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6 PUBLIC SERVICE COMMISSION

7 IN RE: PETITION BY FLORIDA POWER &
8 LIGHT (FPL) TO CHARGE FPL RATES,

Docket Number 20170235-EI

9
10 IN RE: JOINT PETITION TO TERMINATE
11 TERRITORIAL AGREEMENT BY FPL AND THE
12 CITY OF VERO BEACH

Docket Number 20170236-EU

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COMMISSION
CLERK

13 Motion to Reverse Prior Approvals

14 Motion to Deny Petitions by FPL and Vero Beach

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16 Brian T. Heady a citizen resident of Vero Beach Florida respectfully requests the Florida
17 Public Service Commission to consider the following testimony and submission and grant and approve
18 my Motion to Reverse Prior Approval and Motion to Deny Petitions by FPL and the City of Vero Beach
19 all contained in the above referenced Docket Numbers.
20

21 Petitioner further request this submission be included in the official record for the Docket
22 Numbers above.

23 Petitioner states the following in support of Motions and furthers states the following is
24 true to the best of my knowledge.
25

26
27 _____
28 Brian T. Heady

Introduction:

My name is Brian Heady. I have been involved in city politics and city business for over twenty years. I have served as an elected official as a City Councilman and I have served on the City Council's advisory board. I was a member of the Utility Commission which has oversight with respect to Vero Beach electric utility. I have knowledge of the issues before the Florida Public Service Commission.

Political Views:

By way of full disclosure, I believe PSC authorities should know something about me. I disagree with the majority of current city council members who believe the city has no business in the electric business. In fact, I believe just the opposite. Cities have an obligation to insure essential services are available to the public. To be sure; that is not to say it must be a municipal electric entity providing the service. I am absolutely content with service from an investor owned electric provider such as FPL, a municipal electric provider, or a privately held provider.

I agree with a majority of the council in the belief that our city residents and businesses would benefit from lower electric rates. Although my reasons may be different I agree with the majority of the council that the city owned electric utility should be sold.

History:

The city of Vero Beach became the owner of the electric utility in the early years of the last century. Over the next 75 years city residents increased their city's utilities generation capacity, and the size and quality of the distribution network. City resident owners borrowed millions from bond holders to build and expand the electric business.

During the 1990's and the first decade of the new century political lines were drawn in the sand with respect to issues related to the electric utility. Court battles were started. Some were lost. Some were won. All were an expense charged to and paid for by the ratepayers. The only possible beneficiaries I see were media outlets who sold air time, printed ad space providers, and of course the lawyers who billed and were paid millions.

In November of 2009 I was unexpectedly elected to the Vero Beach City Council. One of my first actions was to openly discuss the possible sale of the electric utility. I supported and voted in favor of asking FPL to make us a purchase offer.

2009 to 2018:

1. As both an elected and appointed official I was approached by FPL representatives as well as the political movers and shakers in Vero Beach. I was asked to grant FPL exclusivity in any sale or purchase offer negotiations for the purchase of Vero Beach's ongoing electric generating and distribution system.
2. When offers regarding the sale of Vero Electric were being made to me or if I had information that offers were being made outside the public eye I repeated publicly what I knew or what I believed to be true. I believed then and I believe now the public has a right to know what governing officials are doing in their public capacity.
3. I was told if I wanted to be reelected I should "join the sell team" and not question details. I declined their offer of membership to their club.
4. Well financed campaigns against me were mounted. These campaigns against me include several of the individuals contributing testimony and submissions to the PSC in the effort to sell Vero Electric to FPL. I applaud them for their political activism.
5. Although the huge amounts of money spent in political campaigns against me were successful in that I was not reelected, the sell under any terms candidates were successful. I would be the first to support my opponents right to take advantage of the freedoms we enjoy to spend money in support of their political positions. I hold no animosity or ill will against any of those individuals or corporations and I would applaud them for their success at the ballot box. But it should not go unnoticed the overwhelming dollar support in city elections came from outside the city limits by corporations and individuals who are clearly more interested in the sale to FPL than they are in the financial viability of this nice Florida city.
6. Current Mayor Harry Howle's submission dated 6/29/18 suggest that in their deliberations the PSC must consider that "this sale needs to be considered as a package and not picked apart." He goes on to say "FPL's presentation clearly establishes a \$105 million benefit to existing FPL customers." So, do I have this correct: the city's mayor is using the benefit to FLP customers as his support for the sale of the city utility?? Why?? Why wouldn't he be pushing the benefits to city residents? Who is he working for? It's just so interesting that the Mayor of Vero Beach considers savings to those outside of the city he represents to be one of the major points for consideration. He goes on to say that PSC staff recommendations could ultimately make this deal fall through and that is not equitable to FPL customers. Really? Equitable to FPL customers?? How about equitable for Vero Beach residents?? In his submission he writes about "\$112 million" as "nickel and diming" in this deal. At City Council meetings he has had me physically removed by police for daring to approach the public lectern during public comment when I have taken an opposing viewpoint. He is concerned about equitable

considerations for FPL customers but not concerned about the legal rights of citizens to present their point of view in a public forum.

7. Former mayor and current Councilwoman Laura Moss points out that this matter is decades old. So am I. She fails to inform the PSC that as mayor she had citizens forcefully removed from City Hall when they dared to oppose her point of view. Florida law allows for and requires the opportunity for public comment on any issue that comes before the Council in which the Council is going to make a decision. A current lawsuit before the courts in the Nineteenth Judicial District challenges the legal authority of her actions. She states the PSC “has recognized” and this sale to FPL “is supported by extraordinary circumstances.” She fails to mention the abuse of power and retaliation against citizens who have dared to rise in opposition to this sale. She repeats over and over that government has no business in the electric business. But thankfully citizens have government and government agencies such as the PSC to protect citizens by listening to and considering the law and all testimony and points of view. Her efforts support her out of town backers. Questions as to if she considered the total consequences of not only the sale of the public utility but also the near complete giveaway of the proceeds have gone unanswered. Proceeds of the sale go to entities outside the city not to the owners of the utility. I don’t think the majority of citizen would approve of that. When I have attempted to ask questions she as mayor has had me physical removed from city hall. She has participated in a scheme to defraud the public and the PSC. All City Council members will say is we will get FPL rates but not one elected official will answer questions about what rate that might be.

8. In his testimony before the PSC Vero Beach City Councilman Val Zudans states “the sale of our city’s electric system to FPL” was in fact “my primary motivation for running for city council.” He states that “The local voters have voted twice for referendums in favor of sales to FPL and the pro-sale candidates have won multiple elections; the citizens have spoken.” He does however not bother inform the PSC that he has participated in having police remove citizens from public meetings for speaking against a sale. And he says citizens have spoken? Only the ones he allows to speak! He has offered no explanation, evidence, or contemporaneous notes as to why or how any of terms of the sale were negotiated in which the stakeholders are deprived of the benefits of the sale. His public response has been “just because I don’t answer questions doesn’t mean I don’t know the answers.” And he misleads the PSC with respect to the two referendums. One referendum was an agreement to lease the existing power plant site to FPL to continue to produce electric in and for the city residents. The second referendum was voter permission to continue to negotiate the terms of a sale favorable to the residents of the city. Certainty any reasonable man approach or analysis of the current terms of the sale would not conclude that depleting the city of its major source of income and selling its assets at below fair market value are reasonable terms or reasonable actions of a governing body. Judicial notice should be taken of elected

officials deceiving oversight agencies meant to protect citizens and the essential infrastructure. They have deceived the PSC!

9. In his May 10, 2018 submission to the public service commission Mr. Hill signs on as president of the Hill group a construction company rather than his position of leadership in the Tea Party a political action organization active in Vero Beach. He and his organization have supported pro sale candidates and I applaud his activism although I often disagree with his conclusions. His reasons for approving a sale are concentrated on the benefits to construction and renovation projects' potential not the potential of bankrupting one of Florida's currently prosperous cities.

10. In his submission County Commissioner Bob Solari states the "vast majority of citizens of Vero Beach" hope you approve the sale to FPL. How he arrived at a vast majority conclusion is anyone's guess. There has been no vote or any definable or documentary evidence demonstrating that this is true. I would agree the vast majority of the city residents would appreciate lower electric bills and I would think that would be true of any resident of any city in the USA. He states "most of our community has been fighting to make the sale a reality for ten years." He goes on to state that it would improve the lives of its residents to have the benefit of FPL's low rates but fails to mention FPL is not the lowest rate provider. He further states that "the greatest beneficiaries of both low FPL rates and the economic benefits that low rates will bring will be our low-income residents who are presently served by Vero Electric." Really? The greatest beneficiaries will be low income residents who sometimes don't even have air conditioning? I have served in several capacities helping low income residents and in my volunteer hours with Disabled American Veterans. I have worked for Habitat for Humanity, Building Goodness, and several other groups and I can state without question that these low-income residents are not the groups with the highest electric usage and would not be the "greatest beneficiaries." It should not go unnoticed Mr. Solari's political support is from FPL and the wealthy high energy users of beachside communities. They would certainly be the greatest beneficiaries. I have watched Mr. Solari and his political actions for many years. Very few of his actions were to the benefit of low income residents.

11. In her petition to the public service commission Lynne A. Larkin raises issues of disputed material facts. Lynne Larkin and I have been political adversaries for many years. In her petition she raises questions and issues that should give pause to any decision-making commissioner in a position of authority. Testimony to the PSC that residents outside city limits have no voice is clearly debunked by Larkin's petition in that Indian River Shores and Indian River County residents "have full voting representation on the City's Utility Commission and actually constitute a majority of members." As she states "FPL money rolled into campaigns enabling many biased and false claims" to "enter the public consciousness via mailings and television ads." Literally hundreds of

thousands of campaigns dollars supporting “pro sale” candidates have been spent in this small city of approximately 16,000 residents. All I can say to that is Wow. Hundreds and hundreds of thousands of dollars spent in this small city. Larkin’s petition is similarly correct in that “no informed vote of the City residents has ever occurred allowing them to make a decision in what might directly and adversely affect all residents.” In fact, a lawsuit in Vero Beach alleges knowledgeable individuals have been wrongfully silenced at City Council meetings for daring to point out flaws or negative impacts of the currently structured sale of the electric utility to FPL. As Larkin has stated with reference to the Sebring example the issues facing the two sales are very different. Sebring was a city facing bankruptcy before the sale of their utility. Vero Beach will likely be a city facing bankruptcy after the sale of its electric utility. Again, repeating and applying the reasonable man approach I believe Larkin’s arguments contained in the Petition By the Civic Association of Indian River County support and warrant reversal of any approval by the PSC of the currently proposed sale of Vero Electric to FPL.

12. Bottom line is really simple. If this whole thing was strictly on the up and up the City Council would allow for questions and respond with answers. The fact that lawsuits have to be filed by citizens in this case is an atrocity. Please, please, please do not approve anything in this Vero to FPL sale. You have been lied to, you have been deceived. Please allow the PSC to do a public service to all of the communities within your jurisdiction and reverse approvals to facilitate sale of Vero Beach electric utility to FPL as it is currently structured. If it is within the jurisdiction PSC I would also respectfully ask that you impose whatever sanctions against any entity feeding you false information.

Thank you for your consideration of my Motion to Reverse Prior Approvals and Motion to Deny Petitions by FPL and Vero Beach for any continuation of the requested sale.

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