

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

**THE CIVIC ASSOCIATION OF INDIAN RIVER COUNTY'S
 PREHEARING STATEMENT**

The Civic Association of Indian River County (CAIRC), pursuant to Order No. PSC-18-0370-PCO-EU, files its Prehearing Statement.

A. APPEARANCES:

Lynne A. Larkin, Esq.
 5690 Hwy. A1A, #101
 Vero Beach, FL 32963
 Attorney for CAIRC

B. WITNESSES AND EXHIBITS:

Witness	Subject Matter	Issues #
Direct		
Jay Kramer	Subject (see issues)	2, 7, 16
Thomas P. White		2, 7, 16, 17
Herbert Whittall		2, 7, 16
Jens Tripson		2, 7, 16, 17
Kenneth Daige		16, 17

All Known Exhibits:

Witness	Proffered By	Exhibit #	Description
Direct			
Thomas White	Civic Assn. Of Indian River County	TPW-1	Resume of civic activities

All witnesses and exhibits listed by other parties in this proceeding.

C. STATEMENT OF BASIC POSITION:

The factual and accounting errors put forth by FPL to support their petitions must be corrected in order that the citizens of Indian River County understand this transaction

and its likely outcomes. To claim that COVB customers' rates will be lower is insufficient to promise for how long that will be the case, even if that much is true. Lower rates should not be the basis for finding extraordinary circumstances. Those same accounting errors call into question any claim of extraordinary circumstances and any claim of this rate structure being in the public interest. CAIRC asserts that the ratepayers involved around the State, as well as the local customers currently served by COVB, are owed the truth about how rates and fees will change now and in the future. The COVB customers should have been, and still should be, made aware of the many flaws, misrepresentations, and consequences of the factual misstatements made by FPL which include the proposed changes to rate structure and territorial agreements being requested by FPL. An unknowing public has been promised many things by local officials as well as the petitioner, which in any jurisdiction would not be considered good governmental practices. This also would set a precedent that guarantees future rate increases by FPL as it repeats this plan for other cities.

CAIRC is most concerned that the City representatives are unconcerned by the accounting and financial projection flaws identified in this docket, as well as with the City's attempts to silence those questioning the requests being made here by FPL. Due diligence has not been done in the interests of City residents.

CAIRC is the sole civic organization to step forward on behalf of the local COVB area, has been involved in utility issues from its creation in 1970, and continues its mission of doing so today. CAIRC maintains that FPL must satisfy the burden of proof for any and all relief sought in this proceeding.

D. STATEMENT OF ISSUES AND POSITIONS:

ISSUE 1: What statutory provisions or other legal authority, if any, grant the Commission the authority and jurisdiction to approve the acquisition adjustment requested by FPL in this case?

CAIRC: None.

ISSUE 2. How should the Commission weigh any unproven factual assertions in FPL's Petition?

CAIRC: The petitioner has set out in all of its pleadings/filings and testimony many allegations on which they base their claims of extraordinary circumstances and benefit to the public interest. CAIRC challenges the basis and veracity of many of these points, matters which are key to understanding the information on which this rate and territorial agreement request is based. Testimony and documentary evidence should be heard on all of these factual allegations.

ISSUE 3. Does FPL's request of a return of, and a return on, the requested acquisition adjustment violate the terms of FPL's current rate case settlement agreement?

CAIRC: Yes.

ISSUE 4. What legal authority to increase rates, if any, supports FPL’s request for the Commission to consider and approve rate making principles related to acquisition adjustment?

CAIRC: The petitioner has the burden of proof and must carry its burden.

ISSUE 5. Should the Commission grant FPL the authority to charge FPL’s rates and charges to City of Vero Beach’s (“COVB”) customers upon the closing date of the Asset Purchase and Sale Agreement (“PSA”)?

CAIRC: No position at this time, as those actual numbers are in question.

ISSUE 6. Should the Commission approve the joint petitioners’ request to terminate the existing territorial agreement between FPL and COVB upon the closing date of the PSA?

CAIRC: No position at this time: dependent on the veracity and fairness of findings.

ISSUE 7. What extraordinary circumstances, if any, exist to support the Commission’s consideration of authorizing a positive acquisition adjustment in this case?

CAIRC: None.

ISSUE 8. Should the Commission consider alternatives other than what has been proposed by FPL with respect to the acquisition adjustment?

CAIRC: No position at this time.

ISSUE 9. Should the Commission approve a positive acquisition adjustment associated with the purchase of the COVB electric utility system?

CAIRC: No.

ISSUE 10. If the Commission should approve a positive acquisition adjustment associated with the purchase of the COVB electric utility system, what is the appropriate economic analysis to determine the amount of the positive acquisition adjustment?

CAIRC: Adopt position of Office of Public Counsel.

ISSUE 11: What is the appropriate amount, if any, of a positive acquisition adjustment to be recorded on FPL’s books for the purchase of the COVB electric utility system?

CAIRC: Adopt position of Office of Public Counsel.

ISSUE 12: If a positive acquisition adjustment is permitted, what is the appropriate accounting treatment for FPL to utilize for recovery and amortization of the acquisition adjustment?

CAIRC: We adopt position of Office of Public Counsel.

ISSUE 13: Should the projected cost savings supporting FPL’s request for a positive acquisition adjustment be subject to review in future FPL rate cases?

CAIRC: Yes.

ISSUE 14: Are the several contracts [OUC, FMPPA] “costs of service” for FPL that are eligible for recovery in customer rates?

CAIRC: No.

ISSUE 15: Should the Commission approve recovery of costs associated with the short-term power purchase agreement with Orlando Utilities Commission?

CAIRC: No.

ISSUE 16: Is granting the relief requested by the applicants in the public interest?

CAIRC: Not as far as the current evidence would suggest.

ISSUE 17: Does the Civic Association of Indian River County, Inc. have standing to protest the Commission’s proposed agency action granting FPL’s petition for authority to charge FPL rates to former COVB customers and for approval of accounting treatment for the COVB transaction, and granting the joint petition of FPL and COVB to terminate the territorial agreement (Order No. PSC-2018-0336-PAA-EU)?

CAIRC: Yes.

ISSUE 18: Does Michael Moran have standing to protest the Commission’s proposed agency action granting FPL’s petition for authority to charge FPL rates to former COVB customers and for approval of accounting treatment for the COVB transaction, and granting the joint petition of FPL and COVB to terminate the territorial agreement (Order No. PSC-2018-0336-PAA-EU)?

CAIRC: Yes.

ISSUE 19: Does Brian Heady have standing to protest the Commission’s proposed agency action granting FPL’s petition for authority to charge FPL rates to former COVB customers and for approval of accounting treatment for the COVB transaction, and granting the joint petition of FPL and COVB to terminate the territorial agreement (Order No. PSC-2018-0336-PAA-EU)?

CAIRC: Yes.

ISSUE 20: Should this docket be closed?

CAIRC: No position at this time.

E. STIPULATED ISSUES:

None at this time.

F. PENDING MOTIONS:

Issues 17, 18 & 19.

Motion to reconsider protective order granted to Harry Howle.

Request for stipulation to 2016-2017-2018 City Council meeting minutes.

G. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

None yet addressed, but CAIRC requests that membership data be considered confidential.

H. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None regarding the known witnesses, but owing to the public testimony being allowed, reserved objections as per witness testimony.

I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which CAIRC cannot comply at this time.

/s/ Lynne A. Larkin

LYNNE A. LARKIN, Esq.
5690 Hwy. A1A, Unit 101
Vero Beach, FL 32963
lynnelarkin@bellsouth.net
(772) 234-5565 (Tele.)
Bar No. 56693
Attorneys for CAIRC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to

the following by Electronic Mail, on this 29th day of September, 2018:

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

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

Brian Heady
brianheady@msn.com

Dylan Reingold
IRCounty Attorney
1801 27th Street
Vero Beach, FL 32960
dreingold@ircgov.com

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
jessica.cano@fpl.com
john.butler@fpl.com

Stephanie A. Morse
Charles Rehwinkel
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, Florida 32399
Rehwinkel.charles@leg.state.fl.us
Morse.stephanie@leg.state.fl.us

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

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

D.Bruce May, Jr.
Holland & Knight
315 S. Calhoun St., Ste. 600
Tallahassee, FL 32301
Bruce.May@hklaw.com

Kenneth Hoffman
Florida Public Service Commission
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1858
Ken.Hoffman@fpl.com