

SCANNED

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by C. John
Coniglio against Florida Power
Corporation regarding account
classification and backbilling.

DOCKET NO. 990385-EI
ORDER NO. PSC-99-1189-PAA-EI
ISSUED: June 8, 1999

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING COMPLAINT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

I. CASE BACKGROUND

On January 12, 1998, the Division of Consumer Affairs (CAF)
received correspondence from Mr. C. John Coniglio on behalf of his
company, Wayside RV Park. Mr. Coniglio disputed the amount of his
December, 1997, electric bill from Florida Power Corporation (FPC),
which totaled \$1,320.55. Of this amount, the bill showed \$1,266.55
as a transfer amount with \$54 as a balance forward on his active
account.

FPC responded to the Commission on February 6, 1998. FPC
included a copy of a letter dated January 12, 1998, which it sent
to Mr. Coniglio. The letter stated that the transfer amount was
for charges incurred under Account Number 93641-75118 from
September, 1996, to October, 1997, for service at 4078 Northeast

DOCUMENT NUMBER-DATE

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FPC-RECORDS/REPORTING

ORDER NO. PSC-99-1189-PAA-EI
DOCKET NO. 990385-EI
PAGE 2

120 Road, Gin Oaks, #6, Oxford, Florida. FPC stated that the account was established in Mr. Coniglio's name d/b/a Wayside RV Park with his permission. On December 3, 1997, once the account was closed and was determined to be inactive, FPC transferred the outstanding balance to Mr. Coniglio's active account.

At the informal conference on February 24, 1999, Mr. Coniglio disputed whether the account at 4078 Northeast 120 Road, Gin Oaks #6, Oxford, Florida was established as d/b/a Wayside RV Park. He maintained that he established residential service for an employee who he had later dismissed when the employee had not paid the electric bill. Mr. Coniglio argued that Rule 25-6.105(8)(e), Florida Administrative Code, precludes a public utility from discontinuing service to a customer for failure to pay for a different class of service. FPC maintained that the account was established as a commercial account in Mr. Coniglio's name d/b/a Wayside RV Park and was always rated as a commercial account. FPC also noted that the service location received service under a commercial account prior to Mr. Coniglio being the customer of record. Mr. Coniglio asserted that FPC was prevaricating and that he had bills to prove that FPC had switched from residential to commercial rating for the account. CAF requested copies of the bills from Mr. Coniglio. Mr. Coniglio promised copies of the previous bills purporting to prove the account was originally rated residential on several occasions, but he has thus far failed to produce them.

During the informal conference, Mr. Coniglio also raised the point that the account in question was disconnected on July 24, 1997, for nonpayment and subsequently reconnected without his knowledge. FPC agreed that service was disconnected for nonpayment and reconnected after payment arrangements were reached. FPC stated that a person claiming to represent Mr. Coniglio made payment arrangements for the unpaid balance. Since there had been no notification to close the account or transfer the account into another name, the account remained in Mr. Coniglio's name. The account was ultimately closed on October 7, 1997, for nonpayment.

II. Mr. Coniglio's Complaint

Mr. Coniglio complains that FPC improperly billed his current commercial account, 06544-26098, for service provided to Account Number 93641-75118. Mr. Coniglio maintains that Account Number 93641-75118 was initially a residential account that he set up for an employee who he later dismissed for failing to pay the electric

bill. Mr. Coniglio further asserts that he has bills to prove that FPC did originally bill the disputed account as residential. Mr. Coniglio also claims that FPC improperly reconnected service after a disconnect for non payment on Account Number 93641-75118 after being contacted by someone purporting to represent Mr. Coniglio.

III. Florida Power Corporation's Response

FPC asserts that Account Number 93641-75118 was originally established in the name of C. John Coniglio d/b/a Wayside RV Park and that his account was always rated commercial. FPC further claims that the property served by the account was previously served under a commercial account prior to Mr. Coniglio becoming the customer of record. FPC maintains that Mr. Coniglio opened both the disputed account and his current account and that both are commercial accounts in the name of C. John Coniglio d/b/a Wayside RV Park.

IV. Analysis

A. Customer Responsibility Under the Applicable Tariff

Based upon FPC's Tariff Sheet 4.080 section 8.05, Mr. Coniglio is responsible for all electric service used under the disputed account at the service location until he gives a disconnect notice to FPC and FPC acts upon such notice. As the customer of record under FPC's tariff, Mr. Coniglio is responsible for the timely payment of the electric bills. Mr. Coniglio was aware of the account, however, he never contacted FPC regarding the status of the account or requested that it transferred into another name. It is Mr. Coniglio's responsibility to notify FPC to remove the account from his name. Absent notification, FPC will continue to serve the account in a normal manner. This includes issuing bills and discontinuing service if those bills are not paid, and further reconnecting service if payment arrangements are made to pay any balance due.

B. Transfer of Balance Between Accounts of the Same Class

In this case there is no evidence to suggest that FPC improperly transferred money owed under a residential account to an existing commercial account. Rule 25-6.105(8)(e), Florida Administrative Code, states that a utility may not disconnect service to a customer for "failure to pay for a different class of service." We believe that both the disputed account and the active

ORDER NO. PSC-99-1189-PAA-EI
DOCKET NO. 990385-EI
PAGE 4

account were established as commercial accounts. Despite many opportunities to do so, Mr. Coniglio has not produced the bills he asserts show that FPC originally rated the disputed account as residential.

C. FPC May Disconnect for Nonpayment of Bills

We believe that FPC has properly backbilled Mr. Coniglio's existing commercial account for the amount owing from the disputed account. Mr. Coniglio never asked FPC to discontinue service to the disputed account, nor did he dispute any amount owing on the account until the entire balance was transferred to his active account. Under Rule 25-6.105(5)(g), Florida Administrative Code, FPC is authorized to disconnect service for nonpayment of bills when certain notice provisions are met.

Based on the information reviewed, we do not believe FPC has violated any rules in its assessment of the \$1,320.55 past due balance from account # 93641-75118. We, therefore, deny Mr. Coniglio's complaint regarding account classification and backbilling.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the complaint by C. John Coniglio against Florida Power Corporation regarding account classification and backbilling is denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

ORDER NO. PSC-99-1189-PAA-EI
DOCKET NO. 990385-EI
PAGE 5

By ORDER of the Florida Public Service Commission this 8th
day of June, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

GAJ/TRC

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 29, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

M E M O R A N D U M

JUNE 7, 1999

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RECORDS AND
REPORTING

RUE For GAJ

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (JAYE, COLLINS)

RE: DOCKET NO. 990385-EI - COMPLAINT BY C. JOHN CONIGLIO
AGAINST FLORIDA POWER CORPORATION REGARDING ACCOUNT
CLASSIFICATION AND BACKBILLING

99-1189-PAA

Attached is an Order Denying Complaint, with attachments, to be issued in the above-referenced docket. (Number of pages in order - 15)

GAJ/TRC/js
Attachment

cc: Division of Electric and Gas (Goad)
Division of Consumer Affairs (Stokes)
I:990385or.gaj

See 4
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