

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 Herb Whittall.

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.

LYNNE A. LARKIN, ESQ.
5690 Hwy. A1A, Unit 101
Vero Beach, FL 32963
Phone: 772-234-5565
lynnelarkin@bellsouth.net

By /s/ LYNNE A. LARKIN
Florida Bar # 56693

Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
cmurphy@psc.state.fl.us

Florida Power and Light
700 Universe Blvd.
Juno Beach, FL 33408
bryan.anderson@fpl.com
ken.rubin@fpl.com

Office of the Public Counsel
111 West Madison Street, Suite 812
Tallahassee, FL 32399-1400
morse.stephanie@leg.state.fl.us

City of Vero Beach, Florida
J. Michael Walls
4221 W. Boy Scout Blvd.
Tampa, FL 33607
mwalls@cfjblaw.com

Brian Heady
brianheady@msn.com

Michael Moran
mmoran@veronet.com

1 **FPSC DOCKET NO. 2017-0235, 0236**

2 **DIRECT TESTIMONY OF HERBERT V. WHITTALL**

3 **ON BEHALF OF**

4 **THE CIVIC ASSOCIATION OF INDIAN RIVER COUNTY, INC.**

5 **SEPTEMBER 7, 2018**

6 **Q. Please state your name, address, and occupation.**

7 A. My name is Herbert V. Whittall. My address is 19 Park Avenue, Vero Beach,
8 Florida, 32960. I am currently retired from a career in mechanical engineering with
9 experience in electrical generation systems. I have served on the Vero Beach City
10 Utilities Commission ["COVB-UC"] since 2003, although not continuously, and I
11 currently sit on that Commission. I have also served on the City Code Enforcement
12 Board and the Historical Commission. Since 2004 I have been one of the two City
13 representatives on the Citizens Advisory Committee of the Metropolitan Planning
14 Organization (MPO).

15 **Q. Can you briefly summarize your education and employment?**

16 A. I received a Bachelor's Degree in Mechanical Engineering in 1959 from Cornell
17 University and a Master's Degree in Mechanical Engineering from Bradley
18 University in 1964. I worked for Caterpillar, Inc., from 1959 until September 1995,
19 when I retired. The last 13 years at Caterpillar I worked with Generator Sets. From
20 1996 until December 31, 2017, I was the Technical Director of the Electrical
21 Generating Systems Association of Boca Raton, Florida.

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

23 A. On November 3, 2017, FPL filed a petition with this Commission for authority to
24 charge FPL rates to former COVB customers and approval of their accounting
25 treatment for the COVB transaction, and to alter territorial agreements. My testimony

1 is directed to the claims of “extraordinary circumstances” and the actual nature of the
2 public interest invoked in the FPL petition.

3 **Q.Summarize your testimony.**

4 A.The public interest has been ignored in this transaction, and from the view of a
5 member of the Utilities Commission, I speak to the ways in which this has occurred.

6 **Q. What are your duties and responsibilities as a member of the COVB-UC?**

7 A. As a member of the COVB-UC, I reviewed the maintenance, budgets, and
8 planning status for all the utility functions of the City of Vero Beach, including
9 electric, sewer, water and storm water. The heads of these various functions would
10 bring us up to date on repairs, capital expenditures and what they were for, and any
11 outages. We passed resolutions advising the City Council on our decisions
12 concerning these topics.

13 We also heard testimony from the City Manager about the various contracts the city
14 got involved in such as the COVB contract with Orlando, but did not review them for
15 legal detail. Concerning the electric utility, we would discuss the particular contract,
16 give expert opinion on what was proposed, and then review any parts of the written
17 contract that needed more specific study. When setting up a utility authority was
18 being considered by the City Council, around 2013, that was also discussed for the
19 pros and cons involved in operating under such a system. We did not discuss rate
20 structures, as the Finance Committee handles the details of rate setting, but we did
21 consider how any decision being made might impact budget and rates. For example,
22 in considering adding a new turbine to our power plant, a \$3.5 million expense was
23 discussed in relation to the effect such an expense would have on budgeting and rate
24 making.

1 **Q. What has traditionally been the make-up of the COVB-UC, meaning who**
2 **serves on that board?**

3 A. Out of the five members of the COVB-UC, there were always at least two and
4 often three members who did not live in the City of Vero Beach. Currently, the
5 Chairman of the Commission is Robert Auwaerter, a Town council member and
6 former Vice-Mayor of Indian River Shores. They bring the voices of the outside
7 customers to the COVB-UC work.

8 **Q. How often does the COVB-UC normally meet?**

9 A. Up until the last two years the Utility Commission has always met monthly
10 except during July and August.

11 **Q. How often do citizens, customers attend or participate in your meetings?**

12 A. Between 2003 and today, I would estimate that at most five people in total ever
13 attended any meetings. Not a single meeting, I mean total for all meetings I attended.
14 These were usually customers with personal complaints that they addressed to the
15 COVB-UC.

16 **Q. In your experience, did any of the members, including yourself, ever address**
17 **the alleged difference in status between inside the city versus outside electric**
18 **customers?**

19 A. No. The rates are the same for all customers, although anyone may comment to
20 the Council or to the boards and commissions regardless of residence. The county
21 residents are only taxed by the County itself, so we don't receive questions on taxes
22 added to the bills.

23 **Q. When was the most recent meeting of the COVB-UC?**

24 A. The last meeting we had was in August, 2017.

1 **Q. Did you discuss the pending offer and subsequent contract from FPL at that**
2 **meeting?**

3 A. No. We were instructed not to discuss the sale of Vero Electric to FPL.

4 **Q. With all the interest and activity concerning the FPL contract, do you know**
5 **why your commission didn't discuss this particular contract?**

6 A. No. We were simply and specifically instructed by the Chairman, by notation on
7 our agenda, not to discuss this contract.

8 **Q. Is that an unusual instruction?**

9 A. In my experience, it has never occurred before.

10 **Q. Do you know whether or not the COVB-UC is still functioning?**

11 A. I'm not certain. I made a request to the Chairman that we have a meeting in
12 January, 2018, as there is other business concerning water, sewer, etc., but since none
13 was scheduled. In my opinion, I feel that the last two mayors did not want us to get
14 involved with the sale

15 **Q. And as a long-time member of the COVB-UC, do you have an opinion on**
16 **the complaints made by some outside customers regarding the alleged "taxation**
17 **without representation?"**

18 A. There is no tax. Quite simply, everyone pays the same rates for electric service,
19 and we all want lower rates. But the income transferred to the COVB general fund is
20 not a tax. County residents are free to comment or complain just as openly and
21 effectively as any city resident.

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

23 A. Yes.

24