

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

RECEIVED FPSC
12 SEP 17 AM 9:38
COMMISSION
CLERK

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

PETITIONER

-and-

DOCKET NO. 110305-EI

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

RESPONDENT

RENEWED MOTION FOR CONTINUANCE*

TO: COMMISSIONER EDUARDO E. BALBIS
ACTING HEARING OFFICER

Petitioner seeks a CONTINUANCE of his appearance on the consent agenda scheduled for September 18, 2012 for the following reasons:

Petitioner will be 75 years old on September 20, 2012. He is diabetic with renal insufficiency. A cancer survivor. Circumstances make it unlikely he can make the trip to Tallahassee to appear before the Commission.

Petitioner, Edward McDonald, asks that he be given at least 15 days notice of any hearing or ALLOWED TO PARTICIPATE VIA TELEPHONIC/VIDEO MEDIA WITH 8 DAYS NOTICE.

CERTIFICATE OF SERVICE

A copy of this RENEWED MOTION FOR CONTINUANCE was served via fax to Pauline Robinson at (800) 511-0809 and J.D. Beaseley at (850) 222-7560 and to the FPSC Clerk at (800) 511-0809.

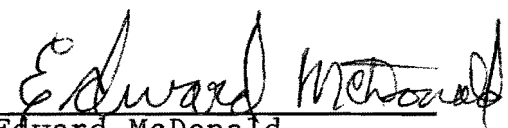
September 13, 2012

*Americans With Disabilities Act

CERTIFIED MAIL # 7012 1010 0001 5716 8859

DOCUMENT NUMBER-DATE

06207 SEP 17 2012


Edward McDonald
7203 N. 41st St.
Tampa, FL 33604-2425

FPSC-COMMISSION CLERK (813) 374-3837

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RESPONDENT

MOTION FOR SUMMARY JUDGEMENT

This MOTION FOR SUMMARY JUDGEMENT is a response to recommendations of FPSC Staff and motions of respondent.

It cites the WRONGFUL ACTS and the LAWS & rules breached by the impermissible conduct of Respondent; thus resolving the issue of "A CLAIM FOR WHICH RELIEF CAN BE GRANTED". A refund of money paid with FPSC approved interest is not a claim for "damages" - it's a REFUND! Petitioner has never sought attorneys fees.

Pursuit to Rule 1.510 Florida Rules of Civil Procedure, petitioner Edward McDonald, prays for SUMMARY JUDGEMENT and proffers as follows!

"The judgement shall be rendered forthwith if the pleadings, and other materials.....admissible in evidence on file show there is no genuine issue as to any material fact"

A GENUINE ISSUE IS AN ASSERTION SUPPORTED BY THE RECORD!

THERE IS NO GENUINE ISSUE REGARDING THE FOLLOWING UNREBUTTED FACTS in this matter.

1. Respondent, TECO, cannot charge petitioner in 2012 for a bill of \$915.94 allegedly incurred in 2004. COLLECTION IS BARRED BY THE STATUTE OF LIMITATIONS/Chapt. 95 F.S..

2. The case cited by Respondent & FPSC Staff DOES NOT APPLY TO BILLING DISPUTES INVOLVING A REGULATED PUBLIC UTILITY. SARASOTA COUNTY V. NATIONAL CITY BANK OF CLEVELAND, OHIO, 902 So. 233 (Fla 2nd DCA 2005 was a review under Title XL-County or Municipal Code Enforcement/Chapt. 162 & 95.11(3)(c) FLORIDA STATUTES-APPLIES ONLY to code enforcement by municipal and county governments (95.11(3)(c)). IT WAS NEVER INTENDED NOR HAS IT EVER BEEN APPLIED-AS AN EXEMPTION TO THE PROVISIONS OF THE STATUTE OF LIMITATIONS BY AN INVESTOR OWNED, REGULATED PUBLIC UTILITY. (EMPHASIS)

3. The \$915.94 bill was PAID. (Exhibit 1 & 2) The consecutively numbered accounts ARE THE SAME SERVICE. BOTH WERE CLOSED ON THE SAME DATE.

4. TECO RECEIVED and POSTED \$3,500.00 to petitioners account. (admitted) The bank did not recall the funds. Indeed, TECO was paid by a third party vender-Paypal and did not receive money directly from the bank. NEITHER BANK OF AMERICA OR PAYPAL SUFFERED A LOSS OR LODGED ANY COMPLAINT REGARDING THE \$3,500.00 PAYMENT. See affidavit-Exhibit 3. TECO'S actions in refusing to return petitioners \$3,500.00 plus PSC approved interest VIOLATED 25-6.100(6), 25.6.033(2) and 25-6.105(5)(2) F.A.C. Its conduct was not a standard business practice conforming to state commercial codes, its corporate tariff rules. It is arbitrary and disparate. Its statement "Bank of America reversed payment due to funds being accessed fraudulently" is false with no documentation to support it.

Wherefore petitioner demands SUMMARY JUDGMENT granting his Petition For Formal proceedings pursuant to Chapter 120 F.S. conducted by a Hearing Officer appointed by the Division of Administrative Hearings.

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. I HAVE A COPY OF BANK RECORDS 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 McDonald EXPLAIN AND DOCUMENT TECO'S ACTION BELOW.

Edward McDonald



Edward G. McDonald

4010 Pocahontas Av E., Tampa, Fl. 33610

26-May-11

1501-000031-3 and 4

Date	Reading	kWh	Billed Amount	Fees	Credit Amount	Total	Comments
12/20/04			(\$469.54)			(\$3,089.45)	correcting 11/17/04 billing
12/20/04	5869	956	\$123.31			(\$2,966.14)	
12/20/04			\$111.60			(\$2,854.54)	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	(\$1,690.23)	Returned Payment
01/20/05				\$40.00		(\$1,650.23)	Returned Payment Fee
01/20/05					\$500.00	(\$1,150.23)	Returned Payment
01/20/05				\$40.00		(\$1,110.23)	Returned Payment Fee
01/20/05					\$500.00	(\$610.23)	Returned Payment
01/20/05				\$40.00		(\$570.23)	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		\$509.77	Returned Payment Fee
01/20/05					\$500.00	\$1,009.77	Returned Payment
01/20/05				\$40.00		\$1,049.77	Returned Payment Fee
01/24/05				\$8.26		\$1,058.03	Late fee
02/04/05					(\$225.00)	\$833.03	Payment
02/08/05					\$225.00	\$1,058.03	Returned Payment
02/08/05				\$30.00		\$1,088.03	Returned Payment Fee
02/01/05			\$7.17			\$1,095.20	Acct Closed disconnection of servi

ACCOUNTS	CLOSING DATES	BALANCES
1501-000031-4	July 27, 2004	\$915.94
1501-000031-5	February 1, 2005	\$1,095.20

*Wrong closing date
see above*

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.

2

3

A F F I D A V I T

Under penalty of perjury, the affiant, to the best of his knowledge and belief, swears the following to be true. This affidavit is filed in response to a memorandum by FPSC counsel to the FPSC recommending affiant's PETITION FOR INITIATION OF FORMAL PROCEEDINGS BE DISMISSED.

- 1. I have reviewed every document submitted in this action.
- 2. THERE IS NO RECORD FROM BANK OF AMERICA RECALLING \$3500 paid by the affiant to TECO.
- 3. I have contacted Bank of America and they have no record showing Julie Goddard had Authority to exercise custody and control of funds belonging to Lillie Mae McDonald in December 2004 nad January 2005. THIS CASE CONTAINS NO VERIFICATION OF HER AUTHORITY.
- 4. TECO ACCEPTED GODDARD'S CLAIM OF "GUARDIANSHIP". THE RECORD CONFIRMS TECO'S ACCEPTANCE OF HER AUTHORITY WITHOUT OFFICIAL CONFIRMATION.
- 5. .The record does not contain a month by month accounting for charges in account 1501-000031-5 fzom July 27, 2004 to February 1, 2005 nor does it show a month by month accounting for charges in account 1501-000031-4 for the same period. (allegedly two different accounts)
- 6. The record shows that account 1501 000031-5 had a credit balance of \$2,854,54 on December 23, 2004 - 3 times the amount needed to pay \$915.94 allegedly owed in account 1501-000031-4.

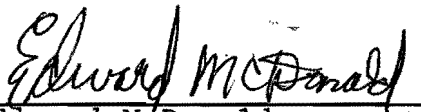
FURTHER SAYETH THE AFFIANT NAUGHT.

May 21, 2012

Edward McDonald
Edward McDonald

CERTIFICATE OF SERVICE

A copy hereof was forwarded by U.S. Mail this 14th day of September 2012 to Clerk, FPSC, 2540 Shumard Oak Blve, Tallahassee, FL, Pauline Robinson, Office of General Counsel, 2540 Shumard Oak Blvd. Tallahassee, Fl and James Beasely, P.O. Box 391, Tallahassee, FL 32301.


Edward McDonald
7203 N. 41st St.
Tampa, FL 33604-2425

FPSC Certified Mail # 7012 1010 0001 5716 8859(813) 374-3837