

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

Date: September 26, 2018

TOWN OF INDIAN RIVER SHORES' PREHEARING STATEMENT

The Town of Indian River Shores (the "Town"), pursuant to Florida Administrative Code Rule 28-106.209 and Order No. PSC-2018-0370-PCO-EU, as modified by Orders Nos. PSC-2018-0397-PCO-EU and No. PSC-2018-0445-PCO-EU, files its Prehearing Statement in the above-captioned dockets and states:

(1) Town Witnesses:

Witness Name/Title	Subject Matter	Issue Number
Rebuttal		
Brian M. Barefoot	Mr. Barefoot explains (i) the circumstances underlying this proceeding are extraordinary, and (ii) granting the requested regulatory approvals and allowing this carefully balanced transaction to close will uniquely benefit all stakeholders, and finally resolve a longstanding and unique constitutional dispute among the parties over electric service territory.	5, 6, 7, 9, 16

The Town reserves the right to present additional witnesses to address issues which have not been previously raised by the parties, the Commission Staff, or the Commission.

(2) Town Exhibits:

Witness	Proffered by	Exhibit #	Description
Rebuttal			
Brian M. Barefoot	Town of Indian River Shores	Exhibit No. _____ (BMB-1)	Witness Biography

The Town reserves the right to utilize other documents as exhibits at the time of hearing, either during cross examination or as further impeachment or rebuttal exhibits, and the precise identification of such documents cannot be determined at this time.

(3) Town’s Statement of Basic Position

The Commission should approve the petitions filed by Florida Power & Light Company (“FPL”) and the City of Vero Beach (“COVB”), and allow the Asset Purchase and Sale Agreement (the “PSA”) between COVB and FPL to close. Approval of this carefully-balanced transaction would benefit the Town along with thousands of residents who receive more costly electric service from COVB. It would benefit COVB as proceeds from the sale will provide the COVB with millions of dollars in unrestricted funds which the COVB can use as it sees fit to meet its financial needs. And, it would benefit FPL’s general body of ratepayers by approximately \$135 million dollars in present value due to economies of scale achieved from FPL serving the COVB customers. Without the Commission’s approval, there will be no sale, and none of the aforementioned benefits will be realized.

What is more, Commission approval of this carefully balanced transaction would resolve a unique, complex and divisive service territory problem that has beleaguered the Town and the people of Indian River County for decades. Presently, the boundary line dividing the electric service territories of FPL and the COVB splits the Town in two. This highly unusual boundary configuration fragments electric service in the Town causing residents to be served by two different utilities with vastly different rates and levels of service. It also results in inequitable regulatory protections as Town residents served by FPL are afforded extensive regulatory protection by the Commission, while Town residents served by COVB are disenfranchised -- left unguarded by the Commission and having no vote in how COVB sets its rates or services. The degree of their disenfranchisement is extraordinary and has spawned numerous lawsuits, the most recent of which was filed by the Town in PSC Docket No. 20160049-EU. That pending dispute implicates unique constitutional issues pertaining to the COVB's exercise of unregulated monopoly powers within the corporate limits of the Town without the Town's consent. Granting the requested regulatory approvals and allowing the PSA to close would settle this unique, long-standing litigation once and for all. It would also comport with the Commission's policy to favor settlement of service territory disputes by mutual agreement between contending parties.

A transaction like this one -- that benefits all stakeholders and resolves long-standing and complex disputes-- is extraordinarily rare. It would be a tragedy if this extraordinary deal were to die for a lack of regulatory approval. For all of these reasons, the Town respectfully requests that the Commission grant the regulatory approvals requested by FPL and COVB, and allow this carefully balanced transaction to close.

(4) The Town's Statement of Issues and Positions

The following are issues identified in Order No. PSC-2018-0445-PCO-EU, dated August 31, 2018.

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?

Town Position:

The Town joins FPL's position on Issue 1.

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

Town Position:

The Town joins in FPL's opposition to the inclusion of Issue 2 in this proceeding. If Issue 2 is included, the Town joins in FPL's position.

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?

Town Position:

The Town joins in FPL's opposition to the inclusion of Issue 3 in this proceeding.

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?

Town Position:

The Town joins in FPL's opposition to the inclusion of Issue 4 in this proceeding.

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")?

Town Position:

Yes. The Town joins FPL's position on Issue 5. [Witness: Brian M. Barefoot.]

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?

Town Position:

Yes. The Town joins FPL's position on Issue 6. The Town further states the current boundary line dividing the electric service territories of FPL and the COVB splits the Town in two. The configuration of this boundary line is highly unusual and fragments electric service in the Town causing residents to be served by two different utilities with vastly different rates and levels of service. It also results in inequitable regulatory protections as Town residents served by FPL are afforded extensive regulatory protection by the Commission, while Town residents served by COVB are disenfranchised -- left unguarded by the Commission and having no vote in how COVB sets its rates or services. The degree of their disenfranchisement is extraordinary and has spawned numerous lawsuits, the most recent of which was filed in PSC Docket No. 20160049-EU. Terminating the existing territorial agreement would unify electric service within the Town, eliminate disenfranchisement, and settle long-standing litigation once and for all. [Witness: Brian M. Barefoot.]

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

Town Position:

The Town joins FPL's position on Issue 7. The Town further states that extraordinary circumstances underlying this proceeding include, but are not limited, to (i) the extraordinary degree to which non-resident customers of the COVB electric utility are disenfranchised, (ii) the highly unusual territorial boundary configuration which fragments electric service in the Town causing neighbors to have vastly different regulatory protections, and to be served by two different utilities with vastly different rates and levels of service, and (iii) the unique constitutional dispute over COVB's exercise of unregulated monopoly powers within the corporate limits of the Town without the Town's consent. A transaction like this one -- that benefits all stakeholders and resolves long-standing and complex service territory disputes -- is extraordinarily rare. It would be a tragedy if this extraordinary deal were to die for a lack of regulatory approval. [Witness: Brian M. Barefoot.]

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

Town Position:

The Town joins FPL's position on Issue 8.

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

Town Position:

Yes. The Town joins FPL's position on Issue 9. [Witness: Brian M. Barefoot.]

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?

Town Position:

The Town joins in FPL's opposition to the inclusion of Issue 10 in this proceeding.

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?

Town Position:

The Town joins FPL's position on Issue 11.

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?

Town Position:

The Town joins FPL's position on Issue 12.

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?

Town Position:

The Town joins FPL's position on Issue 13.

Issue 14: Are the several contracts [OUC, FMPA] "costs of service" for FPL that are eligible for recovery in customer rates?

Town Position:

The Town joins in FPL's opposition to the inclusion of Issue 14 in this proceeding.

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

Town Position:

Yes. The Town joins FPL's position on Issue 15.

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

Town Position:

Yes. The Town joins FPL's position on Issue 16. [Witness: Brian M. Barefoot.]

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)?

Town Position:

No. The Town joins FPL's position on Issue 17.

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)?

Town Position:

No. The Town joins FPL's position on Issue 18.

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)?

Town Position:

No. The Town joins FPL's position on Issue 19.

Issue 20: Should this docket be closed?

Town Position:

Yes. The Town joins FPL's position on Issue 20.

(5) **Stipulated Issues:**

None.

(6) **Pending Motions and Other Matters:**

None at this time.

(7) **Pending Requests or Claims for Confidentiality:**

None.

(8) **Objections to Qualifications of Witnesses as Experts:**

None.

(9) **Request for Sequestration of Witnesses:**

None.

(10) **Requirements of Order Establishing Procedure that the Town Cannot Comply With:**

None.

Respectfully submitted on September 26, 2018.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 26th day of September, 2018, to the following:

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