

FLORIDA PUBLIC SERVICE COMMISSION  
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Tallahassee, Florida 32399-0850

MEMORANDUM

JUNE 12, 1997

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10:25  
FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (V. JOHNSON) VJG RVE  
DIVISION OF ELECTRIC & GAS (DRAPER) EJD  
DIVISION OF CONSUMER AFFAIRS (RASPBERRY) JJJ

RE: DOCKET NO. 961179-EI - FLORIDA POWER & LIGHT COMPANY -  
COMPLAINT OF FRANCISCO MESA AGAINST FLORIDA POWER & LIGHT  
COMPANY REGARDING ALLEGED UNJUSTIFIED CHARGES FOR CURRENT  
DIVERSION

AGENDA: 06/24/97 - REGULAR AGENDA - DECISION ON SETTLEMENT  
AGREEMENT PRIOR TO HEARING - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\LEG\WP\961179E2.RCM

CASE BACKGROUND

On April 16, 1996, Francisco Mesa contacted the Division of Consumer Affairs and complained of being unjustifiably charged with current diversion by Florida Power & Light Company (FPL). Mr. Mesa questioned a bill received from FPL resulting from a meter tampering condition found at his residence. A complaint was taken and sent to FPL for a full report. On April 22, 1996, a report was received from the company. On September 13, 1996, an informal video teleconference was held with the parties and a member of the Commission's staff in attendance. The parties failed to reach a settlement; therefore, on October 17, 1996, staff filed its recommendation for consideration at the October 29, 1996, agenda conference.

On November 5, 1996, the Commission issued its Proposed Agency Action Order No. PSC-96-1333-FOF-EI approving FPL's back billing Mr. Mesa for electric service consumed, but not previously billed due to meter tampering. Based upon check readings, FPL's customer records showing the usage billed, meter testing results, the dimensions, location and appliances serving the house, the Commission concluded that FPL had established prima facie evidence

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that meter tampering occurred and electricity was manually diverted at Mr. Mesa's residence from the period May 6, 1992 through February 19, 1996. The Commission reviewed the methodology used by FPL to determine the back billed amount and found it to be reasonable. Thus, the Commission approved the back billing of Mr. Mesa's account for \$6,601.98, which includes investigative costs of \$323.46.

On November 26, 1996, Mr. Mesa timely filed a protest to the Commission's order. This case was then transferred to the Division of Administrative Hearings (DOAH). The parties reached a Settlement Agreement and on May 6, 1997, one day prior to the then scheduled DOAH hearing, Mr. Mesa filed a Voluntary Notice of Dismissal with Prejudice. On May 7, 1997, DOAH issued an Order Closing File and canceling the hearing. The Settlement Agreement is attached as Attachment A.

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the Settlement Agreement between Francisco Mesa and Florida Power & Light Company?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Pursuant to the Settlement Agreement, Mr. Mesa agreed to pay FPL the total of \$6,601.98 (the settlement amount). The agreement provides that Mr. Mesa would pay an initial payment of \$3,300.99 on or before June 6, 1997, and \$1,100.33 per month due on or before the "New Charges Past Due" date indicated on Mr. Mesa's regular monthly bills from FPL commencing with the June 1997 monthly bill and continuing thereafter until the total sum plus all late charges are paid in full. In addition, the agreement provides that a late payment charge will be assessed in the amount of 1.5% per month on the unpaid balance. In the event that the customer defaults on any payment, the agreement provides that the entire unpaid balance of the settlement amount shall be immediately due and payable and FPL may proceed with immediate disconnection of service in accordance with its tariff and the Commission's rules.

The settlement amount referred to in the agreement is the amount which the Commission found was a reasonable back billing, including the investigative charge pursuant to the Proposed Agency Action Order No. PSC-96-1333-FOF-EI. The settlement agreement effectively establishes a payment plan, whereby the amount back billed by FPL will be recovered from Mr. Mesa.

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Staff recommends that the settlement agreement should be approved. The agreement requires that Mr. Mesa pay the entire amount owed for electric service which was consumed, but not billed during the period that meter tampering occurred. As the customer of record during this period, Mr. Mesa is responsible for all electric consumption at the residence. Moreover, the agreement is consistent with the Commission's policy which encourages settlement of disputes.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: If the Settlement Agreement is approved, no further Commission action is required.

SETTLEMENT AGREEMENT

FPSC Docket No. 961179 - EI

In Re: Complaint of Francisco Mesa  
against Florida Power & Light  
Company

THIS AGREEMENT is between Florida Power & Light Company (referred to as "FPL"), and Francisco Mesa (referred to as "Customer").

FPL asserts a claim against Customer, based on the following facts and consideration: FPL backbilled the Customer in the amount of \$6,601.98 for unmetered electric usage and/or investigation charges at 7863 S.W. 5th Street, Miami, Florida. The backbilling covered the period from May 6, 1992 through February 19, 1996. Customer has disputed the backbilling.

Both Parties to this Agreement wish to reach a full and final settlement of the backbilling dispute set forth above.

The Parties to this Agreement, in consideration of the mutual covenants and agreements to be performed, as set forth below, agree as follows:

- Customer agrees to pay FPL the total sum of \$6,601.98 (referred to as "Settlement Amount"), as follows:  
Initial payment of \$3,300.99 on or before June 6, 1997 and \$1,100.33 per month due on or before the "New Charges Past Due" date indicated on May 15, 1997 and Customer's regular monthly bills from FPL commencing with the June 1997 monthly bill and continuing monthly thereafter until the total sum plus all late payment charges are paid in full. A late payment charge will be assessed in the amount of 1.5% per month on the unpaid balance. In the event the Customer defaults on any payment, the entire unpaid balance of the settlement amount plus all accrued late payment charges shall be immediately due and payable and FPL may proceed with immediate disconnection of electric service in accordance with its approved tariff and the rules of the Florida Public Service Commission ("FPSC"). The Customer understands these payments are in addition to Customer's regular monthly bills from FPL.
- The parties agree that a satisfactory resolution regarding FPSC Docket No. 961179 - EI has been reached and understand that the settlement is binding on both parties and that the parties waive any right to further review or action.

Dated May 6, 1997.

Florida Power & Light Company

Francisco Mesa  
Francisco Mesa

By: [Signature]  
Title: Rev. Prot. Agenc

~~Florida Public Service Commission~~

Florida Public Service Commission

By: [Signature]  
Title: Attorney  
Mayra Trinchett, Esq.  
Attorney for Francisco Mesa

By: \_\_\_\_\_  
Title: \_\_\_\_\_