

ORIGINAL

**Matilda Sanders**

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**Sent:** Thursday, June 09, 2005 2:18 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** City of Vetro Beach Petition\_v1.PDF  
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Municipal Power	)	Docket No. 050256-EM
Agency for Determination of Need for	)	
Proposed Treasure Coast Energy Center	)	Filed: June 9, 2005
<u>Unit 1</u>	)	

**PETITION TO INTERVENE  
OF THE CITY OF VERO BEACH**

The City of Vero Beach ("COVB"), pursuant to Florida Administrative Code Rules 25-22.039 and 28-106.205, petitions to intervene in this docket and in support hereof states as follows:

1. The name and address of Petitioner is:

City of Vero Beach  
 1053 20<sup>th</sup> Place  
 Vero Beach, FL 32961  
 Telephone: (772) 978-5151  
 Facsimile: (772) 978-3856

2. Copies of all correspondence, notices, pleadings and orders in the above-

referenced docket should be directed to Petitioner and its representative as follows:

Brian D. O'Neill  
 LeBoeuf, Lamb, Greene & MacRae LLP  
 1875 Connecticut Avenue, N.W.  
 Washington, D.C. 00009  
 Telephone: (202) 986-8000  
 Facsimile: (202) 986-8102  
 Florida Bar #0140180

Mr. James Gabbard, Interim City Manager  
 Mr. Paul Thompson, Utilities Director  
 City of Vero Beach  
 1053 20<sup>th</sup> Place  
 Vero Beach, FL 32961  
 Telephone: (772) 978-5151  
 Facsimile: (772) 978-3856

3. COVB operates a municipal electric utility that owns an electric generation plant and electrical transmission distribution systems. COVB's generation plant includes five units – a 12 MW steam unit (unit No. 1), a 16 MW steam unit (unit No. 2), a 34 MW steam unit (unit No. 3), a 56 MW steam unit (unit No. 4), and a 32 MW GE frame 6 combustion turbine generating facility (unit No. 5) – in addition to the 37 MW of power purchased from the Stanton I and II coal units and 12 MW of power purchased from the St. Lucie Nuclear plant.

4. COVB is one of 29 municipal electric utilities comprising the Florida Municipal Power Agency ("FMPA"), a joint action agency. In 1988, FMPA and COVB entered into two agreements pursuant to which COVB agreed to join the All Requirements Project ("ARP"), which is a group of 15 FMPA member utilities that purchase virtually 100% of their load requirements from FMPA. Under the agreements, FMPA agreed to provide to COVB, and COVB agreed to take from FMPA, all of COVB's electricity requirements, except to the extent that COVB could meet its requirements from its 12 MW entitlement in the St. Lucie nuclear power plant. In 1992, COVB was forced to construct additional generation capacity to meet its growth in load obligations because of a delay in implementing the ARP.

5. In December 2004 COVB gave notice to FMPA pursuant to the ARP Agreement that it was withdrawing its load and generation from the ARP effective in 2010. A copy of the notice of withdrawal is attached as Exhibit A.

6. On April 13, 2005, FMPA submitted a petition to determine the need for a proposed electrical power plant called the Treasure Coast Energy Center Unit 1. FMPA projected in its load and energy forecast for the ARP projects will fall below accepted minimums in the 2008 timeframe, and that many of the ARP's capacity and power purchase contracts are due to expire or are nearing the end of their lifetime. Thus, FMPA proposes the Treasure Coast


unit to address the future decline in resource capacity. FMPA noted in its petition that it was formed “to allow its members to cooperate with each other, on the basis of mutual advantage, to provide services and facilities in a manner and in a form of governmental organization relevant to geographic, economic, population, and other factors influencing the needs and development of local communities.” FMPA Petition, at 2.

7. COVB is intervening in this proceeding because it is a member of FMPA as well as the ARP, and thus the issues to be addressed in this proceeding will directly and substantially affect COVB's interests including its power supply costs. The Commission should grant COVB's petition to intervene because it has a substantial and immediate interest in the outcome of the proceeding that cannot be adequately represented by any other party.

8. There is significant question as to whether the project is needed to meet FMPA's load requirements and whether there is need for additional generation capacity. FMPA's load projections include COVB load and capacity. However, as noted above, COVB has given its notice of conversion under the contract rate of delivery provision of the ARP contract. Thus a substantial portion, if not all, of COVB's approximate 200MW peak load will not be needed to be served by FMPA starting in 2010. If the Commission determines that there is a need for some additional generational capacity, then there is a significant issue as to whether the proposed project is the least costly way of meeting that need.

WHEREFORE, COVB respectfully requests the Commission to enter an order granting this Petition and according COVB full party status in the proceeding.

Respectfully submitted,



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Brian D. O'Neill  
LeBoeuf, Lamb, Greene & MacRae LLP  
1875 Connecticut Avenue, N.W.  
Washington, D.C. 00009  
(202) 986-8000  
(202) 986-8102 (Fax)  
Florida Bar #0140180

*Attorney for City of Vero Beach*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Petition to Intervene by the City of Vero Beach, has been furnished by U.S. Mail to the following on this 9<sup>th</sup> day of June, 2005:

Gary V. Perko, Esq.  
Hopping Green & Sams, P.A.  
123 S. Calhoun Street (32301)  
P.O. Box 6526  
Tallahassee, FL 32314

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Frederick M. Bryant, Esq.  
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P.O. Box 3209  
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Jody Lamar Finklea, Esq.  
Associate General Counsel  
Florida Municipal Power Agency  
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Martha Carter Brown, Esq.  
Florida Public Service Commission  
Gerald L. Gunter Building  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Florida Municipal Power Agency (Orl)  
8553 Commodity Circle  
Orlando, FL 32819-9002

Department of Environmental Protection  
(Siting)  
Buck Oven  
Siting Coordination Office  
2600 Blairstone Road  
Tallahassee, FL 32301

Mr. Paul Darst  
Department of Community Affairs  
Division of Resource Planning/Mgmt.  
2555 Shumard Oak Blvd.  
Tallahassee, FL 32399-2100



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Brian D. O'Neill

# City of Vero Beach

1053 - 20th PLACE - P.O. BOX 1389  
VERO BEACH, FLORIDA 32961-1389  
Telephone: (772) 978-4710 • Fax: (772) 778-3856  
e-mail: [citymgr@covb.org](mailto:citymgr@covb.org)

APPENDIX A

OFFICE OF THE  
CITY MANAGER

December 9, 2004

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Florida Municipal Power Agency  
8553 Commodity Circle  
Orlando, FL 32819-9002

Re: Notice of Establishment of Contract Rate of Delivery under All-Requirements Power Supply Project Contract between Florida Municipal Power Agency and The City of Vero Beach dated as of October 1, 1996, as amended (the "Contract")

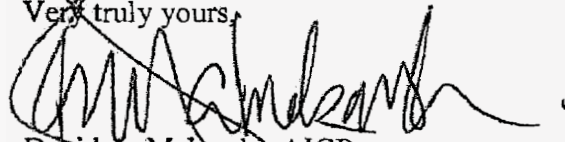
Ladies and Gentlemen,

Pursuant to Section 3 of the Contract, as amended by Amendment No. 1 to the Contract dated as of January 22, 1999 ("Amendment No. 1"), The City of Vero Beach ("COVB") hereby irrevocably limits the maximum amount of electric capacity and energy required to be sold and delivered by Florida Municipal Power Agency ("FMPA") and purchased and received by COVB as All-Requirements Service under the Contract, to the Contract Rate of Delivery as determined in the manner specified in said Section 3 of the Contract. As further provided in Amendment No. 1, such limitation shall commence January 1, 2010 and shall continue for the remainder of the term of the Contract.

As provided for in Amendment No. 1 dated as of January 22, 1999, to the Capacity and Energy Sales Contract between FMPA and COVB dated as of October 1, 1996 (the "Capacity Sales Contract"), the Capacity Sales Contract shall terminate upon commencement of delivery by FMPA of the Contract Rate of Delivery to COVB under the Contract.

COVB hereby notifies FMPA that it is willing to consider having delivery of the Contract Rate of Delivery under the Contract commence prior to January 1, 2010. COVB recognizes that in this connection FMPA may have to incur costs for an engineering study and an attorney and is willing to reimburse FMPA for such reasonable costs. It is also willing to enter into negotiations with FMPA on the terms and conditions of such an earlier commencement date.

Very truly yours,



David A. Mekarski, AICP  
City Manager

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