

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

CIVIC ASSOCIATION'S [CAIRC] RESPONSE
TO COVB MOTION FOR PROTECTIVE ORDER FROM
SCHEDULED DEPOSITION OF HARRY HOWLE

CAIRC, pursuant to Rules 1.310, Florida Rules of Civil Procedure, files this Response to the City of Vero Beach [COVB] Motion for Protective Order dated 9-21-18, and would state:

1. COVB has erroneously claimed that CAIRC has requested the deposition of Harry Howle as a “representative” of the COVB as a “corporate entity.”
2. Nowhere in our Notice of Taking Deposition did we state that Mayor Howle was giving testimony on behalf of anyone other than himself. Simply using his honorific should not, and does not, confer any special status on a deponent, just as using the titles “Esquire” or “Doctor” would not indicate a deponent represented his law firm or his medical practice. No party should attempt to use email conversation to transpose a request for deposition of an individual into one being filed on a corporate entity. That is an unusual, and ineffective, argument. Indeed, other than making this assertion, counsel for COVB fails to point to any law which would support the same.
3. CAIRC clearly filed a deposition notice of an individual. As COVB counsel himself states, “if a corporation is the intended deponent . . .” the operative word being “if.” Rule 1.310 states:

(6) In the notice a party **may** name as the deponent a public or private corporation, a partnership or association, or a governmental agency, and designate with reasonable particularity the matters on which examination is requested. **This subdivision does not preclude taking a deposition by any other procedure authorized in these rules.**
(Emphasis added.)

4. If a party clearly names an individual, not a corporation, in a notice for deposition, no matter how their counsel may attempt to interpret it otherwise, that individual is legally bound to appear. The remaining law cited by the COVB is unrelated to this matter.

WHEREFORE CAIRC requests that the Commission deny the COVB request for protective order as it is based on conjecture and not on fact.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been filed and forwarded via email this 21st day of September, 2018, to: PARTIES listed below.

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