

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Complaint Against the City of Vero )  
Beach, Florida, by Stephen J. Faherty and ) DOCKET NO. 090524-EM  
Glenn Fraser Heran ) FILED: December 18, 2009  
 )  
 )

**REQUEST TO WITHDRAW PETITION FOR DECLARATORY STATEMENT  
WITHOUT PREJUDICE: NOTICE OF VOLUNTARY DISMISSAL**

The parties in the above-referenced matter, Stephen J. Faherty and Glenn Fraser Heran (hereinafter "Complainants"), jointly request that formal proceedings in Docket No. 090524-EM cease and that their Petition for Declaratory Statement be withdrawn without prejudice, i.e., a Notice of Voluntary Dismissal. In support of this request, the Complainants state as follows:

1. On or about April 12, 2011, the Complainants and the City agreed to hold formal proceedings in Docket No. 090524-EM in abeyance until approximately September 15, 2011 in order to allow time for the City to complete its review and analysis of a non-binding letter of intent tendered to the City by Florida Power & Light Company (hereinafter "FPL") regarding a potential purchase of the City's electric utility and to enter into negotiations for such potential sale and purchase.

2. Subsequent to the parties' aforementioned agreement to hold the proceedings in abeyance, the City has taken affirmative actions in pursuing the potential sale of its electric utility, including but not limited to: engagement of consultants to prepare valuations and reports; retained legal representation to assist the City in negotiations with FPL; agreed to extend the period of due diligence with FPL until December 31, 2011; a referendum question was put before the electors of the City on November 8, 2011 to seek approval of the lease of the City's power plant site as required by the City's Charter, which referendum was approved; another referendum was put before the electors of the City in the spring of 2012 requesting approval of the proposed contract to sell to FPL, which referendum was approved; instituted a Request for Qualifications process seeking parties interested in assuming the City's contracts with the Florida Municipal Power Agency (hereinafter "FMPA") and the Orlando Utilities Commission (hereinafter "OUC"); and invited FPL representatives to assist the City in discussions with FMPA and/or OUC in resolution of the City's contract issues.

3. In light of the foregoing continuing activities, the parties previously agreed and jointly requested on September 7, 2011, to continue this docket in abeyance until June 29, 2012, which request was granted on September 7, 2011. The parties subsequently jointly requested an abeyance until January 30, 2014, which request was granted May 17, 2012. The parties subsequently jointly requested an abeyance until September 30, 2014 which request was granted January 31, 2014.

4. The foregoing activities and negotiations between the City, FPL, OUC, and/or FMPA remain ongoing and final resolution is being pursued with the parties to the transaction. A firm closing date for the potential sale will take additional time.

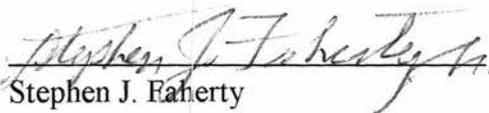
5. By continuing the formal proceedings in abeyance, the parties avoided having to file pleadings and engage in other procedural activities such as discovery at this time and the City could concentrate its efforts on due diligence and negotiations with FPL, FMPA and/or OUC regarding the potential sale and purchase transaction. This action was initially filed nearly five (5) years ago. By withdrawing this Petition, additional concentration on such efforts may be made.

6. The Complainants request that actions on the Docket cease and that the Petition for Declaratory Statement be withdrawn by the Complaints without prejudice, i.e., a Notice of Voluntary Dismissal.

WHEREFORE, the Complainants respectfully request the proceedings in Docket No. 090524EM cease and that their Petition for Declaratory Statement be withdrawn without prejudice, i.e., a Notice of Voluntary Dismissal.

Respectfully submitted this 25th day of July, 2014.

COMPLAINANTS:

  
Stephen J. Faherty

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Glenn Fraser Heran

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Request to Withdraw Petition for Declaratory Statement be withdrawn without prejudice, a Notice of Voluntary Dismissal, was furnished to the following by electronic and/or U.S. Mail this 25<sup>th</sup> day of July, 2014.

Martha Carter Brown, Esquire  
Office of General Council  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

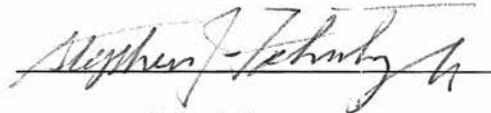
J. R. Kelly, Esquire, Public Counsel  
Office of the Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

Dr. Stephen J. Faherty  
2120 Captains Walk  
Vero Beach, Florida 32963-2821

Mr. Glenn Fraser Heran  
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Vero Beach, Florida 32967

Wayne R. Coment  
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Fla. Bar No. 0999695  
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P.O. Box 1389  
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[wcoment@covb.org](mailto:wcoment@covb.org)

Stephen J. Faherty, Sr.

A handwritten signature in black ink, appearing to read "Stephen J. Faherty Sr.", written over a horizontal line.

Complainant