

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: March 28, 2013

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Harris) *OH*
Office of Consumer Assistance and Outreach (Forsman, Hicks) *NEA*
Division of Economics (Rome) *OR* *ED* *PW* *RA*

RECEIVED-FPSC
13 MAR 28 AM 11:00
COMMISSION
CLERK

RE: Docket No. 120297-EI – Complaint of Marlowe Ragland against Progressive Energy for alleged disconnections and high bills.

AGENDA: 04/09/13 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\120297.RCM.DOC

Case Background

In April 2012, Mr. Marlowe and Mrs. Natalie Ragland (the Raglands) filed an informal complaint¹ against Progress Energy Florida, Inc. (PEF). The informal complaint alleged improper disconnection of service, in that the Raglands asserted that while they had received monthly bills, they had not received notices of disconnection prior to their service being disconnected for non-payment. The Raglands' informal complaint implied that PEF's failure to provide disconnection notices constituted a violation of Commission rules. Three separate

¹ This informal complaint was assigned number 1061005E in the Commission's Consumer Activity Tracking System (CATS).

DOCUMENT NUMBER-DATE

01518 MAR 28 2013

FPSC-COMMISSION CLERK

Commission staff worked with the Raglands and PEF on the informal complaint, but were unable to resolve the situation to the Raglands' satisfaction.

On June 27, 2012, staff sent the Raglands a letter, detailing the findings of his review of the informal complaint and the Commission staff's activities. A copy of this letter is attached as Attachment A to this recommendation. The Administrator concluded: "[m]y administrative review and resultant conclusion is that it does not appear that PEF has violated any jurisdictionally applicable provision of the Florida Statutes, the Florida Administrative Code, or its tariff in the handling of your account. The FPSC is unable to grant you the redress you are seeking from PEF." The letter went on to state that if the Raglands disagreed with this final disposition of their informal complaint, they had a right to initiate formal proceedings, and detailed the requirements that a petition to initiate such proceedings must comply with.²

On November 20, 2012, the Raglands filed a "Formal Complaint" (Complaint) against "Progressive Energy."³ The Raglands advise they had "completed the steps in filing an informal complaint with your company and have been advised to now file a formal complaint." In the Complaint, the Raglands indicated they are primarily concerned with having had their electricity disconnected four times since March 2012 "without receiving a disconnection notice." The Complaint also states that the Raglands do not understand why their bills are higher than their neighbors, whom they state have similarly sized houses. The Raglands indicate they "receive poor service" from Progress Energy, and believe they are being "retaliated" against for filing a complaint.

The Raglands indicate that after their four disconnections, they have been asked to pay additional security deposits, and having to come up with the money to re-establish service and the additional deposits had caused them to be in arrears on other bills, and created a severe financial hardship for them. The Raglands go on to state: "[w]e are asking for someone to look at our bills and compare the amount used with other homes in the area with the same amount of people or more. We would like the deposit to be waved because they did not provide us with notification as the law requires. We are asking for any and all legal services we are allowed to be put into place."

On December 7, 2012, PEF filed a Motion to Dismiss and Response in Opposition (Motion to Dismiss). In summary, PEF states that all but one of the claims in the Raglands' Complaint fail to cite any statute, rule or order which PEF allegedly violated, and should therefore be dismissed for failure to meet the pleading requirements of Rule 25-22.036, Florida Administrative Code (F.A.C.). With respect to the Raglands' claim that PEF has disconnected service without providing disconnection notices, PEF maintains that it has sent late payment/disconnection notices to the Raglands, and details the dates the notices were mailed. PEF notes that none of the correspondence has been returned as undelivered, and therefore, suggests that this claim is factually unfounded and the Complaint should be denied as to this

² These requirements include the requirements of Chapter 120, Florida Statutes, and rules contained in Chapters 28-106 and 25-22, Florida Administrative Code.

³ It is clear the Raglands made an error in referring to Progress Energy, Florida, Inc. incorrectly as "Progressive Energy."

claim. In conclusion, PEF maintains that the Complaint should be dismissed in part, and that any remaining requests for relief (regarding disconnection without proper notice) should be denied.

Subsequent to the receipt of PEF's Motion to Dismiss, staff continued to attempt to resolve the dispute between the Raglands and Progress. Staff was able to arrange for a meter test, supervised by a Commission field engineer, and a home energy audit. Staff also worked with the Raglands to explain the billed amounts and charges in detail. After these activities, staff believed it had informally resolved the Raglands' concerns, and via email, asked the Raglands whether they would be willing to voluntarily dismiss their Complaint.

The Raglands replied, also via email, that they were not willing to voluntarily dismiss the Complaint. The Raglands maintain that they have not received disconnection notices from PEF prior to their service being disconnected, which they allege is a violation of law. They indicate that some or all of the reconnection fees and additional deposits should be waived, and their outstanding balance should be reduced. Accordingly, the Raglands requested this matter go before the Commission for resolution.

On February 8, 2013, staff was contacted by a representative of Progress, who stated that the Raglands were due to be disconnected for a fifth time for non-payment of billed amounts. Staff made a number of back-and-forth contacts with both the Raglands and Progress, and as a result, the Raglands' service was not disconnected on that date. As of March, 22, 2013, the outstanding balance on the Raglands' account is \$285.78.

The Commission has jurisdiction pursuant to Chapters 120 and 366, Florida Statutes (F.S.), and Chapters 25-6, 25-22, and 28-106, F.A.C.

Discussion of Issues

Issue 1: What is the appropriate disposition of the Raglands' Formal Complaint?

Recommendation: The Raglands' Formal Complaint should be denied and they should pay the entire outstanding account balance of \$285.78 as previously billed by the utility. It appears that the Raglands' account was properly billed in accordance with Commission statutes, rules, and PEF's tariffs. Based on documentation provided, an audit of the account indicates that the account balance is accurate. The additional deposit has been accurately calculated and assessed. Furthermore, it does not appear that PEF has violated any jurisdictionally applicable provision of the Florida Statutes, the Florida Administrative Code, or its tariff in the handling of the Raglands' account. (Harris, Forsman)

Staff Analysis:

Motion to Dismiss

PEF has filed a Motion to Dismiss the Raglands' Formal Complaint in Part, due to the Raglands' failure to follow applicable pleading requirements. Specifically, PEF avers "[t]he Petitioner's Complaint does not cite any rule, order, or statute that the Company allegedly violated with respect to all but one of his claims as set forth below. As to those claims, the Complaint fails to meet the requirements of Rule 25-22.036 and should be dismissed in part."⁴

For formal administrative proceedings authorized by Chapter 120, F.S., the Uniform Rules of Procedure contained in Chapter 28-106, F.A.C., apply. In addition to the Uniform Rules which govern all administrative proceedings, the Commission has adopted specific procedural rules to govern proceedings before it, which are contained in Chapter 25-22, F.A.C. As correctly cited by PEF, the Commission's procedural Rule 25-22.036, F.A.C., requires pleadings to substantially comply with Uniform Rule 28-106.201, F.A.C. A review of the Raglands' Petition reveals that it is not in substantial compliance with either of these rules.⁵

Section 120.569(2)(c), F.S., states, in part, that this Commission shall dismiss a petition for failure to substantially comply with the uniform rules.⁶ Pursuant to this statute, the dismissal of a petition should, at least once, be without prejudice to the petitioner to allow the filing of a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

⁴ As stated in the Case Background, PEF's Motion to Dismiss requests that the Raglands' claims regarding payment arrangements and assistance, a home energy audit, and additional deposits should be dismissed. The Motion states that the Raglands' claim regarding PEF's alleged failure to provide a disconnection notice should be denied.

⁵ In addition to omitting a statement of the disputed issues of material fact, the Raglands have failed to provide a statement of the specific rules or statutes that they contend PEF violated, or any explanation of how their alleged facts relate to any specific rules or statute violations.

⁶ 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.).

However, staff believes the facts and law are clearly developed and a properly plead complaint is not necessary in order for the Commission to make a decision at this time. As discussed in the case background, the extensive documentation in this docket, including the informal complaint file, the Raglands' formal Complaint, PEF's Motion to Dismiss in Part, and the email correspondence between staff and the Raglands provides significant information about the Raglands' factual assertions and requested relief. Staff believes this information is sufficient to allow the Commission to make a decision on the substance of the Raglands' Complaint, and does not believe it would be an efficient use of the parties' resources to require the Raglands to amend their Complaint merely to comply with technical pleading rules. Furthermore, the Commission has previously held pro se litigants such as the Raglands to a relaxed pleading standard, in order to prevent delay and promote resolution of litigants' claims.⁷ Therefore, staff recommends that Progress Energy Florida's Motion to Dismiss in Part should be denied. Instead, staff recommends that the Commission should proceed to make a decision on the substance of the Raglands' Complaint.

Electricity Consumption

The Raglands assert that their electrical consumption is higher than their neighbors, who have similarly sized houses. In order to address this area of concern, staff arranged for two acts: the Raglands received a Home Energy Audit, and the Raglands' meter was tested. With regard to the Energy Audit, PEF's auditor did not find any conditions which would explain abnormally high usage. Staff notes, however, that while a contrary finding may have assured the Raglands that their personal consumption habits were not to blame for their high bills, it would not have provided a basis to not pay the charges assessed for such consumption.

On rare occasions, a defective or malfunctioning electric meter can contribute to unusually high or low electric bills. In accordance with Rule 25-6.060, F.A.C., Meter Test – Refereed Dispute, at the request of staff, on January 10, 2013, a witnessed inspection and meter test was performed on the Raglands' meter. This test was supervised by a PSC field engineer. The results of the test confirmed that the meter was functioning properly within Commission guidelines. Accordingly, there is no evidence that the Raglands' electrical consumption is abnormally high, nor that the Raglands' meter incorrectly recorded their electrical consumption.

Alleged Improper Disconnection

When the informal complaint was filed in April, 2012, the Raglands indicated that their electric service had been improperly disconnected without notice four times. Rule 25-

⁷ See, e.g. Order No. PSC-11-0117-FOF-PU, issued February 17, 2011, in Docket Nos. 100175-TL and 100312-EI, Complaint against AT&T d/b/a BellSouth for alleged violations of various sections of Florida Administrative Code, Florida Statutes, and AT&T regulations pertaining to billing of charges and collection of charges, fees, and taxes; In re: Complaint against Florida Power & Light Company for alleged violations of various sections of Florida Administrative Code, Florida Statutes, and FPL tariffs pertaining to billing of charges and collection of charges, fees, and taxes; Order No. PSC-02-1344-FOF-TL, issued October 3, 2002, in Docket No. 020595-TL, In re: Complaint of J. Christopher Robbins against BellSouth Telecommunications, Inc. for violation of Rule 25-4.073(1)(c), F.A.C., Answering Time; Order No. PSC-12-0252-FOF-EI, issued May 23, 2012, in Docket No. 110305-EI, In re: Initiation of formal proceedings of Complaint No. 1006767E of Edward McDonald against Tampa Electric Company, for alleged improper billing.

6.105(5)(g), F.A.C., authorizes PEF or any other regulated electric utility to discontinue or refuse service for non-payment after a diligent attempt has been made to collect the unpaid amount, including at least five working days written notice to the customer. In its Motion to Dismiss in Part and Response in Opposition, PEF details the efforts it made to notify the Raglands of past due account balances. PEF further maintains that all of the Raglands' billing statements for the periods in question included a statement: "[y]our account has a past due amount of ___ and electric service may be disconnected. Please pay immediately." PEF further states that payments were not received in time to avoid disconnection of service.

Staff thoroughly investigated the Raglands' assertions that they had not received notice prior to any of the four disconnections, including PEF's documentation of the attempts it made to notify the Raglands of past due balances. Staff has found no evidence to support the Raglands' claims, nor has it identified any action or failure to act by PEF that would constitute a violation of any statute or rule. Therefore, it appears that service was properly disconnected all four times in compliance with the rule.

Alleged Unjustified and Excessive Deposit

The Raglands' Formal Complaint maintains that they have been unjustly assessed additional deposit amounts as a result of the disconnection of service. These new deposits are in addition to an earlier deposit that was required at the time service commenced.

As authorized by Rule 25-6.097(3), F.A.C., Customer Deposits, a utility may at any time require a new or additional deposit in order to secure payment of current bills. In doing so, the utility must provide at least 30 days written notice separate and apart from any bill for service and shall explain the reason for the new or additional deposit. Furthermore, the new or additional deposit may not exceed an amount equal to twice the average charges for actual electric usage for the twelve month period immediately prior to the date of notice. PEF's Tariff Section No. IV, Third Revised Sheet No. 4.070, section 7.03, reflects Rule 25-6.097(3), F.A.C., by stating that "The Company (PEF) may require upon written notice of not less than thirty (30) days a new deposit, where previously waived or returned, or additional deposit in order to secure payment of current bills."

Based on information received during the processing of the informal complaint, as well as provided by PEF in its Response in Opposition, it appears that PEF sent separate notices to the Raglands assessing the additional deposit amounts, based on the fact that the Raglands' payment history warranted an additional deposit to secure payment for current services. Therefore, it does not appear that PEF was in violation of Rule 25-6.097(3), F.A.C., or its tariff in assessing the Raglands additional deposit amounts.

Conclusion

While the Raglands' Complaint does not comply with technical pleading rules, the Commission has significant information before it upon which it can make a decision on the substance of the Raglands' Complaint. Staff believes that PEF's Motion to Dismiss in Part should be denied, and the Commission should in fact make a decision on the Raglands' Complaint.

Staff conducted a thorough and complete investigation of this matter and believes that PEF has complied with its tariff and all applicable statutes and rules of the Commission. Based on the information obtained by staff, it appears that the Raglands' account was properly billed in accordance with Commission rules, statutes, and PEF's tariffs. An audit of the account, including review of the documentation provided, indicates that the account balance is accurate. The Raglands have presented no documentation or evidence that supports their contention that they were improperly billed or that their electric consumption is excessive. Staff believes the additional deposit assessment has been accurately calculated and assessed. Furthermore, it does not appear that PEF has violated any jurisdictionally applicable provision of the Florida Statutes, the Florida Administrative Code, or its tariff in the handling of the Raglands' account. Therefore, staff recommends that the Commission should deny the Raglands' Formal Complaint.

Docket No. 120297-EI

Date: March 28, 2013

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected files a protest of the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order. (Harris)

Staff Analysis: If no person whose substantial interests are affected files a protest of the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.

COMMISSIONERS:
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STATE OF FLORIDA



DIVISION OF SAFETY, RELIABILITY &
CONSUMER ASSISTANCE
DANIEL M. HOPPE, DIRECTOR
(850) 413-6480

Public Service Commission

June 27, 2012

Certified and Regular Mail

Mrs. Natalie Ragland
1087 Sailing Bay Dr.
Clermont, FL 34711-5198

RE: Florida Public Service Commission Complaint Number 1061005E

Dear Mrs. Ragland:

This letter is in further response to Florida Public Service Commission (FPSC) complaint number 1061005E, initially filed with the FPSC on April 18, 2012, against Progress Energy Florida (PEF). The purpose of my letter is to apprise you of the findings and conclusion of my administrative review in this matter. It also serves as follow-up to Randy Roland's letter to you dated May 7, 2012, and Leroy Rasberry's letter to you dated May 23, 2012. This letter is also in response to your E-mail correspondence to the FPSC dated June 4, 2012, Ms. Shirley Stokes' E-mail correspondence to you dated June 5, 2012, as well as your telephone conversation with Ms. Stokes on June 6, 2012. My letter will also address the issues and concerns you expressed in your most recent E-mail to me dated June 11, 2012. For your information and review, I have enclosed a copy of Mr. Roland's and Mr. Rasberry' letters as well as Ms. Stokes' E-mail.

Summary

In response to Mr. Rasberry's letter, you voiced continued disagreement with actions taken by PEF to resolve your complaint. Furthermore, you expressed dissatisfaction with the FPSC's conclusion of your complaint. Subsequently, in contemplation of your further queries concerning final disposition of this case, I have taken the opportunity to carefully review your case file and analyze the presented documentation in correlation with applicable FPSC Rules as set forth in the Florida Administrative Code (F.A.C.). I have also reviewed and discussed the details of Mr. Rasberry's investigation and findings with him. After thoroughly examining the details and facts presented in this matter, I believe that Mr. Rasberry's investigation of this matter has been capaciously conducted to assure that all of your documented concerns and issues have been addressed.

To emphasize and clarify what was previously explained in Mr. Rasberry's letter, I would like to recapitulate the facts that have led to FPSC staff's conclusions in this matter. Following is a summation of my analysis, which I believe addresses each of the concerns you have identified regarding this matter.

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Alleged Improper Disconnection of Service

Your complaint alleges that although you have regularly received regular monthly billing statements, you have not received a late or final notice from PEF notifying you that your account was subject to disconnection for non-payment. Subsequently, it is your position that your service should not have been disconnected without having received such final notice.

As explained on page one of Mr. Roland's letter, FPSC Rule 25-6.101, Florida Administrative Code (F.A.C.) specifies that an electric bill is considered past due if the payment has not been received within twenty days from the date the utility mailed or delivered the billing statement. Furthermore, FPSC Rule 25-6-105(5)(g), F.A.C. allows an electric utility to disconnect service for non-payment after the company has provided a written five working days' written notice of intention to disrupt service.

In compliance with FPSC Rule 25-6-105(5)(g), F.A.C., PEF has provided documentation that if the required payment on your billing statement was not received by the regular bill due date specified on your statement, it issued appropriate late notices to advise you that your service would be disconnected if payment was not received. PEF's documented late notices are summarized in the following chart.

Date Late Notice Mailed	Amount Past Due	Payment Required By	Scheduled Disconnection Date
November 28, 2011	\$147.71	December 6, 2011	December 7, 2011
December 28, 2011	\$263.17	January 6, 2012	January 7, 2012
January 30, 2012	\$523.77	February 7, 2012	February 8, 2012
February 28, 2012	\$546.63	March 7, 2012	March 8, 2012
March 29, 2012	\$232.98	April 9, 2012	April 10, 2012
April 30, 2012	\$304.31	May 8, 2012	May 9, 2012

Account Audit Summary (AAS)

In order to more clearly understand your account billing history, and to validate the account balances provided in PEF's late notice summary, I conducted an audit of PEF's billing statements and ledger for your account. I prepared the enclosed Account Audit Summary (AAS) for your account. To assist you in more clearly understanding the spreadsheet, I will be referencing significant data from the AAS that warrants special emphasis. Following is a chronological summary of significant transactions for the time period of October 20, 2011, through June 12, 2012.

- **November 4, 2011** - As reflected on line 4, column K of the enclosed AAS, your account balance on your November 4, 2011, billing statement was \$147.71. Your billing statement indicated that your account balance of \$147.71 was due on November 28, 2011. Payment was not received by that date; subsequently PEF mailed you a late payment notice on November 28, 2011, as indicated in the late notice summary chart.

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- **December 5, 2011** - A partial payment in the amount of \$147.71 was received as reflected on line 6, column I, leaving an account balance of \$5.00 (line 6, column K).
- **December 6, 2011** - As reflected on line 7, column K of the enclosed AAS, your account balance on your December 6, 2011, billing statement was \$263.17. Your billing statement indicated that your account balance of \$263.17 was due on December 28, 2011. Payment was not received by that date; subsequently PEF mailed you a late payment notice on December 28, 2011, as indicated in the late notice summary chart.
- **January 6, 2012** - As reflected on line 9, column K of the enclosed AAS, your account balance on your January 6, 2012, billing statement was \$523.77, which included immediately past due charges of \$263.17 and new charges of \$260.60. A notice on your billing statement advised you that *"Your account has a past due amount of \$263.17 and electric service may be disconnected. Please pay immediately."* Payment was not received; subsequently PEF mailed you a late payment notice on January 30, 2012, as indicated in the late notice summary chart.
- **February 1, 2012** - As reflected on line 11, column G, your account was assessed a reconnection charge of \$40.00 to reconnect your service after it was disconnected for non-payment. This transaction increased your account balance to \$568.77 (line 11, column K).
- **February 2, 2012** - A partial payment in the amount of \$263.17 was received and posted to your account as reflected on line 12, column I, which reduced your balance to \$305.60 (line 12, column K).
- **February 6, 2012** - As reflected on line 13, column K of the enclosed AAS, your account balance on your February 6, 2012, billing statement was \$546.63, which included past due charges of \$260.60 and new charges of \$286.03. Your billing statement indicated that your account balance of \$546.63 was due on February 28, 2012. Payment was not received by that date; subsequently PEF mailed you a late payment notice on February 28, 2012, as indicated in the late notice summary chart.
- **March 7, 2012** - No payments were made on your account from February 6, 2012, through March 7, 2012. As reflected on line 15, column K of the enclosed AAS, your account balance on your March 7, 2012, billing statement was \$779.61, which included past due charges of \$546.63 and new charges of \$232.98. In addition to a final late notice mailed to you on February 28, 2012, a notice on your billing statement advised you that *"Your account has a past due amount of \$546.63 and electric service may be disconnected. Please pay immediately."*
- **March 21, 2012** - As reflected on line 16, column G, your account was assessed a reconnection charge of \$50.00 to reconnect your service after it was disconnected for non-payment. This transaction increased your account balance to \$829.61 (line 16, column K).
- **March 22, 2012** - A partial payment in the amount of \$546.63 was received and posted to your account as reflected on line 17, column I, which reduced your balance to \$282.98 (line 17, column K).

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- **April 5, 2012** - No payments were made on your account from March 23, 2012, through April 5, 2012. As reflected on line 19, column K of the enclosed AAS, your account balance on your April 5, 2012, billing statement was \$537.29, which included past due charges of \$232.98 and new charges of \$304.31. In addition to a final late notice mailed to you on March 29, 2012, a notice on your billing statement advised you that *"Your account has a past due amount of \$232.98 and electric service may be disconnected. Please pay immediately."*
- **April 19, 2012** - As reflected on line 20, column G, your account was assessed a reconnection charge of \$40.00 to reconnect your service after it was disconnected for non-payment. This transaction increased your account balance to \$577.29 (line 20, column K).
- **April 20, 2012 - June 6, 2012** - Specific identified electric account debits and credits during this period of time are reflected on lines 21 - 29. My audit indicates that these debits and credits were properly applied to your account and that your account balance of \$769.62 as of June 6, 2012, is accurate. This balance includes a deposit assessment in the amount of \$115.00 (line 29, column G) that was applied to your account by PEF in accordance with its tariff and FPSC Rule FPSC Rule 25-6.097, F.A.C. For your information and review, you may access FPSC Rule FPSC Rule 25-6.097, F.A.C. at the following internet link:
[www.flrules.org/gateway/RuleNo.asp?title=ELECTRIC SERVICE BY ELECTRIC PUBLIC UTILITIES&ID=25-6.097UU](http://www.flrules.org/gateway/RuleNo.asp?title=ELECTRIC%20SERVICE%20BY%20ELECTRIC%20PUBLIC%20UTILITIES&ID=25-6.097UU).

In accordance with FFPSC Rule 25-6.100 F.A.C., Customer Billings, all regulated electric utilities have a responsibility to properly bill each customer a monthly billing statement. PEF's records documentation indicates that each month since you have been its customer, you have been properly issued billing statements and late notices.

As PEF has a responsibility to properly bill its customers on a timely basis, each customer has a responsibility to pay their utility bill on a timely basis. Occasionally, a customer may not receive a billing statement or late notice due to mail delivery problems, mail theft or numerous other possibilities. Unless the utility is contacted directly, there is no way for it to know that a customer did not receive a billing statement. In my opinion, it is reasonable to expect that you and every other customer have come to know and anticipate that you will receive and must pay a utility bill at about the same time each month. Therefore, if for some reason you did not receive a billing statement by the time you would normally schedule or budget your utility payment, instead of not making a utility payment that month, it is your responsibility to contact the utility in order to avoid late payments and related fees and possible opportunities for disruption of service. Likewise, it is your responsibility to review your billing statements for accuracy and to promptly report any objections or inaccuracies to PEF.

During the period of time your account with PEF has been active, although your account reflects several posted payments, the payments have not kept pace with the service and tariffed charges debited to your account. This is the result of inconsistent and partial payments as reflected on the enclosed spreadsheet summary. Subsequently, you allowed your unpaid account balance to increase to the current amount of \$769.62.

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Alleged FPSC Rule Violations

In your complaint, you implied that because you did receive disconnection notices, PEF is in violation of established FPSC rules. I would like to address and clarify how informal consumer complaints and potential utility rule infractions are handled. It is the FPSC's intent that complaints and disputes between a regulated utility and its customers be resolved as quickly, effectively, and inexpensively as possible. FPSC Rule 25-22.032, F.A.C. - **Customer Complaints**, establishes informal customer complaint procedures that are designed to address disputes, subject to the FPSC's jurisdiction, that occur between regulated utilities and **individual** customers. The rule provides expedited processes for customer complaints that can be resolved quickly by the customer and the company. As set forth in section (2)(a) of FPSC Rule 25-22.032, F.A.C., any customer of an FPSC regulated utility may file a complaint with the FPSC's Division of Safety, Reliability and Consumer Assistance (SRC) whenever the customer has an unresolved dispute with the utility concerning electric, gas, water, wastewater and limited telecommunication service that is subject to the Commission's jurisdiction. For further information and review, you may access FPSC Rule 25-22.032, F.A.C. via the following internet link:

[www.flrules.org/gateway/RuleNo.asp?title=RULES GOVERNING PRACTICE AND PROCEDURE&ID=25-22.032](http://www.flrules.org/gateway/RuleNo.asp?title=RULES%20GOVERNING%20PRACTICE%20AND%20PROCEDURE&ID=25-22.032)

In accordance with FPSC Rule 25-22.032, F.A.C., if during the course of an informal complaint investigation, it appears that a utility may have potentially committed a rule infraction, tariff breach, or violation of FPSC Order requiring enforcement proceedings, such actions are determined by the appropriate technical division within the FPSC. If it is apparent that a violation or infraction is associated with an FPSC rule that contains a disposition directive ordering credit adjustment or reimbursement, the FPSC may instruct the utility to effect such required adjustment. It should be clarified however, that if it is determined that enforcement proceedings or further action is necessary; such proceedings are intended to hold the company accountable for non-compliance and to reinforce conformity in the identified area. The proceedings are not a means to award recompense to customers for matters not specified in FPSC rules. Furthermore, there are FPSC systems in place to monitor utility compliance with various FPSC rules, to track problem trends, and to initiate action if warranted. Individual complaints filed with, and investigated by, staff are a very important part of that process.

Rulemaking

In your E-mail dated June 11, 2012, you asked if the FPSC could implement a rule that that requires PEF to be more customer friendly. The State of Florida under Title X, Section 120.54(7), Florida Statutes (F.S.), provides an opportunity to petition the FPSC to adopt, amend, or repeal a rule. Any person wishing to petition the FPSC to initiate rulemaking must file the petition pursuant to the provisions of F.A.C. 28-103.006 - **Petitions to Initiate Rulemaking**. For further information and review, you may access F.A.C. 28-103.006 via the following internet link:

www.flrules.org/gateway/RuleNo.asp?title=RULEMAKING&ID=28-103.006.

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You may also wish to review Florida Statutes, Title X, Chapter 120, Administrative Procedure Act. Section 120.536(1), Rulemaking Authority, which may clarify and address some of your concerns about the FPSC's and other state agencies' rulemaking authority as it relates to Florida Statutes. For your information and review, you may access Title X, Chapter 120, Administrative Procedure Act at the following internet link:
www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0120/0120ContentsIndex.html&StatuteYear=2011&Title=%2D%3E2011%2D%3EChapter%20120

If you wish to file a formal petition for rulemaking, you may do so with the FPSC's Office of the Commission Clerk, 2540 Shurnard Oak Boulevard, Tallahassee, FL 32399-0850. If you wish to file other than by mail, the preferred method, you may do so via E-mail at filings@psc.state.fl.us. However, a request for a formal petition for rulemaking cannot be received via fax. If you decide to file via E-mail, you must attach your request as a Word document and include an electronic signature such as - /s/ (your name). If you have further questions regarding a rulemaking petition, please call the FPSC's Office of Commission Clerk at 850-413-6770.

Current Account Status

When complaint number 1061005E was filed, a disputed amount of \$269.00 was established. In accordance with FPSC Rule 25-22.032(3), F.A.C., while your complaint is open and under investigation, your account is protected from disconnection for non-payment of that disputed amount. However, PEF may require you to pay that part of your outstanding balance that is above the disputed amount.

Currently, as reflected on the Account Audit Summary, PEF's records reflect that as of 6/14/12, your unpaid account balance is \$769.62 (line 29, column K), which includes current usage charges of \$334.22, plus an overdue balance of \$320.40, plus a deposit assessment of \$115.00. This amount is higher than your complaint's established disputed amount. Subsequently, unless you make a payment of at least \$500.02, or secure acceptable payment arrangements with PEF your electric service is subject to immediate disconnection pending proper notice.

Once complaint number 1061005E is closed, your account will no longer be protected from disconnection for the established disputed amount. At the time of closing, any remaining account balance will be subject to immediate payment or your electric service will be subject to interruption after proper notice. Therefore, you may wish to seek acceptable payment arrangements with PEF directly. I have been advised by PEF that you have been granted a payment extension arrangement whereby you agreed to make payment of \$324.73 on or before June 21, 2012. Please be advised that the FPSC does not have the authority to compel a utility to make payment arrangements for services provided. Such arrangements are at the discretion of the utility.

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Conclusion

In conclusion, I concur with the findings of Mr. Rasberry's investigation and his conclusions as expounded in his letter. The FPSC's investigation of this matter has been thoroughly conducted to assure that PEF has complied with all applicable statutes, rules, tariffs, and orders of the FPSC.

My review of these matters indicates that your account was properly billed in accordance with FPSC rules and PEF's tariffs. Based on documentation provided, an audit of your account verifies that your account balance is accurate. You have presented no documentation or evidence that supports your contention that you have made payments other than those posted to your account or that you have been improperly billed or that you have been improperly disconnected. Furthermore, there is nothing to support that you, as customer of record, are not responsible for payment in full of your account balance.

My administrative review and resultant conclusion is that it does not appear that PEF has violated any jurisdictionally applicable provision of the Florida Statutes, the Florida Administrative Code, or its tariff in the handling of your account. The FPSC is unable to grant you the redress you are seeking from PEF. Subsequently, at this point, all due consideration has been given to your complaint and the informal complaint process as specified in FPSC Rule 25-22.032, F.A.C., **Customer Complaints**, has been concluded.

If you disagree with the disposition of your complaint, you may file an application for initiation of formal proceedings for relief against PEF. The application for formal proceedings must be filed with the FPSC's Office of the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850. If you wish to file other than by mail, the preferred method, you may do so via E-mail at filings@psc.state.fl.us. 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).

The application for formal proceedings must be filed pursuant to the provisions of Chapter 120, Florida Statutes, the Uniform Rules of Administrative Procedure found in Chapter 28-106, F.A.C. and the FPSC's procedural rules, in particular, Rule 25-22.036, F.A.C. For your information and review, you may access Rule 25-22.036, F.A.C. - **Initiation of Formal Proceedings** at the following internet link:

[www.flrules.org/gateway/RuleNo.asp?title=RULES GOVERNING PRACTICE AND PROCEDURE&ID=25-22.036](http://www.flrules.org/gateway/RuleNo.asp?title=RULES%20GOVERNING%20PRACTICE%20AND%20PROCEDURE&ID=25-22.036)

You may also access Chapter 28-106, F.A.C. at the following internet link:
www.flrules.org/gateway/ChapterHome.asp?Chapter=28-106

The company will have the opportunity to respond to your application, which would be addressed by the FPSC pursuant to the statutes and rules cited above. You should be aware, however, that if it is determined that your formal complaint application does not fulfill the requirements specified in Rule 25-22.036, F.A.C. or if the Commission is unable to grant the relief you are seeking, your application for formal proceedings may be dismissed. If you have further questions regarding

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filing an application for formal proceedings, please call the FPSC's Office of the Commission Clerk office at 850-413-6770.

If you have any questions or concerns, please do not hesitate to contact me. This complaint will be closed on July 13, 2012. I can be reached via toll-free number 1-800-342-3552, my direct line 850-413-6459, or via e-mail at - nealforsman@psc.state.fl.us.

Sincerely,



Neal E. Forsman
Regulatory Program Administrator
BCA Process Review Group
Florida Public Service Commission
Division of Service, Reliability &
Consumer Assistance

cc: Progress Energy Florida
Enclosures