

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint Regarding Electric Rate  
Structure of Gainesville Regional Utilities

DOCKET NO.: 130188-EM

FILED: March 28, 2014

**PETITIONERS' FIRST AMENDED COMPLAINT REGARDING THE RETAIL  
ELECTRIC RATE STRUCTURE OF GAINESVILLE REGIONAL UTILITIES**

Petitioners Eye Associates of Gainesville, LLC<sup>1</sup> and Deborah L. Martinez (“Petitioners”), by and through undersigned counsel, and pursuant to Sections 120.569, 120.57(1), 366.02(2), and 366.04(2)(b), Florida Statutes and Rules 25-22.036, 28-106.201, and 25-9.051(7), Florida Administrative Code, hereby file Petitioners’ First Amended Complaint regarding the retail electric rate structure of Gainesville Regional Utilities.<sup>2</sup> Based upon the stated cause of action upon which relief may be granted, Petitioners request that the Florida Public Service Commission (“Commission”) grant Petitioners’ request for an administrative hearing to adjudicate the disputed issues of material fact identified herein and subsequently issue an order directing Gainesville Regional Utilities to remedy the inequities identified within the retail electric rate structure. In support thereof, the Petitioners state as follows:

**INTRODUCTION**

1. Gainesville Regional Utilities (“GRU”) d/b/a City of Gainesville is a municipal utility serving nearly 93,000 electric customers in Alachua County, Florida. GRU’s headquarters are located in Gainesville, Florida.

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<sup>1</sup> The customer of record for this commercial account is William A. Newsom, M.D.

<sup>2</sup> The Petition originally filed by Petitioners was the Initiation of Formal Proceedings pursuant to Rule 25-22.036, F.A.C. Subsequent to filing, the Commission reclassified the Petition as a complaint and revised the docket title.

2. Petitioners are Commercial and Residential customers receiving electric service from Gainesville Regional Utilities (“GRU”). Petitioners’ substantial interests are adversely affected by the inequities within the retail electric rate structure that GRU implemented on October 1, 2013. Petitioners seek adjudication of the disputed issues of material fact identified herein to ensure that the retail electric rate structure is fair, just, and reasonable, non-discriminatory, allocates the recovery of costs equitably between the customer classes, and allocates the recovery of costs equitably between members of a customer class. Petitioners’ Amended Complaint is based upon the inequities identified within the Baker Tilly Virchow Krause, LLP (“Baker Tilly”) Cost of Service Study initiated by GRU, and the retail electric rate structure that GRU implemented on October 1, 2013.

3. The Commission has jurisdiction over the retail electric rate structure of a municipal utility pursuant to Sections 366.02(2) and 366.04(2)(b), Florida Statutes.

4. Petitioners’ Amended Complaint is further supported by the signature petitions of approximately one hundred twelve (112) GRU residential and commercial customers which were presented in the original filing and correspondence file letters from a State Representative and United States Congressman on behalf of their constituents that are GRU customers.

5. Any pleading, motion, notice, order, or other document required to be served upon the Petitioners or filed by any party to this proceeding should be served upon the following individual:

Nathan A. Skop, Esq.  
420 NW 50<sup>th</sup> Blvd.  
Gainesville, FL 32607  
Phone: (561) 222-7455  
E-mail: n\_skop@hotmail.com

6. A conformed copy of this Amended Complaint has been provided to GRU and the Office of Public Counsel (“OPC”) contemporaneously with the filing of this document with the Commission Clerk.

### **BACKGROUND**

7. On or about October 20, 2011, the Gainesville City Commission authorized GRU to execute a contract with Baker Tilly to provide cost of service and utility rates studies. Prior to hiring Baker Tilly, GRU had performed cost of service and utility rates studies internally for a number of years.

8. On or about April 3, 2012, Baker Tilly provided GRU with a preliminary draft report of the electric revenue requirements and forecasted electric cost of service analysis for the projected 2013 test year. Page 35 of this report compared the electric cost of service to the forecasted revenues at current rates by customer class. A true and correct copy of Page 35 is attached herein as Exhibit A. Exhibit A indicated that:

- The cost of service for the electric general non-demand customer class was approximately 14.88% lower than forecasted revenue at current rates.
- The cost of service for the electric general demand and electric large power customer class was approximately 5.36% and 6.59% lower; respectively than forecasted revenue at current rates.
- The cost of service for the electric residential customer class was approximately 3.30% higher than forecasted revenue at current rates.

9. On or about November 20, 2012, Baker Tilly provided GRU with a presentation summarizing the revenue requirement, cost of service, and rate design recommendations (“Baker

Tilly Presentation”). Slide 33 of the Baker Tilly Presentation compared the electric cost of service to the forecasted revenues at current rates by customer class. A true and correct copy of Slide 33 is attached herein as Exhibit B. Exhibit B indicated that:

- The cost of service for the electric general non-demand customer class was approximately 7.88% lower than forecasted revenue at current rates.
- The cost of service for the electric general demand and electric large power customer class was approximately 4.16% and 4.50% lower; respectively than forecasted revenue at current rates.
- The cost of service for the electric residential customer class was approximately 4.83% higher than forecasted revenue at current rates.

10. On or about February 11, 2013, Baker Tilley provided GRU with the final report of the electric revenue requirements and forecasted electric cost of service analysis for the test year ending September 30, 2013 (“Baker Tilly Report”). Page 47 of this report compared the electric cost of service to the forecasted revenues at current rates by customer class. A true and correct copy of Page 47 is attached herein as Exhibit C. Exhibit C indicated that:

- The cost of service for the electric general non-demand customer class was approximately 7.88% lower than forecasted revenue at current rates.
- The cost of service for the electric general demand and electric large power customer class was approximately 4.16% and 4.50% lower; respectively than forecasted revenue at current rates.
- The cost of service for the electric residential customer class was approximately 4.83% higher than forecasted revenue at current rates.

11. On October 1, 2013, GRU implemented the retail electric rate structure at issue in this Amended Complaint.

12. The retail electric rate structure implemented by GRU failed to remedy the inequities identified within the Baker Tilly Report, perpetuates subsidizations between and within the rate classes, and unjustly burdens the rate classes that are above parity in relation to the cost of service for those rate classes.

13. Non-jurisdictional issues, which are not at issue in this proceeding, aggravate the existing inequities within the retail electric rate structure further demonstrating why the jurisdictional relief sought by Petitioners is critically important, warranted, and appropriate.

14. On or about January 14, 2014, Commission staff gave administrative approval to the revised GRU Tariff Sheets that implemented the retail electric rate structure on October 1, 2013. Administrative approval of tariff sheets by Commission staff does not address the disputed issues of material fact presented herein nor the underlying cause of action upon which relief may be granted.

15. On March 19, 2014, the Commission issued Order No.: PSC-14-0137-FOF-EM granting Petitioners leave to amend their original filing no later than March 28, 2014. Petitioners have timely filed their Amended Complaint consistent with the requirements of the Commission Order.

**STATEMENT OF SUBSTANTIAL INTEREST, INJURY IN FACT,  
AND CAUSE OF ACTION UPON WHICH RELIEF MAY BE GRANTED**

16. Petitioners are Commercial and Residential customers receiving electric service from GRU. Petitioners' substantial interests are adversely affected by the inequities within the retail electric rate structure that GRU implemented on October 1, 2013. Petitioners' Amended Complaint is based upon the inequities identified within the Baker Tilly Cost of Service Study

initiated by GRU, and the retail electric rate structure that GRU implemented on October 1, 2013.

17. Petitioner Eye Associates of Gainesville, LLC is a member of the General Non Demand rate class. Exhibit C demonstrates that the General Non Demand rate class is well above parity in relation to the cost of service for the rate classes presented. Eye Associates of Gainesville, LLC has incurred an injury in fact because the retail electric rate structure implemented by GRU on October 1, 2013, failed to remedy the inequities identified within the Baker Tilly Report, perpetuates subsidizations between and within the rate classes, and unjustly burdens the rate classes that are above parity in relation to the cost of service for those rate classes. At hearing, Eye Associates of Gainesville, LLC will demonstrate that the retail electric rate structure implemented by GRU on October 1, 2013, implemented changes in direct conflict with correcting the inequities identified within the Baker Tilly Report to the detriment of the General Non Demand rate class.

18. Petitioner Deborah L. Martinez is a member of the Residential rate class. Ms. Martinez has incurred an injury in fact because the retail electric rate structure implemented by GRU on October 1, 2013, unjustly subsidizes Tier 1 of the Residential retail electric rate structure below the cost of service, failed to remedy the inequities identified within the Baker Tilly Report, and perpetuates subsidizations between and within the rate classes.

19. The stated cause of action upon relief can be granted is adjudication of the disputed issues of material fact related to the retail electric rate structure which GRU implemented on October 1, 2013. The Commission has jurisdiction over the retail electric rate structure of a municipal utility pursuant to Sections 366.02(2) and 366.04(2)(b), Florida Statutes. Petitioners seek adjudication of the disputed issues of material fact identified herein to ensure

that the retail electric rate structure is fair, just, and reasonable, non-discriminatory, allocates the recovery of costs equitably between the customer classes, and allocates the recovery of costs equitably between members of a customer class.

### **DISPUTED ISSUES OF MATERIAL FACT**

20. Whether the GRU retail electric rate structure accurately reflects and recovers the cost of service for each customer class?

21. How should the required change in revenue requirement be allocated among the customer classes?

22. Whether the GRU retail electric rate structure allocates the recovery of the cost of service equitably between each customer class?

23. Whether the GRU retail electric rate structure allocates the recovery of the cost of service equitably between the members of the Residential customer class?

24. Whether the GRU retail electric rate structure is non-discriminatory?

25. Whether the GRU retail electric rate structure is fair, just, and reasonable?

26. What is the appropriate Cost of Service Methodology to allocate base rate costs to the respective customer classes?

27. Whether adoption of a two tier Residential rate structure is appropriate to avoid cross-subsidization between members of the Residential customer class?

### **RELIEF SOUGHT**

28. Based upon the stated cause of action upon which relief may be granted, Petitioners request that the Commission grant Petitioners' request for an administrative hearing to adjudicate the disputed issues of material fact identified herein.

29. Petitioners further request that the Commission issue an Order Establishing Procedure in this docket allowing discovery to proceed and establishing an administrative hearing date.

30. Upon the completion of the administrative hearing, Petitioners request that the Commission issue an order directing GRU to remedy the inequities identified within the retail electric rate structure.

**WHEREFORE**, Petitioners respectfully request the Commission to grant Petitioners' request for an administrative hearing to adjudicate the disputed issues of material fact identified herein based upon the stated cause of action upon which relief may be granted.

s/ Nathan A. Skop  
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**Counsel for Petitioners**



## EXHIBIT A

# Gainesville Regional Utilities

## Draft Cost of Service Report

### Cost of Service Comparison to Current Rates by Customer Class

Customer Class	Cost of Service	Forecasted Revenues at Current Rates	Increase or (Decrease) Required	Percent Increase Required
Residential	\$ 110,593,638	\$ 107,057,724	\$ 3,535,914	3.30%
General Non Demand	23,601,646	27,726,450	(4,124,804)	-14.88%
General Demand	71,502,962	75,551,353	(4,048,391)	-5.36%
Large Power	16,649,310	17,824,647	(1,175,337)	-6.59%
Street Lighting	4,549,858	4,733,980	(184,122)	-3.89%
Alachua Wholesale	13,434,646	9,234,577	4,200,069	45.48%
Seminole Wholesale	9,924,938	6,662,359	3,262,579	48.97%
<b>Total</b>	<b>\$ 250,256,997</b>	<b>\$ 248,791,090</b>	<b>\$ 1,465,907</b>	<b>0.59%</b>

## EXHIBIT B

# Electric Cost of Service



Candor. Insight. Results.

Customer Class	Cost of Service	Revenues at Present Rates	Difference	Percent Difference
Residential	\$ 111,298,200	\$ 106,171,746	\$ 5,126,454	4.83%
General Non Demand	25,369,669	27,541,042	(2,171,373)	-7.88%
General Demand	71,774,938	74,893,057	(3,118,119)	-4.16%
Large Power	16,841,814	17,635,921	(794,107)	-4.50%
Street Lighting	4,605,061	4,733,980	(128,919)	-2.72%
Alachua Wholesale	<u>14,348,725</u>	<u>9,622,912</u>	<u>4,725,813</u>	<u>49.11%</u>
<b>Total</b>	<b><u>\$ 244,238,407</u></b>	<b><u>\$ 240,598,658</u></b>	<b><u>\$ 3,639,749</u></b>	<b><u>1.51%</u></b>

## EXHIBIT C

## Gainesville Regional Utilities

### Electric Rate Study Report

#### Cost of Service Comparison to Current Rates by Customer Class

Customer Class	Cost of Service	Forecasted Revenues		Percent Change Required
		at Current Rates	Change Required	
Residential	\$ 111,298,200	\$ 106,171,746	\$ 5,126,454	4.83%
General Non Demand	25,369,669	27,541,042	(2,171,373)	-7.88%
General Demand	71,774,938	74,893,057	(3,118,119)	-4.16%
Large Power	16,841,814	17,635,921	(794,107)	-4.50%
Street Lighting	4,605,061	4,733,980	(128,919)	-2.72%
Alachua Wholesale	14,348,725	9,622,912	4,725,813	49.11%
<b>Total</b>	<b>\$ 244,238,407</b>	<b>\$ 240,598,658</b>	<b>\$ 3,639,749</b>	<b>1.51%</b>

Please refer to Summary of Significant Assumptions and Summary of Significant Accounting Policies

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the parties of record indicated below via electronic mail on March 28, 2014:

s/ Nathan A. Skop  
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**Attorney for Petitioners**

<p>Holland &amp; Knight D. Bruce May, Jr. 315 South Calhoun Street, Suite 600 Tallahassee, FL 32301 Phone: (850) 425-5607 Fax: (850) 224-8832 Email: bruce.may@hklaw.com</p>	<p>City of Gainesville d/b/a/ Gainesville Regional Utilities Ms. Shayla L. McNeill P.O. Box 147117, Station A-138 Gainesville, FL 32614-7117 Phone: (352) 393-1010 Fax: (352) 334-2277 Email: mcneillsl@gru.com</p>
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