



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-

RECORDS AND
REPORTING

NOV 18 AM 11:55

RECEIVED-FPSC

DATE: NOVEMBER 18, 1999

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

FROM: DIVISION OF LEGAL SERVICES (CROSSMAN) *ae RVE*
 DIVISION OF CONSUMER AFFAIRS (C. PEÑA) *BY C. Peña*
 DIVISION OF ELECTRIC AND GAS (GING) *JDJ*

RE: DOCKET NO. 990913-EI - COMPLAINT BY REGINA WALSH AGAINST
 FLORIDA POWER CORPORATION REGARDING BACKBILLING.

AGENDA: 11/30/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
 INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990913.RCM

CASE BACKGROUND

On March 18, 1998, Ms. Regina Walsh contacted the Division of Consumer Affairs (CAF) and complained that Florida Power Corporation (FPC) disconnected her service and backbilled her account for \$2,255.06. Ms. Walsh disputed the backbilling from FPC for usage not recorded or previously billed because of alleged meter tampering. This amount also included FPC's investigative charges. An inquiry was taken and sent to FPC for a full report. On April 8, 1998, CAF received a report from FPC.

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

- 1) Regina Walsh opened an account on February 1, 1993. The account was disconnected for non-payment on October 17, 1996, and terminated on October 28, 1996.

DOCUMENT NUMBER-DATE

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2) On October 17, 1996, the reading on the meter was 04018.

3) On March 12, 1998, the reading on the meter was 04018. An FPC meter reader found the seal broken and an investigation was ordered.

4) On March 13, 1998, the current diversion investigator found a rigged seal and an open potential clip on the back of the meter. The open clip disables the meter from measuring usage. The investigator knocked on the door and a young woman identified herself as Regina Walsh. Upon further inquiry, the investigator determined from neighbors that Ms. Walsh's residence was occupied after the account had been terminated. At that time, the investigator removed the meter and sealed the base.

6) On March 13, 1998, a woman, who identified herself as Regina Walsh, went to the New Port Richey Solutions Store to have the service reconnected. A representative explained that due to the meter tampering investigation, she would have to pay the back-billing of \$2,255.06, plus a \$200 deposit, before the service would be restored. The backbilling period extends from October 17, 1996 to March 11, 1998, for a total of 519 days at 52 KWH per day.

7) On March 30, 1998, Ms. Walsh submitted a lease from a California trailer park. An FPC representative contacted and faxed a copy of the lease submitted by Ms. Walsh to the property manager of the trailer park. The property manager recalled that Ms. Walsh resided with a tenant, but stated that Ms. Walsh had not entered into a lease with the park. The property manager further stated that she did not recognize the witness signatures on the lease submitted by Ms. Walsh.

8) On March 30, 1998, at the request of the Florida Public Service Commission, FPC restored the service for Ms. Walsh at 11611 Scallop Drive, pending continuance of the investigation to determine responsibility for the unauthorized electric usage and meter tampering.

Ms. Walsh requested an informal conference on May 18, 1998. On May 20, 1998, CAF notified Ms. Walsh that her request was received. Staff spoke with Ms. Walsh and FPC on numerous occasions about reaching a settlement. Because of factual disputes and

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stalled negotiations, staff recommended this matter be brought before the Commission for final disposition.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission find that meter tampering occurred at 11611 Scallop Drive, Port Richey, Florida 34668?

RECOMMENDATION: Yes. FPC's report provides prima facie evidence of meter tampering at 11611 Scallop Drive, Port Richey, Florida 34668.

STAFF ANALYSIS: FPC's contention that meter tampering occurred is supported by the Revenue Protection Department investigation that uncovered the rigged meter and open potential clip. FPC also reported that no order was made for service at Ms. Walsh's residence prior to the discovery of the rigged meter. Based upon these facts, staff recommends that the Commission find that meter tampering occurred.

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ISSUE 2: Should the Commission find that Ms. Walsh is responsible for the backbilling totaling \$2,255.06?

RECOMMENDATION: Yes. Ms. Walsh was the last customer of record and present at the residence when the rigged meter was discovered. She is the owner of the property, claimed a homestead exemption for this residence, and maintained water service in her name during the entire period in question. Therefore, she is responsible for the backbilling.

STAFF ANALYSIS: Pursuant to Rule 25-6.104, Florida Administrative Code, a utility may bill a customer on a reasonable estimate of the energy used when meter tampering or unauthorized or fraudulent use occurs. The utility is not required to prove who tampered with the meter, only that it was tampered with and that the customer of record benefitted from the tampering by paying less for electricity than he or she would have had the meter not been disturbed. The company may also recover investigative costs.

Ms. Walsh stated that she left her residence in September, 1996 and moved to California for one year. Ms. Walsh also stated that she did not allow anyone to reside in her home during her absence. Upon her return to Florida in November 1997, she stated that the electricity was functioning at her home. Ms. Walsh did not notify FPC about the connected service, nor, did she inquire as to why the service was connected. Rather, she admitted receiving unmetered electric service from November 1997 to March 1998, when the meter tampering was discovered. She agreed to pay for the electric consumption for these months, but maintained that she was out of the state prior to November 1997.

FPC's records do not indicate that a service order was placed before the discovery of the rigged meter. FPC provided information to staff to support its contention that Ms. Walsh is responsible for the backbilling. FPC submitted a copy of a record from Pasco County Utility System showing that water service was maintained in the name of Regina Walsh during the entire period in question. Consumption ranged from 2000 to 7000 gallons per month during this time period. FPC also provided staff with evidence that Ms. Walsh claimed a homestead exemption for this residence for 1997. To be eligible for a homestead exemption, the claimed dwelling must be the owner's primary residence. FPC also provided a copy of a purported lease, for a California trailer park, submitted to FPC by Ms. Walsh.

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There is evidence to indicate continuous residence by someone at the address. Service was not established in anyone else's name and Ms. Walsh is the owner of the property and the last customer of record. Therefore, it is reasonable to find that she is responsible for electricity used, but not billed, during the time period in question.

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ISSUE 3: Is the backbilling amount reasonable?

RECOMMENDATION: Yes. The backbilling amount of \$2,255.06, which includes \$64.13 investigative costs, was calculated by using the average daily usage method.

STAFF ANALYSIS: FPC calculated the average daily usage of the account by using actual usage from July 1995 to March 1996. Total usage was 14,301 kWh divided by 274 days for an average daily usage of 52 kWh. Staff's own analysis included an entire year of billing history from March 9, 1995 to March 10, 1996. A total of 19,364 kWh was used over 364 days for an average daily usage of 53 kWh.

Therefore, staff believes that FPC's use of 52 kWh for average daily usage is reasonable. The average daily usage is multiplied times the applicable rates in place over the rebilling period from October 17, 1996, to March 11, 1998, for a total of \$2,190.93 plus investigative costs of \$64.13. Staff believes that \$2,255.06 is an appropriate amount of backbilling based upon Ms. Walsh's billing history as well as the investigative findings.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: If no person whose substantial interests are affected files a request for a Section 120.57(1), Florida Statutes, hearing within 21 days of the order, the order will become final and effective upon the issuance of a consummating order. Since no further action will be required, this docket should be closed.

From: Linda Williams
To: Stephanie Crossman
Subject: fwd: 990913

====NOTE=====12/14/99==1:23pm=

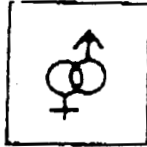
Hi Stephanie. We have a faxed copy of a filing from Regina Rene Walsh regarding the above docket. I'm not sure how it got to us, but we don't accept faxes as official filings. It is addressed to Tiffany Collins and I didn't know if you had seen it or not.

Please advise. Thanks.

Fwd=by:=Stephanie=Cro=12/14/99==1:24pm=
Fwd to: Linda Williams

.....
The last fax received from Ms. Walsh was a "doctor's note" from her gynecologist stating that she had surgery on 11/17 and would need 6-8 weeks to recover. We have since postponed this item until the 2/1 agenda.

RECEIVED--FPSC
99 DEC 14 PM 2:22
RECORDS AND
REPORTING



A CENTER FOR
MATERNITY &
GYNECOLOGY CARE

JOSE A. PAGAN, M.D., F.A.C.O.G.
Obstetrics • Infertility • Gynecology

OakLake Centre
2395 Tampa Road, Suite G
Palm Harbor, Florida 34684

(813) 785-0517

RECEIVED

DEC 13 1999

FPS - Records/Reporting

Member of
American College of
Obstetrics & Gynecology

FAX# (813)787-8356
FAX TRANSMITTAL SHEET

DATE: Nov. 29, 1999

TIME: _____

TO: Tiffany Collins - Legal Department

ATTN: Docket no 990913-EF

FAX NUMBER: 850-413-6250

FROM: Jose A. Pagan, M.D.

RE: It - Re: Maria M. M. (Wald)

TOTAL NUMBER OF PAGES INCLUDING COVER SHEET:

2

SENDING OPERATOR: Manly

If any part of this message is illegible or transmission incomplete, please call (813) 785-0517

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LEGAL DEPT. (850) 413-6250

Agenda for
Commission Conference
November 30, 1999

REGINA RENE WALSH
A.K.A. MC MULLIN
11611 SCALLOP DRIVE
PORT RICHEY, FLORIDA 34668
PHONE (727) 862-2175
FAX (727) 868-1697
NOVEMBER 29, 1999

Via US Mail &

Facsimile Transmission : (850) 413-6250

ITEM NO. _____ CASE _____

4**PAA DOCKET NO. 990913-EI- Complaint by Regina Walsh against
Florida Power Corporation regarding backbilling.

Staff : Tiffany Collins LEG :
 C. Pena CAF :
 David Ging EAG :

To Whom It May Concern;

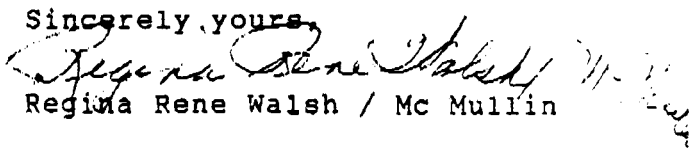
I Faxed you a letter telling you of my surgery on November 17,1999 I was concerned because I didn't want to miss this hearing. In turn you politely sent me a letter dated November 19,1999. I recieved this notice Wednesday, November 24,1999 too late to notify my Gynecologist. I went to his office today. November 29,1999, he faxed you his note I am going to need 6 to 8 weeks to recover. I had major surgery. You obviously mistook my letter of November 15,1999. Kindly reschedule my hearing giving me enough notice to get my witness there or else maybe we can do this by phone conference at the Port St. Lucie Attorney Office so I also have representation. I also want this behind me. I am tired of wondering when the next time Florida Power is going to turn my electric off. I have lost hundreds of dollars of food both times. Not to mention the inconvinience.

1. I never tampered with any meter
2. I was sexually harassed by Mike Trudell from Florida Power.
3. I have given proof of my living in California, FLP refuses to accept this.
4. I will agree to pay original quote of \$656.if I have to go to Court I will ask that I owe FLP nothing because of inconvinience, sexual harassment, loss of food and cost of kerosene heater.

I am waiting for a reply to above mentioned topics and also letter of November 15,1999.

CC. Note from Jose A. Pagan M.D.

Sincerely yours,


Regina Rene Walsh / Mc Mullin

LEGAL DEPT. (850) 413-6250

REGINA RENE WALSH
A.K.A. MC MULLIN
11611 SCALLOP DRIVE
PORT RICHEY, FLORIDA 34668
PHONE (727) 862-2175
FAX (727) 868-1697
NOVEMBER 15, 1999

ITEM NO.

CASE

7**PA DOCKET NO. 990913-EI- Complaint by Regina Walsh against Florida Power Corporation regarding back billing. Commission Conference.

Critical Date(s): None

Commissioners Assigned: Full Commission
Prehrg Officer ADM

Staff: LEG: Collins
CAF: C. Pena
EAG: Ging

TO WHOM IT MAY CONCERN / MS. TIFFINAY COLLINS:

I HAVE NOT RECIEVED NOTICE OF WHEN MY HEARING IS ON CALENDAR. I AM HAVING SURGERY ON NOVEMBER 17, 1999 . MY FORMER LANDLORD MR. WILLIAM PERRY IS IN TOWN . I NEVER TAMPED WITH A METER AT ANY TIME AND SENT IN MY RENT RECIEPTS FROM RED TILE INN AND LEASE FROM MR. PERRY. IN FLORIDA POWER'S INVESTIGATING REPORT. THE TRAILER PARK MANAGER STATED " SHE DIDN'T RECOGNIZE THE SIGNATURES ON MY LEASE. I SUB-LEASED FROM MR. PERRY. KINDLY NOTE THE MANAGER DID REMEMBER REGINA LIVING WITH MR. PERRY. " THIS IS PROOF I REALLY WAS IN CALIFORNIA NOT FLORIDA AND FLORIDA POWER NEEDS TO ADJUST MY BILL AS ORIGINAL STATED THEY WANTED ME TO PAY \$656. AND AMOUNT KEPT GOING UP. I LIVE ON A FIXED INCOME AND CAN NOT AFFORD TO JUST HAND OVER \$2,400 JUST BECAUSE I HOMESTEAD MY HOME . POOR EXCUSE. FLORIDA LAW STATES YOU MAY FILE FOR A HOMETEAD EXEMPTION IF AND PROVIDING YOU RESIDE IN FLORIDA ON JANUARY 01 WHAT EVER YEAR AND ALL YFARS YOU FILE FOR HOMESTEAD. THEREFORE I HAVE THIS LEGAL RIGHT. IF NECESSARY YOU MAY CALL MR. WILLIAM PERRY AT (727) 895-4023 AND VERIFY MY STATEMENT. I AM BEING HARASSED BY FLP AND AM CONSIDREING FILING SUIT IN UNITED STATES DISTRICT COURT.

I LIVE IN PASCO COUNTY WHERE THIS ALLEGED METER TAMPERING TOOK PLACE THERFORE I DO NOT UNDERSTAND WHY I HAVE TO BE INCONVIENCED AND GO THROUGH AN ENORMOUS EXPENSE OUT OF MY POCKET WHICH I CAN NOT AFFORD. FLORIDA POWER IS A BILLION DOLLAR CORPORATION, WITH OFFICES IN ST. PETE. ALSO IN TAMPA BOTH PLACES ARE MORE CONVIENT FOR ME AND MY WITNESS'S.

I AM WAITING FOR A REPLY TO ABOVE MENTIONED MATTER.

CC. HOSPITAL ORDERS

P.S. MY FAX MACHINE WON'T COPY
SOMEONE SENT ME A FAX & THE PAPER
WAS BLANK. I KNOW YOU CONTACT
PEOPLE BY MAIL SO I DON'T THINK IT EAS YOU.

SINCERELY YOURS,

Regina Rene Walsh / Mc Mullin
REGINA RENE WALSH / MC MULLIN

PRE-OPERATIVE INSTRUCTION SHEET FOR THE PATIENT

(942-5165)

727-942-5000

SURGERY DATE: 11/17/99

ARRIVAL TIME: 10:30

PLEASE REPORT TO THE REGISTRATION DESK LOCATED ON THE 5TH FLOOR. PLEASE REMAIN AT HOME THE DAY PRIOR TO YOUR SURGERY AND ON THE MORNING OF SURGERY AS THE STAFF MAY NEED TO CONTACT YOU.

1. Do NOT eat or drink ANYTHING after 12:00 midnight before your surgery unless you are told otherwise by the nurse. It is important that your stomach be empty; if you eat or drink anything your surgery may be delayed or cancelled. This includes chewing gum, hard candy, or drinking water.

2. Leave all jewelry, watch, money, and other valuables at home or with your family. We cannot be responsible for these items.

3. Wear comfortable clothing that is easy to take off and put on. Please do not wear make-up on the day of surgery.

4. On the day of surgery please bring with you any x-ray films and/or papers given to you by your physician.

5. Call your doctor if you develop a fever, rash, or "cold". Your doctor may wish to postpone your surgery.

6. Arrange for a responsible adult to drive you to the hospital and take you home after your procedure.

You will not be permitted to drive yourself home. Lack of travel assistance may delay your discharge.

For my trip home I will make arrangements with mother to drive me home.

7. If you live alone you will need to arrange for a responsible adult to stay with you the evening after you have surgery.

8. Parents and relatives should wait in the Outpatient Care Center Lobby (5th Floor) during surgery. Please do not leave unless you check-out with someone from the Outpatient Care Center. The physician or anesthesiologist may call to speak to you. Please limit visitors to two.

9. If you find that you are unable to keep your surgery appointment or you are going to be late, please notify the Outpatient Care Center at 942-5165.

10. Your cooperation is required for your safety and comfort. If you have any questions pertaining to your care, please contact us at 942-5178.

ADDITIONAL INSTRUCTIONS:

Take betadine (medicated) douche & cleaning cream 1° prior to arrival

I accept, understand, and can verbalize the preceding instructions.

Patient/Guardian signature

[Signature]

Date:

11/9/99

Instructions given by

[Signature]

Date:

11/9/99

Patients phone number night before surgery:

() - 368-2688 -

Outpatient Care Center
Pre-Op Instruction Sheet

362-2175 call 1st

9931302264	11/17/99
M-# 408027	SSN 105-30-336
MCMULLIN, REGINA	19Y
DOB 03/25/50	FEMALE
PAGAN, JOSE A	DR# 60

DEA # _____

PALM HARBOR OB-GYN CLINIC
 JOSE A. PAGAN, M.D., F.A.C.O.G.
 OAKLAKE CENTER
 SUITE M
 2595 STATE ROAD 584
 PALM HARBOR, FL 34684
 813-785-0517

1020 STATE ROAD 595
 HOLIDAY, FL 34690
 813-937-5421

NAME Rogina Mc Mullin Walsh
 ADDRESS _____ DATE 11/29/99

R

The above named patient has been

under my care from Ab. Hodgson 11/17/99
 and is now ~~able~~ unable to return (major abdominal surgery)
 to work/ school.

*Please excuse pt. - she is not able to
 Thank you,
 drive or make long distances yet.
 She will need 6-8 weeks post-op to
 cooperate.*

Label

Refill _____

Times PAM NR _____

Jose A. Pagan
 _____ M.D.

Thank You.

To insure brand name dispensing, prescriber must write 'Medically Necessary' on the prescription.

08/28/97