

STATE OF FLORIDA
 DIVISION OF ADMINISTRATIVE HEARINGS

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BLANCA RODRIGUEZ,)	CASE NO.: 96-4935
)	
Petitioner,)	Administrative
)	Judge: Claude
)	Arrington
FLORIDA POWER AND LIGHT COMPANY,)	
)	
Respondent.)	FAX FILED
_____)	NO.: 904-921-6847

ARGUMENT/BRIEF/RECOMMENDED ORDER

.....PROPOSED FINDINGS OF FACTS.....

Blanca Rodriguez resides at 3151 N.W. 84 Court, Miami, Florida 33155. Juan Rodriguez (Blanca's husband) is co-owner of the mentioned property. The bill for the use of said electricity was under Juan Rodriguez. Mr. Rodriguez was the party paying this bill in the past. Blanca Rodriguez did not have the ability/knowledge to KNOWINGLY tamper with the meter (Transcript, page 4, lines 22 through 25). Ms. Rodriguez did not possess sufficient knowledge that she was receiving a benefit because she was not in control of the payment of the services as it appears in the billing statements. In addition Ms. Rodriguez does not possess the mechanical expertise to work on the meter.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- LIN _____
- OPC _____
- RCH _____
- SE _____
- WAS _____
- OT- _____

.....ISSUES RAISED AT HEARING.....

One issue is "Whether meter tampering occurred" (page 4, lines 18 & 19), or whether electrical current was diverted. The second issue is what will be the reasonable estimate of the rebilling (page 4, lines 19 thru 21). Based on the both counsels' STIPULATION, it was agreed that tampering occurred, but Mr. Stone made it clear that we were not saying that EITHER Ms. Rodriguez or Mr. Rodriguez did the tampering (page 4 lines 22-25).

.....ARGUMENT.....

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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Petitioner owns the property jointly with her husband, Juan Rodriguez (who is separated from Ms. Rodriguez). The bill was under Juan Rodriguez's name up until October 1996. The electricity was first connected in Juan Rodriguez's name on January 30th, 1987 (page 30 line 8). In December of 1987 FPL installed another meter because they claimed CURRENT DIVERSION (page 32 lines 14-18). Although, FPL claims that there had been tampering/diversion/altering in 1987, it is not until February 29th, 1996 (page 30 line 11) that a NEW METER was installed (8 years later). In 1994 this meter that had been installed in 1987 was moved by an electrician who had a permit to do so while this property was under construction. FPL did not contradict the movement of this meter by the electrician working on this property. As previously stated the Respondent failed to show that Ms. Rodriguez tampered/altered the meter. Not only was this bill not in her name but she was not the only person using this property throughout the years in question.

In 1994 there had been an addition constructed on this property. It is the Respondent's contention that the sum owed by the Petitioner is \$7,802.00. This sum is UNREASONABLE since it does not represent an accurate consumption of said electricity, since this figure not only includes investigation cost but figures which are compiled on projections and patterns which do not necessarily represent the true figure. Part of the investigation and subsequent testimony in Court by Ms. Lubert was made by information gathered by a third party (HEARSAY). Ms. Lubert had no idea what type of equipment was in the residence since she was not the person who interviewed Ms. Rodriguez at said property (page 29, lines 18-25).

Ms. Lubert had admitted that the account had changed from Juan Rodriguez's name to Blanca Rodriguez's name in October 9th, 1996 (page 39 line 13). It appears that FPL did not seek action against Mr. Rodriguez in this case. Instead they tried to enforce the payment of this bill on Ms. Rodriguez. Ms. Rodriguez is a mother of two children, who has been separated from Mr. Rodriguez for a period of time. This property is jointly owned by both parties. The sum in question is not a reasonable amount that should be attributed to Ms. Rodriguez's beneficial use. The Respondent not only failed to prove that this sum is reasonable but that Ms. Rodriguez was the party that altered/tampered with said meter. If the Respondent claims that

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in 1987 the meter was tampered with WHY did it take them 8 years to inspect and remove the current meter they have which they claimed was tampered with. For the reason enumerated Ms. Rodriguez should not be held responsible for the sum in question.

April 7th, 1997

(Date)

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_____~~
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