

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint Regarding Electric Rate
Structure of Gainesville Regional Utilities

DOCKET NO.: 130188-EM

FILED: May 6, 2014

PETITIONERS' NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Petitioners Eye Associates of Gainesville, LLC and Deborah L. Martinez ("Petitioners"), by and through undersigned counsel, and pursuant to Rule 1.420(a)(1), Fla. R. Civ. P., hereby file Petitioners' Notice of Voluntary Dismissal, without prejudice, in the above captioned docket.¹

In support thereof, the Petitioners state as follows:

1. On March 28, 2014, Petitioners timely filed their Amended Complaint in the above captioned docket pursuant to the requirements of Florida Public Service Commission ("Commission") Order No.: PSC-14-0137-FOF-EM. Petitioners' Amended Complaint stated a cause of action upon which relief could be granted in relation to Gainesville Regional Utilities ("GRU") retail electric rate structure.

2. On or about April 11, 2014, GRU sent a letter to Petitioners acknowledging their right as GRU customers to seek relief before the Commission, but inviting them to participate in the deliberative process during the upcoming GRU budget hearing process in an effort to address Petitioners' retail electric rate structure concerns as an alternative to litigating Petitioners' rate structure concerns before the Commission in Tallahassee. The GRU letter acknowledges Petitioners' desire to seek greater rate structure parity between the customer classes, and represented that GRU's public budget hearings in July will, *inter alia*, closely review and

¹ The Petition originally filed by Petitioners was the Initiation of Formal Proceedings pursuant to Rule 25-22.036, F.A.C. Subsequent to filing, the Commission reclassified the Petition as a complaint and revised the docket title.

consider GRU's retail electric rate structure that is the subject of Petitioners' Amended Complaint.²

3. On April 30, 2014, GRU filed its response to the Petitioners' Amended Complaint with the Commission. Within its answer to the Amended Complaint, GRU acknowledged that: "GRU agrees that Exhibit C to the Amended Complaint indicates that the General Non Demand rate class is above parity in relation to the cost of service for the rate classes presented"; "GRU agrees that Complainants are entitled to relief if GRU's retail electric rate structure is determined to be unfair, unjust and unreasonable"; and that "GRU agrees that the Commission has jurisdiction over the retail electric rate structure of a municipal utility pursuant to Sections 366.02(2) and 366.04(2)(b), Florida Statutes". GRU requested that the Commission utilize the Proposed Agency Action ("PAA") process as a prerequisite to allowing discovery and conducting a formal evidentiary hearing to adjudicate the disputed issues of material fact identified within the Amended Complaint. Alternatively, GRU reiterated its invitation for the Petitioners to participate in the upcoming GRU budget hearing process in an effort to address Petitioners' retail electric rate structure concerns as an alternative to litigating Petitioners' rate structure concerns before the Commission in Tallahassee.

4. The upcoming GRU budget hearing process provides an opportunity for GRU and the City Commission to remedy the inequities within GRU's retail electric rate structure. This opportunity may result in a more expedient and cost effective resolution to addressing the rate structure inequities identified within the Amended Complaint.

² The Petitioners assert that meaningful participation in any deliberative process to discuss and resolve the retail electric rate structure inequities identified within the Baker Tilly Cost of Service Study requires more than three (3) minutes before the City Commission to address Petitioners' concerns. Petitioners sought statutory relief from the Commission when the inequities within the retail electric rate structure were ignored during the budget process in 2013.

5. Acting in good faith, and seeking to avoid GRU incurring additional legal costs associated with continuing to litigate this dispute before the Commission rather than merely resolving the inequities identified within the GRU retail electric rate structure, the Petitioners are willing to voluntarily dismiss the Amended Complaint, without prejudice, and accept GRU's invitation to participate in the upcoming GRU budget hearing process to address Petitioners' concerns regarding the inequities within GRU's retail electric rate structure. Petitioners reserve the right to refile a complaint with the Commission, on or about October 1, 2014, should GRU and the City Commission fail to remedy the inequities identified within the Amended Complaint. Petitioners desire a retail electric rate structure that achieves parity in relation to the cost of service for each customer class and avoids cross-subsidization. In furtherance of addressing the inequities identified within the GRU retail electric rate structure, Petitioners respectfully request that GRU and the City Commission schedule a public workshop to discuss Petitioners' concerns in advance of the upcoming GRU budget hearing process. Additionally, Petitioners further request that the GRU and the City Commission engage Baker Tilly to update and revise the Cost of Service Study for a 2016 and 2017 test year.

WHEREFORE, Petitioners hereby file Petitioners' Notice of Voluntary Dismissal, without prejudice, in the above captioned docket and request that the Commission provide acknowledgement thereof for the reasons set forth herein.

[Signature on Following Page]

s/ Nathan A. Skop
Nathan A. Skop, Esq.
Florida Bar No. 36540
420 NW 50th Blvd.
Gainesville, FL 32607
Phone: (561) 222-7455
E-mail: n_skop@hotmail.com

Counsel for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the parties of record indicated below via electronic mail on May 6, 2014:

s/ Nathan A. Skop
Nathan A. Skop, Esq.
Florida Bar No. 36540
420 NW 50th Blvd.
Gainesville, FL 32607
Phone: (561) 222-7455
E-mail: n_skop@hotmail.com

Attorney for Petitioners

<p>Holland & Knight D. Bruce May, Jr. 315 South Calhoun Street, Suite 600 Tallahassee, FL 32301 Phone: (850) 425-5607 Fax: (850) 224-8832 Email: bruce.may@hklaw.com</p>	<p>City of Gainesville d/b/a/ Gainesville Regional Utilities Ms. Shayla L. McNeill P.O. Box 147117, Station A-138 Gainesville, FL 32614-7117 Phone: (352) 393-1010 Fax: (352) 334-2277 Email: mcneillsl@gru.com</p>
--	---