

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

Filed: September 24, 2018

**INDIAN RIVER COUNTY'S RESPONSE TO CIVIC ASSOCIATION'S [CAIRC]
MOTION FOR PROTECTIVE ORDER FROM INDIAN RIVER COUNTY'S
IMPROPERLY SCHEDULED DEPOSITION**

Indian River County hereby files this Response to Civic Association's Motion for Protective Order From Indian River County's Improperly Scheduled Deposition, and in support thereof states as follows:

1. On September 7, 2018, the Civic Association of Indian River County, Inc. filed the pre-filed testimony of Jay Kramer with the Florida Public Service Commission as part of the record of this proceeding.
2. On September 19, 2018, Indian River County contacted counsel for the Civic Association of Indian River County, Inc. requesting dates for setting a deposition of Jay Kramer.
3. Despite there being 19 days between September 19, 2018 and the date of the evidentiary hearing before the Florida Public Service Commission, scheduled for

October 9-10, 2018, counsel for the Civic Association of Indian River County, Inc. brushed off the request by stating “I’m sorry he won’t be available.”

4. Counsel for the Civic Association of Indian River County, Inc.’s did not have to file the pre-filed testimony of Jay Kramer with the Florida Public Service Commission.
5. However, since counsel for the Civic Association of Indian River County, Inc. chose to file such testimony, counsel for the Civic Association of Indian River County, Inc. should not be permitted to now shield witnesses from proper discovery.
6. Pursuant to Florida caselaw, “a strong showing is required before a party will be denied entirely the right to take a deposition.” *Orlando Sports Stadium, Inc. v. Sentinel Star Co.*, 316 So. 2d 607 (Fla. 4th DCA 1975).
7. Undersigned counsel for Indian River County is in no way trying to harass, threaten or intimidate the Civic Association of Indian River County, Inc., but is simply disappointed that it appears that counsel for the Civic Association of Indian River County, Inc. is trying to prohibit Indian River County from deposing a witness that the Civic Association of Indian River County, Inc. will present to the Florida Public Service Commission.
8. Indian River County will be prejudiced if the Civic Association of Indian River County, Inc. can file pre-filed testimony of a witness and call that witness to testify without offering other parties the right to depose the witness.

WHEREFORE, Indian River County hereby respectfully requests that the Florida Public Service Commission deny the Civic Association’s Motion for Protective Order From Indian River County’s Improperly Scheduled Deposition.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to: Lynne A. Larkin, Esq., 5690 Highway A1A, #101, Vero Beach, Florida 32963, lynnelarkin@bellsouth.net and that a true copy has been furnished to the following by electronic mail this 24th day of September, 2018.

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