

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-**

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**DATE:** October 21, 2004

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Office of the General Counsel (Brown)  
Division of Regulatory Compliance and Consumer Assistance (Hicks)  
Division of Economic Regulation (Kummer)

**RE:** Docket No. 041169-EI – Complaint Nos. 445185E, 446514E, 446515E, and 446516E Filed by Mr. Jude Alcegueire against Florida Power and Light Company for High Bills and Other Alleged Violations of Commission Rules and Statutes.

**AGENDA:** 11/02/04 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\041169.RCM.DOC

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**Case Background**

This docket addresses a prolonged dispute involving several complaints filed by Mr. Jude Alcegueire against Florida Power & Light Company (FPL) over FPL's charges for electric service at Mr. Alcegueire's residence. Mr. Alcegueire filed four complaints between March 25, 2002 and April 1, 2002, which covered events from 1999, when Mr. Alcegueire first requested service at his Miramar residence, until 2002, when Mr. Alcegueire complained that FPL was not providing him sufficient information about its policies and practices in the provision of electric service. The dispute is ongoing. For several years Mr. Alcegueire has refused to make full payment to FPL for the electric service it has billed, and Mr. Alcegueire claims that FPL continues to overbill him for electric service. Mr. Alcegueire will estimate what he believes is an appropriate amount to pay for service to his house and pay that amount to FPL, disputing the rest. FPL's records reflect that the amount paid is consistently less than the amount billed. FPL contends that it has properly billed Mr. Alcegueire for electric service and complied with all applicable Commission rules and statutes. At this writing staff calculates that the amount due on

Mr. Alcegueire's account is \$2,347.19 plus current charges due 11/01/01 in the amount of \$232. 83, for a total amount due of 2,580.02. Mr. Alcegueire asserts that the entire amount is in dispute in light of the unresolved complaints pending before the Commission.

Complaint No. 445185E concerns Mr. Alcegueire's contention that FPL charged him an excessive deposit when he applied for service in 1999, and improperly charged him interest on the amount due for his deposit, which increased his bills more than they should have been. FPL responds that it complied with Commission rules regarding deposits and has made offers to credit outstanding late payment charges. FPL states that its charge was consistent with Commission Rule 25-6.097, Florida Administrative Code, and it reduced the required deposit when Mr. Alcegueire's usage was lower than estimated. At this time Mr. Alcegueire does not owe any further deposit for service.

Complaint No. 446514E concerns Mr. Alcegueire's contention that FPL improperly reviewed his credit report without his permission when it was determining the deposit he would owe for service. FPL responds that it did not review Mr. Alcegueire's credit report, and it complied with all applicable rules and statutes when it obtained Mr. Alcegueire's credit score to determine his deposit. FPL contends that it was not required to receive Mr. Alcegueire's consent to obtain his credit score, and that query did not adversely affect either his credit score or his credit report.

Complaint No. 446515E concerns Mr. Alcegueire's contention that his deposit was still too high and was incorrectly calculated on his bill to increase his monthly charges. FPL responds that it properly calculated Mr. Alcegueire's deposit and conducted several high bill investigations and meter readings to ensure the accuracy of his meter.

Complaint No. 446516E concerns Mr. Alcegueire's contention that FPL denied him access to procedures and policies for the establishment of electric service so that he could challenge FPL's actions regarding his request for service in 1999. FPL responds that its tariff sheet no. 6.010, revised June 1, 1999 and tariff sheet no. 6.011 address its policies for provision of electric service during the time in question.

The staff has fully investigated Mr. Alcegueire's complaints and made repeated attempts to resolve the ongoing dispute over the last several years, including investigations of the facilities by a staff engineer, four efforts to conduct informal conferences, by phone from Tallahassee and in person in Miami, and innumerable individual telephone calls with Mr. Alcegueire. The parties have not, however, been able to resolve the dispute informally. The July 29, 2004, letter to Mr. Alcegueire from Executive Director, Mary Bane, which is attached to this recommendation as Attachment A, outlines the staff's efforts to resolve Mr. Alcegueire's complaints. Pursuant to Rule 25-22.034, Florida Administrative Code, staff has opened this docket for the Commission to consider the complaints filed. The Commission has jurisdiction pursuant to sections 366.04 and 366.05, Florida Statutes.

### **Discussion of Issues**

**ISSUE 1:** What is the proper disposition of Mr. Alcegueire's complaints against Florida Power & Light?

**RECOMMENDATION:** The Commission should dismiss Mr. Alcegueire's complaints. FPL's charges to Mr. Alcegueire appear to be correct, and FPL has otherwise complied with applicable statutes and Commission rules. (Brown, Hicks, Kummer)

### **STAFF ANALYSIS:**

Complaint No. 445185E - filed 3/25/02. When Mr. Alcegueire first applied for service at his Miramar residence in 1999, FPL asked for a deposit of \$550, based on the usage of the previous resident. Mr. Alcegueire was a new customer and had not established any usage from which FPL could derive an appropriate deposit. This practice complies with Rule 25-6.097(3), Florida Administrative Code, which provides that, "[i]n the event the customer has had service less than twelve months, then the utility shall base its new or additional deposit upon the average actual monthly usage available." FPL responded to Mr. Alcegueire's complaint by reducing the required deposit by \$50.00 and agreeing to payment over time for the remaining amount. When Mr. Alcegueire demonstrated a usage pattern that was lower than the previous customer's usage, FPL reduced Mr. Alcegueire's deposit to \$250. It is staff's understanding that Mr. Alcegueire has paid all deposits due. FPL retains the deposit at this time and interest at 6% percent annually accrues for Mr. Alcegueire's benefit until the deposit is returned to the customer, pursuant to Rule 25-6.097(2), Florida Administrative Code. That rule provides that after 23 months FPL may refund the deposit if the customer has had continuous service and a satisfactory payment record. That has not been the case with Mr. Alcegueire's service and therefore FPL has retained the deposit. FPL's actions with respect to this complaint have been consistent with the Commission's rules and therefore staff recommends that this complaint be dismissed.

Complaint No. 446514E – filed 4/01/02. When FPL set the deposit amount for new service to Mr. Alcegueire it informed Mr. Alcegueire that it could not waive a deposit for service. At the time Mr. Alcegueire requested service, FPL used a credit score from Equifax as part of its determination whether a deposit would be required. While Mr. Alcegueire contends that FPL ran a full credit report on his credit history without his permission, the facts indicate that FPL only asked Equifax for a single credit score to determine if a deposit was needed. This practice is consistent with the practice of other utilities in setting appropriate deposits and it does not violate any Commission rules or statutes. Therefore, staff recommends that this complaint be dismissed.

Complaint No. 446515E – filed 4/01/04. In response to Mr. Alcegueire's complaint that his deposit was still set too high because he did not use that amount of electricity in a month, FPL conducted three high bill investigations and two meter tests. FPL also informed the customer that the deposit amount of \$250 was based on two months estimated usage and was therefore an accurate reflection of his monthly usage. After the first high bill investigation, FPL credited Mr. Alcegueire's account \$158.91 for repairs to an air conditioning unit and a possible meter reading error. During that investigation a meter test at Mr. Alcegueire's residence showed the meter to be 99.9 percent accurate. No other problems were found with Mr. Alcegueire's

appliances or FPL's service facilities. FPL's second high bill investigation, however, showed that Mr. Alcegueire's pool pump was running 24 hours a day, the central air conditioning unit for the house was not operable, and a window air conditioning unit was operating. A meter test conducted at that time showed that the meter was 99.7 percent accurate. FPL conducted another high bill investigation on November 6, 2001. No problems were found and the meter test showed 99.3 percent accuracy. Based on these facts, staff recommends that FPL has complied with all applicable rules and statutes and this complaint should be dismissed.

Complaint No. 446516E – filed 4/01/04. While Mr. Alcegueire contends in this complaint that FPL has not provided him with appropriate information regarding its policies and procedures in place when he requested service in 1999, it appears from the complaint record that FPL has provided Mr. Alcegueire with the requested information to the extent that it possesses that information. Therefore, staff recommends that FPL has not violated any Commission rules or statutes and this complaint should be dismissed.

### **Conclusion**

During the third informal conference that staff held to assist the parties in resolving this dispute, Mr. Alcegueire maintained that his high bills were a result of some malfunction of FPL's equipment, despite the results of previous meter testing. In a final effort to resolve these complaints, the Commission's staff engineer performed an on-site inspection of Mr. Alcegueire's residence to determine if there was any apparent malfunction of equipment. Apart from some recommended tree trimming, the engineer could detect no equipment or wiring malfunction that would cause a high bill. A copy of the engineer's report is attached to this recommendation as Attachment B. Also during that informal conference, the staff asked Mr. Alcegueire to submit a list of documents he alleged FPL was refusing to supply to him. Staff reviewed both the list and the documents FPL submitted and it appears to staff that FPL was responsive to Mr. Alcegueire's request.

Based on the foregoing, staff recommends that Mr. Alcegueire's complaints are without merit and should be dismissed. FPL has complied with all applicable Commission rules and statutes. FPL's billing records, which are attached to this recommendation as Attachment C, indicate that as of the filing of this recommendation, the outstanding balance now due and owing to FPL for electric service from 1999 to the present is \$2,580.02. If this amount is not paid by the date the Commission's order in this docket becomes final, FPL will have the discretion, pursuant to Rule 25-6.105, Florida Administrative Code, to disconnect Mr. Alcegueire's service for nonpayment, pursuant to the procedures described therein.

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

**RECOMMENDATION:** If no person whose substantial interests are affected by the Commission's proposed agency action files a protest within twenty-one days of the issuance of the order this docket should be closed upon the issuance of a consummating order. (Brown)

**STAFF ANALYSIS:** If no person whose substantial interests are affected by the Commission's proposed agency action files a protest within twenty-one days of the issuance of the order this docket should be closed upon the issuance of a consummating order.