check reading taken on September 8, 1995, showed 90,214 kwh. The regular monthly reading taken on September 19th showed 89,292 kwh, a regression of 922 kwh.

2) A check reading taken on October 13, 1995, showed 91,209 kwh. The regular monthly reading taken on October 18th showed 90,065 kwh, a regression of 1,144 kwh.

3) A check reading taken on November 15, 1995, showed 91,958 kwh. The regular monthly reading taken on November 17th showed 90,648 kwh, a regression of 1,310 kwh.

4) A check reading taken on December 13, 1995, showed 91,705 kwh. The regular monthly reading taken on December 19th showed 91,245 kwh, a regression of 465 kwh.

These readings indicate 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 physical evidence of tampering, including a broken inner seal and a rigged face plate and outer seal.

FPL provided projections based upon the check readings that showed potential usage at this residence during the period of the investigation. These projections indicate that actual usage was greater than recorded usage. Based upon these projections and the other evidence of tampering, staff recommends that the Commission find that meter tampering occurred at the residence at 301 N.E. 5th Court, Dania, Florida, resulting in unbilled consumption.



DOCKET NO. 970047-EI  
DATE: JANUARY 23, 1997

**ISSUE 2:** Should the Commission find Florida Power & Light Company's calculation of a backbilled amount of \$8,939.02 for unmetered electric usage, plus a \$387.996 investigative charge, reasonable?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** The amount rebilled by FPL was calculated based upon the seasonal percentage of usage chart for Mr. Hart's account from the June 21, 1990 billing period to the May 13, 1996 billing period. The backbilled amount was based on the average percentage of usage as determined by readings taken before the new meter was set.

Meter readings taken on August 15, 1995, and August 18, 1995, indicated that 302 kilowatt hours (kwh) were used during that period. FPL projected monthly usage of 3,020 kwh based on these readings. This amount was divided by the August 1995 factor of 9.94 percent, resulting in a projected yearly usage of 30,382 kwh.

Meter readings taken on October 20, 1995, and October 27, 1995 indicated that 574 kwh was used during that period. FPL projected monthly usage of 2,460 kwh based on these readings. This amount was divided by the November 1995 factor of 8.56 percent, resulting in a projected yearly usage of 28,738.

FPL averaged these two projected yearly usage numbers to derive an average projected yearly usage of 29,560 kwh. FPL applied this amount to the percentages for each month on the seasonal average chart.

The seasonal average chart was developed by determining the number of kwh sold to all residential customers in Mr. Hart's service area by month throughout an entire year, then dividing each monthly usage amount by the yearly total usage to develop a percentage figure (factor) for each individual month. FPL then recalculated the bill for each month that the tampering occurred. The total kwh originally billed was then subtracted from the total kwh recalculated and the resulting number of kwh and applicable investigative costs were rebilled to the customer. The cumulative amount resulted in a total of \$8,939.02, plus the investigative costs of \$387.99, equaling \$9,327.01.

In calculating the rebilled amounts, FPL stated that it did not take into account that readings on August 15 and August 18, 1995, and October 20 and October 27, 1995, were obtained from a meter that was not registering 100% of kwh used. Due to tampering

DOCKET NO. 970047-EI  
DATE: JANUARY 23, 1997

of the meter bearings, the meter was only registering 90.78% on a full load, 0% on a light load, and 72.62% on a weighted average. If the same readings had been taken from a meter registering 100%, the rebilled amount would have increased by \$3,701.46.

Attached as Exhibit A is a chart showing the kilowatt hours originally billed for the residence at 301 N.E. 5th Court, Dania, Florida. The chart indicates a very low level of kwh usage since 1990, especially considering that the subject residence is approximately 4279 square feet and has 5 bedrooms, 4 bathrooms, and a pool.

Based on the information reviewed, there is prima facie evidence that meter tampering occurred at 301 N.E. 5th Court, Dania, Florida 33004. As the customer of record, Mr. Hart is responsible for all electric consumption at this address. Staff believes that FPL arrived at the amount to be rebilled in accordance with Rule 25-6.104, Florida Administrative Code. Thus, staff recommends that Florida Power & Light Company's calculation of a backbilled amount of \$8,939.02 for unmetered electric usage, plus a \$387.99 investigative charge, be found reasonable.

DOCKET NO. 970047-EI  
DATE: JANUARY 23, 1997

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** Yes. If no person whose substantial interests are affected by the Commission's proposed agency action files a protest within 21 days of the order, 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 21 days of the order, no further action will be required and this docket should be closed.

KWH SUMMARY

Name : THOMAS W HART  
 Address : 301 NE 5TH CT DANIA  
 Bill Account : 22814-51605  
 OLBA : OLDBA:72-17-068-87640-3

Meter Set Date : 11/1/79  
 Meter Number : 8047681  
 Customer Connect Date : 10/3/83  
 Case Number : 62708030

| MONTH | 1996            | 1995            | 1994    | 1993    | 1992    | 1991    | 1990    |
|-------|-----------------|-----------------|---------|---------|---------|---------|---------|
| JAN   | 425<br>1/28/79  | 1133<br>1/31/79 | 21 1111 | 20 824  | 23 1164 | 23 1203 | 23 1317 |
| FEB   | 482<br>2/28/79  | 791<br>2/28/79  | 22 1000 | 21 788  | 21 997  | 21 753  | 21 748  |
| MAR   | 860<br>3/28/79  | 629<br>3/28/79  | 23 812  | 22 957  | 23 1118 | 22 1210 | 22 739  |
| APR   | 897<br>4/28/79  | 519<br>4/28/79  | 21 754  | 21 752  | 21 1147 | 22 960  | 20 1006 |
| MAY   | 1196<br>5/17/79 | 591<br>5/17/79  | 20 1172 | 20 965  | 20 1235 | 21 984  | 22 1038 |
| JUN   | 1267<br>6/18/79 | 1000<br>6/18/79 | 21 1129 | 21 1545 | 19 1142 | 20 990  | 21 1223 |
| JUL   | 1265<br>7/18/79 | 868<br>7/18/79  | 21 994  | 21 1028 | 21 1282 | 22 1697 | 23 1356 |
| AUG   |                 | 879<br>8/18/79  | 19 1007 | 20 1401 | 21 1430 | 21 1454 | 22 1452 |
| SEP   |                 | 735<br>9/18/79  | 20 1175 | 21 1244 | 21 1204 | 20 1191 | 20 1331 |
| OCT   |                 | 783<br>10/18/79 | 20 1227 | 20 1234 | 20 867  | 22 1320 | 22 1329 |
| NOV   |                 | 573<br>11/17/79 | 21 807  | 19 1150 | 19 724  | 22 889  | 22 1020 |
| DEC   |                 | 597<br>12/15/79 | 21 923  | 21 1120 | 18 762  | 23 1174 | 21 1100 |
| TOTAL | 3880            | 9098            | 7202    |         |         |         |         |

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Current Division Documented and New Meter Installation