1		BEFORE THE
2	FLORIDA	PUBLIC SERVICE COMMISSION
3		
4 5	In the Matter of:	DOCKET NO. 20200030-EI
6	Complaint by Juana	
7	against Florida Po regarding backbill	wer & Light Company
8	meter tampering.	/
9		
10		
11	PROCEEDINGS:	COMMISSION CONFERENCE AGENDA ITEM NO. 4
12	COMMISSIONERS	
13	PARTICIPATING:	CHAIRMAN GARY F. CLARK COMMISSIONER ART GRAHAM COMMISSIONER JULIE I. BROWN COMMISSIONER DONALD J. POLMANN
15		COMMISSIONER ANDREW GILES FAY
16	DATE:	Tuesday, June 9, 2020
17	PLACE:	Betty Easley Conference Center Room 148
18		4075 Esplanade Way Tallahassee, Florida
19	REPORTED BY:	DEBRA R. KRICK Court Reporter and
20		Notary Public in and for the State of Florida at Large
21		
22		PREMIER REPORTING 114 W. 5TH AVENUE
23		TALLAHASSEE, FLORIDA (850) 894-0828
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1	PROCEEDINGS
2	CHAIRMAN CLARK: All right. Next up is Item
3	No. 4. Ms. Mary Anne Helton will introduce the
4	item for us.
5	MS. HELTON: Item No. 4 is staff's
6	recommendation to deny Ms. Del Rosario's complaint
7	that she filed against Florida Power & Light
8	Company. The customer who has owned the property
9	since 2003 alleges that she was improperly
10	backbilled for 48 months of usage after FPL found
11	that her meter was tampered with in 2014.
12	Staff recommends that FPL did not violate any
13	applicable statute, rule, tariff provision or order
14	when it processed the customer's account.
15	Ms. Del Rosario has requested to address the
16	Commission, and she's been told that she has five
17	minutes to make a statement. So she should be on
18	the line, as are David Lee, Monica Munez and Russel
19	Brooker from Florida Power & Light, and also
20	several staff members are on the phone if you have
21	any questions of them.
22	CHAIRMAN CLARK: All right. Ms. Del Rosario,
23	are you on the line?
24	MS. DEL ROSARIO: Yes, sir, I am here. Good
25	morning.

1	CHAIRMAN CLARK: Okay, you have you are
2	recognized.
3	MS. DEL ROSARIO: Okay. Good morning, Your
4	Honor and all the Commissioners in this conference.
5	I put everything in writing, so it's just for me
6	to, you know, for the five minutes.
7	Good morning to every one in this conference.
8	Good morning, Your Honor. My name is Juana Del
9	Rosario, and I live at 10751 NW 87th Court, Hialeah
10	Gardens, FL, 33018. I humbly come before you to
11	present myself before this commission to pose and
12	defend my case against FPL.
13	I bought this house, a two-bedroom unit, in
14	2002, right after the complex was built. Between
15	2002 and 2004, after I was paying, I noticed I was
16	paying high energy consumption for a period of two
17	years, especially that I was working out, you know,
18	every day out of the house.
19	Later it was discovered that I was paying in
20	the wrong meter consumption, and that's why I want
21	to bring this issue again because I consider that
22	it's related, which, you know, I was paying the
23	bill for a different two-bedroom unit, a house in
24	the same building where I live.
25	That incident was verified by FPL's supervisor

1	at that time right after I contacted this this
2	Commission. FPL said that at that time that it was
3	the builder builder, contractor, or whatever,
4	that the meter was switched. At that time, FPL
5	reimbursed me the around 2,500 that I had overpaid.
6	15 years later, FPL is accusing me of meter
7	tampering.
8	On June 2000 June 12th, 2019, I was
9	(inaudible) for 21 days without power, without
10	electricity, especially that I am living I am a
11	single mom living with my daughter, my minor
12	daughter. I want to (inaudible) that as a
13	christian woman and a U.S. citizen, I have work and
14	values. I have been living in this country for 25
15	years, and I didn't know that this type of fraud
16	was committed in this country.
17	The FPL stated that, in writing, that for four
18	times since I I lived in this property they have
19	changed my meter, and that this incident is not
20	related to the first one.
21	I think that, yes, it's related, and I am a
22	victim once again of the second incident, that, I
23	am being charged practically the same amount that
24	they FPL reimbursed to me in 2004 for overpayments.
25	I ask this commission that I appeal y'all to

1	investigate this form of crime. This FPL
2	alligates that (inaudible) have replaced the
3	meter of my unit, and now that they installed my
4	meter and they determined at last that the meter
5	has been tampered. My question is whether how I
6	know if they, you know, installed a brand new meter
7	maybe, or a used meter, or a refurbished meter when
8	they installed now this my meter?

I also want to point that usually in the past,

I was al-- always paying at low consumption because

of the single mom and working all the time -- the

whole day, I was normally -- it was normal for me

to turn all the breaks except the refrigerator when

I was going out from my house.

Finally, you know, I come again to this commission to express that I would like -- I am 100 percent innocent of all the FPL allegations; that it's not fair for my daughter and I dealing with this incident, one which especially in the middle of a global pandemic that we are experiencing.

They said that I am responsible to pay 2,351.23. And, Your Honor, I request for this commission to review my case one more time and to remove all the -- the charges and allegations of FPL is accusing to me.

1	Thank you, and thank to you all Commissioners.
2	That's my statement.
3	CHAIRMAN CLARK: Thank you, Ms. Del Rosario.
4	All right. Is there anyone on the line from
5	FPL to respond?
6	MR. LEE: Hi, good morning, Commissioners.
7	This is David Lee, attorney for Florida Power &
8	Light Company.
9	Yeah, let me allow me to respond. So in
10	2004, we agree there was a switched meter condition
11	at her property. It was corrected, and she was
12	given a credit on her bill for the overcharges that
13	resulted from that. However, in 2010, we installed
14	a meter on her property, a smart meter, and it
15	worked fine.
16	And then in 2019, we discovered a lead for
17	potential meter tampering, that we went out on the
18	property on May, I believe it was I am sorry,
19	April 5th, and we removed the meter, discovered the
20	meter had an outer seal missing. When the meter
21	was removed, we noticed that the inner seal was
22	missing. And when we tested the matter, we noticed
23	the CT wire, which there is two legs of power that
24	run to the home, one of the CT wires was removed.
25	And when we tested the meter, it was only measuring

about 49.4 percent weighted average consumption going into the home.

Then on -- you know, we did a rebuild, and we went out to the customer's property on June 12th.

And when we disconnected service to her home, you know, took the meter out that we believed was running to her home, the service to her home was, in fact, interrupted, and no other customer there in the building called to complain that their power had been out.

In addition, as a courtesy, about three or four weeks later, we reconnected the customer's service after the compliant was filed. And once we reconnected the meter that we believed was running to her home, the power to her home came back on.

So as she stated, she was out for about three weeks while the meter we believed running to her home was disconnected. So that verifies that the meter that we believe running to her home was, in fact, running to her house, and that the switched meter condition had been corrected back in 2004.

In addition, prior to the meter tampering being discovered, there was a couple of occasions where Ms. Del Rosario was unable to pay her bill, and she was disconnected for nonpayment. And each

1	of those times, as soon as her meter that we, you
2	know, we had the smart meter and remote
3	disconnected she would make prompt payment and the
4	meter was turned back on.
5	So all those things indicate that the meter
6	that we believe is running to her home is, in fact,
7	the correct meter. And, you know, unless there are
8	any other questions, that's the information we have
9	on that.
10	CHAIRMAN CLARK: Okay. Thank you, Mr. Lee.
11	Any Commissioner have any questions?
12	Commissioner Brown.
13	COMMISSIONER BROWN: Thank you.
14	I just want to make sure that it is absolutely
15	clear that there is not a possibility that it could
16	have been someone else in the apartment complex
17	tampering with the meter. I just want that
18	validation from FPL, especially considering that
19	the builders originally mislabeled the meters.
20	MR. LEE: Good morning, Commissioner Brown.
21	So we have no way of knowing who actually
22	tampered with the meter. We don't have the ability
23	to determine that, but under the Florida
24	Administrative Code, we just have to show that the
25	customer benefited from the tampering with the

1	meter. And it's clear that the meter was tampered
2	with was the one that served her home based on the
3	information I just gave you.
4	So, again, we don't know if it was her or some
5	other person that who tampered with the meter. We
6	just know that the meter was tampered with.
7	COMMISSIONER BROWN: Can you talk about the
8	yous said that this customer was also previously
9	delinquent and had previous disconnections for lack
10	of payment. Can you talk about the type of billing
11	options that have been made available to this
12	customer, and that are offered to customers in
13	general with FPL?
14	MR. LEE: So, I mean, under normal conditions,
15	a customer who is having an issue with paying a
16	bill can ask for a payment extension, and sometimes
17	can enter into a payment plan.
18	Ms. Del Rosario's bills, even with the
19	corrected meter, are not particularly high. I
20	think her bills are around \$100 or less a month. I
21	think even in the last month it was only around
22	\$50. So she's not a customer who has a very high
23	bill normally.
24	So, you know, we try to be flexible as best we
25	can with a customer, if they qualify. You know,

she's always, whenever been late and had her meter disconnected, she's paid the bill to get the service turned back on.

COMMISSIONER BROWN: Thank you.

And -- (inaudible) -- the complaint, I worry we are going to be seeing more types of these complaints based on the current economic state of so many consumers, where, you know, somebody who wants to potentially manipulate a meter to avoid paying actual charges but then because of our rule, it provides customer protection from disconnections during the complaint process. This complaint has taken over a year, and so I worry that companies are not going to be made whole for extended periods of time like this, and even after the company may still not be made whole.

So the question I have really is for staff.

What are -- can you explain to us, to the

Commission and to the parties on the line, in

general terms our complaint process, and clarify

some areas we can improve on in expediting a

resolution more expediently? Because this -
again, this has gone on for over a year, and again,

I don't know if the company will ever be made

whole.

1	CHAIRMAN CLARK: Mr. Futrell, could you
2	address that?
3	MR. FUTRELL: Yes, Commissioner, Chairman. I
4	believe Ms. Hicks is on the line, as well as Mr.
5	Plescow, if they are available to respond to that
6	question.
7	MS. HICKS: Yes, this is this is Ms. Hicks,
8	it's Rhonda Hicks in the Complaint Bureau.
9	When it comes to to doing the complaint
10	process, we tried to bring these as as quick as
11	we can. The problem with, as as far as meter
12	tampering, that whole process actually comes it
13	takes a while to, for one, for the company to find
14	those type of complaints, there is a little delay.
15	And that has always been a problem as far as
16	finding those type of complaints.
17	And those are the ones that generally the
18	Commission those are the ones that we really
19	bring to the Commission and and those are the
20	ones that the company companies have a problem
21	bringing quickly. I think it's because there are
22	so many customers, and because of, I believe they
23	say the different matrixes used to determine that a
24	customer is, in fact, stealing power, or taking
25	power without paying, they they see that there

1 is a drop in usage, and they may watch it, and then 2. they go back, and they see it again. And then 3 that's when they go and they may pull the meter. 4 So, yes, it shouldn't take -- sometimes it 5 takes -- they may come back and it might be a year. Now, that certainly is too long. 6 I think that they 7 are trying to get better, but until the company 8 bring those to -- they bring those to the customers 9 a little sooner, we won't get them and bring them 10 to the Commission any sooner, because, of course, they have come -- the customer has to file a 11 12 complaint with us, and then we have to investigate 13 and -- and then bring them to you. 14 So if the customer -- if the company finds 15 that there has been theft of power and, say, that 16 they find it in 2000 and -- say 2020, and they 17 don't notify the customer until 2021, and the 18 customer files a complaint in 2021. And then we 19 get it, and then we start investigating it, and you 20 don't see it until 2022, and I don't know --21 COMMISSIONER BROWN: Just -- just that to --22 pardon me, but during that process, that example 23 that you used, if the customer refused to make 24 payments on the monthly amount, the company cannot 25 disconnect. If the company -- if the customer

1 doesn't make a payment on the monthly amount, what 2. do our rules provide during that -- (inaudible) --3 process? 4 MS. HICKS: Well, the rules allow them --5 allow the customer to be disconnected. They -- we hold a certain amount in dispute, and the customer 6 7 actually has to pay anything above the amount in 8 dispute. 9 Sometimes the -- the company will -- will go 10 ahead and not discon-- disconnect the customer, but 11 a lot of the customers sometimes will take 12 advantage of that and they will not pay. We try to 13 work with the customer and tell them, okay, now, 14 we -- we stress that they have to pay any amount 15 over the amount in dispute, because they can -- the 16 rules say that anything above the amount in dispute 17 the customer can be disconnected. We -- we stress 18 that highly. 19 And so we try to tell them, okay, this is your 20 amount in dispute, and if this -- if the amount in 21 dispute is \$2,000, anything over \$2,000, you can be 22 properly noticed and you can be disconnected. 23 so a lot of -- some customers will go ahead and 24 A lot of customers will not. 25 Thank you, Rhonda, a COMMISSIONER BROWN:

1	great explanation. I appreciate you taking the
2	time to walk us through all of that.
3	So I guess the bottom line is we have to wait
4	for the utility to file something, or a customer to
5	file a complaint, in order to expedite the process.
6	MS. HICKS: Right. Right. And the
7	customers the companies just have to work a
8	little bit harder to try to to to go ahead
9	and and find the these these people who
10	are are stealing power
11	COMMISSIONER BROWN: Yeah.
12	MS. HICKS: and and and just
13	like the Mr. Lee said, it's not a matter of
14	of of accusing the the actual customer,
15	because they may not be aware. They may not have
16	been the one that to to actually to have
17	manipulated the meter. It may have been someone
18	else.
19	There are times when there are there are
20	customers who move into a a condition that is
21	there, they may have inherited the condition,
22	and and so there are different different
23	scenarios there. But it is still up to the company
24	to work just a little bit quicker and let that
25	customer know that that there is a condition

1	that has been found with that meter.
2	COMMISSIONER BROWN: Thank you so much. I
3	appreciate it.
4	And, Mr. Chairman, I am prepared to make a
5	motion if no other Commissioner has questions.
6	CHAIRMAN CLARK: Okay. Let's check and see.
7	I I actually have a question or two myself.
8	I didn't see any other lights on.
9	Mr. Lee, my understanding is that you found
10	this in 2019, but actually, in your investigation,
11	it goes back, I believe the notes said to 2016 when
12	the actual tampering occurred, or the drop in usage
13	occurred at that time period. That's a three-,
14	four-year period; is that correct?
15	MR. LEE: Actually, Chairman Clark, the
16	Commission shows that it was in May of 2014 that
17	the consumption dropped.
18	CHAIRMAN CLARK: Okay. So so we believe
19	that this meter ran for five years at basically
20	50 percent capacity, is that correct?
21	MR. LEE: Correct.
22	CHAIRMAN CLARK: You installed your smart
23	the smart meter was installed in 2010. Is this a
24	one-way or a two-way meter? One-way communication
25	or two?

1	MR. LEE: How it communicates?
2	CHAIRMAN CLARK: Yes, sir.
3	MR. LEE: No, it communicates to us. We can
4	communicate with it. That's how we can remote
5	disconnect the meter
6	CHAIRMAN CLARK: Right.
7	MR. LEE: relaying the information back to
8	us on the usage, correct.
9	CHAIRMAN CLARK: So does FPL have a process
10	where you generate an exceptions report for meters
11	that are that see a significant drop in
12	consumption and an investigation process where you
13	review this periodically?
14	MR. LEE: So we have been trying to refine
15	them. As you understand, we have had smart meters
16	for some time now, and we have tried to understand
17	the data that comes from them, and what could be a
18	lead and what would not be necessarily a lead. And
19	understanding we live in South Florida, and a lot
20	of places our customers are seasonal, so we can't
21	simply just go on a drop in usage and say go
22	investigate every one of those because we would run
23	out of resources going to every single snowbird's
24	house that we saw a drop in usage.
25	So we are always refining the technology that

helps us give tips and leads. And in this case,
this was a result of another refinement in the
process, and so we went out, and not every lead
that we get turns into a meter tampering case, but
that's why we have to send a meterman out.

So we discovered this in February of 2019. It generated a lead. We sent a meterman out to the home, and that's when he discovered that the seal had been tampered with; took the meter off and noticed that the inner seal had been tampered with and the CT wire had been tampered with.

So I get where your point is, which is it would be great if we could detect -- if the meter could tell us, hey, I have been tampered with, but unfortunately it does not. So we are constantly looking at the data and trying to refine leads, because we also don't want to go out on a bunch of false positives, because that's also going to cost a lot of money to try to, you know, every time, like I said, a snowbird leaves town, we don't want to send someone out and check and see if the meter has been tampered with.

CHAIRMAN CLARK: And I get -- that's to my point. I'm trying to determine what was the trigger in this particular case that caused an

investigation to occur? What was that data point?

MR. LEE: Yeah, so we have refined, and one of the things we used to look for was a combination of factors, and that used to lead us to leads.

In this case, we have generated a number of leads where we see sustained drops of usage at a particular date. So it's not sort of intermittent or fluctuating. And in this particular case, that's what we saw, is that we generated a lead noticing that there was a, basically about a half, 50 percent drop in usage, and it was sustained over a long period of time, so we generated a number of leads based on that. And as you can imagine, it's taken time to go through them. It took us -- from the time we noticed the lead, it took us two months to get somebody out there and actually check the meter out.

CHAIRMAN CLARK: You -- it took two months to get someone to go out and check the meter after you noticed the change?

MR. LEE: Well, because it's not the only lead that's generated, one -- you know, we don't just get one lead at a time. So we get a number of leads, and we start working them in the order that we get them.

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	1	CHAIRMAN CLARK: Okay. And from a a legal
	2	perspective, and I will refer this to Ms. Helton as
	3	well, what is the I cannot recall the law
	4	regarding backbilling, does is max is there a
	5	maximum amount that it can go back? Is it five
	6	years?
	7	MS. HELTON: I do not know the answer to that
	8	off the top of my head, but maybe someone on the
	9	line does.
	10	CHAIRMAN CLARK: Mr. Lee.
	11	MR. LEE: If I can address that?
	12	CHAIRMAN CLARK: Yeah.
	13	MR. LEE: Yeah, so our records we only keep
	14	our billing records for customers of five years
	15	plus current, so we really can't go back any
	16	further than our existing billing records. But I
	17	do not believe the Florida Administrative Code has
	18	any hard and fast cutoff, but obviously we need the
	19	billing records in order to generate a rebill.
	20	CHAIRMAN CLARK: Okay. All right.
	21	Commissioner Polmann, you are recognized.
	22	COMMISSIONER POLMANN: Thank you, Mr.
	23	Chairman.
	24	There is evidence here of mislabeling and
	25	and the error at the apartment building. So the

	1	question for Mr. Lee, when you identified this
	2	problem in 2014, that relates to the smart meters
	3	installed in 2010, and I appreciate the discussion
	4	you just had with the Chairman.
	5	Can can you tell us, just in general terms,
	6	do you have any indications of tampering at the
	7	apartment complex on other meters, or has Ms. Del
	8	Rosario's residence been the only meter for which
	9	you have any evidence of tampering?
	10	MR. LEE: Commissioner, I don't know the
	11	answer to that question. I don't believe, but I
	12	don't know for sure the answer to that question.
	13	So I don't believe there is any other tampering,
	14	but I don't know I am checking with 100 percent
	15	certainty. I'm checking with one of our
	16	specialists to see if they can answer that
	17	question.
	18	COMMISSIONER POLMANN: Well, I guess you
	19	answered answered the question in two ways. You
	20	don't have any evidence, but you also don't know,
	21	so that's fine.
	22	CHAIRMAN CLARK: Thank you, Commissioner
	23	Polmann. Anything else, Commissioner Polmann?
	24	COMMISSIONER POLMANN: That's all I had, Mr.
	25	Chairman. Thank you.
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1	CHAIRMAN CLARK: Commissioner Fay.
2	COMMISSIONER FAY: Thank you, Mr. Chairman.
3	And I think this question is for staff. I
4	just want to make sure I understand, by accepting
5	staff recommendation and denying this claim,
6	what what would have been owed and this is
7	probably a question, I guess, for the utility,
8	then. So what would have been owed under the
9	findings that the that the utility found for Ms.
10	Del Rosario and what what the utility is
11	actually asking her to pay to resolve these issues?
12	CHAIRMAN CLARK: Mr. Lee.
13	MR. LEE: Okay. So the I am sorry?
14	CHAIRMAN CLARK: You are recognized.
15	MR. LEE: Okay. Thank you.
16	Yes, Commissioner Fay, the difference so
17	the rebilling was about \$1,500 and 90 or
18	1,591.44. There was current diversion
19	investigative charges of \$540.66, and then there is
20	a tariff penalty a tariff for meter tampering of
21	\$200. So the differential came out to \$2,332.10,
22	and that's what the utility is requesting the
23	customer to pay.
24	We didn't go back as we mentioned, the
25	tampering occurred in 2014, but we only actually

1	rebilled for four years. So we went back to 2015,
2	May of 2015 through when the meter was removed.
3	COMMISSIONER FAY: And did you offer Ms. Del
4	Rosario any other adjustments to resolve this?
5	MR. LEE: At various times we offered her
6	different payment options, but even we went as low
7	as offering her to pay \$500 and then make monthly
8	payments, and she rejected all of those.
9	COMMISSIONER FAY: Okay. I think that's all I
10	had, Mr. Chairman. Thank you.
11	CHAIRMAN CLARK: Okay. Any other questions
12	from any Commissioners?
13	All right. Seeing none, I will entertain your
14	motion your pleasure on Item No. 4.
15	COMMISSIONER BROWN: Mr. Chairman, I would
16	move approval of staff recommendation on all issues
17	in this docket.
18	CHAIRMAN CLARK: Do I have a second?
19	COMMISSIONER POLMANN: Second.
20	CHAIRMAN CLARK: Did I get a second?
21	COMMISSIONER FAY: I apologize. I will second
22	that motion.
23	CHAIRMAN CLARK: All right. I have a motion
24	and a second.
25	Any discussion?
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                On your motion, all in favor, say aye.
 2
                (Chorus of ayes.)
 3
                CHAIRMAN CLARK:
                                   Opposed?
 4
                (No response.)
 5
                CHAIRMAN CLARK:
                                   Motion carries.
 6
                (Agenda item concluded.)
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1	CERTIFICATE OF REPORTER
2	STATE OF FLORIDA)
3	COUNTY OF LEON)
4	
5	I, DEBRA KRICK, Court Reporter, do hereby
6	certify that the foregoing proceeding was heard at the
7	time and place herein stated.
8	IT IS FURTHER CERTIFIED that I
9	stenographically reported the said proceedings; that the
10	same has been transcribed under my direct supervision;
11	and that this transcript constitutes a true
12	transcription of my notes of said proceedings.
13	I FURTHER CERTIFY that I am not a relative,
14	employee, attorney or counsel of any of the parties, nor
15	am I a relative or employee of any of the parties'
16	attorney or counsel connected with the action, nor am I
17	financially interested in the action.
18	DATED this 15th day of June, 2020.
19	
20	
21	Deblie R. Louce
22	DEBRA R. KRICK
23	NOTARY PUBLIC COMMISSION #GG015952
24	EXPIRES JULY 27, 2020
25	