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ORIGINAL

December 16, 1998

State of Florida Public Service Commission  
Division of Records and Reporting  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-8050

981923 - EI

RE: Florida Power & Light Company;  
Complaint and Petition pursuant to FAC 25-22.036 (5) and (4)(b)

Gentlemen:

Florida Power & Light Company broke a gate and entered my yard, which is a felony under Florida law. *Section 810.02 F.S.*

I demanded that it adjust the damage to the property, and it refused, despite your rules requiring that it investigate and keep records of its investigation, instead denying that it had broken in. They told a story to myself and the police which was patently and provably false.

I made a police complaint, and FPL was able to sidestep a criminal prosecution of its burglar/employee, whom it refused to identify, by asserting to the Charlotte County Sheriff's Office that you had conferred on it immunity from criminal prosecution for any act it might commit on private property. FPL cited to *Section 2.8* of its Tariff, but in fact, later acknowledged in deposition that it had no such immunity and that its officer "could not remember" what she had told the investigating officer. He recalls it differently.

As things currently remain, FPL has reserved the right to break into my residence again if it feels like it, has refused to adjust the damage to my gate, or even to visit the premises, and has falsely asserted to a trial judge in Charlotte County, Florida that it is immune from civil suit because you have conferred such immunity on it. This assertion is all the more disturbing because they have direct personal knowledge that it is false. *Trawick v. Florida Power & Light Company, et al., 700 So.2d 770 (Fla. 2d DCA 1997).*

To add insult to injury, FPL counts the expense of these frivolous defenses and bad faith games-playing as a cost of doing business and places it on the backs of the rate-paying public instead of bearing it out of its corporate profits as it rightly should.

I would appreciate an opportunity to appear before you and discuss with you the significant details of the foregoing assertions. I have documentary evidence for most of it and calendars and other matters for the rest.

FPL's behavior is not something that a private corporation should engage in, and I believe it does this only because it believes it is

DOCUMENT NUMBER-DATE

14468 DEC 22 88

FPSC-RECORDS/REPORTING

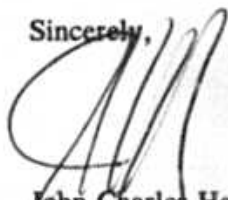
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1. above the law and
2. immune from the expense of doing so,

both of which it bases on your regulatory power and its guaranteed profit rate. It should be charged the expense of this wrongful conduct out of its profit, not the pockets of its customers.

I respectfully protest.

Sincerely,

A handwritten signature in black ink, appearing to be 'JCH', written over the word 'Sincerely,'.

John Charles Heekin, Esq.  
/bqh

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

JOHN CHARLES HEEKIN,

Petitioner,

v.

Docket No.

FLORIDA POWER & LIGHT COMPANY,

Respondent.

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the Complaint has been served on Respondent FLORIDA POWER & LIGHT COMPANY, c/o Joaquin E. Leon, as Registered Agent, 9250 W. Flagler Street, Miami, Florida 33174 by U.S. Mail this 21 day of December, 1998.



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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of

JOHN CHARLES HEEKIN,

Petitioner,

v.

Docket No. 981923-EI

FLORIDA POWER & LIGHT COMPANY,

Respondent.

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COMPLAINT

JOHN CHARLES HEEKIN, pursuant to Florida Administrative Code Sections 25-22.036(4)(b) and (5), herewith petitions and files this complaint against FLORIDA POWER & LIGHT COMPANY, a person subject to the jurisdiction of this Commission, and says:

1. Name of Commission. The name of the Commission is the Florida Public Service Commission. The Commission's docket number is unknown to Petitioner.
2. Name and Address of Complainant. The name and address of the Complainant/Petitioner is JOHN CHARLES HEEKIN, P. O. Box 2434, Port Charlotte, Florida 33949-2434.

The Petitioner's substantial interests are or will be affected by a Commission determination because his utility charges by the Respondent/Defendant corporation are directly related to the misconduct complained of herein. Further, the Defendant/Respondent has committed a

burglary on the property of the Plaintiff and has violated Commission rules concerning investigation and adjustment of the resulting damage; has falsely claimed that the corporation was immune from civil liability for the burglary because this Commission has declared it to be so; and has asserted to the Circuit Court of the Twentieth Judicial Circuit in Charlotte County, Florida (and others) that it is immune from civil suit because this Commission has declared it to be so. As a result, the Complainant/Petitioner herein has been subjected to a burglary by the Defendant committed at its express direction; bad faith defenses and stonewall litigation tactics including the false statements of material fact referred to in the preceding sentence; the expense of correcting the false information given to the Charlotte County Sheriff's Office that the Defendant was immune from criminal liability for its criminal acts because this Honorable Commission has declared it to be so; and increased utility bills resulting from the fact that the Defendant, having engaged in all of the bad faith conduct referred to in the preceding sentences, adds the cost of the same to its rate base rather than absorbing it out of its corporate profit as it should be required to do, since the expense of its violations of law and false statements of material fact to police and circuit judges are not legitimate expenses of doing business, whatever that business might be.

3. Known Disputed Issues of Material Fact. The Defendant/Respondent disputes all issues of fact, although there is irrefutable evidence that the statements made in the preceding paragraph are true. The Defendant has not given an unequivocal answer to the question whether it refused to investigate the complaint of Complainant/Petitioner herein as it is required by law to do, but Petitioner herewith certifies that it has indeed failed to do so.

4. Concise Statement of Ultimate Facts Alleged. The ultimate facts alleged are that the undersigned was made aware by an employee of the Defendant/Respondent that its agents engaged in repeated and pervasive acts of voyeurism and eavesdropping. The undersigned personally observed such conduct on his property by the Defendant through its agents. The undersigned demanded that the Defendant desist from entry in his property without the presence of the undersigned. The Defendant contacted the undersigned and stated that it desired to install a transponder meter so that its agents would not enter the property of the Plaintiff, and made an appointment to do so. The Defendant/Respondent confirmed that the undersigned would be unavailable for such appointment on August 7, 1998. The Defendant, having made an appointment for a different day, and having confirmed that the undersigned would be unavailable and absent from his premises on August 7, broke in on August 7 to effect the meter repair. In doing so, the Defendant committed a burglary, Section 810.02 Florida Statutes, and broke a fence, Section 810.115 F.S. and committed an unauthorized entry on land, Section 810.12 F.S. The Defendant's position is that Section 2.8 of its tariff (which it has steadfastly refused to produce) absolves it from all criminal liability. The undersigned demanded that the Defendant come observe the damage and adjust it, FAC 25-6.094, which the Defendant refused to do. The undersigned sent a discovery request to the Defendant for the documents required to be maintained pursuant to FAC 25-6.021, and was informed by the Defendant (following some stonewalling) that no such documents exist. The undersigned instituted civil litigation against the Defendant for an injunction and damages, and the Defendant instructed third party witnesses to disobey subpoenas, Fla.R.Civ.P. 1.410.

and stonewalled nearly every discovery request, including sixteen (16) scheduled depositions, three (3) sets of interrogatories, and a request for admissions.

5. The Rule, Order or Statute Violated. Section 810.02 F.S. (burglary); Section 810.115 F.S. (breaking a fence); Fla.R.Civ.P. 1.280 (scope of discovery); Fla.R.Civ.P. 1.410 (subpoenas to non-parties); FAC 25-6.094 (full and prompt investigation of customer complaints); FAC 25-6.021 (records of complaints); Sections 934.01(4) F.S., 934.03 F.S. (interception of oral communications prohibited); Section 810.14 F.S. (voyeurism prohibited).

6. Actions Which Constitute the Violation. The actions which constitute the violation are set forth in the preceding paragraphs. To summarize, they are eavesdropping, voyeurism, breaking the fence and thereby forcibly entering the curtilage of the dwelling of the Petitioner and bad faith games-playing in the defense of the resulting civil litigation, all of which are charged to the rate-paying public rather than to the tortfeasor.

7. Name and Address of the Person Against Whom the Complaint is Lodged. This complaint is directed to FLORIDA POWER & LIGHT COMPANY, 9250 W. Flagler Street, Miami, Florida 33174.

8. Specific Relief Requested. The undersigned requests that the Defendant/ Respondent be fined by this Honorable Commission, that it be required to investigate and adjust the damage its burglar did to the undersigned's premises; that the Commission, in its discretion, decide whether the Defendant should be permitted to charge the bad faith conduct referred to above to the rate-paying public or whether it should, as requested, be required to

absorb such expense as a reduction of its over-generous profits, that the Defendant be required to issue a written apology to the undersigned for the action of its employee, done at its direction and for which it has so vigorously and in bad faith defended its employee, that the Commission require the Defendant to pay the court costs and attorney's fees of the undersigned and his costs and fees for attendance at any hearing before this Honorable Commission, and for such other and further relief as the Commission shall deem proper and just.



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