

State of Florida



# 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-

**DATE:** September 6, 2012

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of the General Counsel (Jaeger) *JSC*  
 Division of Accounting and Finance (Bulecza-Banks) *MB*  
 Office of Consumer Assistance and Outreach (Forsman) *NEJ*  
 Division of Economics (Draper) *ED J.W.D.*  
 Division of Engineering (Moses) *M*

**RE:** Docket No. 120057-EI -- Complaint of Jonathan V. Mauk against Progress Energy Florida, Inc.

**AGENDA:** 09/18/12 -- Regular Agenda -- Proposed Agency Action -- Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Balbis

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\120057.RCM.DOC

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### Case Background

Mr. Jonathan V. Mauk claims he has been overcharged by Progress Energy Florida, Inc. (PEF), for electric service for nine years. In accordance with Rule 25-22.032, Florida Administrative Code (F.A.C.), Mr. Mauk filed an informal complaint, Complaint No. 961496E, with the Bureau of Consumer Assistance (BCA) on August 16, 2010, concerning improper billing. The Informal Complaint No. 961496E was initially assigned to a Regulatory Specialist with the BCA Complaint Resolution Section. The following series of events took place subsequent to Mr. Mauk's informal complaint being assigned to the Regulatory Specialist:

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- The Regulatory Specialist determined that Mr. Mauk's meter tested within Commission established guidelines, that his account had been properly billed, and that there was no basis for a credit adjustment to Mr. Mauk's Account;
- Mr. Mauk objected to PEF's proposed resolution and requested that he speak with the Regulatory Specialist's supervisor. He spoke with the supervisor on September 10, 2010;
- After speaking with Mr. Mauk, the supervisor transferred Informal Complaint No. 961496E to BCA's Process Review Section;
- In the Process Review Section, Mr. Mauk's complaint was assigned to a Regulatory Consultant with the BCA, of the Process Review Section;
- After further investigating the complaint, the Regulatory Consultant determined that Mr. Mauk's meter was accurately functioning and that his account had been billed properly, and no refund or credit adjustment to Mr. Mauk's account was warranted. The Regulatory Consultant's findings were presented to Mr. Mauk by letter dated October 6, 2010;
- As documented in the case file, on October 13, 2010, Mr. Mauk made further queries and expressed continued disagreement with the actions taken by the Regulatory Consultant;
- Subsequently, Mr. Mauk's complaint was further reviewed by the Regulatory Consultant's supervisor, a Regulatory Program Administrator;
- As documented in the Regulatory Program Administrator's administrative review letter to Mr. Mauk dated April 11, 2011, Mr. Mauk was once again advised that his account had been properly billed and no refund or credit adjustment was warranted. In the April 11, 2011, letter, Mr. Mauk was advised that the informal complaint process had concluded. He was further advised of his right to file a petition for formal proceedings if he was still not satisfied; and
- On April 26, 2011, Mr. Mauk filed his petition for formal complaint against PEF and Informal Complaint No. 961496E was closed on that same day.

Subsequently, Mr. Mauk's petition for formal proceedings was assigned Docket No. 120057-EI.

This recommendation addresses Mr. Mauk's petition for formal proceedings. The Commission has jurisdiction pursuant to Section 366.03, 366.04, and 366.05, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** What action should the Commission take on the Complaint of Jonathan V. Mauk against Progress Energy Florida, Inc.?

**Recommendation:** The complaint of Jonathan V. Mauk should be denied. (Jaeger, Forsman, Draper)

### **Staff Analysis:**

#### **Mr. Mauk's Allegations**

In his petition, Mr. Mauk states that on July 21, 2010, a PEF technician visited his residence, attached some type of device (voltage meter) on his meter, and told him that his meter dial was spinning much faster than allowed by law; therefore, he was being overbilled. He maintains that the technician told him his meter was "2 points" higher than the law allows, and that his old meter was taken away and a new meter was set in place.

Mr. Mauk states that PEF has no record of a meter replacement at this residence. He further maintains that although the actual meter is different from his old meter, the sticker number on it is the same as his old meter. According to Mr. Mauk, the meter was changed, the technician went to his truck and printed a sticker, returned and placed the sticker on his new meter. When he spoke with a PEF representative by telephone, he was told to read the number to the representative from the meter which was found on the sticker the technician had placed on his meter. The telephone representative confirmed that the number matched with the information in PEF's files.

The customer further states that during several independent tests he conducted on his own meter, his meter registered more kilowatt hours (kWh) when all appliances were turned off versus when all appliances were on and running. Further, Mr. Mauk stated that he wanted a monetary settlement for his overbilling for the past ten years, and a thorough kWh usage comparison for the full period. He believes that this was intentionally perpetrated so that PEF could cover up the fact that his old meter was defective and running fast, so the company would not have to reimburse him for overbilled consumption. Mr. Mauk stated that he has asked several times for the technicians' names that have visited his residence to test and replace the meter, and that PEF refuses to provide him that information.

#### **PEF's Response**

In response to a staff data request, PEF states that its technician tested the meter (Meter No. 1612179) on July 21, 2010. However, PEF alleges that the meter was found to be functioning within Commission guidelines and is accurately recording usage. Specifically, the tests showed that at full load the meter was registering at 100.07%, and at light load it was registering at 99.95%, with a weighted average of 100.05%. Further, the PEF technician that tested the meter on July 21, 2010, has submitted an affidavit stating that he was the one that tested the meter, and that he did not replace the meter on July 21, 2010, or any date thereafter.

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PEF states that Meter No. 1612179 was installed on December 28, 2005, has not been replaced, and is still in service to date. PEF also notes that the meter number is affixed by the manufacturer (Itron).

#### Staff's Analysis and Conclusion

As stated above, three different staff members have investigated Mr. Mauk's complaint. All three staff members determined that the meter had not been changed since 2005 and that its calibrations were within tolerances set by the rules of this Commission. Further, all three staff members determined that PEF had billed Mr. Mauk at the prescribed rates. Mr. Mauk insists that the meter has been changed out. However, staff notes that the technician who made the service call on July 21, 2010, has filed an affidavit that he did not change out the meter on that date (or any other date). Finally, staff notes that the meter number is affixed by the manufacturer (Itron), and the meter number corresponds to the number of the meter that was installed in 2005. Based on all the above, staff recommends that the complaint be denied based on lack of proof from Mr. Mauk.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action (PAA) files a protest within 21 days of the issuance of the PAA Order, a Consummating Order will be issued, and the docket may be closed. (Jaeger, Draper)

**Staff Analysis:** If no person whose substantial interests are affected by the proposed agency action (PAA) files a protest within 21 days of the issuance of the PAA Order, a Consummating Order will be issued, and the docket may be closed.