

**Diamond Williams**

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**From:** Moncada, Maria [Maria.Moncada@fpl.com]  
**Sent:** Monday, August 15, 2011 4:31 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Pauline Robinson; 'saporito3@gmail.com'; 'thomas@saporodani-associates.com'  
**Subject:** Electronic Filing / Dkt 110236-EI / Florida Power & Light's Motion to Dismiss Thomas Saporito's Original and Amended Complaint  
**Attachments:** Florida Power & Light Company's Motion to Dismiss Thomas Saporito's Original and Amended Complaint.pdf; 8-15-11 FPL Saporito - Motion to Dismiss.docx

Electronic Filing

a. Person responsible for this electronic filing:

Maria J. Moncada, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
561-304-5795  
[Maria.Moncada@fpl.com](mailto:Maria.Moncada@fpl.com)

b. Docket No. 110236 – EI In RE: Complaint by Thomas Saporito against Florida Power & Light Company

c. The Document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 27 pages

e. The document attached for electronic filing is Florida Power & Light Company's Motion to Dismiss Thomas Saporito's Original and Amended Complaint.

Maria J. Moncada, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
561-304-5795  
[Maria.Moncada@fpl.com](mailto:Maria.Moncada@fpl.com)

DOCUMENT NUMBER-DATE

05790 AUG 15 =

FPSC-COMMISSION CLERK

8/15/2011

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: complaint by Thomas Saporito  
against Florida Power & Light  
Company.

Docket No. 110236 -EI  
FILED: August 15, 2011

**FLORIDA POWER & LIGHT COMPANY'S MOTION TO DISMISS  
THOMAS SAPORITO'S ORIGINAL AND AMENDED COMPLAINT**

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby moves to dismiss the original complaint and amended complaint filed by Thomas Saporito ("Mr. Saporito") in this docket. For the reasons set forth below, the Florida Public Service Commission ("Commission") should dismiss Mr. Saporito's complaint and amended complaint.

**I. INTRODUCTION**

Mr. Saporito's complaint and amended complaint should be dismissed for failure to state a claim upon which relief can be granted. Mr. Saporito's original "complaint" consists of a July 26, 2011 letter requesting an explanation of the \$5.90 customer charge that appears on his electric utility bill (the "Original Complaint," attached hereto as Exhibit A). This is not a valid basis for a complaint, particularly because Mr. Saporito does not allege that FPL violated any applicable rule or statute. That notwithstanding, FPL provided Mr. Saporito the explanation he requested. The Original Complaint is thus both legally insufficient and moot, and it should be dismissed.

Mr. Saporito's amended "complaint" also fails to state a legally viable claim. Apparently dissatisfied with FPL's detailed explanation of the components of the customer charge, Mr. Saporito filed a second letter on August 10, 2011 requesting that the Commission order FPL to refund retroactively the \$5.90 customer charge that has heretofore been assessed against him and all other FPL customers (the "Amended Complaint," attached hereto as Exhibit B). The charge

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that is the subject of Mr. Saporito's request was recently approved by the Commission in Docket No. 080677-EL, and Mr. Saporito presents no new information and points to no changed circumstances since that approval. Thus, the doctrine of administrative finality bars Mr. Saporito from relitigating that issue. Moreover, his request for retroactive refunds violates the well-established prohibition against retroactive ratemaking. For these reasons, the Amended Complaint should be also dismissed as a matter of law.

## II. STANDARD FOR MOTION TO DISMISS

A motion to dismiss questions whether the complaint alleges sufficient facts to state a cause of action as a matter of law. *Varnes v. Dawkins*, 624 So. 2d 349, 350 (Fla. 1st DCA 1993). In disposing of a motion to dismiss, this Commission must assume all of the allegations of the complaint to be true. *Id.* In determining the sufficiency of a complaint, the Commission should limit its consideration to the complaint and the grounds asserted in the motion to dismiss. *Flye v. Jeffords*, 106 So. 2d 229 (Fla. 1st DCA 1958).

### II. Mr. Saporito's Original Complaint Must Be Dismissed For Failure to Satisfy the Commission's Pleading Requirements and is Barred by the Doctrine of Mootness

In order to determine whether a complaint states a cause of action upon which relief can be granted, the Commission must examine the elements of the complaint that must be alleged under the substantive law. *In re: Emergency Petition by D.R. Horton Custom Homes, Inc. To Eliminate Authority of Southlake Utilities, Inc.*, Docket No. 98-1609, Order No. PSC-99-0648 at page 2 (F.P.S.C. April 6, 1999) (hereinafter "*Horton*"). All of the elements of the cause of action must be properly alleged in the complaint. *Id.* (citing *Kislak v. Kreedian*, 95 So. 2d 510 (Fla. 1957)). If all elements are not properly alleged, the pleading should be dismissed. *Id.*

A. The Original Complaint Fails to Meet the Commission's Pleading Requirements

A complaint filed with the Commission is appropriate when the petitioner complains of an act or omission by a person subject to Commission jurisdiction which affects the petitioner's substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order. Rule 25-22.036(2), Florida Administrative Code (2011) ("Rule 25-22.036"). In particular, Rule 25-22.036(3)(b) requires that each complaint state:

1. The rule, order, or statute that has been violated;
2. The actions that constitute the violation;
3. The name and address of the person against whom the complaint is lodged;
4. The specific relief requested, including any penalty sought.

Mr. Saporito's Original Complaint and Amended Complaint fail to satisfy Rule 25-22.036(3)(b).

The Original Complaint consists of a letter in which Mr. Saporito points out that his electric utility bill contains a \$5.90 customer charge. This letter was deemed a formal complaint by the Commission. As the Original Complaint acknowledges, FPL's electric bill explains that the customer charge is a fixed amount per month, regardless of how much electricity is used, to cover the costs of service, as well as meter and administrative costs. Mr. Saporito nevertheless alleges that his meter "has never been subject to any requested [meter] service," and therefore requests that FPL "explain the details of exactly what [he is] paying for each month." In short, the Original Complaint alleges that FPL assessed a \$5.90 customer charge and that Mr. Saporito does not understand that line item on the billing statement.

Nowhere does the Original Complaint allege a breach of any rule, order or statute. Thus, Mr. Saporito sets forth no cause of action. While Mr. Saporito asserts that the FPL bill contains a \$5.90 customer charge and that he desires an explanation of that cost, he fails to allege that FPL's assessment of the customer charge constitutes a violation of any rule, order, or statute.

Simply alleging that he does not understand a cost component is not a viable cause of action. For this reason, Mr. Saporito's Original Complaint should be dismissed. *See In re: Complaint and Petition of John Charles Heekin against Florida Power & Light Co.*, Order No. PSC-99-1054-FOF-EI at 3, Docket No. 981923-EI, (Issued May 24, 1999) ("All of the elements of a cause of action must be properly alleged in a pleading that seeks affirmative relief. If they are not the pleading should be dismissed.").

B. Mr. Saporito's Original Complaint Must Be Dismissed as Moot Because FPL has provided the full relief requested

A case is moot when it presents no actual controversy, when the issues have ceased to exist, or, stated differently, when a judicial determination can have no actual effect. *Godwin v. State*, 593 So. 2d 211, 212 (Fla. 1992); *Horton*, Order No. PSC-99-0648, at page 2. A moot case must be dismissed unless there are questions raised which are of great public importance, the issues are likely to recur, or if there are collateral legal consequences that affect the rights of a party that flow from the issue to be determined. *Id.*

Even if Mr. Saporito's request in the Original Complaint for an explanation of the customer charge constituted a legally sufficient controversy (which it does not), that controversy has ceased to exist. On August 5, 2011, FPL sent a letter to Mr. Saporito detailing the components of the \$5.90 customer charge. A true and correct copy of the August 5, 2011 letter is attached as Exhibit C. FPL explained that the customer charge recovers the cost of all customer-related equipment and expenses required to serve a utility's residential class of customers. The customer charge "is a set amount per month, regardless of how much electricity is used." FPL specified that the customer charge includes meter installation, meter reading, billing, meter maintenance, customer records and collections and other services provided to customers, including Mr. Saporito. FPL further informed Mr. Saporito that the \$5.90 customer

charge was calculated during FPL's last rate case by taking the total residential customer-related costs divided by the number of residential customer bills in the year to determine the charge per customer per month.

In sum, FPL has provided "the details of exactly what [Mr. Saporito] is paying for each month at a cost of \$5.90." Mr. Saporito requested no additional relief. Therefore, Mr. Saporito's Original Complaint is moot because a determination by this Commission will have no effect and the one issue he raised has "ceased to exist." On this basis, too, Mr. Saporito's Original Complaint must be dismissed.

### **III. Mr. Saporito's Amended Complaint is Barred by Sound Legal and Administrative Principles**

In the Amended Complaint, Mr. Saporito acknowledged receipt of FPL's August 5 letter and acknowledged that the letter contained an explanation of the components that make up the customer charge, but he nevertheless is dissatisfied with having received exactly what he requested. Mr. Saporito's Amended Complaint alleges, in short, that he does not accept FPL's explanation of the customer charge because his meter was already installed when he moved into his residence and because he pays his electric bills online. Mr. Saporito consequently asks the Commission to order FPL to refund the entirety of the customer charge assessed to his account – and the accounts of all FPL customers – retroactively from the dates when the accounts were activated.

As set forth more fully below, Mr. Saporito's Amended Complaint is barred by the doctrine of administrative finality and the prohibition against retroactive ratemaking.

#### **A. Mr. Saporito's Amended Complaint is barred by the doctrine of administrative finality**

In the field of administrative law, the counterpart to *res judicata* is administrative finality. See *Florida Power Corp. v. Garcia*, 780 So. 2d 34, 44 (Fla. 2001). Administrative finality bars

relitigation of claims or issues that have already been addressed by an agency, absent exceptional changed circumstances that would warrant re-opening the agency's prior determination. *Id*; see also *Austin Tupler Trucking v. Hawkins*, 377 So. 2d 679, 681 (Fla. 1979) (administrative orders must eventually pass out of the agency's control and, absent exceptional changed circumstances, must become final and no longer subject to change or modification). Parties and the public must be able to rely on a decision as being "final and dispositive of the rights and issues involved therein." *Garcia*, 780 So. 2d at 44-45 (quoting *Austin Tupler*, 377 So. 2d at 681); *Reedy Creek Utils. v. Florida Public Serv. Commission*, 418 So. 2d 24 (1982) ("[a]n underlying purpose of the doctrine of finality is to protect those who rely on a judgment or ruling.").

That principle governs here. Even if Mr. Saporito alleged that the \$5.90 customer charge violated a statute, rule or order (which he does not), his Amended Complaint would nevertheless fail as a matter of law because the propriety of that charge was recently considered and expressly approved by the Commission in FPL's 2009 rate case, a proceeding in which Mr. Saporito intervened and later withdrew.<sup>1</sup>

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<sup>1</sup>In his intervenor capacity, Mr. Saporito appeared at several customer service hearings opposing FPL's petition, stating at one hearing that: "As God as my witness today, if this Public Service Commission seated behind me approves FPL's \$1.3 billion rate increase, I will campaign to be Florida's next governor, and if elected I will fire this Public Service Commission." See Docket No. 080677, Transcript of 6/26/09 Miami Gardens service hearing at 42:23-43:2 (filed July 20, 2009).

FPL has been the target of more than 20 years of vexatious litigation by Mr. Saporito, a former employee. Mr. Saporito's employment with FPL was terminated for cause in 1988 for multiple acts of insubordination, and he has been attempting to litigate and re-litigate that termination ever since. A U.S. Department of Labor (DOL) Administrative Law Judge (ALJ) ruled that the termination was justified because there was "overwhelming" evidence that Mr. Saporito was repeatedly insubordinate, "insolent," "*blatantly lied*", and engaged in a "mockery of management's role." *Saporito v. Florida Power & Light Co.*, 1989-ERA-007, 1989-ERA-017 (ALJ Oct. 15, 1997). Mr. Saporito also filed four nuclear whistleblower discrimination complaints against FPL – all of which were dismissed. Most recently, the Administrative Review Board (ARB) issued an order holding that four pending complaints by Mr. Saporito against FPL were "without merit and frivolous." The ARB imposed sanctions on Mr. Saporito for having filed a "string of vexatious, harassing, and duplicative complaints against FPL, without a good faith expectation of prevailing, and subsequent appeals to the [ARB] that are wholly without merit." *Saporito v. Florida Power & Light Co.*, 2009-ERA-001, etc. (ARB Apr. 29, 2011). In another recent case, a DOL ALJ imposed additional sanctions on Mr. Saporito for filing actions against FPL that are "frivolous, an abuse of legal and judicial process, and fraudulent . . . [Mr. Saporito] has demonstrated a pattern of malicious and frivolous filings involving" FPL. Mr. Saporito has also filed numerous petitions with the U.S. Nuclear Regulatory Commission seeking enforcement action against FPL. All of these petitions have been denied.

The Commission considered FPL's position on customer charges, as well as the position of all other parties and interested persons. The final order recited the Commission's long history holding that electric utility customer charges properly consist of costs related to distribution "from the pole to the customer's structure," including the cost of the meter, service drop, meter reading and basic customer services costs. Of particular relevance to Mr. Saporito's claim, the Commission noted that:

Customer charges are **flat fees** assessed each month, regardless of the amount of energy (kilowatt hours) used.

(Emphasis added). The Commission specifically approved and authorized the flat \$5.90 customer charge about which Mr. Saporito now complains. Order No. PSC-10-0153-FOF-EI, Docket No. 080677-EI, issued March 17, 2010, at pages 194-195, 214.

Under the doctrine of administrative finality, Mr. Saporito cannot now relitigate an issue that the Commission has already decided absent some extraordinary change of circumstances that he has not alleged and that do not exist. Mr. Saporito had an opportunity to challenge the customer charge proposed by FPL during the rate proceeding. The Commission's order is now final and the \$5.90 customer charge is legally authorized. For this reason, Mr. Saporito's Amended Complaint must be dismissed.

B. Mr. Saporito's claim is barred by the prohibition against retroactive ratemaking

Rates for public utilities are fixed for future services rather than for past service. *Gulf Power v. Bevis*, 289 So. 2d 401, 404 (Fla. 1974). It is well-established that the Commission lacks authority to engage in retroactive ratemaking with respect to electric utilities. *City of Miami v. Florida Public Service Commission*, 208 So. 2d 249, 259-260 (Fla. 1968); *In re Petition of Florida Cities Water Co.*, Docket No. 971663-WS, Order No. PSC-98-1583 (F.P.S.C. Nov. 25, 1998) (the general principle of retroactive ratemaking is that new rates are not to be

applied to past consumptions). In *City of Miami*, for example, the petitioner argued that rates should have been reduced for prior period over earnings and that the excess earnings should be refunded. *Id.* Both of these attempts were deemed to be retroactive ratemaking and thus were prohibited. *Id.*

Here, Mr. Saporito's demand for retroactive ratemaking is express and unequivocal. He requests that the Commission order FPL to:

refund the entirety of the \$5.90 per month "Customer Charge" assessed to [Mr. Saporito's] account (retro-active) from the date that the undersigned's account was activated<sup>2</sup> and maintained by FPL.

And he requests the same relief for all of the FPL's customers. As the Supreme Court of Florida held in *City of Miami*, such a refund request must be denied because it violates the prohibition against retroactive ratemaking. Accordingly, Mr. Saporito's Amended Complaint must be dismissed on the additional ground that it seeks legally impermissible relief.

#### **IV. Conclusion**

Mr. Saporito's Original Complaint and Amended Complaint fail to state any legally sufficient cause of action and must be dismissed.

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<sup>2</sup> Mr. Saporito assumes that the \$5.90 charge has appeared on his bill since his account was activated. This would be true only if Mr. Saporito activated his account after the Commission's March 2010 final order in FPL's last rate case.

WHEREFORE, based upon the foregoing, FPL requests that the Commission enter an order dismissing Mr. Saporito's Complaint with prejudice.

Respectfully submitted this 15th day of August, 2011.

R. Wade Litchfield, Vice President and General  
Counsel  
John T. Butler, Managing Attorney  
Maria Jose Moncada, Principal Attorney  
Attorneys for Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
Telephone: (561) 691-7101  
Facsimile: (561) 691-7135

By: /s/Maria Jose Moncada  
Maria Jose Moncada  
Florida Bar No. 0773301

**CERTIFICATE OF SERVICE**

**Docket No. 110236-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on August 15, 2011 to the following:

Pauline Robinson, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
pevans@psc.state.fl.us

Mr. Thomas Saporito  
Post Office Box 8413  
Jupiter, Florida 33468  
saporito3@gmail.com  
thomas@saporodani-associates.com

By: /s/ Maria Jose Moncada

Maria Jose Moncada  
Fla. Bar No. 0773301

# **EXHIBIT A**

RECEIVED-FPSC  
11 JUL 26 PM 2:37

*From the desk of Thomas Saporito*

COMMISSION  
CLERK

23 July 2011

110236-E1

11 JUL 26 AM 7:32

Ms. Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

*In re: Complaint Against the Florida Power & Light Company*

Dear Ms. Cole:

This serves as a formal complaint against the Florida Power & Light Company (FPL) in connection with a \$5.90 per month charge assessed against my electric bill and identified as a "Customer Charge" on the FPL billing statement for Account #5693933243 dated July 18, 2011. See, Attachment-One. (redacted). Please provide a copy of this document to the Commissioners for consideration and processing accordingly.

FPL explains the "Customer Charge" as "...a set amount per month, regardless of how much electricity is used, to cover the costs of your service and meter, including installation and the administrative costs related to servicing your account." See, Attachment-Two.

First, my FPL electric meter has never been subject to any requested service; and the meter was already installed at my residence in the year 2004.

Next, FPL fails to delineate the exact and precise nature of any administrative costs related to servicing my account.

Thus, to the extent that FPL is permitted to assess a "Customer Charge" to my account in the amount of \$5.90 per month, FPL should be required to explain the details of exactly what I am paying for each month at a cost of \$5.90?

Thank you for your attention to this most important matter.

Sincerely,

COM \_\_\_\_\_  
AFA \_\_\_\_\_  
ECE \_\_\_\_\_  
GCL \_\_\_\_\_  
RAD \_\_\_\_\_  
SSC \_\_\_\_\_  
ADM \_\_\_\_\_  
OPC \_\_\_\_\_  
CLK \_\_\_\_\_

*Thomas Saporito*  
Thomas Saporito

DOCUMENT NUMBER-DATE

05183 JUL 26 =

FPSC-COMMISSION CLERK

# Attachment-One

DOCUMENT NUMBER-DATE

05183 JUL 26 =

FPSC-COMMISSION CLERK



# Bill Statement

**Customer Name:** THOMAS SAPORITO      **Service Dates:** 08/18/2011 to 07/18/2011  
**Service Address:** 1030 MILITARY TRL LOT 25      **Statement Date:** 07/18/2011  
**FPL Account Number:** 5893933243      **Next Scheduled Read Date:** 08/17/2011

Amount of your last bill	Payments (-)	Additional Activity (+ or -)	Balance before new charges (=)	New charges (+)	
		0.00	0.00		Aug 08 2011

RDI File Transmitted Separately

Amount of your last bill  
 Payment received - Thank you  
 Balance before new charges

**New charges (Rate: RS-1 RESIDENTIAL SERVICE )**  
 Electric service amount  
 Storm charge  
 Gross receipts tax  
 Franchise charge  
 Utility tax  
 Total new charges

Total amount you owe

-Payment received after August 08, 2011 is considered LATE; a late payment charge of 1.50% will apply and your account may be subject to an adjusted deposit billing.

Meter reading - meter 5C81270  
 Current reading                      38110  
 Previous reading                      -37678

kWh used

-----  
[REDACTED]

Energy usage

	Last year	This year
kWh this month	[REDACTED]	[REDACTED]
Service days	[REDACTED]	[REDACTED]
kWh/day	[REDACTED]	[REDACTED]

\*\*The electric service amount  
includes the following charges:  
Customer charge: \$5.90 per month

Fuel: [REDACTED]  
(First 1000 kWh at \$0.038000)  
(Over 1000 kWh at \$0.048000)

Non-fuel: [REDACTED]  
(First 1000 kWh at \$0.049140)  
(Over 1000 kWh at \$0.059140)

## Attachment-Two

DOCUMENT NUMBER-DATE

05183 JUL 26 =

FPSC-COMMISSION CLERK

## **Bill Detail Explanation:**

### **Meter reading:**

This section shows the meter reading for the current and last bill. You may check this by reading your own meter. The reading you take will include any electricity you have used since we read your meter.

### **Energy usage:**

The energy usage includes the kilowatt-hours (kwh) you used this month and those used last year for the same period. A variety of things may affect energy usage, such as weather conditions or changes made to your home.

For example, hotter weather causes your air conditioner to run more often. Therefore, the hotter it is outside the more it costs to keep cool inside. We recommend setting the thermostat no lower than 78 degrees for cooling.

When weather turns cold, more heat is required to maintain your indoor comfort level as the outdoor temperature drops. In this situation, we recommend setting the thermostat no higher than 68 degrees for heating. In some instances, electric heat can cost up to three times as much to operate as air conditioning.

### **Charges included in the electric service amount**

#### **Customer Charge:**

This is a set amount per month, regardless of how much electricity is used, to cover the costs of your service and meter, including installation and the administrative costs related to servicing your account.

FPL's efforts to keep costs down have resulted in no change to this charge for more than 10 years.

#### **Non Fuel Energy Charge:**

The Non-Fuel Energy Charge includes several elements:

- Base rates, which reflect the costs of producing and delivering electricity to customers, along with general costs of doing business.
- Environmental activities, to cover FPL's costs to comply with environmental rulings.
- Energy conservation, to cover the costs of FPL sponsored conservation programs in which customers participate.
- Purchased power, to cover the cost of buying electricity from other generating sources.
- Storm surcharge, allowing FPL to recover 2004 hurricane-related expenses in excess of its storm reserve.

#### **Fuel Charge:**

The charge per kwh to cover the cost of fuel required to produce electricity. This cost is passed on to the customer with no profit to FPL. These costs fluctuate, based on market conditions, and are adjusted annually, or more frequently if prices change by at least 10 percent.

#### **Account activity:**

Last billing and account activity since that time.

#### **Billing for the current period:**

Your current electric charges are the total of the following 4 items:

- Electric Service Amount is calculated from your kwh usage.
- Gross Receipts Tax Increase is a tax charged by and paid to the State of Florida .
- Franchise Charge is a fee paid to your local government.
- Utility Tax is imposed by and paid to your local government.

#### **Messages:**

Important messages from FPL that change monthly.

# **EXHIBIT B**

**Diamond Williams**

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**From:** saporito3@gmail.com on behalf of Thomas Saporito [thomas@saprodani-associates.com]  
**Sent:** Wednesday, August 10, 2011 8:15 AM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 110236-EI; Complaint Against the Florida Power & Light Company  
**Attachments:** 2011.08.10 Complaint to FPSC (FPL).pdf

Dear Ms. Cole:

Attached please find my response to the Florida Power & Light Company's (FPL) Aug. 5th, response to my complaint filed with the Florida Public Service Commission (FPSC) against FPL in connection with a \$5.90/month "Customer Charge" assessed against my account held at FPL.

Please provide the attached document to the Commission for review and consideration accordingly.

Kind regards,

---

Thomas Saporito, Senior Consultant  
Email: [thomas@saprodani-associates.com](mailto:thomas@saprodani-associates.com)  
Web: <http://Saprodani-Associates.com>  
Post Office Box 8413, Jupiter, Florida 33468  
Phone: (561) 972-8363 Fax: (561) 972-8363  
We are an Advocate of GreenPeace USA

8/10/2011

DOCUMENT NUMBER-DATE  
05621 AUG 10 =  
FPSC-COMMISSION CLERK

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*From the desk of Thomas Saporito*

August 10<sup>th</sup>, 2011

Ms. Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

*In re: Docket No. 110236-EL, Complaint Against the Florida Power & Light Company*

Dear Ms. Cole:

This serves to acknowledge that on August 9<sup>th</sup>, 2011, the undersigned received a written response from S.E. Roming, Director, Rates and Tariffs for the Florida Power & Light Company (FPL) dated August 5<sup>th</sup>, 2011, in response to the undersigned's July 25, 2011 complaint filed with the Florida Public Service Commission (FPSC) in connection with a \$5.90 "Customer Charge" assessed to the undersigned's electric bill and account held at FPL.

FPL's response failed to address and resolve the issues central to the complaint for which FPL states in relevant part that:

"In general, the residential customer charge recovers the cost of all customer-related equipment and expenses required to serve a utility's residential class of customers. ... the customer charge 'is a set amount per month, regardless of how much electricity is used, to cover the costs of your service and meter, including installation and the administrative costs related to servicing your account.' These costs include those related to meter reading, billing, meter maintenance, customer records and collections, and other essential customer service costs."

*Id.* at 1.

Thus, FPL simply reiterated the definition of "Customer Charge" posted on their company's website. However, that is simply not a valid response in these circumstances where the undersigned's meter was already installed at the residence and has never been serviced by FPL; and where the undersigned's billing from FPL is received and paid electronically on-line via the Internet. Thus, FPL's allegation that the \$5.90 customer charge includes billing, customer records and collections and other essential customer service costs is disingenuous at best as these services are apparently automatically resolved by FPL's computer billing system.

Therefore, the undersigned requests that the FPSC ORDER FPL to refund the entirety of the \$5.90 per month "Customer Charge" assessed to the undersigned's account (retro-active) from the date that the undersigned's account was activated and maintained by FPL.

In addition, the undersigned requests that the FPSC also **ORDER FPL** to retro-actively refund all of its customers the \$5.90 "Customer Charge" apparently improperly assessed to their accounts held at FPL.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Saporito", written in a cursive style.

Thomas Saporito



RECEIVED  
09 AUG 2011

August 5, 2011

Mr. Thomas Saporito  
Post Office Box 8413  
Jupiter, FL 33468-8413

RE: In Complaint against Florida Power & Light Company Docket No. 110236-EI

Dear Mr. Saporito:

I am writing in response to the request for an explanation of FPL's residential customer charge that you filed in a formal complaint with the Florida Public Service Commission.

In general, the residential customer charge recovers the cost of all customer-related equipment and expenses required to serve a utility's residential class of customers. As our website explains, the customer charge "is a set amount per month, regardless of how much electricity is used, to cover the costs of your service and meter, including installation and the administrative costs related to servicing your account." These costs include those related to meter reading, billing, meter maintenance, customer records and collections, and other essential customer service costs.

The customer charge is part of the base rate that customers pay for their electric service, and FPL's base rate has included a standard customer charge for many decades. In the past thirty years, it has ranged from \$5.15 to \$5.90.

The current customer charge was calculated during FPL's last rate case by taking the total residential customer-related costs divided by the number of residential customer bills in the year to determine the charge per customer per month. As such, the customer charge is the average for the entire rate class, and is not calculated on an individual customer basis. This cost allocation approach is consistent with Commission guidance. In the most recent base rate case, FPL's compliance cost of service filing showed the per unit customer-related costs for the residential customer rate class of \$5.893103/month (see *Compliance Cost of Service, page 52, line 23, column 2, enclosed*). This supports the Commission-approved customer charge of \$5.90 for the RS-1 rate.

Thank you for your interest in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. E. Romig'.

S. E. Romig  
Director, Rates and Tariffs

Enclosure

CC: Pauline Robertson, FPSC Staff  
Ann Cole / Docket No. 110236-EI

Florida Power & Light Company  
700 Universe Boulevard, Juno Beach, FL 33408

DOCUMENT NUMBER - DATE

05621 AUG 10 =

FPSC-COMMISSION CLERK

FLORIDA PUBLIC SERVICE COMMISSION  
 COMPANY: FLORIDA POWER & LIGHT  
 COMPANY AND SUBSIDIARIES  
 DOCKET NO.: 080677-EI

EXPLANATION: For each cost of service study filed by the company, calculate the unit costs for demand, energy and customer for each rate schedule of proposed rates, based on the revenue requirements from sales of electricity only, including other operating revenues. The demand unit costs must be separated into production, transmission and distribution. Unit costs under proposed rates must be calculated at the system rate of return. Unit costs must be provided separately for each existing rate class, except for the lighting classes. If the company is proposing to combine two or more classes, it must also provide unit costs for the classes combined. Customer unit costs for the lighting classes must include only customer-related costs, including costs for fixtures and poles. The lighting fixtures and poles must be shown on a separate line.

Type of Data Shown:  
 Existing Test Year Ended 12/31/19  
 Prior Year Ended \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Historical Test Year Ended \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Witness: Joseph A. Ender

Line No.	(\$000 WHERE APPLICABLE)								
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	NS1	SDTR-1	EDTR-2	SDTR-3	SL-1	SL-2	SST-DST	SST-TST	
1									
2	PROPOSED REVENUE REQUIREMENT								
3	CUSTOMER COMPONENT								
4	Total Customer -	288,372	338	116	21	147	19	14	212
5	Transmission Costs	-	-	-	-	-	-	-	190
6	Distribution Services	82,744	29	4	9	-	-	-	-
7	Distribution Meters	6,997	155	56	12	-	-	6	21
8	Other Distribution	-	6	16	5	-	-	5	-
9	Meter Reading	36,436	118	41	4	-	-	3	10
10	Misc Serv Rvcs - Late Payment Charge	(59,032)	(19)	(3)	(3)	(121)	(13)	(3)	(9)
11	Misc Serv Rvcs - Initial Connection	(647)	(9)	(9)	(9)	(1)	(3)	(3)	(3)
12	Misc Serv Rvcs - Reconnection	(8,118)	(3)	(9)	(9)	(13)	(1)	(3)	(3)
13	Misc Serv Rvcs - Connection of Existing Acc	(13,702)	(4)	(7)	(3)	(28)	(3)	(3)	(3)
14	Misc Serv Rvcs - Returned Check Charges	(4,304)	(1)	(0)	(3)	(3)	(1)	(3)	(3)
15	Misc Serv Rvcs - Current Diversion	(590)	(3)	(3)	(3)	(1)	(3)	(3)	(3)
16	Miscellaneous Customer Accounts	177,581	96	9	8	380	38	0	1
17									
18	BILLING UNITS (Annual):								
19	# of Bills for Metered Classes	48,025,368	16,296	2,398	108	616,538,008	30,687,002	48	156
20	KWH for Lighting Classes								
21									
22	UNIT COSTS: (\$/MWH or \$/KWH)								
23	Total Customer -	5,983103	22,091896	49,144938	194,733451	2,000360	0,980919	283,454821	1,356,619981
24	Transmission Costs	-	-	-	-	-	-	-	1,185,785326
25	Distribution Services	1,828736	1,904127	1,775411	1,002144	-	-	-	-
26	Distribution Meters	1,236929	10,146874	21,343045	187,980749	-	-	117,595131	132,429831
27	Other Distribution	-	0,378973	6,880288	46,619823	-	-	99,869770	-
28	Meter Reading	0,790376	7,748192	17,420702	37,235706	-	-	84,325436	96,540220
29	Misc Serv Rvcs - Late Payment Charge	(1,227643)	(1,213828)	(1,213928)	(1,212876)	(0,000234)	(0,080402)	(1,213843)	(1,213965)
30	Misc Serv Rvcs - Initial Connection	(0,013322)	(0,013173)	(0,013172)	(0,013139)	(0,000035)	(0,080804)	(0,013067)	(0,013163)
31	Misc Serv Rvcs - Reconnection	(0,127235)	(0,125812)	(0,125813)	(0,125816)	(0,000024)	(0,080042)	(0,125796)	(0,125811)
32	Misc Serv Rvcs - Connection of Existing Acc	(0,214980)	(0,251778)	(0,281778)	(0,281738)	(0,000064)	(0,080393)	(0,281808)	(0,281789)
33	Misc Serv Rvcs - Returned Check Charges	(0,089496)	(0,089499)	(0,089496)	(0,089493)	(0,000117)	(0,080329)	(0,088517)	(0,089309)
34	Misc Serv Rvcs - Current Diversion	(0,012312)	(0,012174)	(0,012174)	(0,012167)	(0,000032)	(0,080396)	(0,012219)	(0,012194)
35	Miscellaneous Customer Accounts	3,693033	3,861988	3,960870	3,949477	0,000698	0,091184	3,846724	3,90018
36									
37	Note: Totals may not add due to rounding.								
38									
39									
40									
41									
42									



Florida Power & Light Company, PO Box 14000, Juno Beach, FL 33408

JUNO BEACH  
FL 33408  
JUN 14 1998



Mr. Thomas Saporito  
Post Office Box 8413  
Jupiter, FL 33468

334688413



# **EXHIBIT C**



August 5, 2011

Mr. Thomas Saporito  
Post Office Box 8413  
Jupiter, FL 33468-8413

RE: In Complaint against Florida Power & Light Company Docket No. 110236-EI

Dear Mr. Saporito:

I am writing in response to the request for an explanation of FPL's residential customer charge that you filed in a formal complaint with the Florida Public Service Commission.

In general, the residential customer charge recovers the cost of all customer-related equipment and expenses required to serve a utility's residential class of customers. As our website explains, the customer charge "is a set amount per month, regardless of how much electricity is used, to cover the costs of your service and meter, including installation and the administrative costs related to servicing your account." These costs include those related to meter reading, billing, meter maintenance, customer records and collections, and other essential customer service costs.

The customer charge is part of the base rate that customers pay for their electric service, and FPL's base rate has included a standard customer charge for many decades. In the past thirty years, it has ranged from \$5.15 to \$5.90.

The current customer charge was calculated during FPL's last rate case by taking the total residential customer-related costs divided by the number of residential customer bills in the year to determine the charge per customer per month. As such, the customer charge is the average for the entire rate class, and is not calculated on an individual customer basis. This cost allocation approach is consistent with Commission guidance. In the most recent base rate case, FPL's compliance cost of service filing showed the per unit customer-related costs for the residential customer rate class of \$5.893103/month (see *Compliance Cost of Service, page 52, line 23, column 2, enclosed*). This supports the Commission-approved customer charge of \$5.90 for the RS-1 rate.

Thank you for your interest in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. E. Romig', is written over a horizontal line.

S. E. Romig  
Director, Rates and Tariffs

Enclosure

CC: Pauline Robertson, FPSC Staff  
Ann Cole / Docket No. 110236-EI

Florida Power & Light Company  
700 Universe Boulevard, Juno Beach, FL 33408

FLORIDA PUBLIC SERVICE COMMISSION  
 COMPANY: FLORIDA POWER & LIGHT  
 COMPANY AND SUBSIDIARIES  
 DOCKET NO.: 090077-EI

EXPLANATION: For each cost of service study filed by the company, calculate the unit costs for demand, energy and customer for each rate schedule of proposed rates, based on the revenue requirements from sales of electricity only, excluding other operating revenues. The demand unit costs must be separated into production, transmission and distribution. Unit costs under proposed rates must be calculated at the system rate of return. Unit costs must be provided separately for each existing rate class, except for the lighting classes. If the company is proposing to combine two or more classes, it must also provide unit costs for the classes combined. Customer unit costs for the lighting classes must include only customer-related costs, excluding costs for fixtures and poles. The lighting fixtures and poles must be shown on a separate line.

Type of Data Shown:  
 Proposed Test Year Ended 12/31/20  
 Prior Year Ended / /  
 Historical Test Year Ended / /  
 Witness: Joseph A. Ender

Line No.	(1)	(3000 WHERE APPLICABLE)							
		(2) RES	(3) SDTR-1	(4) SDTR-2	(5) SDTR-3	(6) SL-1	(7) SL-2	(8) SST-DST	(9) SSI-TST
2	PROPOSED REVENUE REQUIREMENT								
3	CUSTOMER COMPONENT								
4	Total Customer -	293,372	338	118	21	187	19	14	212
5	Transmission Costs	-	-	-	-	-	-	-	180
6	Distribution Services	92,744	29	4	0	-	-	-	-
7	Distribution Meters	39,987	165	60	12	-	-	6	21
8	Other Distribution	-	9	16	5	-	-	5	-
9	Meter Reading	39,438	119	41	4	-	-	3	10
10	Misc Serv Rvcs - Late Payment Charge	(59,032)	(19)	(3)	(3)	(121)	(12)	(3)	(3)
11	Misc Serv Rvcs - Initial Connection	(941)	(3)	(3)	(3)	(1)	(3)	(3)	(3)
12	Misc Serv Rvcs - Reconnection	(6,119)	(2)	(3)	(3)	(13)	(1)	(3)	(3)
13	Misc Serv Rvcs - Connection of Existing Acct	(13,702)	(4)	(1)	(3)	(28)	(3)	(3)	(3)
14	Misc Serv Rvcs - Returned Check Charges	(4,304)	(1)	(3)	(3)	(9)	(1)	(3)	(3)
15	Misc Serv Rvcs - Current Diversion	(502)	(3)	(3)	(3)	(1)	(3)	(3)	(3)
16	Miscellaneous Customer Accounts	177,681	68	6	0	368	38	0	1
17									
18	BILLING UNITS (Annual):								
19	# of Bills for Metered Classes	48,085,906	15,280	2,359	108			48	158
20	KWH for Lighting Classes					518,585,906	30,485,002		
21									
22	UNIT COSTS: (\$/BILL or \$/KWH)								
23	Total Customer -	5.893103	22.091886	49.144936	194.733451	0.000320	0.000619	228.454821	1,358.819991
24	Transmission Costs	-	-	-	-	-	-	-	1,155.785825
25	Distribution Services	1.828735	1.904127	1.775411	1.002144	-	-	-	-
26	Distribution Meters	1.226929	10.146074	21.343940	107.260749	-	-	117.505131	132.429851
27	Other Distribution	-	3.576873	6.680298	45.819623	-	-	99.809770	-
28	Meter Reading	0.795375	7.740182	17.420702	37.236708	-	-	64.225436	66.540220
29	Misc Serv Rvcs - Late Payment Charge	(1.227643)	(1.213828)	(1.213826)	(1.213878)	(0.000254)	(0.000402)	(1.213843)	(1.213885)
30	Misc Serv Rvcs - Initial Connection	(0.033822)	(0.043173)	(0.013572)	(0.013139)	(0.000003)	(0.000004)	(0.013067)	(0.013183)
31	Misc Serv Rvcs - Reconnection	(0.127237)	(0.125812)	(0.125812)	(0.125812)	(0.000024)	(0.000042)	(0.125798)	(0.125811)
32	Misc Serv Rvcs - Connection of Existing Acct	(0.284960)	(0.281776)	(0.281776)	(0.281738)	(0.000054)	(0.000065)	(0.281808)	(0.281780)
33	Misc Serv Rvcs - Returned Check Charges	(0.088498)	(0.088498)	(0.088498)	(0.088498)	(0.000017)	(0.000028)	(0.088517)	(0.088500)
34	Misc Serv Rvcs - Current Diversion	(0.012812)	(0.012174)	(0.012174)	(0.012187)	(0.000002)	(0.000004)	(0.012210)	(0.012194)
35	Miscellaneous Customer Accounts	3.690033	3.851886	3.850670	3.849477	0.000698	0.001194	3.849724	3.800018
36									
37	Note: Totals may not add due to rounding.								
38									
39									
40									
41									
42									