

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

DATED: September 26, 2018

CITY OF VERO BEACH, FLORIDA PREHEARING STATEMENT

Pursuant to the Order Establishing Procedure, Order No. PSC-2018-0370-PCO-EU, issued July 25, 2018 (the "OEP"), and Order No. PSC-2018-0445-PCO-EU, the Second Order Modifying Order Establishing Procedure to Establish Additional Issues for Hearing and to Provide for Sworn Public Testimony at Hearing ("Second OEP") issued August 31, 2018, the City of Vero Beach, Florida ("COVB") submits its Prehearing Statement and states as follows:

A. APPEARANCES:

JAMES MICHAEL WALLS
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B. WITNESSES AND EXHIBITS:

In identifying witnesses and exhibits herein, COVB reserves the right to call such other witnesses and to use for any purpose such other exhibits as may be identified in the course of discovery, by other parties, and in preparation for the final hearing in this matter.

1. REBUTTAL WITNESSES.

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
James R. O'Connor	Mr. O'Connor explains that (1) the duly elected COVB Council directed the negotiations for the sale of the COVB electric utility with Florida Power & Light Company ("FPL") through outside counsel independently representing the COVB's interests; (2) the COVB citizens twice voted in favor of resolutions with respect to the sale of the COVB electric utility; (3) the COVB Utilities Commission is an advisory commission to the COVB Council; and (4) regulatory approvals by the FPSC in these proceedings are conditions precedent to the sale of the COVB electric utility to FPL under the APA.	2, 5, 6, 7, 9, 16

2. REBUTTAL TESTIMONY EXHIBITS.

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. __ (JRO-1)	James R. O'Connor	COVB Municipal Code Section 2-102 explaining the role of the COVB Utilities Commission.
Exhibit No. __ (JRO-2)	James R. O'Connor	A composite exhibit of the COVB "letters of interest" sent by the COVB to a representative of all municipal electric utilities, the largest municipal electric

		utilities, and all investor owned electric utilities in Florida inquiring about their interest in purchasing the COVB electric utility.
Exhibit No. __ (JRO-3)	James R. O'Connor	Resolution No. 2011-33 certifying the results of the Referendum on Lease of City Power Plant Site.
Exhibit No. ____ (JRO-4)	James R. O'Connor	Resolution No. 2013-09 certifying the results of the Referendum on Sale and Disposition of Vero Beach Electric Utility.
Exhibit No. ____ (JRO-5)	James R. O'Connor	The Asset Purchase and Sale Agreement by and between the COVB and FPL dated October 24, 2017 (the "APA").

C. COVB'S STATEMENT OF BASIC POSITION.

Approval of the Florida Power & Light Company ("FPL") and the COVB petitions in these dockets is a condition precedent to the sale of the COVB electric utility to FPL.

Termination of the territorial agreement between the COVB electric utility and FPL, Florida Public Service Commission ("FPSC") approval to charge the COVB electric customers FPL's existing retail electric rates, and FPSC approval of regulatory accounting matters including treatment of any acquisition adjustment arising from FPL's purchase of the COVB assets as a regulatory asset are conditions precedent to consummation of the sale of the COVB electric utility to FPL. Without these FPSC approvals, there is no sale, and the COVB, its citizens, and

its electric utility customers are denied the benefits of the sale and FPL's provision of reliable, cost-effective electric service.

The COVB citizens have twice voted for referenda supporting the principle of selling the COVB electric utility to FPL, the COVB Council has held numerous public meetings to allow its citizens and members of the public to discuss and debate this issue, and the duly elected COVB Council has voted in favor of the sale of the COVB electric utility to FPL under the terms of the APA. The COVB has determined that the sale of the COVB electric utility to FPL is in the best interest of its citizens and its electric utility customers. There is no doubt the thousands of residents who receive more costly service from the COVB will benefit greatly from the transaction. This carefully balanced deal also will bring tangible benefits to the COVB. Proceeds from the sale will allow the COVB to pay off debt, meet pensions liabilities, and provide approximately \$30 million in unrestricted funding to meet the COVB's needs. Transactions like this one -- that benefit all and resolve complex and long-standing disputes -- are rare. In the COVB's view, it would be tragic if the FPSC allowed this extraordinary deal to die for lack of regulatory approval and, accordingly, the COVB respectfully requests the FPSC grant the petitions in these dockets.

D. COVB'S STATEMENT OF ISSUES AND POSITIONS:

The issues listed below were provided for in Order No. PSC-2018-0445-PCO-EU, issued August 31, 2018:

Issue 1: What statutory positions or other legal authority, if any, grant the Commission the authority and jurisdiction to approve the acquisition adjustment requested by FPL in this case?

COVB Position:

The COVB joins FPL's position on Issue 1.

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

COVB Position:

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

Witness: James R. O'Connor.

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?

COVB Position:

COVB 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?

COVB Position:

COVB 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")?

COVB Position:

Yes. The COVB joins FPL's position on Issue 5.

Witness: James R. O'Connor.

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?

COVB Position:

Yes. The COVB joins FPL's position on Issue 6.

Witness: James R. O'Connor.

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

COVB Position:

The COVB joins FPL's position on Issue 7.

Witness: James R. O'Connor.

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

COVB Position:

No. The COVB 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?

COVB Position:

Yes. The COVB joins FPL's position on Issue 9.

Witness: James R. O'Connor.

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?

COVB Position:

COVB 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?

COVB Position:

The COVB 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?

COVB Position:

The COVB 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?

COVB Position:

No. The COVB 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?

COVB 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?

COVB Position:

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

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

COVB Position:

Yes. The COVB joins FPL's position on Issue 16.

Witness: James R. O'Connor.

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's 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)?

COVB Position:

No. The COVB 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’s 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)?

COVB Position:

No. The COVB 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’s 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)?

COVB Position:

No. The COVB joins FPL’s position on Issue 19.

Issue 20: Should this docket be closed?

COVB Position:

Yes. The COVB joins FPL’s position on Issue 20.

E. STIPULATED ISSUES:

None.

F. PENDING MOTIONS OR OTHER MATTERS:

1. The Civic Association of Indian River County’s (the “CAIRC”) Motion for Reconsideration of Order Granting Request for Protective Order by City of Vero Beach (“Motion for Reconsideration”).

2. The COVB Response in Opposition to the CAIRC Motion for Reconsideration of Order Granting Request for Protective Order by City of Vero Beach.

G. COVB’S REQUESTS FOR CONFIDENTIAL CLASSIFICATION:

None.

H. REQUIREMENTS OF PREHEARING ORDER THAT CANNOT BE MET:

There are no requirements of the prehearing order that cannot be met at this time.

I. OBJECTIONS TO WITNESSES' QUALIFICATIONS:

None.

Respectfully submitted on the 26th day of September, 2018,

/s/ James Michael Walls

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the CITY OF VERO BEACH PREHEARING STATEMENT as identified above have been served by electronic mail on this 26th day of September, 2018 to all counsel of record as listed below.

/s/ James Michael Walls

James Michael Walls

COUNSEL OF RECORD

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