### **Eric Fryson**

From:Dorothy BooneSent:Monday, October 08, 2012 4:42 PMTo:Filings@psc.state.fl.usCc:'edwardmcdonald76@gmail.com'Subject:Edward McDonald efilingAttachments:Edward McDonald efiling.pdfAttached is Mr. McDonald efiling.

Dorothy "Dottie" Boone Staff Assistant Florida Public Service Commission 4950 W. Kennedy Blvd., Suite 310 Tampa, FL 33609 (813) 637-8668 dboone@psc.state.fl.us

# DOCUMENT NUMBER-DATE 06863 OCT-8 ≌

**FPSC-COMMISSION CLERK** 

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION 2540 Shumard Oak Blvd. Tallahassee,FL 32399-0850

Edward McDonald 7203 N. 41st St. Tampa, FL 33604 (813) 374-3837

PETITITIONER

-and-

DOCKET NO. 110305-E1

Tampa Electric Company P.O. Box 111 Tampa, FL 33601 (813) 223-0800

RESPONDENT

## MOTION FOR RECONSIDERATION MOTION FOR STAY RE: FRAUD

Pursuant to RULE 25-22.060, Petitioner, Edward McDonald, moves for Reconsideration of the ORDER GRANTING TAMPA ELECTRIC COMPANY'S MOTION TO DISMISS COMPLAINT WITH PREJUDICE and a STAY RE: FRAUD.

The ruling "Petitionafor formal hearing was dismissed with prejudice ...order No. PSC 12-0053-PAA-El is revived" THE CITED ORDER ISSUED FEBRUARY 7, 2012, was not issued with prejudice, therefore it cannot be revived with prejudice. NOTE THE FOLLOWING CHRONOLOGY:

Feb. 7, 2012 - Notice of proposed agency action ORDER DENYING COM-PLAINT'S REQUEST FOR RELIEF AGAINST TAMPA ELECTRIC COMPANY

June 12,2012 - AMENDED PETITION

June 14,2012 - Tampa Electric Company's MOTION TO DISMISS <u>AMENDED</u> PETITION WITH PREJUDICE

THE AMENDED PETITION WAS NOT DISMISSED WITH-OR WITHOUT prejudice and therefore remains extant before the commission. The consumating order is moot.

DISMISSAL WITH PREJUDICE SHOULD ISSUE WHEN THERE IS NO CREDIBLE FACTUAL BASIS FOR A COMPLAINT. The legal theory upon which the complaint relies is contrary to well settled issues of law or the action is based on fraud, error or misconduct. THE AVERMENTS, STATUTES, RULES

SC-COMMISSION CLERF

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FACE TO DENY ESTOPPEL AND RES ADJUDICATA BY DISMISSAL WITH PREJUDICE. (see attached index)

A CONSUMATING ORDER SHOULD NOT ISSUE WHEN TIMELY FILED MOTIONS HAVE NOT BEEN HEARD AND ADJUDICATED. The docket shows:

1. Petitioner's RENEWED MOTION FOR CONTINUANCE

(Consumating Order issued before 7 or 15 days tolled).

2. MOTION FOR SUMMBRY JUDGEMENT

M (NO REPLY BY RESPONDENT)

THE COMMISSION'S SEPTEMBER 21, 2012 ORDER DOES NOT ADDRESS THESE MOTIONS.

The Orders of September 21, 2012 should be STAYED UNTIL FRAUDULENT ASSERTIONS CITED ON PAGE 3 (attached) can be examined and specific findings of fact, REFERENCING RELEVANTAND MATERIAL DOCUMENTS are determined by the commission.

#### **REQUEST FOR ORAL ARGUMENT**

Petitioner requests ORAL ARGUMENT and that he be accomodated under the AMERICANS WITH DISABILITIES ACT by appearing via Telephonic/ video/electronic media. Petitioner is a 75 year old diabetic and travel to Tallahassee is a medical liability.

#### CERTIFICATE OF SERVICE

A copy of this MOTION FOR RECONSIDERATION/STAY was served via U.S. Mail this 5th day of Octoberto James Beasely, P.O. Box 391, Tallahassee, FL 32301, Pauline Robinson, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL and Office of Public Counsel.

10/5/2012

7203 N. 41st ST Tampa, FL 33604-2425 (813) 374-3837

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-Certified Mail # 7011 2970 0000 2003 5951 (10/5/2012) October 3, 2012:::TO: Pauline Robinson::Office of PSC General Counsel REQUEST FOR PUBLIC RECORDS (Chapt. 119 F.S.) Items with \*

ORDER NO. PSC-12-0485-FOF-EI DOCKET NO. 110305-EI

\*Case cited as an authority OTHER THANCOUNTY/MUNICIPAL CODES PAGE 3 \* Cite cases in which this case/902 So 2d 233 (Fla 2nd DCA)used by FPSC

Chapter 95, F.S., is not applicable to administrative proceedings as seen in Sarasota County v. National City Bank of Cleveland, Ohio, 902 So. 2d 233 (Fla. 2nd DCA 2005), and TECO has not commenced a civil action or proceeding against Mr. McDonald.

\* COPY OF EXHIBITS 1 & 2 OF AMENDED COMPLAINT/MOTION FOR SUMMARY JUDGEMENT • The \$915.94 and \$3,500 Mr. McDonald claimed are in dispute were fully investigated, and Mr. McDonald's petition failed to offer any new or different evidence or argument from that previously presented.

- COPY OF MONTHLY BILLINGS FROM 7/04 TO 2/05 FOR THE ACCOUNT CITED BELOW FRAED . Mr. McDonald completely omitted reference to Account No. 1501-000031-5 with the outstanding balance of \$1,095.20, a separate account than the account with the \$915.94
- COPY OF MOTION FOR SUMMARY JUDGEMENT 3,500.00 \*/COPY OF BANKS REQUEST TO RETURN/RECALL \$3,500.00 Mr. McDonald acknowledged that TECO returned the \$3,500 to the Bank of America at the Bank's request and is now seeking damages against TECO with interest, which

the Commission has no jurisdiction to award.

#### Analysis

In addition to requiring a statement of the disputed issues of material fact, Rule 28-106.201(2)(f), F.A.C., requires that a petition state the specific rules or statutes that require reversal of the PAA order and provide an explanation of the relationship between the alleged facts and the statutes or rules. Here, the amended petition asserts as material facts in dispute whether the outstanding \$915.94 was paid and whether TECO owed petitioner \$3,500 and interest for an alleged overpayment. However, there were no allegations of statutory violations regarding the \$915.94 or the \$3,500, no reference to any applicable statutes, or any explanation of the relationship between the alleged facts in the amended petition and the relevant statutes or rules that would require reversal of the PAA order. The amended petition fails to cure the deficiencies of the original petition as the amended petition does not substantially comply with Rule 28-106.201, F.A.C.

Section 120.569(2)(c), F.S., states, in part, that the Commission shall dismiss the petition for failure to substantially comply with the uniform rules.<sup>7</sup> Since the amended petition did not demonstrate the requisite relationship between facts and law that would require reversal or modification of the PAA Order, then it fails to substantially comply with Rule 28-106.201, F.A.C., and shall be dismissed.

The petitioner's statement that TECO is liable for the \$3,500 because TECO failed to use due diligence in returning the money to the bank and his requested relief of reimbursement of the \$3,500 plus interest denotes a claim for damages. Our regulatory oversight of TECO does not include the awarding of damages.<sup>8</sup> Therefore, the amended petition fails to substantially comply

<sup>&</sup>lt;sup>7</sup> See Order No. PSC-07-0724-PCO-EQ, issued on September 5, 2007, in Docket No. 070234-EQ, In re: Petition for approval of renewable energy tariff standard offer contract by Florida Power & Light Company (dismissing the petition for failure to meet the pleading requirements contained in Rule 28-106.201, F.A.C.).

See Order No. PSC-10-0296-FOF-TP, issued on May 7, 2010, in Docket No. 090538-TP, In re: Complaint of Owest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access

<sup>3</sup> 

#### ORDER NO. PSC-12-0053-PAA-EI DOCKET NO. 110305-EI PAGE 5

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th day of February, 2012.

Chief Deputy Commission Clerk Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399 (850) 413-6770 www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

#### ORDER NO. PSC-12-0053-PAA-EI DOCKET NO. 110305-EI PAGE 6

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 28, 2012.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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	tampaelectric.com	m	7203 41 ST N		0261.0231			Sep 05, 2012
	3171-11486		TAMPA FL 3360	)4-2425	₩. < \$ <u>₹</u>			
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	Aug 59 Jul 46		Account Activity Previous Balance		Explanation		Charge 1,282.86	Total
	Jun 42		Payments Receiv		As of September 05, 201	2	0.00	
	May 18 Apr 21		Total Past Due A			-		\$1,282.86
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1	Feb 33		Customer Charge	•	Residential 110 Rate		10.50	
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	E CODE RULES		City Tax				13.97	
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# Electric Bill

TAMPA ELECTRIC

Visit our		ling Informa	SIVIII ;	an a	16502	ส่งใหงรัดเสียง เหตุลางได้แล้ง	ini atanimende	
Web site at tampaelectric.com	MCDONALD EDV 7203 41 ST N TAMPA FL 33604		Account Nur 0261 02315			Stateme Aug 03, 1		
1071-11507						32 day	period	
Average kWh per day	B73904	62103	60213	1890	1	*****	• ~ *** ** ***	
Aug 2012 59		n Or About Aug 30		al kWh Purchas	*****		1,890	
Jul 46 Jun 42	Account Activity Previous Balance	ana taka katan	Explanation		harge 38.43		Total	
May 18 Apr 21			As of August 03, 2012		95.49		nin na na na	
Mar 20	Total Past Due Ar	nount ue by Aug 27, 201	19	Service f	rom lu		\$1,042.94	
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Dec 18	Energy Charge							
Nov   25     Oct   48	First 1,000 kWh		1,000 kWh @ \$.05533/kW		55.33	•		
Sep 54	Above 1,000 kWh Fuel Charge	I	890 kWh @ \$.06533/kWh		58.15			
Aug 2011 49	First 1,000 kWh		1,000 kWh @ \$.03840/kWi	h	38.40			
	Above 1,000 kWh		890 kWh @ \$.04840/kWh		43.08			
	Electric Service C		Based on \$205.46	\$2	205.46 5.27			
Fuel sources we	Franchise Fee	aipis rax	Based on 6.550%		13.80			
use to serve you	City Tax				15.39			
For the 12-month period ending June 2012, the	This Month's Cha	rges					239.92	
percentage of fuel type used	Total Due	d by due date may be a	assessed a late charge of 1.5% (	or \$5.00, whichev	er is grea		82.86	
by Tampa Electric to provide								
alactricity to ite customare was	Via certified Mail # 7012 0470 0002 1606 2235-8/23/12							
Oil & Gas	Via certifi	ed Mail # 7	012 0470 0002 16	06 2235-	8/23/	12		
Coal55% Purchased Power6%	TRANSFER FU	ND\$ TO PAY	CURRENT MONTHLY	CHARGES				
Oil & Gas	TRANSFER FU TRANSFER \$2	ND\$ TO PAY 39,92 INCOR T #5919-021	CURRENT MONTHLY RECTLY USED TO P 103-1 TO PAY CUR	CHARGES AY CHARG	ES IN	A CO	LLEC ES	
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On June 6, 2011 I received a 3 page summary of Acct. # 1501-0000-3 &4. Excerpted below is page 3. 7 credit amounts of \$500.00 are listed and 7 Returned Payment Fees of \$40.00 are listed.1 HAVE A COPY OF BANK RECORD: SHOWING THERE WERE ADEQUATE FUNDS TO COVER EACH OF THE 7 PAYMENTS! My authority to access funds of Lillie McDonald is PUBLIC RECORD. (Lillie McDonald is OWNER of 4010 Pocahontas in Joint Tenancy with Edward McDonal EXPLAIN AND DOCUMENT TECO'S ACTION BELOW.

		·				Ed	ward McDona	Id	
	ECO A ELECTRI		Edward G. McDo 4010 Pocahontas		ampa, Fl. 33610		26-May-11		
		. •	1501-000031-3 a	and 4					
Date	Reading	kWh	Billed Amount	Fees	Credit Amount	Total	Comments		

12/20/04	· · · · · · · · · · · · · · · · · · ·		(\$469.54)	1,009	Organ Antount	(\$3,089,45)	correcting 11/17/04 billing
12/20/04	5869	956	<u>† 1</u>			(\$2,966.14)	
12/20/04	-		\$111.60	<u></u>			Adjusted bill 11/17/04
01/19/05	6847	978	\$124.31			(\$2,730.24)	
01/20/05					\$500.00	(\$2,230.23)	Returned Payment
01/20/05				\$40.00		(\$2,190.23)	Returned Payment Fee
01/20/05		*			\$500.00		Returned Payment
01/20/05				\$40.00	·	(\$1,650.23)	Returned Payment Fee
01/20/05					\$500.00		Returned Payment
01/20/05				\$40.00			Returned Payment Fee
01/20/05	;				\$500.00		Returned Payment
01/20/05			2	\$40.00			Returned Payment Fee
01/20/05			:		\$500.00	(\$70.23)	Returned Payment
01/20/05				\$40.00		(\$30.23)	Returned Payment Fee
01/20/05					\$500.00	\$469.77	Returned Payment
01/20/05	-			\$40.00			Returned Payment Fee
01/20/05					\$500.00		Returned Payment
01/20/05				\$40.00			Returned Payment Fee
01/24/05				\$8.26		\$1,058.03	
02/04/05	•				(\$225.00)		Payment
02/08/05					\$225.00		Returned Payment
02/08/05				\$30.00		\$1,088.03	Returned Payment Fee
02/01/05			\$7.17		L	\$1,095.20	Acct Closed disconnection of servi
<b>~</b>	•					4	· · · · · · · · · · · · · · · · · · ·

BALANCES **CLOSING DATES** ACCOUNTS nevery closing date \$9.15.94 July 27, 2004 1501-000031-4 - see above \$1,095.20 February 1, 2005 1501-000031-5

ORDER NO. PSC-12-0053-PAA-EI DOCKET NO. 110305-EI PAGE 3

As seen above, the \$1,095.20 represents the balance on a separate account, and this is the amount that was paid by Mr. McDonald.



The The Start No. 2 The Start 21 2003 in Docket No. 020010-TP In re- Request for

<u>ECEIVEDMay 28, 2011</u>	111	[] <u>RESPONSE'May 31, 2011 Via CERTIFIED MAIL EXHIBIT</u>
PSC #1006767E	1.	Provide a DETAILED BILLING for \$915.94 & \$307.49.
		Bankruptcy Court Records show TECO never filed a claim as a creditor. Service at 4010 E. Pocahontas was disconnected on January 21, 2005 (FPSC Complaint #648071E)=90 days <u>before</u> a bankruptcy filing and <u>AFTER</u> all bills from Pocahontas were transferred to 7203 N. 40th St. and <u>PAID</u> ! TECO'S PROFFER OF DELAYED BILLING FOR 6-7 YEARS DUE TO BANKRUPTCY COURT PROCEEDINGS IS DISINGENUOUS!(Emphasis).
May 25, 2011		TPD Case # 05-900246 is a <u>COMPLAINT</u> ! NONE OF THE ALLEGATIONS WERE SUBSTANTIATED and NO <u>CHARGES WERE</u> filed1 PROVIDE PROOF FUNDS WERE ACCESSED FOR WORK
Mr. Edward McDonald 7203 41 St N Tampa, FL 33604 Dear Mr. McDonald,		OR RETURN MY \$3,500.00! The "current diversion court case" in 2005 was <u>dismissed</u> . TECO OWES ME \$5,000.00 FOR THE COST OF DEFENDING MYSELF AGAINST TECO'S FALSE ALLEGATIONS OF CRIMINAL ACTS AGAINST THE COMPANY. Gauged McDould May 31, 2011
Re: 4010 Pocahontas A	v E	

We are writing you today, in an effort to provide clarification regarding the above mentioned account, as per your request. In reviewing our records, we have determined the following:

- The disputed bill of \$915.94 represents usage solely from 4010 Pocahontas Av E.
- Records indicate TEC received several bankruptcy filings for yourself: Case# 05-7483 filed 4/19/2005 was dismissed 5/5/05 Case# 05-11534 filed 6/8/2005 was dismissed 6/27/05 Case# 05-15311 filed 8/3/05 was dismissed 12/7/05
- Records reflect you were charged with current diversion TEC Case# 05-0176 in 2005 maybe, this is why you feel you were previously made payment?
- The payment amount of \$3,500 mentioned in faxed documentation, you provided, in your current complaint was returned as Bank of America reversed payment due to funds being accessed fraudulently (TPD Case#05-900246).

Tampa Electric delayed approaching you with the debt due to the bankruptcy filings. We have since verified all the above bankruptcy cases have now been dismissed. Please let us know if your records reflect otherwise. Additionally, our records reflect an outstanding balance of \$307.49 from the current diversion court case in 2005. A copy of the disputed bill is enclosed. We hope that this information, clarifies why Tampa Electric is holding you responsible for this debt. We are willing to make payment arrangements on the outstanding amounts. Please do not hesitate to contact me, should you have any additional questions regarding this debt or payment arrangements. I can be reached at 813-275-3952.

Sincerely,

mr

Ms. Drummond Corporate Credit o

11.

ho

Page 3 of 1

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Mr. Edward McDonald

Complaint Number 1006767F July 25, 2011 Page 5 of 7

> The charges for the current diversion found on February 1, 2005, included \$27.05 in usage charges and \$280.44 in investigation/tampering charges, for a total amount of \$307.49. This amount was placed in account number 5919-021103-1, created for collection, and was billed separately. The first billing statement of this account was issued on March 1, 2005.

Note: Upon research of this complaint, a deposit in the amount of \$215.00 that was paid on July 9, 2004, was discovered under your name. TECO calculated the deposit's annual interest earnings at \$12.90 (\$215.00 deposit x 6 percent annual interest = \$12.90 annual deposit interest). For the seven year period of July 2004 to July 2011, the \$215.00 deposit yielded interest earnings totaling \$90.30 (7 years x \$12.90 annual interest earnings = \$90.30). The

Mr. Edward McDonald Complaint Number 1006767E July 26, 2011 Page 6 of 7

\$215.00 deposit and the \$90.30 seven-year interest earnings were applied towards the \$307.49 debt, which yielded a remaining balance of \$2.19 (\$307.49 debt - \$215.00 deposit - \$90.30 interest earnings = \$2.19 remaining balance). TECO issued a credit adjustment for the remaining \$2.19 balance on July 6, 2011, which reflected a zero balance for account number 5919-021103-1

			Page 4 of 4
DATE: 19 SEP 2007 CLERI	<u>E STATUS INFORMATION</u> K OF CIRCUIT COURT ROUGH COUNTY, FLORIDA	PAG	E: 1 OF 1
Full Name: MCDONALD, EDWARD G ID: 000122988 SOID No: 00327095 Party: D001 Party Status: Closed - 05/12/2005	Case Id: 05-CM-002945 UC Case Created: 02/01/2005 Case Sta C Case Type Misdemeanor	N: 292005MM00 tus: Closed - C	1
Arrrest Date ReArrest Date ReArrest Reason Arresting Agency   02/01/2005 TPD - TAMPA POLICE D   Count Charge Code GOC Charge Descr   1 81214 2B -THEF6000 TRESPASS AND		02/01// Level/Deg	·
Offense DateCountCharge CodeGOCCharge I01/27/20051812142B-THEF6000TRESPAS	ent Charges Description IS AND LARCENY WITH RELATION TO UTILITY ion Date Disposition /2005 NOLLE PROSSED	Levei/De Misdeme	EANOR FIRST DEGREE

OCTOBER 8, 2012

FLORIDA PUBLIC SERVICE COMMISSION

DISTRICT OFFICE 4950 W. Kennedy Blvd. Tampa, FL 33605 (813) 356=1444

**RE: EMAIL FILING** 

. . . . . . . .

Please file the enclosed 11 page document with the Clerk's Office'

mcDonald FROM: Edward McDonal 7203 N. 40th St Tampa, FL 33604 (813) 374-3837 (813) 445-1959

EMAIL: edwardmcdonald76@gmail.com

PLEASE RETURN THE DOCUMENT IN THIS ADDRESSED, STAMPED ENVELOPE WITH PSC RETURN ADDRESS.

THANK YOU

you may do so via E-mail at <u>filings@psc.state.fl.us</u>. A request for a formal hearing cannot be received via fax. If you decide to file via E-mail, you must attach your request as a Microsoft (MS) Word document and include an electronic signature such as -/s/ (your name)."

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