



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED FPSC
AUG -5 AM 9:32
RECORDS AND REPORTING

DATE: August 5, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF ELECTRIC AND GAS (KUMMER) *PKT*
DIVISION OF LEGAL SERVICES (COLLINS) *RLC RVE*

RE: DOCKET NO. 990943-EM - PETITION BY THE CITY OF VERO BEACH TO DELETE ITS CURTAILABLE COMMERCIAL SERVICE RATE AND ITS QF TRANSMISSION RATE AND ADD A "DISCLAIMER OF LIABILITY" CLAUSE TO ITS GENERAL RULE AND REGULATIONS.

AGENDA: 8/17/1999 - REGULAR AGENDA - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\EAG\WP\990943.RCM

ISSUE 1: Should the Commission approve the "Disclaimer of Liability" clause proposed by The City of Vero Beach (The City)?

RECOMMENDATION: Yes. Similar language is found in the tariffs of investor-owned electric utilities and the intent of the language does not fall within the Commission's rate structure jurisdiction.

STAFF ANALYSIS: The proposed language appears to exempt the utility from liability if it exercises "due diligence" in the performance of its duties. Kissimmee Utility Authority has also proposed the addition of such a liability clause in Docket No. 990944-EM. The proposed language on liability is virtually identical to that found in the "Continuity of Service" provisions for all four major Investor-owned utilities. The specific IOU language was brought to the Commission's attention during discussions of damage claim handling in the Electric Service Quality and Reliability Report.

DOCUMENT NUMBER-DATE
09288 AUG-5 99
FPSC-RECORDS/REPORTING

The language found in the IOU tariffs was grandfathered when these utilities came under FPSC jurisdiction. Available records do not indicate that it was ever specifically approved by the Commission. These tariff provisions are often at issue in damage claims and other civil actions. The City states that its adoption of such language at this time stems from passage of the Commerce Protection Act passed in the last legislative session. The Commerce Protection Act primarily limits liability of damages due to failures resulting from Y2K issues. Staff believes the proposed language goes significantly beyond the intent of the cited legislation. However, since this language applies equally to all customers, there does not appear to be a rate structure issue involved. Likewise it addresses municipal electric service quality which has been considered beyond the jurisdiction of the PSC. In addition, similar language exists in approved IOU tariffs. Therefore, staff recommends approval of the language as proposed.

ISSUE 2: Should the Commission approve the changes proposed by The City to eliminate its Curtailable Service Rate and its Qualifying Facilities Transmission Rate Schedule?

RECOMMENDATION: Yes. No customers are being served under either rate and no customer will be affected by its closure.

STAFF ANALYSIS: The Curtailable Service Rate was first implemented in 1993 and the Qualifying Facility (QF) Transmission Tariff was implemented in 1986. No customers have requested service under either tariff since their adoption. The City believes both tariffs are out of date but have no basis for revising them since no customers have indicated interest in taking service under them. The Commission has not mandated that municipal utilities offer Curtailable or Interruptible service schedules, and federal regulations simply require that a utility develop a QF wheeling rate if one is requested. The City had indicated that, should a customer express interest in either a Curtailable rate or a QF transmission rate, the City will at that time develop an appropriate rate. Therefore the deletion of these two schedules should be approved.

DOCKET NO. 990943-1

DATE: August 5, 1999

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes, if no protest is filed within 21 days of the issuance of the order.

STAFF ANALYSIS: If a protest is filed within 21 days of the Commission order approving this tariff, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.