

ORIGINAL

RECEIVED-FPSC

99 APR 33 AM 10:39

RECORDS AND REPORTING

MEMORANDUM

APRIL 30, 1999

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (JA.EL) *RVÉ*

RE: DOCKET NO. 981923-EI - COMPLAINT AND PETITION OF JOHN CHARLES HEEKIN AGAINST FLORIDA POWER & LIGHT COMPANY

Attached is a letter dated April 21, 1999, that was received by Commission staff counsel from Mr. R. Wade Litchfield, Esquire. A copy of this letter was also provided by Mr. Litchfield, to Mr. Heekin, the Petitioner in the above-referenced docket. Please insert this letter into the file for this docket. Thank you.

GAJ/js
 cc: David Ging, Division of Electric and Gas Attachment
 I:981923R2.GAJ

AFA _____
 APP _____
 CAF _____
 CMU _____
 CTR _____
 EAG _____
 LEG _____
 MAS _____
 OPC _____
 RRR _____
 SEC / _____
 VAW _____
 OTH _____

DOCUMENT NUMBER-DATE

05545 MAY-38

FPSC-RECORDS/REPORTING



Writer's Direct Dial:
(561) 691-7101

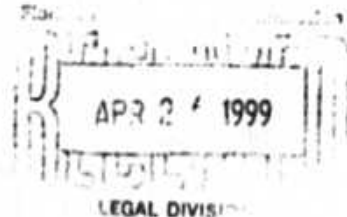
R. Wade Litchfield
Senior Attorney
Florida Authorized House Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 691-7103 (Facsimile)

VERIFICATION COPY

April 21, 1999

VIA FACSIMILE
AND U.S. MAIL

Grace Jaye, Esquire
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 390L
Tallahassee, FL 32399-0850



Re: **John Charles Heekin's v. Florida Power & Light Company**

Dear Ms. Jaye:

Enclosed herewith is a copy of the initial complaint filed by Mr. Heekin in Small Claims Court. Subsequently, the action was removed to the Circuit Court of the Twentieth Judicial Circuit in and for Charlotte County, Florida. As you will note, the civil action was filed by Mr. Heekin August 13, 1998, within just two days of the conversation between Mr. Heekin and Ms. Rayburn discussed in FPL's response to Staff Interrogatory No. 3.

Also, I have been advised by FPL's counsel in the civil action that the Judge has enforced a settlement agreement that had been in dispute. It is my understanding that the damage claims in that case have been settled for the sum of one hundred dollars (\$100). However, there appears to be some confusion as to whether the civil action remains open with only Mr. Foley (FPL's meter man) as a defendant, or whether the matter is closed. FPL anticipates receiving clarification from the Judge in this regard.

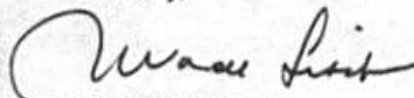
JD

APR 21 1999

Ms. Grace Jaye
Bureau of Electric and Gas
April 21, 1999
Page 2

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Wade Litchfield". The signature is written in dark ink and is positioned above the printed name.

R. Wade Litchfield

RWL/bjw

cc: John Charles Heekin, Esquire (w/enclosures; via U.S. Mail)

IN THE COUNTY COURT, IN AND FOR CHARLOTTE COUNTY, FLORIDA
SMALL CLAIMS DIVISION

HEEKIN JOHN CHARLES

Case No. 98 00809 SP
Refer to this No. in making any inquiries

Plaintiff(s)

DEFENDANT(S) TO BE SERVED AT:

vs.

FL POWER & LIGHT CO

FL POWER & LIGHT CO
C/O J E LEON REG AGENT
9250 W FLAGLER ST
MIAMI FL 33174

Defendant(s)

#502
Glenville Sp
2:40
8/16/98

THE STATE OF FLORIDA SUMMONS AND
NOTICE TO PLAINTIFF AND DEFENDANT TO APPEAR AND NOTICE OF PRETRIAL CONFERENCE.

Filed in by Clerk

You are hereby notified that you are required to appear in person or by attorney at Charlotte County Courthouse, Punta Gorda, Florida on **SEPTEMBER 03**, 1998, at 900 A. M. in County Courtroom, Room 2A, before the Honorable Judge **HAYMANS KENTON H**

IMPORTANT-READ CAREFULLY
THE CASE WILL NOT BE TRIED AT THAT TIME
DO NOT BRING WITNESSES - APPEAR IN PERSON OR BY ATTORNEY
(Shorts / Tank Tops Not Permitted)

50

The defendant(s) must appear in court on the date specified in order to avoid a Default Judgment. The Plaintiff(s) must appear to avoid having the case dismissed for lack of prosecution. A written MOTION or ANSWER to the court by the Plaintiff(s) or the Defendant(s) shall NOT excuse the personal appearance of a party or its attorney at the PRE-TRIAL CONFERENCE. The date and/or time of the Pre-Trial Conference CANNOT be rescheduled without good cause and prior court approval.

The purpose of the Pre-Trial Conference is to record your appearance, to determine if you admit all or part of the claim, to enable the court to determine the nature of the case, and to set the case for Trial if the case cannot be resolved at the Pre-Trial Conference. You or your attorney should be prepared to confer with the court and to explain briefly the nature of your dispute; state what efforts have been made to settle the dispute; exhibit any documents necessary to provide the case; state the names and addresses of your witnesses; stipulate to the facts that will require no proof and will expedite the trial; and estimate how long it will take to try the case.

If you admit the claim, but desire additional time to pay, you must come and state the circumstances to the Court. The Court may or may not approve a payment plan and withhold Judgment or Execution or Levy.

RIGHT TO VENUE. The law gives the person or company who has sued you the right to file suit in any one of several places as listed below. However, if you have been sued in any place other than one of these places, you, as the Defendant(s) have the right to request that the case be moved to a proper location or venue. A proper location or venue may be one of the following: 1) Where the contract was entered into; 2) If suit is on an unsecured promissory note, where note is signed or where maker resides; 3) If the suit is to recover property or to foreclose a lien, where the property is located; 4) Where the event giving rise to the suit occurred; 5) Where any one or more of the defendant(s) sued resides; 6) Any location agreed to in a contract. In an action for money due, if there is no agreement as to where suit may be filed, proper venue lies in the county where payment is to be made.

If you as a Defendant(s), believe the Plaintiff(s) has/have not sued in one of these correct places, you must appear on your court date and orally request a transfer or you may file a WRITTEN request for transfer, in affidavit form (sworn to under oath) with the court seven days prior to your first court date and send a copy to the Plaintiff(s) or Plaintiff(s) attorney.

A copy of the Statement of claim shall be served with the Summons.

DATED at Punta Gorda, Florida on this 13 day of AUGUST, 1998

IN CHARLOTTE COUNTY

"If you are a person with a disability who needs any accommodation in order to participate in these proceedings, you are entitled, at no cost to you, to provision of certain assistance. Please contact the ADA Coordinator, 118 West Olympia Avenue, Punta Gorda, Florida 33950, or call 1-941-637-2281 within 2 working days of your receipt of this notice; if you are hearing or voice impaired, call 1-800-955-8771."

CLERK OF COURT
CHARLOTTE COUNTY
STATE OF FLORIDA
BARBARA T. SCOTT
CLERK OF COURT
By: *D. Crayth* Deputy Clerk

IN THE COUNTY COURT IN AND FOR CHARLOTTE COUNTY, FLORIDA

SMALL CLAIMS DIVISION

(Please type or print using a ballpoint pen to ensure legibility on all copies)

JOHN CHARLES HEERIN

Plaintiff

vs.

FLORIDA POWER & LIGHT COMPANY

Defendant

Case No. 98-804-SP

Refer to this No. in making any inquires.

DEFENDANT(S) TO BE SERVED AT:

c/o J. E. Leon, Registered Agent

9250 W. Flagler Street

Miami, Florida 33174

Handwritten notes: "Clerk's Office", "2/20/98", "8/14/98"

STATEMENT OF CLAIM

Plaintiff, JOHN CHARLES HEERIN

sues Defendant, FLORIDA POWER & LIGHT COMPANY

and alleges:

- 1. This is an action for damages which does not exceed \$5,000.00, exclusive of costs, interest, and attorney's fees.
- 2. There is now due, owing and unpaid from defendant to plaintiff \$ less than \$100.00 with

interest (circle if applicable) for the following reasons:

Defendant broke and entered the premises of the Plaintiff after being warned against trespass and acknowledging the warning and agreeing to avoid trespass, and in the process, destroyed the hump of a gate. Plaintiff claims damage for the trespass and the damage to the gate, the exact value of which is not known at this time but which does not exceed \$5,000.00.

WHEREFORE, Plaintiff demands judgement against Defendant for damages and costs of this action.

Plaintiff's Signature

Address

City, State and Zip Code

Telephone Number

Attorney Signature

JOHN CHARLES HEERIN
21202-C2 Olsen Boulevard
Address

P.O. Box Charlotte, FL 33952
City, State and Zip Code

(941) 627-0333
Telephone Number

Filled in by Plaintiff

Filled in by Plaintiff

50