

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company (FPL) for authority to charge FPL rates to former City of Vero Beach customers and for approval of FPL's accounting treatment for City of Vero Beach transaction.

DOCKET NO. 20170235-EI

In re: Joint petition to terminate territorial agreement, by Florida Power & Light and the City of Vero Beach.

DOCKET NO. 20170236-EU

**PETITIONER CIVIC ASSOCIATION OF INDIAN RIVER COUNTY'S
NOTICE OF FILING AND CERTIFICATE OF SERVICE**

The Civic Association of Indian River County, Inc. ["CAIRC"], pursuant to Rule 28-106.204, Fla. Admin. Code, files the Testimony of Jay Kramer.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been filed and forwarded via email this 7th day of September, 2018, to: PARTIES listed below.

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FPSC DOCKET NO. 2017-0235, 0236

DIRECT TESTIMONY OF JAY KRAMER

ON BEHALF OF

THE CIVIC ASSOCIATION OF INDIAN RIVER COUNTY, INC.

SEPTEMBER 7, 2018

1 **Q. Please state your name, residence, and occupation.**

2 A. My name is Jay Kramer. I am a resident of the city of Vero Beach, Florida. I am
3 the operations manager for Colostore.com a data center facility in Indiana. I was first
4 elected to City Council in November of 2010, and served for six years until
5 November of 2016.

6 **Q. Can you briefly summarize your education?**

7 A. I have a Bachelors of Arts in Computer Science from the University of Northern
8 Iowa and a Masters of Business Administration from Florida Gulf Coast University.

9 **Q. What is the purpose of your testimony in this proceeding?**

10 A. On November 3, 2017, FPL filed a petition with this Commission for authority to
11 charge FPL rates to former COVB customers and approval of their accounting
12 treatment for the COVB transaction, and to alter territorial agreements. My testimony
13 is directed to the claims of “extraordinary circumstances” and the actual nature of the
14 public interest invoked in the FPL petition.

15 **Q.Summary of your testimony.**

16 A. Extraordinary circumstances do not exist in Vero Beach, as we are financially
17 stable at this time, and the representation of outside customers is the same as it is for
18 city customers. A higher public interest exists than merely the vague promise of lower
19 rates, that of making an informed opinion based on facts.

1 **Q. What were your duties and responsibilities as a member of the City**
2 **Council?**

3 A. As a member of the Council, a person should articulate policy to the Charter
4 officers of the City through budgets, ordinances, and other legislative actions.
5 Reasoned decisions are made with assistance and input from experts on staff as well
6 as city commissions and committees. Your responsibilities would include listening to
7 public input, making fact-based decisions that are in the best interest of your
8 constituents, and bringing fiduciary oversight to budget questions.

9 **Q. Do you believe the Council, in your experience, is responsive to all**
10 **customers, including those in the county?**

11 A. Yes, they are able to participate just like city customers, which is to say serve on
12 committees, speak at public hearings and participate in elections for City Council
13 through lobbying and funding of campaigns. There has never been any difference in
14 the services, rates, or access to authority among all COVB customers.

15 **Q. In your experience, how much influence do city voters have over rate**
16 **setting?**

17 A. City voters have influence on rate making mainly through the lobbying efforts
18 with the City Council and participation on City boards and commissions. These would
19 be the same types of influence available to outside customers.

20 **Q. Did the Council advertise a Request for Bids to all possible buyers when**
21 **contemplating selling the electric utility?**

22 A. There was no official Request for Proposal offered for the sale of Vero Electric.
23 There was a "letter of interest" that was sent out to a few utility companies, however
24 it was greatly limited on details and not something likely to get any actual proposals.

1 **Q. Did the Council negotiate with FPL through a broker with expertise in**
2 **utilities?**

3 A. No. To my knowledge there has never been any actual negotiations between FPL
4 and Vero Beach. FPL set a price, and the recent council members accepted it.

5 **Q. During your tenure on the Council, how did FPL approach the sale?**

6 A. FPL's involvement with us, from the start, was only as the leader and director of
7 the sale, not as a negotiating partner or adversary. The public was quite swayed by
8 the extensive, and expensive, advertising campaign run continuously these past ten
9 years, so the political pressure to "get on the sale train" was quite strong. FPL
10 activity has been largely political in nature in that they funded political action groups
11 and candidate campaigns who solely promoted complete loyalty to the "sale to FPL."
12 Although the term "the sale" has never truly been defined to the public in any real
13 detail, other than promising undefined "lower rates," the financial backing of
14 candidates that supported "the sale" resulted in FPL gaining a loyal base of
15 representation on City Council and thereby policies promoting "the sale" were soon
16 the number one priority of the Council.

17 **Q. Was there a concerted effort to educate the public on what a sale would**
18 **mean to both city residents and to outside customers of the city?**

19 A. No. The education process to the public has been dominated by FPL's message
20 through the political process, newspaper advertising and other media outlets that sway
21 public opinion. The City has allowed FPL to completely control the information flow.

22 **Q. When Council and FPL state that the public has "spoken" on its desire to**
23 **sell to FPL, do you think that is true?**

24 A. No. There were two supposed "votes" on the sale, but neither was an informed or
25 proper ballot questions. Because originally the sale was thought to entail FPL using

1 the power plant itself, and that land is protected in our City Charter from any lease or
2 sale without voter approval, the first referendum asked only approval on the leasing of
3 power plant land for the purposes of selling the physical plant to FPL. Voters were
4 not being asked their opinion on the sale, nor for that matter even given any details of
5 a proposed “lease.” Most legal experts I consulted did not think the language was up
6 to the standards necessary for an informed vote on the matter. Nonetheless, after it
7 passed, the FPL advocates declared it a statement of clear public support for the sale.
8 The second referendum was almost more misleading. The voters were asked to agree
9 to a sale “substantially similar” to what was being negotiated at that time, however
10 there were no details available for voters, and the term “substantially similar” had, in
11 my opinion, no real meaning. In fact, there was never a finalized deal in either case in
12 which the public could see or read exactly what was going to be the outcome from a
13 sale. I believe a case in point is if the public knew there would be a surcharge to pay
14 for the sale, or that a partial sale would raise their rates, or if a clear budget plan had
15 been presented to voters on how the income would be replaced, or not, neither of the
16 referendums would have passed. The public was rather blissfully unaware of all the
17 approvals, contracts, and negotiations still needed, as well as of what the future
18 impacts would be.

19 **Q. Were you on Council when the customer poll took place?**

20 A. Yes, the City Council members who were supported by FPL thought it was a
21 good idea to poll all utility customers, knowing that the outside customers would feel
22 no impact from the sale in higher taxes or changes to the City itself. It was no
23 surprise what the result was, FPL had been investing quite a bit of money in the area
24 to improve their image and to promote their low rates, thus the poll shows I believe a
25 60 to 40% response favoring a sale. Not coincidentally, that is close to the breakdown

1 between inside and outside customers. This was an informal poll, of course. Many
2 city residents expressed to me their doubts and concerns about any sale.

3 **Q. What has been your experience with the utility and T&D departments?**

4 A. The electrical utility departments have been nothing but outstanding from my
5 point of view. When we asked them to find ways to lower rates, we found ways.
6 When we had hurricanes, we were always the first to have all power restored. In
7 comparing our electrical departments with other systems across the state, in numerous
8 reports I've seen, I believe we have one of the more responsive systems in the state.

9 **Q. What efforts were made during your tenure designed to get electric rates in
10 line with FPL?**

11 A. During those years that I was there, rate reductions were done through
12 re-negotiations with our main power provider, closing the power plant to save on
13 expenses, optimization studies to identify and reduce costs and through refinancing
14 debt to achieve better interest rates. There were more ideas to reduce rates, however
15 the Council's policy changed after the FPL candidates had the majority and rates
16 actually rose again.

17 **Q. Does this conclude your pre-filed testimony?**

18 A. Yes.