



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

SCANNED

-M-E-M-O-R-A-N-D-U-M-

DATE: MAY 6, 1999

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

FROM: DIVISION OF LEGAL SERVICES (JAY COLLINS)
DIVISION OF ELECTRIC AND GAS (GOAD)
DIVISION OF CONSUMER AFFAIRS (STOKES)

RE: DOCKET NO. 990385-EI - COMPLAINT BY C. JOHN CONIGLIO
AGAINST FLORIDA POWER CORPORATION REGARDING ACCOUNT
CLASSIFICATION AND BACKBILLING.

AGENDA: 05/18/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990385.RCM

CASE BACKGROUND

On January 12, 1998, the Division of Consumer Affairs (CAF) received correspondence from Mr. C. John Coniglio on behalf of his company, Wayside RV Park. Mr. Coniglio disputed the amount of his December, 1997, electric bill from Florida Power Corporation (FPC), which totaled \$1,320.55. Of this amount, the bill showed \$1,266.55 as a transfer amount with \$54 as a balance forward on his active account.

FPC responded to the Commission on February 6, 1998. FPC included a copy of a letter dated January 12, 1998, which it sent to Mr. Coniglio. The letter stated that the transfer amount was for charges from Account Number 93641-75118 from September, 1996, to October, 1997, for service at 4078 Northeast 120 Road, Gin Oaks, #6, Oxford, Florida. FPC stated that the account was established in Mr. Coniglio's name d/b/a Wayside RV Park with his permission. On December 3, 1997, once the account was closed and was determined

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to be inactive, FPC transferred the outstanding balance to Mr. Coniglio's active account.

CAF relayed this information to Mr. Coniglio, at which time he indicated that he intended to pursue litigation against FPC. Subsequently the complaint was closed on October 22, 1998. However, On November 10, 1998, Mr. Coniglio notified CAF that FPC was threatening to disconnect his electricity if he did not pay the outstanding balance. Mr. Coniglio claimed that FPC told him he must go through the informal complaint process with CAF prior to pursuing his legal remedies. Mr. Coniglio requested an informal conference.

At the informal conference on February 24, 1999, Mr. Coniglio disputed whether the account at 4078 Northeast 120 Road, Gin Oaks #6, Oxford, Florida was established as d/b/a Wayside RV Park. He maintained that he established residential service for an employee who he had later dismissed when the employee had not paid the electric bill. Mr. Coniglio's argument seemed to hinge on the point that Rule 25-6.105(8)(e), Florida Administrative Code, precludes a public utility from discontinuing service to a customer for failure to pay for a different class of service. FPC maintained that the account was established as a commercial account in Mr. Coniglio's name d/b/a Wayside RV Park and was always rated as a commercial account. FPC also noted that the service location received service under a commercial account prior to Mr. Coniglio being the customer of record. Mr. Coniglio asserted that FPC was prevaricating and that he had bills to prove that FPC had switched from residential to commercial rating for the account. CAF requested copies of the bills from Mr. Coniglio. Mr. Coniglio promised copies of previous bills on several occasions, but to date staff has not received any such documentation.

During the informal conference, Mr. Coniglio also raised the point that the account in question was disconnected on July 24, 1997, for nonpayment and subsequently reconnected without his knowledge. FPC agreed that service was disconnected for nonpayment and reconnected after payment arrangements were reached. FPC stated that a person claiming to be Mr. Coniglio made payment arrangements for the unpaid balance. Since there had been no notification to close the account or transfer the account into another name, the account remained in Mr. Coniglio's name. The account was ultimately closed on October 7, 1997, for nonpayment.

In summary, Mr. Coniglio's complaint is that: FPC improperly converted Account Number 93641-75118 from residential to commercial; FPC improperly backbilled his current commercial

account for the balance owing on a residential account; FPC improperly reconnected service (after a non-payment disconnect) to Account Number 93641-75118 after being contacted regarding payment arrangements by someone purporting to act on Mr. Coniglio's behalf.

DISCUSSION OF ISSUES

ISSUE 1: Did Florida Power Corporation violate any Public Service Commission rules in backbilling Mr. Coniglio for \$1320.55?

STAFF RECOMMENDATION: No. Florida Power Corporation did not violate any Commission rules in backbilling Mr. Coniglio for \$1320.55. Staff recommends, therefore, that Mr. Coniglio's complaint be denied.

STAFF ANALYSIS:

I. Mr. Coniglio's Complaint

Mr. Coniglio complains that Florida Power Corporation improperly billed his current commercial account, 06544-26098, for service provided to Account Number 93641-75118. Mr. Coniglio maintains that Account Number 93641-75118 was initially a residential account that he set up for an employee who he later dismissed for failing to pay the electric bill. Mr. Coniglio further asserts that he has bills to prove that FPC did originally bill the disputed account as residential.

II. Florida Power Corporation's Response

FPC asserts that Account Number 93641-75118 was originally established in the name of C. John Coniglio d/b/a Wayside RV Park and that his account has always been rated commercial. FPC further claims that the property served by the account was previously served under a commercial account prior to Mr. Coniglio becoming the customer of record. FPC maintains that Mr. Coniglio opened both the disputed account and his current account and that both are

commercial accounts in the name of C. John Coniglio d/b/a Wayside RV Park.

III. Staff's Analysis

A. Customer Responsibility Under the Applicable Tariff

Based upon FPC's Tariff Sheet 4.080 section 8.05, Mr. Coniglio is responsible for all electric service used on the disputed account at the service location until he gives a disconnect notice to FPC and it acts upon such notice. Staff believes that as the customer of record, under FPC's tariff, Mr. Coniglio is responsible to ensure that the electric bills are paid in a timely manner. Mr. Coniglio was aware of the account, however, he never contacted FPC regarding the status of the account or requested that it transferred into another name. Mr. Coniglio was ultimately responsible to notify FPC to remove the account from his name. Absent notification, FPC will continue to serve the account in a normal manner. This includes issuing bills and discontinuing service if those bills are not paid, and further reconnecting service if payment arrangements are made to pay any due balance. The company cannot be expected to confirm that a customer of record wants to discontinue service or continue service.

B. Transfer of Balance Between Accounts of the Same Class

Staff further points out that there is no evidence to suggest that FPC improperly transferred money owed under a residential account to an existing commercial account. Rule 25-6.105(8)(e), Florida Administrative Code, states that a utility may not disconnect service to a customer for "failure to pay for a different class of service." Staff believes that both the disputed account and the active account were established as commercial accounts. Despite many opportunities to do so, Mr. Coniglio has not produced the bills he asserts show that FPC originally rated the disputed account as residential. Additionally, there is no evidence to suggest that the account would have ever been considered residential. As stated, the account was established under Mr. Coniglio's name d/b/a Wayside RV Park. It is only reasonable to assume that an account established in a business' name would be considered commercial.

C. FPC May Disconnect for Nonpayment of Bills

Staff believes that FPC has properly backbilled Mr. Coniglio's existing commercial account for the amount owing from the disputed account. Mr. Coniglio never notified FPC to disconnect service to the disputed account, nor did he dispute any amount owing on the

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account until the entire balance was transferred to his active account. Under Rule 25-6.105(5)(g), Florida Administrative Code, FPC is entitled to disconnect Mr. Coniglio for nonpayment of bills when certain notice provisions are met.

Based on the information reviewed, staff does not believe FPC has violated any Commission rules in its assessment of the \$1320.55 past due balance from account # 93641-75118. Staff, therefore, recommends that Mr. Coniglio's complaint regarding account classification and backbilling be denied.

ISSUE 2: Should this docket be closed?

STAFF RECOMMENDATION: Yes. If no person whose substantial interests are affected by the Commission's order in this docket timely files a protest within 21 days of the issuance of this order, this docket should be closed.

STAFF ANALYSIS: If no person whose substantial interests are affected by the Commission's order in this docket timely files a protest within 21 days of the issuance of this order, this docket should be closed.