

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 060774-EI

COMPLAINT OF FREDERICK SMALLAKOFF
AGAINST FLORIDA POWER & LIGHT
COMPANY CONCERNING ALLEGED
IMPROPER BILLS, CASE NO.
696236E.

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PROCEEDINGS: COMMISSION CONFERENCE
ITEM NO. 1

COMMISSIONERS
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, March 5, 2013

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

FLORIDA PUBLIC SERVICE COMMISSION

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P R O C E E D I N G S

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2 **CHAIRMAN BRISÉ:** Now we are going to move to
3 Item Number 1.

4 **MS. BROWN:** Good morning, Commissioners.
5 Martha Brown with the legal staff.

6 Item 1 is staff's recommendation to deny Mr.
7 Smallakoff's complaint against FPL, because the
8 complaint has been resolved and no evidence has been
9 provided to show that FPL is in violation of any
10 statute, rule, or order upon which the Commission could
11 grant relief.

12 We are available to answer questions. FPL is
13 here and I understand Mr. Smallakoff is on the line.

14 **CHAIRMAN BRISÉ:** Yes. Thank you very much.
15 I believe that Mr. Smallakoff is interested in
16 addressing the Commission, so we will give him that
17 opportunity to do so.

18 Mr. Smallakoff has five minutes to make his
19 comments, and if there are any questions from the
20 Commissioners, he will be allowed to answer those
21 questions, but Mr. Smallakoff has to remain within the
22 five minutes.

23 **MR. SMALLAKOFF:** Can I ask who's speaking at
24 each turn here? The original one, I presume, was
25 Martha Brown.

1 **CHAIRMAN BRISÉ:** Yes, and I was just
2 speaking; I'm the Chairperson of the Commission.

3 **MR. SMALLAKOFF:** You're Mr. Brisé?

4 **CHAIRMAN BRISÉ:** Yes, sir.

5 **MR. SMALLAKOFF:** Okay. I have to ask one
6 thing in advance. I had sent two letters to the
7 Commission, one dealing with FPL and the other one
8 dealing with Progress Energy.

9 **CHAIRMAN BRISÉ:** Yes, we are aware of those.

10 **MR. SMALLAKOFF:** Okay. You received both of
11 them?

12 **CHAIRMAN BRISÉ:** Yes, we have. Your five
13 minutes begins now.

14 **MR. SMALLAKOFF:** Okay. Well, within the five
15 minutes, I disagree entirely with Martha Brown's
16 statement. All the matters have been addressed in the
17 letter that I sent to the Commission considering the
18 preponderance of paperwork and so on and so forth, but
19 it does address essential issues that were in violation
20 of civil law and the laws governing how the utilities
21 operate. And I'm referring to the theft of my mail as
22 an example, to take a valid report that shows indeed
23 that there is nothing wrong with -- there was nothing
24 wrong with the property, and using the Post Office to
25 take mail out of my box, that report out of my box and

1 send it back to FPL so that it could be removed in a
2 benign statement completely different from what the
3 technician stated, that there was absolutely nothing
4 wrong with the residence to incur the kind of charges
5 that were made by the Florida Power and Light.

6 And if Ms. Brown can make a statement that
7 there were no violations and so on and so forth, that
8 is absolutely wrong. She refused to provide me the
9 information that she used for her recommendation until
10 the last minute, and in two recorded phone calls to me
11 she all but stated that as far as she's concerned the
12 case is resolved.

13 Giving money back for false charges that were
14 calculated to be false and so on, and then at this late
15 stage to say, well, we're going to give you your money
16 back, which should have never been incurred in the
17 first place, that falls far short of Ms. Brown's
18 assessment of the matter.

19 And as to the packet, it was absurd, the
20 items that she used for her recommendation and so on,
21 and she would never discuss anything with me and would
22 hang up on me constantly and so on. So I addressed
23 those issues and many other issues in the letter sent
24 to the Commission, and I presume and I hope that is
25 going to be a matter of record with respect to my

1 presentation.

2 As it is, a five-minute presentation comes
3 nowhere near to addressing the mounds of paperwork and
4 violations and so on that were perpetrated. And like I
5 said, if the Commission has any questions with respect
6 to the contents of that letter, or a clarification of
7 any kind, I would be glad to provide it because the
8 whole letter can't be recited and what it contains in a
9 matter of five minutes. Now, probably three left.

10 So the letter contains essential information
11 as to what was involved. Those charges were calculated
12 and they were false, and there is no basis for them
13 regardless of Ms. Brown's promotion on Florida Power
14 and Light's behalf as I stated, and so on.

15 And also I have also dealt with interference
16 of all kinds in my attempting to get assistance with a
17 slight delay so that I could examine the information
18 that would be used for their recommendations on both
19 counts. And essentially both letters apply to both
20 utilities and so on. And when I could be advised, as I
21 stated, by a local politician that you are not going to
22 win this one, it appears the case has been predisposed.

23 And what I have said is the absolute truth
24 and it is unfortunate that those people involved were
25 not exposed to take an oath to tell the truth, because

1 there is more than sufficient material to discount what
2 Ms. Brown is saying.

3 **CHAIRMAN BRISÉ:** Mr. Smallakoff, you have one
4 minute. Just letting you know you have one minute.

5 **MR. SMALLAKOFF:** I've said just about all I
6 needed to say with this. It's all contained in the
7 letter to you, and it can't be gotten over in a
8 matter -- or gone over in a matter of five minutes, but
9 I sincerely hope that every member of that Commission
10 has read what was stated in those letters, and now with
11 the letter to FPL because it addresses most, if not all
12 of the issues outstanding.

13 There was no basis for those false charges.
14 I have the receipts that I paid all the time every time
15 as to those bills. And now inordinate amounts have
16 been assessed, and it's clear why. It's simply a
17 targeting process.

18 **CHAIRMAN BRISÉ:** All right. Thank you very
19 much.

20 At this time we are going to go ahead and
21 place you on mute, and if there are questions for you,
22 then we will place you off of mute at that point.

23 Okay.

24 **MR. SMALLAKOFF:** All right.

25 **CHAIRMAN BRISÉ:** Thank you.

1 Commissioner Graham.

2 **COMMISSIONER GRAHAM:** I was just going to
3 move the staff recommendation.

4 **CHAIRMAN BRISÉ:** All right. Is there a
5 second?

6 **COMMISSIONER EDGAR:** Second.

7 **CHAIRMAN BRISÉ:** Okay. It has been moved and
8 seconded.

9 Discussion?

10 Commissioner Balbis.

11 **COMMISSIONER BALBIS:** Thank you, Mr.
12 Chairman, and I support the motion.

13 And, you know, I met with staff and discussed
14 this issue with staff, and I did read Mr. Smallakoff's
15 letter on this issue, and it is apparent that Florida
16 Power and Light has not only refunded the \$300 in
17 question, but also an additional amount of \$406.13 for
18 the other late fees, et cetera. And I think this issue
19 has been resolved by Florida Power and Light. Staff
20 could not find any indications of improper practices,
21 so with that I fully support the motion.

22 **CHAIRMAN BRISÉ:** All right. Thank you.
23 Commissioner Brown.

24 **COMMISSIONER BROWN:** I actually have a
25 question. I support the motion, as well, but I'm

1 curious, Ms. Brown. I know there are some inaccuracies
2 that the gentleman indicated, but -- over the line --
3 but I wanted to ask you a question about the statute of
4 limitations on customer complaints at the Commission.

5 Are you aware is there a statute of
6 limitations, because I know this occurred in 2005, the
7 charges, alleged high charges were in 2005. And then
8 we have a formal complaint in 2006, and then we have
9 another complaint under Item Number 2, which is with a
10 different, you know, IOU. So is there ever a statute
11 of limitations on customer complaints?

12 **MS. BROWN:** I'm not aware of any. I don't
13 think there is one.

14 **COMMISSIONER BROWN:** So they can just go on
15 and on and on and cost the ratepayers a lot of money to
16 defend?

17 **MS. BROWN:** Well, there are some actions that
18 the Commission can take to address customers who
19 repeatedly abuse the system. One of the things we have
20 done in the past is come to the Commission to get an
21 order to the customer that they can't file any
22 additional complaints unless they have a lawyer to do
23 it for them; that seems to help. But we wait for
24 awhile until we do that in order to be sure that we are
25 at the point where we are dealing with someone who

1 really is abusing the system.

2 **COMMISSIONER BROWN:** Okay. With that, I
3 support the motion. Thank you.

4 **CHAIRMAN BRISÉ:** All right. Thank you. Any
5 further comments?

6 Okay. I think that as I look at this case,
7 as Commissioner Brown alluded to, the original
8 complaint in 2005, formal complaint in 2006, there was
9 intervention by the Office of Public Counsel in 2007.
10 It has been ongoing. The customer has been -- in terms
11 of the financial aspect of it, the customer received
12 some sort of refund to address that issue. I think the
13 Commission has done everything that it has to do to
14 address the issues of Mr. Smallakoff in this particular
15 case.

16 I will say this. I think our staff does an
17 excellent job and they are above board, and we
18 certainly appreciate the work of our staff. And I will
19 say this, and anyone who takes objection to it can take
20 it, I take it personally when it is said that our staff
21 is not speaking the truth and they are not doing their
22 job the way it should be done. So I want to make sure
23 that our staff is affirmed in that way to know that we
24 believe that you followed the proper steps and we are
25 where we need to be at this point with this particular

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case.

All right. So it has been moved and seconded. Any further comments? Seeing none, all in favor say aye.

(Vote taken.)

CHAIRMAN BRISÉ: Any opposed? Okay. Seeing none.

* * * * *

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, Hearing Reporter
6 Services Section, FPSC Division of Commission Clerk, do
7 hereby certify that the foregoing proceeding was heard
8 at the time and place herein stated.

9
10 IT IS FURTHER CERTIFIED that I
11 stenographically reported the said proceedings; that
12 the same has been transcribed under my direct
13 supervision; and that this transcript constitutes a
14 true transcription of my notes of said proceedings.

15
16 I FURTHER CERTIFY that I am not a relative,
17 employee, attorney or counsel of any of the parties,
18 nor am I a relative or employee of any of the parties'.
19 Attorney or counsel connected with the action, nor am I
20 financially interested in the action.

21
22 DATED THIS 11th day of March, 2013.

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24
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JANE FAUROT, RPR
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