

OFFICE OF THE  
CITY ATTORNEY

COMMISSION  
CLERK

March 10, 2011

Ms. Ann Cole, Commission Clerk  
Office of Commission Clerk  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

ORIGINAL

RE: **City of Vero Beach Response to Commission Staff data request  
Docket No. 090524-EM – Complaint of Stephen J. Faherty and Glenn Fraser  
Heran against the City of Vero Beach**

Dear Ms. Cole:

Please allow this letter and attachments to serve as the City of Vero Beach's responses to the Public Service Commission staff's data requests transmitted on February 10, 2011 to Mr. Schef Wright, the City's previously retained attorney in the above-referenced matter. The City's City Council has directed that the appropriate City personnel prepare and provide the data requested rather than have Mr. Wright represent the City in this matter at this time. The responses provided herein represent the information provided this office by the City's staff. An original and five (5) copies of this response and each of the attachments are provided as requested by Ms. Martha C. Brown, Senior Attorney. In addition, we have provided a DVD with the referenced City of Vero Beach electric service territory map. Each of the questions presented by the staff data request are restated for ease of reference, followed by the City's response or reference to the appropriate attachment.

**Questions related to the referendum election required by Section 366.04(7)(a), F.S.:**

Section 366.04(7), Florida Statutes, requires each affected municipal electric utility as defined in this subsection to conduct a referendum election of all of its retail electric customers to determine if a majority of the customers are in favor of creating a separate electric utility authority to operate the business of the electric utility. For purposes of this subsection, "affected municipal electric utility" is defined as a municipality that operates an electric utility that:

1. Serves two cities in the same county;
2. Is located in a noncharter county;
3. Has between 30,000 and 35,000 retail electric customers as of September 30, 2007; and
4. Does not have a service territory that extends beyond its home county as of September 30, 2007.

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**The following questions relate to the above subsection:**

- (1) Did the City of Vero Beach (City) determine that it did not meet the definition of “affected municipal electric utility” contained in this subsection: **Yes.**
- (2) If so, on what basis was that determination made: **By determining the statute’s applicability pursuant to the criteria provided, as follows:**

Serves two cities in the same county: **YES - The City of Vero Beach Electric Utility provides service to the City of Vero Beach, parts of Indian River County and the Town of Indian River Shores. This presumes that the term City and Town have the same legal meaning.**

Is located in a noncharter county: **YES.**

Has between 30,000 and 35,000 retail electric customers as of September 30, 2007: **NO. The City of Vero Beach had 27,854 retail electric customers as of September 30, 2007**

Does not have a service territory that extends beyond its home county as of September 30, 2007: **YES. The City’s electric service territory was confined to properties with addresses within the home county (Indian River County). (The City had a single customer with a home that straddled the St. Lucie County boundary, but the service address was Indian River County).**

- (3) Please explain the method by which the City determined the number of retail electric customers it was serving as of September 30, 2007.

**Section 366.04(7), Florida Statutes, references the number of retail electric customers as a determining factor for applicability of the statute. Chapter 366 does not provide a definition for the term customer. Therefore, pursuant to normal rules of statutory construction the City of Vero Beach looked to the dictionary or common meaning of the term customer: “one that purchases a commodity or service” (Merriam-Webster’s Collegiate Dictionary, Tenth Ed.). Similarly, Black’s Law Dictionary, Fifth Edition, provides a definition of customer as “One who regularly or repeatedly makes purchases of, or has business dealings with, a tradesman or business...Ordinarily, one who has had repeated business dealings with another. A buyer, purchaser, consumer or patron.” Based on the common meaning of the term customer, the City of Vero Beach counted each person or entity that purchased electric power from the City as one (1) customer regardless of the number of separate accounts or meters each such customer had assigned (e.g.: due to purchasing electric power for more than one location). This interpretation also appears to be consistent with the definition of customer provided by Rule 25-6.003, F.A.C. as “[a]ny person, firm, partnership, company, corporation, association, governmental agency or similar organization, who makes application**

**for and is supplied with electric service by the utility for its ultimate use...” should it be found applicable. One of the best examples of the method used would be the City of Vero Beach. While the City of Vero Beach is a single customer, it has over 400 accounts/meters assigned, with some meters located within and some without the City, including some within the Town of Indian River Shores. Another example would be the United States Postal Service, while a single customer, it has multiple accounts/meters assigned for its different locations within and without the City of Vero Beach, as well as within the Town of Indian River Shores.**

- (4) Please provide the number of retail electric customers as of September 30, 2007, broken down by rate classification. Please separate this information into those customers located within the city limits of Vero Beach and those outside of the city limits of Vero Beach.

**Total Retail Electric Customers as of September 30, 2007: 27,854**

<b><u>Residential customers:</u></b>	<b><u>Inside</u></b>	<b><u>8,189</u></b>
	<b><u>Outside</u></b>	<b><u>15,208</u></b>
	<b><u>Total</u></b>	<b><u>23,397</u></b>

<b><u>Commercial customers:</u></b>	<b><u>Inside</u></b>	<b><u>2,317</u></b>
	<b><u>Outside</u></b>	<b><u>2,139</u></b>
	<b><u>Total</u></b>	<b><u>4,456</u></b>

<b><u>Industrial customers:</u></b>	<b><u>Inside</u></b>	<b><u>1</u></b>
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- (5) Please provide the number of retail electric meters as of September 30, 2007, broken down by rate classification, if this number is different than the number of retail electric customers provided in the response to the previous question. Please separate this information into those meters located within the city limits of Vero Beach and those outside of the city limits of Vero Beach.

**Total Retail Electric Meters as of September 30, 2007: 32,507**

<b><u>Residential meters:</u></b>	<b><u>Inside</u></b>	<b><u>9,557</u></b>
	<b><u>Outside</u></b>	<b><u>17,748</u></b>
	<b><u>Total</u></b>	<b><u>27,305</u></b>

<b><u>Commercial meters:</u></b>	<b><u>Inside</u></b>	<b><u>2,704</u></b>
	<b><u>Outside</u></b>	<b><u>2,497</u></b>
	<b><u>Total</u></b>	<b><u>5,201</u></b>

<b><u>Industrial meters:</u></b>	<b><u>Inside</u></b>	<b><u>1</u></b>
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**Questions related to the Cost of Service study filed September 18, 2009, in support of tariff changes requested by the City of Vero Beach:**

The City of Vero Beach filed a cost of service study with the Public Service Commission on September 18, 2009, in support of the proposed tariff changes requested by the City. The following questions relate to this cost of service study:

**Answers to the following questions (6) through (9) have been provided by Public Resources Management Group, Inc., the City's consultant responsible for the cost of service study. – See attached information from PRMG. Please note that line #206 was merely “subtotals” and did not prompt a separate response from the consultant. In addition, the consultant did not have information to answer question #8 below.**

- (6) Table 4-1 of the cost of service study provides a Classification of Net Revenue Requirements for the projected Test Year 2010. Lines 203-224 of this table contain a list of “Electric NonDepartmental” expenses totaling \$4,459,822. Please provide a description of the types of expenses contained in each line item in this category, and how each of these expenses relates to the provision of electric service to retail electric customers located within and outside of the city limits of Vero Beach.
- (7) Lines 228-234 of Table 4-1 of the cost of service study contains a list of “Other Revenue Requirements” totaling \$22,497,643. Please provide a description of the types of expenses contained in each line item in this category, and how each of these expenses relates to the provision of electric service to retail electric customers located within and outside of the city limits of Vero Beach.
- (8) Table 4-2 of the cost of service study indicates that the total estimated number of meters for the 2010 Test Year is 33,408. This table also provides a breakdown of the total number of meters by rate classification. Provide the number of customers within each rate classification, if that number is different than the number of meters by rate classification indicated on Table 4-2.

**By COVB: The number of meters would be different from the number of customers as historically shown by the 2007 numbers, but there are no existing reports that provide the exact numbers/data for the time period in question that makes possible an accurate comparison of the number of meters to customers. The cost of service study performed by the City's consultant was designed to focus on meters and the associated usage to properly determine cost and revenue and did not determine the number of customers.**

- (9) Referring to Table 4-2 of the cost of service study, for each rate classification, please indicate how many meters are located within the city limits of Vero Beach and how many are located outside of the city limits of Vero Beach.

**Questions related to the territorial agreement between FPL and the City of Vero Beach approved by the Commission in Order No. 11580, issued February 2, 1983, in Docket No. 800596-EU:**

- (10) In 1983, the Commission approved a territorial agreement signed on June 11, 1980, between FPL and the City. This agreement provided, among other things, for the transfer of 146 customer accounts from the City to FPL and 22 accounts from FPL to the City. At the time the agreement was signed, how many total retail customer accounts were served by the City?

**This data cannot be determined, as the City's customer service/utility billing records still retained do not extend back to the time period in question.**

- (11) At the time the agreement was signed, how many of the City's customer accounts were for service provided within the city limits of Vero Beach and how many accounts were for service provided outside of the city limits of Vero Beach?

**This data cannot be determined, as the City's customer service/utility billing records still retained do not extend back to the time period in question.**

- (12) Provide the number of customer accounts as of December 31, 2010, related to service provided within the city limits of Vero Beach and the number of accounts related to service outside of the city limits of Vero Beach.

**While this request combines the two words *customer* and *accounts* in a single phrase, as noted above, number of *customers* differs from number of *accounts*, therefore, for purposes of this data request the City staff concentrated on utility *accounts* (which include electric service) without regard to the fact that some *customers* have multiple *accounts*. As of December 31, 2010, the City had approximately 33,949 utility *accounts* which included electric service. Of those *accounts*, approximately 13,580 include electric service within the City limits and approximately 20,369 include electric service outside the City limits.**

- (13) Provide a copy of the official county tax assessment map or other map showing the City's service area as of December 31, 2010, and clearly indicating the city limits of Vero Beach. Also, please clearly indicate on this map the City's service area at the time the territorial agreement was signed in 1980. **An original and five (5) copies of the City's service territory map are provided. Please note that the current service territory appears to be the same as it was in 1980. While readable maps of the 1980 service territory are not in the City's records, a review of the information contained in the "TERRITORIAL BOUNDARY AGREEMENT BETWEEN FLORIDA POWER & LIGHT AND CITY OF VERO BEACH DATED JUNE 11, 1980", indicates that the service territory description has not changed. In particular, note the section of the agreement, "Beginning where the extension of Old Winter Beach Rd.....then east along the Indian River – St. Lucie County Line to the Atlantic Ocean."**

Ann Cole, Commission Clerk  
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Respectfully submitted,

CITY OF VERO BEACH

A handwritten signature in black ink, appearing to read "Wayne R. Coment". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Wayne R. Coment  
Acting City Attorney

Copies to:     Stephen J. Faherty  
                  Glenn Fraser Heran  
                  City Manager



# Memorandum

TO: Mr. John Lee, Interim Director of Electric System  
City of Vero Beach, Florida

FROM: Henry Thomas, Vice President

DATE: February 17, 2011

SUBJECT: **Response to FPSC Data Request No. 1**

Based on your request, we have prepared the following responses related to Items 6, 7, 8 and 9 of the Florida Public Service Commission's Data Request No. 1 related to the Cost of Service Study filed September 18, 2009:

*(6) Table 4-1 of the cost of service study provides a Classification of Net Revenue Requirements for the projected Test Year 2010. Lines 203-223 of this table contain a list of "Electric Non-Departmental" expenses totaling \$4,640,322. Please provide a description of the types of expenses contained in each line item in this category, and how each of these expenses relates to the provision of electric service to retail electric customers located within and outside of the City limits of Vero Beach.*

**Indirect expenses associated with the provision of electric service are accounted for in the City's Electric Non-Departmental Fund. Such costs were incurred by the City to provide service to the electric customers, but are not assigned to or apportioned between the operating funds (i.e., Power Resources, Customer Service, Electric T&D, Electric Metering, and Electric Engineering). The following is a general description of each budgetary expense:**

- 203. Retirement Premium Assistance reflects additional contributions by the Electric System into the City's retirement plan. Such amount is an expense associated with the Electric System's employees who provide services to the electric customers.**
- 204. Workers Compensation reflects required insurance premiums paid by the Electric System. Such amount is an expense associated with the Electric System's employees who provide services to the electric customers.**

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- 205. State Unemployment Compensation reflects required payroll taxes paid by the Electric System. Such amount is an expense associated with the Electric System's employees who provide services to the electric customers.**
- 207. Professional Services reflect expenses associated with legal, financial, engineering or other technical services that are related to the Electric System operating funds but otherwise are not directly assignable. Such costs include fees associated with professional consulting services related to a cost of service rate study.**
- 208. Paying Agents Fee reflect expenses associated with debt issued on behalf of the Electric System.**
- 209. Audit Expenses reflect charges associated with Electric System's annual audit which is a requirement of the Bond Resolution.**
- 210. Telecommunications Services reflect expenses associated with City's cellular phones and other portable devices used for communication. Such amount is an expense associated with the Electric System's management of services and oversight of employees who provide services to the electric customers.**
- 211. Airport Land Rent reflects expenses associated with the Electric System's transmission and distribution operations center owned by the Airport Enterprise Fund.**
- 212. General Insurance reflects required insurance premiums to cover the property and liability needs of the Electric System. Such cost are not easily assignable to the operating funds but are incurred to provide adequate electric services to the customers.**
- 213. Insurance Arvay reflects required insurance premiums to cover a settlement of a lawsuit to an individual that was allocated across all City departments.**
- 214. Diesel Plant Miscellaneous expenses include costs of maintaining and monitoring wells associated with the retired diesel plant.**
- 215. General Fund Admin Charges reflect indirect costs provided by the City's General Fund, which includes costs associated with human resources, legal, finance & accounting, and overall management of the Electric System by the City Manager's office.**
- 216. Meter Deposit Interest reflects the reimbursement of interest income earned on customer deposits which is an offset to revenues of the Electric System.**
- 217. Bad Debt is an allowance to account for unpaid utility charges by customers who have defaulted on bill payments.**

- 218. Landfill Fees are charges associated with the disposal of Electric System waste.**
- 219. PSC Regulatory Fees are fees paid related to the FPSC for oversight of the Electric System.**
- 220. FMEA Membership reflects dues associated with the Electric System's involvement in the Florida Municipal Electric Association.**
- 221. FMPPA Joint Purchasing Fees are associated with the Electric System's participation in the joint purchasing of equipment and supplies through the Florida Municipal Power Agency.**
- 222. Miscellaneous charges reflect miscellaneous indirect expenses not otherwise specified.**
- 223. Grace reflects expenses associated with the correction of billing errors.**

*(7) Lines 228-232 of Table 4-1 of the cost of service study contain a list of "Other Revenue Requirements" totaling \$22,497,643. Please provide a description of the types of expenses contained in each line item in this category, and how each of these expenses relates to the provision of electric service to retail electric customers located within and outside of the City limits of Vero Beach.*

**The Other Revenue Requirements contained in Lines 228-232 of Table 4-1 reflect annual costs to the Electric System not considered "Expenses" as defined in the Bond Resolution and include the funding of annual debt service payments, capital upgrades, improvements and replacements, and the Electric System's Transfer to the General Fund. All are recognized charges of the Electric System described as follows:**

- 228. Debt Service are annual disbursements of principal and interest payments associated with the Electric System's long-term debt. Utility systems generally issue long-term debt to fund major facility upgrades or expansion of services that include production and transmission equipment and facilities. The debt is secured by the "Net Revenues" of the Electric System as defined in the Bond Resolution.**
- 229. Zero.**
- 230. Capital Funded from Rates reflect annual capital expenditures related to the purchase of vehicles & equipment, and minor system upgrades & improvements for the Electric System that are not funded through debt or impact fees.**
- 231. Deposit to R&R Fund reflects required deposits from "Net Revenues" as defined in the Bond Resolution to provide funding that is used to rehabilitate and replace**

**aging infrastructure and ensure service reliability. Expenditures are recurring and improvements are made based upon the City's adopted Capital Improvement Program.**

**232. Transfer to the General Fund reflects a return on the City's net investment in the Electric System which is estimated based on \$8.24 per MWh sold or approximately 6% of "Gross Revenues" as defined in the Bond Resolution. This transfer is common among municipal electric utilities in the State of Florida.**

*(8) Table 4-2 of the cost of service study indicates that the total estimated number of meters for the 2010 Test Year is 33,408. This table also provides a breakdown of the total number of meters by rate classification. Provide the number of customers within each rate classification, if that number is different than the number of meters by rate classification indicated on Table 4-2.*

**During the Cost of Service Study, we were tasked to estimate revenues based on existing rate classifications. To do so, we requested the number of metered services by rate classification and the annual electric consumption for the period. We then applied the adopted monthly customer charges, energy charges and demand charges to the billing determinants to estimate revenues. We did not request nor were we provided the number of actual customer accounts to complete this task.**

*(9) Referring to Table 4-2 of the cost of service study, for each rate classification, please indicate how many meters are located within the City limits of Vero Beach and how many are located outside the City limits of Vero Beach.*

<b>Projected Metered Services – Test Year [*]</b>			
<b>Rate Classification</b>	<b>Total Meters</b>	<b>Meter Location</b>	
		<b>Inside City</b>	<b>Outside City</b>
<b>Residential</b>	<b>27,921</b>	<b>9,897</b>	<b>18,024</b>
<b>Commercial Non-Demand</b>	<b>4,909</b>	<b>2,568</b>	<b>2,341</b>
<b>Commercial Demand</b>	<b>577</b>	<b>302</b>	<b>275</b>
<b>Industrial</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>Total Meters</b>	<b>33,408</b>	<b>12,768</b>	<b>20,640</b>

**[\*] Amounts were estimated for Fiscal Year 2010 as provided in the Cost of Service Study on September 18, 2009.**