

**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: October 29, 2018

POST-HEARING BRIEF OF INDIAN RIVER COUNTY

Indian River County (“Indian River County” or “County”) hereby files with the Florida Public Service Commission (the “FPSC” or “Commission”) its Post-Hearing Brief in the above-captioned dockets, pursuant to Order No. PSC-2018-0494-PHO-EU, and states as follows:

I. SUMMARY OF ARGUMENT

Indian River County strongly supports, and encourages the Commission to approve, the relief requested by Florida Power & Light Company (“FPL”) and the City of Vero Beach (“COVB”). Granting FPL’s and COVB’s petitions will enable their transaction to close, provide immediate lower rates to about 35,000 electric service customers, and provide about \$135 million in net present value savings for all of FPL’s customers.

Indian River County is convinced that approval of the relief requested by COVB and FPL is in the best interest of all Indian River County residents. People living, working and owning businesses in Indian River County are currently served by two different electric utilities, FPL and the COVB electric utility. Granting FPL’s and COVB’s petitions will provide immediate rate

relief to all of the customers served by COVB and all Indian River County customers will pay FPL's lower rates. This reduces the overall electricity costs for living, working and business ownership in Indian River County.

The Indian River County Board of County Commissioners (the "Board") has long believed that the best thing that can be done for economic development in Indian River County, and the low income families that reside in Indian River County, would be for all Indian River County electric customers to have FPL's lower rates.

As explained in the pre-filed testimony provided by Terry Deason on behalf of FPL, lower electric rates can unleash the tremendous forces of economic development and the rippling effect that such development has on a community and region. (Hearing Tr. P. 278). Mr. Deason noted, for example, that a large retail grocery chain may wish to build a store in a location that it had previously shunned because of high electric rates. (Hearing Tr. P. 278). This would benefit the grocery chain's profits and serve new customers that perhaps did not have that grocer as an option. In addition, the grocer would also be paying taxes just like FPL. (Hearing Tr. P. 278).

Dori Stone from the Indian River County Chamber of Commerce testified before the Commission on behalf of over 800 members in Indian River County, the City of Vero Beach and the City of Fellsmere. (Public Hearing Tr. P. 31). Ms. Stone testified that the Indian River Chamber of Commerce focuses on economic development and is actively engaged in efforts to both retain current employers in Indian River County and also the recruitment of new employers into Indian River County. (Public Hearing Tr. P. 31). She explained that one of the critical issues in recruiting new businesses to Indian River County is the cost of doing business in the community. (Public Hearing Tr. P. 31-32). One of the disadvantages of doing business in Indian River County has been the cost of the COVB power. (Public Hearing Tr. P. 32). Electric power provided through

the COVB has been a discouragement to the development of new businesses. (Public Hearing Tr. P. 32). Having access to lower cost power from FPL will therefore assist in attracting and developing new businesses in Indian River County. (Public Hearing Tr. P. 32).

Granting the FPL and COVB petitions will not just help business recruitment – it will also help with business retention. As Ms. Stone explained, Piper Aircraft, one of the long term businesses in Indian River County recently explored moving out of Indian River County. (Public Hearing Tr. P. 32-33). The costs of doing business was one of the factors considered for such relocation. (Public Hearing Tr. P. 32-33). Having lower cost FPL electricity will thus better enable retention of such businesses, protecting jobs and preventing loss of property taxes that support the community.

The transaction will also have a significant positive impact on the public sector in our community. This is because many public sector institutions are COVB customers that will save a great deal of money by paying less for electricity from FPL – helping these institutions to focus resources more on their missions and less on electricity bills, and taxpayers by helping relieve upward pressure on property taxes. As Mr. Deason explained, lower rates for public entities such as schools and law enforcement agencies puts downward pressure on taxes. (Hearing Tr. P. 278). This issue was specifically raised in the public hearing before the Commission by Tracy Zudans, one of the seven trustees serving the Indian River County Hospital District. (Public Hearing Tr. P. 33-34). Ms. Zudans explained that the Indian River County Hospital District collects approximately \$14 million in annual ad valorem taxes from Indian River County residents. (Public Hearing Tr. P. 32-35). The Indian River County Hospital District funds, through taxpayer dollars, the safety net for indigent healthcare at hospital-district-owned facilities and many other public and non-profit facilities throughout Indian River County. (Public Hearing Tr. P. 35).

The Indian River County Hospital District has various facilities served by COVB, including the Indian River Medical Center, the University of Florida Psychiatric Clinic, the Mental Health Association, the Visiting Nurse's Association, the Indian River County Health Department, Healthy Start Coalition, Treasure Coast Community Health, New Horizons, and the Mental Health Collaborative. (Public Hearing Tr. P. 35). Ms. Zudans testified that utility costs for such health facilities are significant and that such facilities pay \$2.7 million annually in electric service alone. (Public Hearing Tr. P. 35-36). Thus, the sale of the COVB Electric Utility to FPL would provide not just rate relief, but also helps with tax relief, as the electric utility rates have a direct impact on the Indian River County Hospital District ad valorem taxes. (Public Hearing Tr. P. 35-36).

The County has both COVB and FPL customers living within its limits. This boundary also results in the disenfranchisement of over 60% of the City of Vero Beach's electric customers. (Ex. 58). These customers reside outside the COVB municipal limits and cannot vote on those who set the electric rates or operate the utility. (Hearing Tr. P. 364). This results in unequal regulatory protections. The residents served by FPL are afforded regulatory protection by this Commission, while those served by COVB, who live outside the COVB limits, are left unguarded by the Commission with no vote on how COVB sets its rates or services.

It is the duty of the Indian River County Board of Commissioners to protect the interests of both COVB and FPL customers. The current boundary line between FPL and the COVB fragments electric service within Indian River County, and has caused years of strife. The Board would not sacrifice the residents served by FPL, just in order to get a good deal for those served by COVB. The Board's obligation is to protect and to serve all of the County's residents – all those currently receiving electric service from FPL and from the COVB utility. All of the County's residents will benefit from the Commission granting the petitions in this case.

II. ISSUES AND POSITIONS¹

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?

IRC: The County joins FPL's position on Issue 1.

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")?

IRC: Yes, County joins FPL's position on Issue 5.

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?

IRC: Yes, County joins FPL's position on Issue 6.

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

IRC: The County joins FPL's position on Issue 7.

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

IRC: No. County 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?

IRC: Yes. The County joins FPL's position on Issue 9.

¹ Issues 2, 3, 4, 10, 14, 18 and 19 were not accepted by the Commission as issues in this proceeding. The remaining issues have not been renumbered. Prehearing Order at 10.

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?

IRC: The County 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?

IRC: The County 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?

IRC: No. The County joins FPL's position on Issue 13.

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

IRC: Yes. The County joins FPL's position on Issue 15.

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

IRC: Yes. The County joins FPL's position on Issue 16.

III. CONCLUSION

For all of the foregoing reasons, Indian River County respectfully requests that this Commission authorize FPL to charge its rates to the COVB customers, approve termination of FPL and COVB's territorial agreement, approve recovery of a positive acquisition adjustment of approximately \$114 million, and, with regard to the short-term power purchase agreement between FPL and OUC, approve recovery of the energy portion of the charges through the Fuel and Purchased Power Cost Recovery Clause and approve recovery of the capacity charges component through the Capacity Cost Recovery Clause.

Respectfully submitted this 29th day of October, 2018.

/s/ Dylan Reingold

DYLAN REINGOLD

County Attorney

Indian River County

Florida Bar No: 544701

1801 27th Street

Vero Beach, Florida 32960

E-service Address: dreingold@ircgov.com

Telephone Number: (772) 226-1427

Facsimile Number: (772) 569-4317

**CERTIFICATE OF SERVICE
DOCKET NOS. 20170235-EI and 20170236-EU**

I HEREBY CERTIFY that a true and correct copy of Indian River County's Post Hearing Brief was electronically served this 29th day of October 2018, to the following:

Florida Public Service Commission

Kathryn G. W. Cowdery, Esq.

Jennifer Crawford, Esq.

Charles Murphy, Esq.

Office of General Counsel

2540 Shumard Oak Blvd.

Tallahassee, Florida 32399-0850

kcowdery@psc.state.fl.us

jcrawfor@psc.state.fl.us

cmurphy@psc.state.fl.us

Office of Public Counsel

J. R. Kelly, Esq.

Stephanie Morse, Esq.

Charles Rehwinkel, Esq.

c/o The Florida Legislature

111 West Madison Street, Room 812

Tallahassee, Florida 32399

kelly.jr@leg.state.fl.us;

morse.stephanie@leg.state.fl.us

Rehwinkel.charles@leg.state.fl.us

Civic Association of Indian River County, Inc.

Lynne A. Larkin, Esq.

5690 Highway A1A, #101

Vero Beach, FL 32963

lynnelarkin@bellsouth.net

Town of Indian River Shores

D. Bruce May, Jr., Esq.

Holland & Knight LLP

315 South Calhoun Street, Suite 600

Tallahassee, Florida 32301

bruce.may@hklaw.com

Florida Power & Light Company

Mr. Ken Hoffman

215 South Monroe Street, Suite 810

Tallahassee FL 32301

City of Vero Beach

James O'Connor, City Manager

Wayne R. Coment, Esq.

P. O. Box 650222

ken.hoffman@fpl.com

Bryan S. Anderson, Esq.
Kenneth M. Rubin, Esq.
700 Universe Boulevard
Juno Beach FL 33408
bryan.anderson@fpl.com; ken.rubin@fpl.com

Brian T. Heady
406 19th Street, Vero Beach, FL 32960
brianheady@msn.com

Vero Beach, FL 32961
citymgr@covb.org; wcoment@covb.org
J. Michael Walls, Esq.
Carlton Fields
4221 Boy Scout Blvd., Suite 1000
Tampa, FL 33607
mwalls@carltonfields.com

Michael Moran
P.O. Box 650222,
Vero Beach, FL 32965
Mmoran@veronet.net

/s/ Dylan Reingold

DYLAN REINGOLD

County Attorney

Indian River County

Florida Bar No: 544701

1801 27th Street

Vero Beach, Florida 32960

E-service Address: dreingold@ircgov.com

Telephone Number: (772) 226-1427

Facsimile Number: (772) 569-4317