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Date:	11/13/2009 12/03/2009	Docket No.:	090524-EM
1. From Staff / Division:	Mbrown/GCL MCB		
2. OPR:	GCL		
3. OCR:	ECR ca		
4. Suggested Docket Title:	Complaint of Stephen J. Faherty and Glenn Fraser Heran against the City of Vero Beach for unfair electric utility rates and charges		
5. Program/Module/Submodule Assignment:	B.6		
6. Suggested Docket Mail List.			
a. Provide NAMES/ACRONYMS, if registered company.		<input type="checkbox"/> Provided as an Attachment	
Company Code, if applicable:	Parties (include address, if different from MCD):	Representatives (name and address):	
City of Vero Beach EM880	Glenn Fraser Heran 6985 57th Street Vero Beach, FL 32967 (772) 473 - 7629 Glenn@HFALLC.com	Dr. Stephen J. Faherty, Sr. 2120 Captains Walk Vero Beach, FL 32963-2921 (772) 231-8139 fahertydoc@earthlink.net	
b. Provide COMPLETE NAME AND ADDRESS for all others. (match representatives to companies)			
Company Code, if applicable:	Interested persons, if any, (include address, if different from MCD):	Representatives (name and address):	
7. Check one:	<input checked="" type="checkbox"/> Supporting Documentation Attached		<input type="checkbox"/> To be provided with Recommendation
Comments:			

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11733 DEC-3 08

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Matthew M. Carter II, Chairman
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

September 21, 2009

Dear Chairman Carter:

We request a Florida Public Service Commission (Commission) Hearing regarding the City of Vero Beach (City) Municipal Electric Utility. The City provides electric service to about 34,500 electric customers, 61 percent (22,000) of whom are outside of the City limits, specifically in Indian River County (County – 51 percent) and in the Town of Indian River Shores (Shores – 10 percent). This is the highest percentage of any of the 34 municipal electric utilities in the State.

The reasons for a hearing include, but are not limited to:

1. Changes to the City's electric rate structure;
2. Elimination of City Municipal Surcharge under §25-9.0525;
3. PSC enforcement of Section 366.04(7)(a);
4. Review of Territorial Agreement (Docket No. 800596-EU, Order No. 10382, dated November 3, 1981) between City and Florida Power & Light (FPL)
5. Representation of, and Equal Protection for, 61 % of outside City electric customers

Background

The 34 municipal owned electric utilities in the State were regulated by the 1974 Grid Legislation which expressly gave the Commission jurisdiction over all electric utilities regarding the interconnected energy grid to ensure reliability and avoid costly duplication of electric facilities. The bill also gave the Commission jurisdiction to approve territorial agreements and resolve territorial disputes among all electric utilities.

The Commission was also granted jurisdiction to review the rate structure of municipalities and rural cooperatives to avoid rate discrimination; however, the Commission does not have jurisdiction to set rates or service standards for municipalities and rural cooperatives. The Commission may grant a hearing for any of the reasons above, or on its own motion.

DOCUMENT NUMBER-DATE
11733 DEC-3 8
FPSC-COMMISSION CLERK

1. Changes to City electric rate structure

The City has entered into a series of ill fated electric utility agreements and decisions over the years which has led it to present predicament of a small, outmoded and costly utility. After losing an Arbitrator's decision at a cost to customers of about \$3.6 M, the City gave five year notice in 2005 to the Florida Municipal Power Authority (FMPA) that it would be leaving that group as its electric supplier effective January 1, 2010. [It should be noted that the City held a Referendum for the sale of its electric utility in 1977 and then attempted to sell its electric utility to Florida Power and Light (FPL) in 1979 which was blocked by two Federal agencies and the PSC under antitrust arguments.]

In 2005, the City engaged a consultant to review electric utility options which were presented in January and February 2006. At the City's Special Call Meeting on January 31, 2006, the City Manager said: the electric system has been in decline for the past 10 years; the City hasn't met its fiduciary responsibility to maintain the system; if the selling options were taken out it would save a lot of work and money for City staff; **AND** it is a real revenue source and can keep citizens taxes down (Pages 8 & 9). Two of the six options presented by the Consultant at the City's Special Call meeting in January 2006 related to the sale of all or part of the electric utility and were rejected by the City Council.

Thus, the City's continuing neglect of its fiduciary responsibility of its electric utility and its view of the electric utility as a revenue source, or "cash cow", are the major reasons for the significant rate increases it has now proposed. The customers, particularly the 61 percent outside the City who can't vote for the electric utility decision makers, the City Council, should not be continually penalized for, and by, their inept electric providers and decision makers! The City had not conducted a rate and service study since 1991. This is clearly another indicator of breach of its fiduciary responsibility and has resulted in significant proposed rate increases at one time because of its negligence.

In spite of assurances from the members of the City Council as late as April 2009 that the electric utility rates on January 1, 2010 will be on a par with (or equal to) FPL, the consultant's proposed January 2010 total rates are about 21 percent higher than FPL which is projecting a rate decrease of about 9 percent thus making the City's rates about 29 percent higher than FPL rates for the same amount of electricity. See EXHIBITS 1 and 2.

At present the City purchases 90 percent of its power and in the future will get 45 percent from interests in generating capacity and 45 percent from OUC. Additional cheaper capacity is coming on line from FPL between 2009 and 2012 which will make the City's power plant generate even less than its current 9 % of use which will directly affect the proposed future revenue and therefore further increase the projected rate differential. Also, the estimated cost of fuel was reduced by about \$13 M / year and included on a single \$53.4 M fuel cost line, an interesting consolidation from the City's multi-line fuels cost listing from last year. The electric utility is still running about a \$ 1 + M deficit as estimated by consultant and \$ 5.5 M as estimated by City Budget (EXHIBIT 3), no reserve fund for future contingencies (e.g., hurricanes) is being built up, no depreciation expenses included, and \$ 3 M in surcharges are being added to the base rate. The utility cannot borrow money from a bank for its deficit operations because it has no reserves.

The consultant's presentations showed that figures on certain tables can increase 7 % or 1.7 % each year but that is not reflected in the rate figures. In other presentations, the Consultant shows a 5.8% higher amount of revenue than the average collected by other utilities. Interestingly this is the same 5.8% as is used for the contribution to the City's General Fund from the electric utility (EXHIBIT 4) . Is this going to be reduced or eliminated to reduce the utility's deficit? What else has been left out of the rate figures?

The City offers no conservation incentives such as rebates for installing more efficient air conditioners, appliances, etc., in comparison to FPL. This is because it is easier for the City Council to pass on costs to its customers, particularly the 61 percent outside of the City and not voting for the City Council. The City has noted that it will hold discussions next year regarding having seasonal rates, peak period rates, etc. Will this just be the opening for the City to add the items it has missed this year on yet another occasion and add to the 29 percent City/FPL rate differential? We estimate that the inclusion of the missing factors in the rates would increase the City's rates next year to about 38 percent above FPL.

Other than stating that the rate structure has been changed from a flat line rate structure to a structure similar to FPL's with an approximate 15 percent reductions in rates for the first 1,000 KWHs, and the inclusion in the base rate of the \$ 3 M previously charged to the outside City customers as a Municipal Surcharge (see # 2 below), very little has been disclosed by the City about the Base rate structure.

2. Municipal Surcharge (§25-9.0525)

In 1983, the Florida Supreme Court decided regarding the City of Tallahassee that the PSC had jurisdiction as part of rate structure over any surcharges to municipal customers living outside the City limits (City of Tallahassee v. FPSC, 441 So. 2d 620 (Fla. 1983)). In that case, the Florida Supreme Court upheld the Commission's decision that a municipality may charge customers outside the city limits a surcharge equal to the municipal tax charged to City residents.

However, in that case, the question was not raised, nor answered, regarding the constitutional issue of taxation without representation, that is, the taxation by a municipality of 61 percent of the customers outside of the municipality who are not able to vote for the elected officials of the municipality which is able to impose taxes on, or create liabilities for, the outside customers.

The City imposes a 10 percent municipal electric tax on its customers within the City limits under FL § 166.231. It also has been imposing a 10 percent municipal electric surcharge (or tax) under FL § 25-9.0525 on the 22,000 recipients of municipal electrical services living outside of the City limits. These 22,000 customers do not have the right to vote in elections for the City Council members imposing the municipal surcharge. When the surcharge was initiated, only about 10 percent of the City's customers were outside of the local municipality. Now, Vero Beach has 61 percent of its customers outside of its municipal boundary. The 22,000 customers (61 %) have no direct representation or ability to elect those imposing the tax. This is clearly taxation without representation!

The City has proposed to eliminate the 10 percent municipal surcharge it imposes on its electric customers residing in the County and in the Shores which therefore make this action subject to Commission approval. The customers do not object to the elimination of

this tax and in fact support its elimination. **However**, as stated by the City's consultants in various presentations, the \$ 3 M amount previously collected by the City under the municipal surcharge statute is being included in the base rate portion of the electric rates as a cost of the utility. This just means that the City is including this amount in its base rate because of a need for revenue as opposed to a need to cover costs associated with operating the electric utility. See EXHIBIT 5 (and narrative).

In addition, the imposition of Section 25-9.0525, Municipal Surcharge on Customers Outside Municipal Limits, requires under subsection (1) that all factors such as the same base, same rate, etc., must be the same for customers inside and outside of the City. The elimination of the municipal surcharge and its inclusion in the City's base rate means that the outside City customers are paying about 61 percent of the previous municipal surcharge dollar amount (\$ 3 M) in the base rate and inside City customers are picking up the other 39 percent as well as paying a 10 percent municipal utility tax. Also, the outside City customers are now open to the City having possibly constructed the base rate in such a manner that the City could increase the rates for outside City customers above that of the City customers, thus creating a rate disparity between the City and outside City customers. For example, on page 14 of the Consultant's report, it is noted that the proposed rates for service charges were \$7.21 for inside the City and \$7.93 for outside the City while the energy charge was \$0.04585/kwh for inside the City and 40.05044/kwh for outside the City.

The City has an Annual Budget of approximately \$22 M per year (EXHIBIT 6). Each of its five Enterprise Funds, including electric, is required to contribute approximately 6 percent of its Gross Revenue to the City's General Fund. The electric utility's contribution is about \$ 5.8 M per year directly to the City's General Fund. In addition, approximately \$ 1.8 M in revenue from the City's tax on its own City electric customers is applied towards the budget. Also, another \$1.8 M is paid by the utilities indirectly to the City for Payroll and Personnel services, of which the amounts paid by all utilities is nearly equal to the entire budget for the City's payroll, accounting, finance, and personnel units. Also, about \$ 2.8 M for the outside City Municipal Surcharge is buried in the electric utility sales revenue

For the electric utility alone, this is totals about:

- \$ 5.8 M direct contributions to the General Fund from electric
- \$ 1.8 M City utility tax on its electric
- \$ 2.8 M former municipal surcharge and proposed increase to base rate
- \$ 1.8 M for payroll/personnel services from Electric
- \$12.2 M total utility subsidy to the City's \$ 22 M Budget

This is over half of the City's entire budget from the electric utility alone!

3. PSC enforcement of Section 366.04(7) (a);

Section 7135 of the Omnibus Energy Bill signed by the Governor on June 25, 2008 added Section 366.04 (7)(a) which provided for a Referendum to determine if customers wanted the establishment of an independent representative Utility Authority of electric utility customers where a municipal utility had between 30,000 and 35,000 retail customers as of September 30, 2007. The City of Vero Beach met those criteria including

the number of retail electric customers as included in Official reports submitted to this Commission and prepared by its auditors in its financial statements.

At its meeting on August 21, 2008, the City Council demonstrated its defiance of the State Legislature, this Commission, and the will of the 61 percent of its customers outside of the City by refusing to follow the law that applied to it and by refusing to conduct the Referendum.

Specifically, the City Council determined that, rather than following the provision that a Referendum be conducted with “each named retail electric customer having one vote”, it would eliminate the same owner of multiple accounts. With this approach, the City arrived at a new customer count of less than 28,000 customers which was under the threshold range of customers required by the law (30,000 – 35,000 as of September 30, 2007). This contradicts its CPA audited financial reports and also the official reports it submitted to this Commission, both of which show over 33,000 customers in the electric utility.

At the same time, City electric staff acknowledged that it could not determine the difference between accounts held by the same retail customer in slightly different names, such as SJ Faherty, S. Faherty, Steve Faherty, etc. The City does not have any “unnamed” accounts. These were just disingenuous City arguments to avoid having the Referendum and allowing the voice of the customers to be heard!

Furthermore, the law provided that it applied to an electric municipal utility that had a service area within its home county. The City stated that there were six customers out of over 33,000 customers outside of Indian River County, one of whom straddled the South Beach County lines of Indian River County and of St. Lucie County. After we pursued this matter more, five of the six customers turned out to be water only customers. The City dropped this argument.

The City Council also voted to reaffirm its “new customer count” and since it was below the law’s threshold, it would not ask for an opinion from the Attorney General (AG). This was to avoid the City getting the wrong answer provided to it from the AG. However, since it reaffirmed the new customer count, note that it is still using the 33,000 customers even in its submission to the Commission. At the same time, it again positioned the 61% (22,000) of the customers with no place to go to be heard.

The County and Shores have no enforcement authority. The AG responded to customer queries and said he could not provide an opinion to the customers or to the late Representative Stan Mayfield who drafted the legislation. The AG could only provide an opinion to the City which obviously would not request one! Our Country supports the right to vote, proportional representation, and majority rule. We are being denied those rights!

Since the PSC had Section 366.04(7) (a) included under its jurisdiction in 2008, did it determine which municipal electric utility(ies) might be subject to its statute? Did it enforce its own statute? If the Commission was concerned in 1981 about contacting the 168 customers affected by that modification to that Territorial agreement, why wouldn’t it be concerned in 2008 about the 22,000 customers outside the City not having an opportunity for representation and comment, as would be provided if the City held the 2008 Referendum?

If the Commission had prior reports from the City reporting over 33,000 customers, did the PSC question the previous incorrect reporting by the City? If it had subsequent

reports from the City reporting over 33,000 customers, did the PSC question the subsequent incorrect reporting by the City? Will the PSC penalize the City for filing incorrect reports? Will the Commission question the 33,000 customers cited in the City's submission? Will the PSC respond to the more than 33,000 City customers on these matters?

4. Review of Territorial Agreement (Docket No. 800596-EU, Order No. 10382, dated November 3, 1981) between City and Florida Power & Light (FPL)

The above territorial agreement (ESHIBIT 7) was the third in a series (prior revisions in 1972 and 1974) and completed 28 years ago at a time when about 10 percent of the City's electric customers were outside of the City. Now, 61 percent of the City's electric customers are outside of the City.

The territorial agreement reflects a number of comments which appear to be relevant in today's electric utility environment and which should be opened to public hearing under the Commission's own motion, or in relation to the City's requested changes for rate structure and elimination of its municipal surcharge.

1. In the fourth paragraph, page 1, it states that "the Commission finds no compelling reason to set this matter for hearing...there appears to be limited customer objection...moreover, the agreement is in the public interest."

Comment: The Commission should set this matter for hearing as there is significant customer objection (see also items 1 - 3 above) to the City's electric utility, its inefficient operation, rates significantly higher than FPL, City Council siphoning of utility revenue for City budget purposes rather than utility operations or reserves, no voice with City elected officials for the 61 percent of customers outside of the City limits, mismanagement, negligence, breach of fiduciary responsibility, and the City Council knowingly ignoring PSC Section 366.04(7)(a) which would have provided the opportunity to all customers to vote on having a representative utility authority. If the Commission was concerned in 1981 about contacting the 168 customers affected by the modification in the Territorial agreement, why wouldn't it be concerned about the 34,500 customers in general, and the 22,000 customers outside the City in particular, not having an opportunity for representation and comment, as in the 2008 Referendum?

2. In the fifth paragraph, page 1, it states that "Nevertheless, to insure that all persons who would be affected by the agreement have the opportunity to object to the approval of the agreement, the Commission is issuing this Notice of Intent to Approve."

Comment: Similarly, the Commission should provide on its own motion for a public hearing in the Vero Beach area in order to allow direct public comment on the City's proposed changes to rates significantly higher than FPL, City Council siphoning of utility revenue for City budget purposes rather than utility operations or reserves, no voice with City elected officials for the 61 percent of customers outside of the City limits, mismanagement, negligence, breach of fiduciary responsibility, noncompliance with PSC Section 366.04(7)(a), Territorial agreement, and other matters described herein.

3. In the first paragraph, page 2, the Commission noted the attempts by FPL and/or the City to contact the affected customers and determine their reaction to the proposal for changes to the prior territorial agreements.

Comment: The City has ignored PSC Section 366.04(7) (a) which was passed by Legislators to give over 34,000 customers the opportunity to vote their preference for a representative utility authority to run the City's electric utility. Similarly, the City has ignored the submission of over 800 names of customers on previously submitted petitions for similar action.

Customers are again seeking Local Legislation to modify the Commission's statutes to provide for a Referendum for customers outside of the City to vote on switching to FPL and amending the Commission's 1981 territorial agreement.

4. In the second paragraph, page 2, the Commission stated "Approval of this territorial agreement should assist in the avoidance of uneconomic duplication of facilities on the part of the parties, thereby providing economic benefits to the customers of each.

Comment: The City is uneconomical compared to FPL historically and presently (See EXHIBITS 1 & 2). Additional cheaper capacity is coming on line from FPL between 2009 and 2012 which will make the City's power plant used even less than its current 9 % of use which will directly affect the proposed future revenue and therefore further increase the projected rate differential between the two. FPL surrounds the City and it could easily substitute for the City's electric utility. The sale of the City's electric utility's Transmission and Distribution (T & D) system outside of the City would provide funds to the City which could be used to pay off any electric utility liabilities associated with the outside City customers, and enable the City to invest the net proceeds and use the return to replace any revenue reductions to its General Fund.

It should also be noted that in the Request for Proposal (RFP) competition for the selection of the FMPA electric supplier, the City required that the bidders agree: 1) not to protest the City's actions in the RFP process; and 2) request that the selection file be kept confidential for the longest period possible. A mistaken release of some of the documents by the City revealed that confidential evaluation sheet (EXHIBIT 8) of the final three bidders which showed that 33% of the rating related to how the bidder compared to FPL's rates, not the higher rates under the current electric provider, FMPA. Thus, mathematically a bid by FPL would at best make it average - it couldn't get above that, but it also couldn't protest!

5. In the second paragraph, page 2, the Commission also stated "The territory will better conform to natural or permanent landmarks and to present land development."

In addition, section 366.04(2) (e) states "To resolve, upon petition of a utility, or on its own motion (underlining added), any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its

proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

Comment: Much has changed over the last 28 years since the last territorial agreement modification in 1981. FPL has the capability to expand services in comparison to the City's electric utility which has limited economic capacity, is deficit ridden, has no cash reserves, and runs its antiquated plant about 9% of the year. In addition, the City purchases about 45 percent of its electric power from a major supplier. To supply additional customers, it would have to purchase it, not generate it, thus adding its cost as a middleman which is passed on to the customers.

The County and the Shores are each faced with situations where one side of a street in their jurisdiction is served by City electric and the other side is served by FPL with significant rate differentials between the two sides of the same street. This has been compounded with the increase in the percent of outside City customers from about 10 percent in 1981 to 61 percent outside of the City now.

6. Furthermore, Section 366.04(2)(f), second paragraph, states "...No provision of this chapter shall be construed or applied to impede, prevent, or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on July 1, 1974; however, existing territorial agreements shall not be altered or abridged hereby."

Comment: This provision appears to support the concept of protecting the municipal boundaries of electric providers. Minor changes to the City's territorial boundaries have occurred over the past 28 years, primarily by the addition of a few properties at a time. Has the Commission checked to confirm that both utilities are operating within the territorial service boundaries established 28 years ago? It should be noted that in our discussions with residents of Indian River County, they have no interest in being annexed by the City based on their observations of the City's management, administration, operations, etc.

We are not asking for the City to be deprived of supplying electricity to its own residents. We are asking that the 61 percent (22,000 of 34,500) of the customers now outside of the City be allowed to change electric supplier. City residents and customers can remain with the City as their electric supplier. The customers outside of the City are asking under section 366.04(2) (e) that the Commission, on its own motion, allows the 61 percent of customers outside of the City to switch franchise territories from the City to FPL.

7. We have tried legislation and we have petitioned the City, but to no avail!

We are seeking legislation again – See EXHIBIT 9! We have no other administrative option other than the limited authority of the Commission!

Comment: Therefore we are claiming a territorial dispute under Section 25-6.0441 and ask for the Commission to identify, on the Commission's own motion, the existence of the existence of a territorial dispute based on the reasons described above.

5. Representation of, and Equal Protection for, 61 % of outside City electric customers

Municipal utilities ARE BIG BUSINESS! They are owners of coal, oil, gas, alternative fuel, and/or nuclear generating plants and/or transmission and distribution facilities that span the State. They impact significantly on the disposable income of the citizens of this State and their localities! Yet, most of those citizens and customers have no say in their operation or anyone to petition for redress or for oversight except for the municipalities which own the utilities!

The municipal electric utilities are unregulated State authorized monopolies except to the Public Service Commission which has limited enforcement authority over them except for rate structure, municipal surcharge changes, and territorial agreements. Where do the citizens go? We have gone to the City Council and it is like going to the fox in the chicken coop!

1. Over 805 petitions, signed primarily by those customers outside of the City were given to the City with copies to the County Commissioners and the State Legislators representing the County. The petitions requested that "The City establish a separate utility authority with a Governing Board representative of the customer population to assume all aspects of the operations, control, assets, liabilities, etc., of the City of Vero Beach electric, sewer and water utilities." The City ignored these and did not even respond. New petitions for each of the three jurisdictions are being signed now in advance of the December 4, 2009 County State Delegation Meeting.
2. The City says its Utility Advisory Commission (UAC) is representative of all customers because it has five of its seven members from outside of the City. This is not a mandatory irreversible requirement and more members could be appointed from the City as it has done in the past. In addition, the members outside of the City are not required to be City utility customers and are not appointed by the jurisdictions (the County and the Shores) serviced by the City's utilities as would be the case with an independent representative Utility Authority. As mentioned, portions of the County and the Shores are serviced by FPL for electricity and by the County for water and sewer.

After the City ignored the legislation calling for a Referendum, The City Council established a series of five City Utility Advisory Commission (UAC) meetings to look into Representation and other issues. Numerous submissions and presentations by the public on Florida Utility Authorities concluded on December 16th, 2008. The UAC final report was not made available to the public until AFTER the January 8, 2009 Special Call City Council meeting to discuss the UAC report.

Thus, the public had no opportunity to comment on the content of the final UAC report which eliminated the column reflecting public comments that had been in prior versions of the report. It also included only inconsequential public comments: The City Council still plays games with the customers, particularly those outside of the City.

The UAC and City Manager were charged in January 2009 to present, after a rate and services study has been completed, recommendations for changes to the UAC that may answer some of the concerns of the customers. The City Manager prepared a Plan of Action dated January 14, 2009 which provided for significant authorities and responsibilities to be performed by the City's UAC. The last

paragraph(s) in the document then said that all decisions had to be approved by the City Council. Thus, the proposal was actually to maintain the status quo!

These activities are yet more delaying tactics to avoid issues raised in a November 2007 Report prepared on the City's utilities and to defer action by City officials on the issues. Some City Council members have called for no action at all until after the Orlando Utilities Commission (OUC) contract with the City takes effect January 1, 2010.

The City again says it is in the process of revamping its UAC, but no new proposals have been made public. This is just another stalling tactic to bypass timetables related to: the City's filings with the Commission; election of two City Council seats on November 3, 2009 and the reelection of incumbents who are running for them; and issuing a UAC reorganization proposal shortly before a critical date of December 4, 2009 when a public meeting of the County's State delegation will be held to consider Local Legislation to propose yet another Referendum for customers outside of the City to vote on changing the territorial agreement to allow customers outside of the City to vote to switch to FPL.

3. The City financed its past electric utility capital improvements with \$58 M in Revenue Bonds which place the ultimate liability on all customers who are also paying the principal and interest on the bonds. This liability is currently \$1,730 per customer with the possibility of it increasing further as a result of deficit utility operations and by additional capital improvements approved by the City Council. Again, 61 percent of the customers are outside of the City and have no representation on the City Council, nor can they vote for the City Council which decides to impose the liabilities.

The City of Vero Beach views its electric utilities as a "cash cow" or ATM machine that can be tapped at any time. It can raise utility rates or fees by \$100 and \$61 will come from the customers outside of the City who are a captive audience and can only verbally object to the City Council which is like dealing with "a fox in a chicken coop."

Out of its \$22 M 2009-2010 budget the City had over \$11 M (55 %) utility related revenue (excluding the municipal surcharge included in Electric sales revenue – see EXHIBIT 6) which was funded by the transfer of funds from the utilities, fees charged the utilities by the City, and municipal surcharges and taxes. Thus, \$ 7.5 M is being funded by outside City customers and without any representation before the utility issue deciding officials whom they can't elect!

4. In addition, it would appear that the 61 percent of customers are also being denied equal protection under the law by extension of Attorney General Opinion Number: AGO 76-124, dated June 1, 1976, related to nonresidents and municipal recreational facilities

The issue of difference in rates charged to City residents versus outside of City residents for the use of recreation facilities was the primary basis for the Opinion which noted the U. S. Supreme Court's "two-tiered" distinction of the Equal Protection Clause.

The first tier was the "Strict Scrutiny" test which related to the denial of fundamental rights, such as to the right to travel, right to vote, etc., or certain "suspect" classifications for denial such as race or gender. The second tier related

to “compelling state interest” or “rational relationship.” If the first test didn’t apply, then the second could only apply if there was a reasonable relation to a valid state purpose.

Although the Opinion noted that the use of a recreational facility was not a fundamental right, the question arises whether the provision of municipal electric utility services is a fundamental right under the “Strict Scrutiny” test of the Equal Protection Clause, particularly when the customer is denied the option to: 1) select an alternative to the municipal utility service provider; or 2) elect the officials deciding the utility taxes, costs, and liabilities.

If a municipality denies the right to transfer to an alternative utility service provider or the State Public Service Commission does not have any authority to affect or effect such a transfer of provider, then it would appear that a citizen residing outside of the municipal limits, but receiving municipal utility services, would be denied a fundamental right under the “Equal Protection Clause.”

In addition, it may also be possible that the imposition of different rates and treatment for City residents versus outside of City residents would be a “suspect” classification because the difference is based on where you lived. On page 14 of the Consultant’s report, it is noted that the proposed rates for service charges were \$7.21 for inside the City and \$7.93 for outside the City while the energy charge was \$0.04585/kwh for inside the City and 40.05044/kwh for outside the City.

5. The Florida Municipal Power Association (FMPA) contract the City entered into years ago provides for a “penalty” of \$1.5 M per year for 20 years (\$30 M) if the City electric utility uses more than a peak load amount (163 KWH) between December 1, 2008 through November 30, 2009, a month before the FMPA contract ends on December 31, 2009 and the new Orlando Utility Commission (OUC) contract starts on January 1, 2010. This “penalty” will continue even though FMPA does not supply electricity to the City! The outside of City customers are paying for the admitted mistake of the City entering into the FMPA contract, and this provision, but they have no say in utility matters. At 8:00 am on January 22, 2009, the utility used 158 KWH after appeals to the elderly customers to keep their thermostats set to 55 degrees, don’t run stoves, etc. Later, it did in fact exceed the 163,000 KWH level and is awaiting the word on the amount of the Penalty that could be imposed. It is also waiting for word on the dollar amount of fines and penalties it will have to pay for incorrect reporting and other violations to NERC.

This is not the way to run an electric utility in the State of Florida! This is another example showing that the City cannot provide adequate electric service to the customers served by the City, and particularly those outside of the City who could be served by FPL as easily as it serves other citizens in the County and in the Shores.

6. On December 29, 2008 an opportunity was requested to review the Request for Proposal (RFP) file related to the selection of the Orlando Utility Commission (OUC) last May as the provider of electricity to the City starting in January 2010. We were advised by the City Clerk that the file could not be made available to the public under FL Statute ¶288.075, Confidentiality of Records. We talked to the City Attorney and he said that that all of the information was protected as

“proprietary business information” and that not even the names of the bidders, much less the evaluations of the RFP evaluation panel, could be seen by the public until after two years. After the City received a legal opinion from its “Boston Attorneys”, City officials agreed to meet with us on what file information could be provided.

As a precondition to bidding on the City’s electric provider contract, bidders had to sign an agreement that: 1) they requested that the entire file, not just “proprietary confidential business information”, was to be held confidential for two years (rather than a shorter period); and 2) they had to give up their normal right to protest the manner in which the City conducted the bid and evaluation process. The selection, which was presented at a UAC meeting on April 8, 2008, and approved by the City Council a week later, was worth \$2 Billion over 20 years. Subsequently, the City had to negotiate a \$ 3.4 M annual contract with FPL to get the electricity from Orlando to the City over FPL lines. Thus, customers were denied access to information relating to a critical and costly electrical decision by the City.

City officials mistakenly sent us the confidential evaluation sheet of the final three bidders which showed that 33% of the rating related to how the bidder compared to FPL’s rates, not the higher rates under the current electric provider, FMPA. Thus, mathematically a bid by FPL would at best make it average - it couldn’t get above that, but it also couldn’t protest! FPL was one of the three final bidders and its score was .05 percent lower than OUC!

City officials threatened us with legal sanctions if we disclosed the information they mistakenly sent. After questioning the legal basis, the City Attorney later said in writing that “You may use whatever we sent you without worry of any legal sanctions by the City.”

There is no place for a customer to appeal since public utilities are not regulated by the PSC and the Attorney General will not consider a request for an opinion from a citizen. What does the City have to hide? What is “Open Government?” Where do customers go for assistance?

7. There is an October 30, 1986, agreement between the Shores and the City and also a March 5, 1987 agreement between the County and the City for the City to provide electric service to those parts of the Shores and County not receiving electricity from FPL. Five year advance notification must be given on or before October 29, 2011 if either party desires to extend the agreement. These 1986 and 1987 agreements were initiated subsequent to the Commission’s 1981 Order. Both agreements reference existing territorial agreements and will be changed by a change to that territorial agreement.

CONCLUSION

In conclusion, it appears that the Public Service Commission is **the answer** for 22,000 electric customers in the Vero Beach area since it has statutory authority to:

- 1) Require hearings on issues 1 and 2
- 2) On its own motion, hold hearings on Issues 3-5

Please consider what has been presented to you and determine on a motion of the Commission, that there is a Territorial dispute under FL Statute §25-6.0439(2) as to who should provide electric service to customers outside of the City of Vero Beach and call a Special Hearing on the City of Vero Beach electric utility per FL Statute §25-6.0442(3). This will give the 22,000 outside City customers the opportunity to express our concerns and views to you and request the opportunity for changing electric service providers.

We believe that the City would have a difficult, if not impossible time, of showing under FL Statute §25-6.0441(2) that: 1) The City is better able than FPL to provide electric service during the past and in the foreseeable future, 2) The nature of the disputed area has changed since the 1981 Territorial Agreement and the future requirements of the area; and 3) The City is not capable of providing reliable and less costly electric service with its aging and inefficient plant, equipment, transmission, and distribution in comparison to FPL. Even, if all of the above factors were proven by the City to be equal, FL Statute § 25-6.0441(2)(d) would allow customer preference for the 61 percent, or 22,000, of the customers outside of the City.

Please support the desires of the un-represented 22,000 (61 %) customers (outside of the City who want to be taken out from under the jurisdiction of the City of Vero Beach electric utility.

Thank you for your consideration.

Sincerely,

Dr. Stephen J. Faherty, Sr.

Glenn Heran, CPA

Enclosures

ccs:

Senator Mike Haridopolis

Senator Joe Negron

Representative Ralph Poppell

Representative Debbie Mayfield

Indian River County Commissioner Davis, Chair, and Commissioners

Mayor William Kenyon and Councilmen, Town of Indian River Shores

Mayor Sabin Abel and Councilpersons, City of Vero Beach

EXHIBITS:

1 – Electric Utility Rate Disparity, 9/15/09, 1,000 Kwhs

2 - Electric Utility Rate Disparity, 9/15/09, 2,500 Kwhs

3 – City Electric Fund Operating Budget

4 – COVB General Fund Operating Statement

5 – Municipal Surcharge & City Utility Tax Receipt Narrative and Table

6 – COVB General Fund Revenue Analysis

7 - 1981 Territorial Agreement, PSC Order No 10382, November 3, 1981

8 – City RFP Evaluation Sheet

9 – Proposed Legislation

EXHIBIT 1 - NARRATIVE
Electric Utility Residential Rate Disparity
City of Vero Beach vs. the OUC vs. FP&L
9/15/2009

Description:

The following pages show the rate disparity history since Jan 2008 to Present for various KwHs consumption

Also included is the projected rate disparities for all Utilities expected on January 2010

The Utilities compared are COVB, OUC and FP&L.

The amount are shown PRE LOCAL JURISDICTION TAX and are inclusive of:

Service Items	Base Rates Fuel Rates Customer Service fees Municipal Surcharges Storm Charges
State Tax	2.56% Gross Receipts tax
Local Jurisdiction Tax	Not shown

Local Jurisdiction taxes are not show here as they are not relevant in this comparison.

These taxes vary between local jurisdiction and are represented by the voters of the respective jurisdiction.

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EXHIBIT 3
City of Vero Beach
Electric Fund Operating Budget
Per COVB Budget

	COVB Budget 2009-2010	Consultant Budget 2009-2010	Expected 2008-2009	Actual 2007-2008
Operating Revenue (excludes Utility Taxes)				
Residential	44,115,133	46,442,563	50,443,657	46,907,730
Residential County Munisurcharge	1,426,242	-	1,630,843	1,516,527
Commercial	41,768,019	44,292,631	47,836,448	44,619,856
Commercial County Munisurcharge	1,350,360	-	1,546,552	1,442,560
Industrial	1,655,092	1,674,458	1,871,000	2,299,272
Other	2,227,391	1,232,700	2,310,900	2,340,223
Interest	165,000	163,500	250,000	1,035,275
Total Operating Revenues	92,707,237	93,805,852	105,889,400	100,161,443
Highway Lighting	160,000	-	160,000	162,179
Electric Impact Fees	500,000	-	500,000	498,545
Total Revenue	93,367,237	93,805,852	106,549,400	100,822,167
Operating Expenses				
Power and Fuel "Includes Fuel for Plant"	59,624,246	53,406,840	66,767,000	67,114,241
Power Purchase contingency	-	463,901	-	-
Plant Operations "Power Resources"	5,158,289	5,402,631	5,193,710	4,800,717
Customer service	2,032,946	1,979,008	1,860,253	1,711,030
T & D	4,360,513	4,723,454	4,874,872	4,443,731
Electric Metering	767,708	850,397	845,840	807,095
Engineering & Construction	941,060	960,239	915,539	566,565
Non Departmental	4,385,620	4,640,322	4,528,245	4,564,266
Total Operating Expense	77,270,382	72,426,792	84,985,459	84,007,645
Capital Expenses				
Plant	1,466,000	-	1,935,000	1,412,250
Customer Service	6,000	-	27,700	114,500
T & D	-	-	-	-
Electric Metering	2,310,000	-	3,159,140	2,616,295
Engineering & Construction	5,275,000	-	8,830,500	7,858,700
<i>Budgeted capital expenses delayed or canceled</i>	-	-	(4,271,353)	(4,050,373)
Total Capital Expenses	9,057,000	9,779,937	9,680,987	7,951,372
Total Expense	86,327,382	82,206,729	94,666,446	91,959,017
Net Income before Debt Service	7,039,855	11,599,123	11,882,954	8,863,150
Debt Service	6,824,706	6,824,706	6,056,182	3,097,159
Net Cash Flow available for General Fund and Other funds	215,149	4,774,417	5,826,772	5,765,991
Transfer to General Fund	5,893,000	5,893,000	5,893,000	5,892,999
Proposed Borrowing	(6,550,000)	(1,118,583)	-	-
CASH SURPLUS/ (SHORTAGE) also known as cash carry over	872,149	-	(66,228)	(127,008)
Real CASH SURPLUS/ (SHORTAGE)	(5,677,851)	(1,118,583)	(66,228)	(127,008)
Surplus Revenues per City	8,612,149	14,554,354	14,847,759	13,056,639
City thinks capital costs are not expenses yet does not include depreciation	-	-	-	-

Highway and Impact appear to be merely grossing up Revenue and Capital costs

EXHIBIT 4
City of Vero Beach
General Fund
Operating Statement

	<u>Budget 2009-2010</u>	<u>Expected 2008-2009</u>	<u>Actual 2007-2008</u>
GF Contribution from Electricity			
Non City Contribution	3,594,730	3,594,730	3,594,729
City Contribution	<u>2,298,270</u>	<u>2,298,270</u>	<u>2,298,270</u>
Total GF Contribution	<u>5,893,000</u>	<u>5,893,000</u>	<u>5,892,999</u>
Ad Valorem	4,647,630	4,939,845	5,344,702
Admin Charges			
Electricity			
Non City Admin	1,128,805	1,094,157	1,086,959
City Admin	<u>721,695</u>	<u>699,543</u>	<u>694,941</u>
Total Electric Admin Charge	<u>1,850,500</u>	<u>1,793,700</u>	<u>1,781,900</u>
Water	719,700	738,500	741,000
Other	<u>459,420</u>	<u>477,270</u>	<u>500,610</u>
Total Admin Charge	<u>3,029,620</u>	<u>3,009,470</u>	<u>3,023,510</u>
Utility tax (city customers)			
Electricity (10% on "non exempt" Service)	1,775,205	2,031,450	1,891,875
Water (10% water & irrigation only)	<u>724,795</u>	<u>418,550</u>	<u>456,569</u>
	2,500,000	2,450,000	2,348,444
Local Communications Tax	1,388,353	1,424,436	1,420,226
Half cent tax	978,800	1,025,714	1,158,146
Contribution from Water & Sewer	859,950	859,950	867,193
State Revenue sharing	548,605	550,722	566,774
Local Gas tax	443,135	503,501	454,420
Other	<u>1,189,288</u>	<u>1,368,632</u>	<u>1,499,807</u>
Total Revenues	<u>21,478,381</u>	<u>22,025,270</u>	<u>22,576,221</u>
Total City Operating Expenses	<u>21,520,575</u>	<u>23,372,095</u>	<u>22,621,507</u>
Net Income/ (Loss)	<u>(42,194)</u>	<u>(1,346,825)</u>	<u>(45,286)</u>

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**EXHIBIT 6
City of Vero Beach
General Fund
Revenue Analysis**

	<u>Budget 2009-2010</u>	<u>Expected 2008-2009</u>	<u>Actual 2007-2008</u>
Total DIRECT Revenues from Electric Utility			
GF Contribution from Electricity	5,893,000	5,893,000	5,892,999
Admin Charges Electricity	1,850,500	1,793,700	1,781,900
Utility Tax Electricity City only	1,775,205	2,031,450	1,891,875
Total from Electric Utility	<u>9,518,705</u>	<u>9,718,150</u>	<u>9,566,774</u>
% of GF Revenues from Electric Utility	44.3%	44.1%	42.4%

Electric Munisurcharge on County & Shores customers is buried in Electric Sales

DIRECT Revenues from Non City Electric Customers			
GF Contribution	3,594,730	3,594,730	3,594,729
Admin Charges	1,128,805	1,094,157	1,086,959
Total from Electric Utility	<u>4,723,535</u>	<u>4,688,887</u>	<u>4,681,688</u>
% of GF Revenues from Electric Utility	22.0%	21.3%	20.7%

TOTAL Revenues from Non City Electric Customers including Muni Surcharge			
GF Contribution	3,594,730	3,594,730	3,594,729
Muni Surcharge Residential & Commercial	2,776,602	3,177,396	2,959,087
Admin Charges	1,128,805	1,094,157	1,086,959
Total from Electric Utility	<u>7,500,137</u>	<u>7,866,283</u>	<u>7,640,775</u>

Total DIRECT Revenues from Electric and WSI Utilities			
GF Contribution from Electricity	5,893,000	5,893,000	5,892,999
Admin Charges Electricity	1,850,500	1,793,700	1,781,900
Utility Tax Electricity City only	1,775,205	2,031,450	1,891,875
Total from Electric Utility	<u>9,518,705</u>	<u>9,718,150</u>	<u>9,566,774</u>
GF Contribution from WSI	859,950	859,950	867,193
Admin Charges WSI	719,700	738,500	741,000
Utility Tax Water City only	724,795	418,550	456,569
Total from WSI Utility	<u>2,304,445</u>	<u>2,017,000</u>	<u>2,064,762</u>
Total Electric and WSI	11,823,150	11,735,150	11,631,536
% of GF Revenues from Electric & WSI	55.0%	53.3%	51.5%

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City of Vero Beach
Water/Sewer/Irrigation Fund Operating Budget
Per COVB Budget

	Budget 2009-2010	Expected 2008-2009	Actual 2007-2008
Operating Revenue (excludes Utility Taxes)			
Water Sales	9,119,692	8,464,943	8,122,729
Sewer Sales	7,211,626	5,559,476	5,610,180
Irrigation Reuse Non Pressure & Other	997,369	838,125	483,060
Other	207,500	207,500	127,542
Interest	37,100	37,200	102,388
Total Operating Revenues	17,573,287	15,107,244	14,445,899
Water Sewer Impact	350,000	350,000	189,079
Other	205,500	205,500	735,661
Total Revenue	18,128,787	15,662,744	15,370,639
 Operating Expenses			
Wastewater Treatment	1,811,066	1,779,204	2,051,204
Gravity Sewer	525,438	606,152	560,582
Water Treatment Plant	3,226,496	3,264,653	3,325,401
Water Distribution	968,440	1,019,239	937,052
Wastewater Reuse	618,000	593,000	524,191
Administration	1,070,280	1,034,542	879,736
Environmental Laboratory	496,852	492,592	491,121
Facilities Maintenance	712,087	828,134	211,311
Lift Station	567,655	581,750	564,785
Water Meter Maintenance	559,458	549,081	431,038
Non Departmental	1,508,062	1,643,462	1,791,346
Total Operating Expense	12,063,834	12,391,809	11,767,767
 Capital Expenses			
Wastewater Treatment	832,000	8,735,000	1,884,000
Gravity Sewer	689,500	340,000	362,000
Water Treatment Plant	2,987,500	2,398,700	547,900
Water Distribution	1,460,500	827,600	905,000
Wastewater Reuse	250,000	-	-
Administration	1,000	14,600	2,168,400
Environmental Laboratory	47,900	26,600	4,800
Facilities Maintenance	6,100	39,500	-
Lift Station	391,000	158,000	422,000
Water Meter Maintenance	145,400	143,400	101,000
<i>Budgeted capital expenses (delayed or canceled)</i>		(323,593)	51,637
Total Capital Expenses	6,810,900	12,359,807	6,446,737
Total Expense	18,874,734	24,751,616	18,214,504
 Net Income/(Loss) before Debt Service	(745,947)	(9,088,872)	(2,843,865)
Debt Service	1,634,209	1,036,555	871,667
 Net Cash Flow available for General Fund and Other funds	(2,380,156)	(10,125,427)	(3,715,532)
Transfer to General Fund	859,950	859,950	867,193
Proposed Borrowing	(3,500,000)	(11,000,000)	
CASH SURPLUS/ (SHORTAGE) also known as cash carry over	259,894	14,623	(4,582,725)
 Real CASH SURPLUS/ (SHORTAGE)	(3,240,106)	(10,985,377)	(4,582,725)
Net cash flow per City	8,612,149	14,847,759	13,056,639
City thinks capital costs are not expenses yet does not include depreciation			

Highway and Impact appear to be merely grossing up Revenue and Capital costs

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Muni Surcharge Carve Out from Residential Revenue

Total Residential Revenue	=	City Residential Revenue + County Residential Revenue + Munisurcharge
City Residential Revenue	=	Total Residential Revenue - County Residential Revenue - Munisurcharge
Muni Surcharge Tax rate	=	5.30%
Muni Surcharge	=	(.054 x County Residential Revenue)
County Residential Revenue	=	(.61) x (Total Residential Revenue - Muni Surcharge)

2009 - 2010			City Utility tax	
#REF!	26,910,231	61%		
#REF!	17,204,902	39%	5.3%	911,860
	44,115,133			
Muni Surcharge Residential	1,426,242			
#REF!	45,541,375			
County Commercial Revenue	25,478,492	61%		
City Commercial Revenue	16,289,527	39%	5.3%	863,345
	41,768,019			
Muni Surcharge Commercial	1,350,360			
Total commercial Revenue	43,118,379			
Total Muni Surcharge	2,776,602			1,775,205

2008 - 2009			City Utility tax	
County Residential Revenue	30,770,631	61%		
City Residential Revenue	19,673,026	39%	5.3%	1,042,670
	50,443,657			
Muni Surcharge Residential	1,630,843			
Total Residential Revenue	52,074,500			
County Commercial Revenue	29,180,233	61%		
City Commercial Revenue	18,656,215	39%	5.3%	988,779
	47,836,448			
Muni Surcharge Commercial	1,546,552			
Total commercial Revenue	49,383,000			
Total Muni Surcharge	3,177,396			2,031,450

2007 - 2008			City Utility tax	
County Residential Revenue	28,613,715	61%		
City Residential Revenue	18,294,015	39%	5.3%	969,583
	46,907,730			
Muni Surcharge Residential	1,516,527			
Total Residential Revenue	48,424,257			
County Commercial Revenue	27,218,112	61%		
City Commercial Revenue	17,401,744	39%	5.3%	922,292
	44,619,856			
Muni Surcharge Commercial	1,442,560			
Total commercial Revenue	46,062,416			
Total Muni Surcharge	2,959,087			1,891,875

**Electric Utility Residential Rate Disparity
City of Vero Beach vs. the OUC vs. FP&L
9/15/2009**

Description:

The following pages show the rate disparity history since Jan 2008 to Present for various Kwhs consumption

Also included is the projected rate disparities for all Utilities expected on January 2010

The Utilities compared are COVB, OUC and FP&L.

The amount are shown PRE LOCAL JURISDICTION TAX and are inclusive of:

Service Items	Base Rates Fuel Rates Customer Service fees Municipal Surcharges Storm Charges
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Electric Utility Residential Rate Disparity
 City of Vero Beach vs. the OUC vs. FP&L
 9/15/2009

500 Kwhs per month

	2008 Jan-Mar	2008 Apr-Jun	2008 Jul	2008 Aug-Sep	2008 Oct-Dec	2009 Jan	2009 Feb	2009 Mar-Apr	2009 May	2009 Jun-Sep	2010 Jan
Service only											
COVB (County)	69.43	74.14	76.72	76.72	78.27	78.27	75.11	75.11	77.03	87.18	66.95
COVB (IR Shores)	69.43	74.14	76.72	76.72	78.27	78.27	75.11	75.11	77.03	87.18	66.95
COVB (City)	65.70	69.98	72.56	72.56	74.11	74.11	70.95	70.95	72.87	83.02	66.95
OUC Orlando	52.48	52.48	52.48	52.48	55.60	55.60	55.60	63.91	63.91	63.91	63.91
FP&L (County)	52.63	52.70	52.70	56.67	56.84	56.07	56.07	56.07	55.56	54.85	51.41

Service plus 2.56% Gross Receipts Tax

COVB (County)	71.21	76.04	78.68	78.68	80.28	80.28	77.03	77.03	79.01	89.42	68.66
COVB (IR Shores)	71.21	76.04	78.68	78.68	80.28	80.28	77.03	77.03	79.01	89.42	68.66
COVB (City)	67.38	71.77	74.41	74.41	76.01	76.01	72.76	72.76	74.74	85.14	68.66
OUC Orlando	53.82	53.82	53.82	53.82	57.02	57.02	57.02	65.55	65.55	65.55	65.55
FP&L (County)	53.97	54.05	54.05	58.12	58.30	57.51	57.51	57.51	56.98	56.25	52.73

% more vs FP&L

COVB (County)	32%	41%	46%	35%	38%	40%	34%	34%	39%	59%	30%
COVB (IR Shores)	32%	41%	46%	35%	38%	40%	34%	34%	39%	59%	30%
COVB (City)	25%	33%	38%	28%	30%	32%	27%	27%	31%	51%	30%
OUC Orlando	0%	0%	0%	-7%	-2%	-1%	-1%	14%	15%	17%	24%
FP&L (County)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%

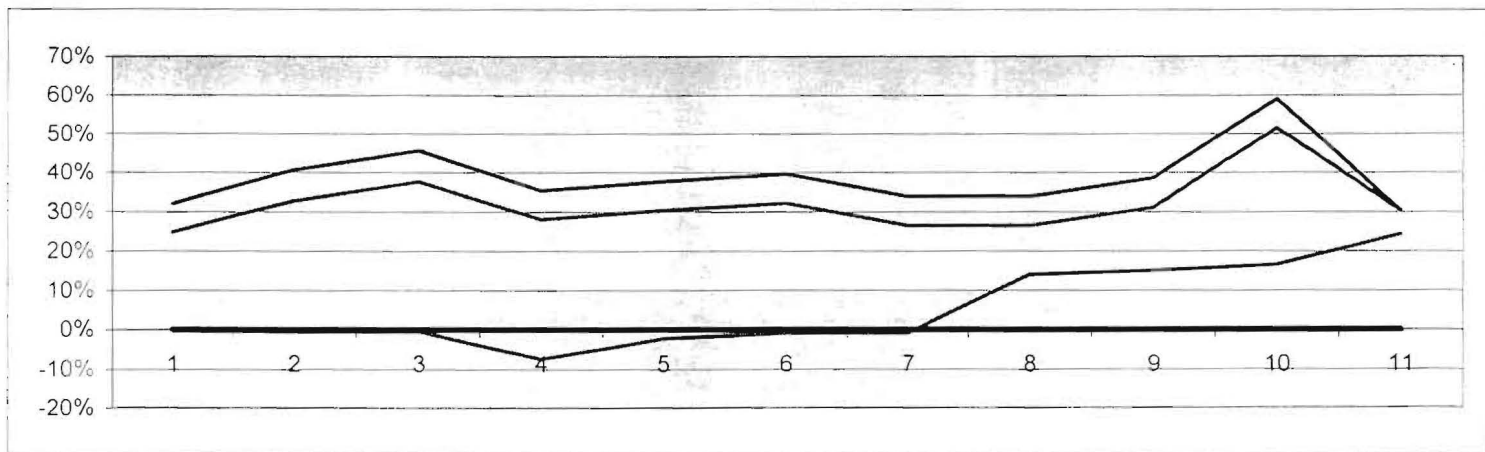
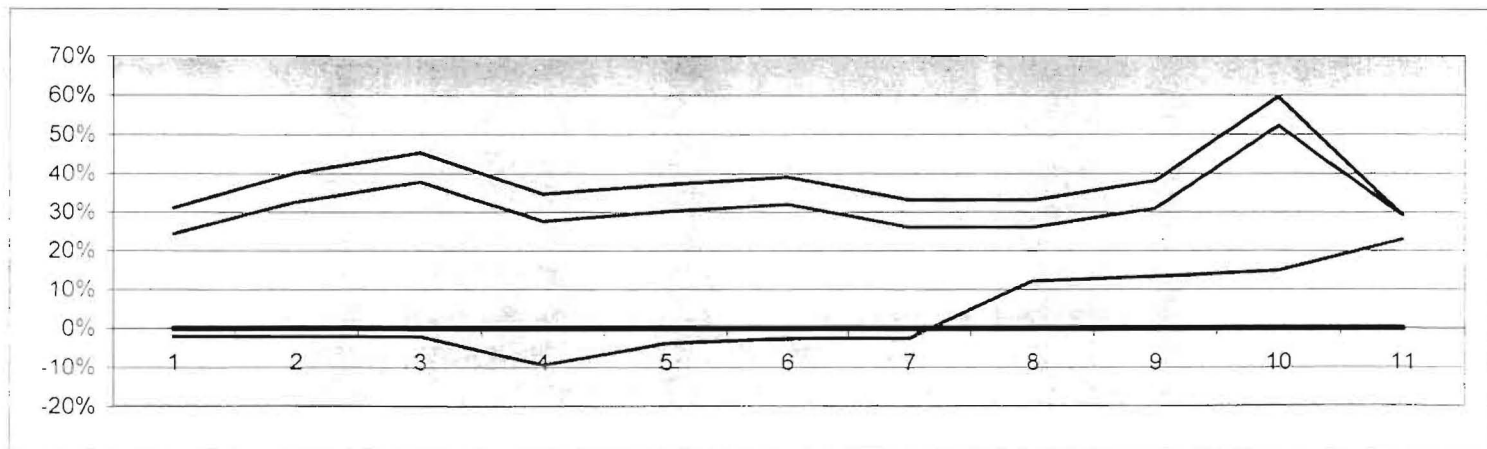


EXHIBIT
Electric Utility Rate Disparity
City of Vero Beach vs. the OUC vs. FP&L
9/15/2009

1,000 Kwhs per month

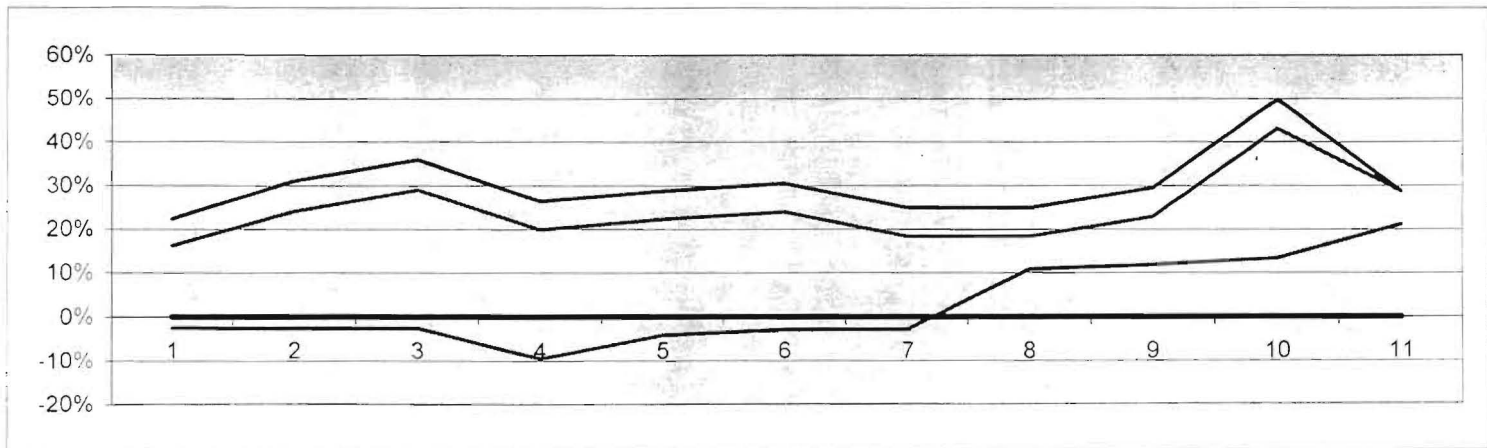
	2008 Jan-Mar	2008 Apr-Jun	2008 Jul	2008 Aug-Sep	2008 Oct-Dec	2009 Jan	2009 Feb	2009 Mar-Apr	2009 May	2009 Jun-Sep	2010 Jan
Service only											
COVB (County)	130.93	140.36	145.51	145.51	148.62	148.62	142.29	142.29	146.14	166.44	125.95
COVB (IR Shores)	130.93	140.36	145.51	145.51	148.62	148.62	142.29	142.29	146.14	166.44	125.95
COVB (City)	124.18	132.75	137.90	137.90	141.01	141.01	134.68	134.68	138.53	158.82	125.95
OUC Orlando	97.95	97.95	97.95	97.95	104.19	104.19	104.19	119.82	119.82	119.82	119.82
FP&L (County)	99.91	100.06	100.06	108.00	108.34	106.81	106.81	106.81	105.78	104.37	97.50
Service plus 2.56% Gross Receipts Tax											
COVB (County)	134.28	143.95	149.23	149.23	152.42	152.42	145.93	145.93	149.88	170.70	129.17
COVB (IR Shores)	134.28	143.95	149.23	149.23	152.42	152.42	145.93	145.93	149.88	170.70	129.17
COVB (City)	127.36	136.15	141.43	141.43	144.62	144.62	138.13	138.13	142.08	162.89	129.17
OUC Orlando	100.46	100.46	100.46	100.46	106.86	106.86	106.86	122.89	122.89	122.89	122.89
FP&L (County)	102.47	102.62	102.62	110.76	111.11	109.54	109.54	109.54	108.49	107.04	100.00
% more vs FP&L											
COVB (County)	31%	40%	45%	35%	37%	39%	33%	33%	38%	59%	29%
COVB (IR Shores)	31%	40%	45%	35%	37%	39%	33%	33%	38%	59%	29%
COVB (City)	24%	33%	38%	28%	30%	32%	26%	26%	31%	52%	29%
OUC Orlando	-2%	-2%	-2%	-9%	-4%	-2%	-2%	12%	13%	15%	23%
FP&L (County)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%



Electric Utility Rate Parity
City of Vero Beach vs. the OUC vs. FP&L
9/15/2009

1,500 Kwhs per month

	2008 Jan-Mar	2008 Apr-Jun	2008 Jul	2008 Aug-Sep	2008 Oct-Dec	2009 Jan	2009 Feb	2009 Mar-Apr	2009 May	2009 Jun-Sep	2010 Jan
Service only											
COVB (County)	192.43	206.57	214.29	214.29	218.96	218.96	209.46	209.46	215.24	245.69	197.45
COVB (IR Shores)	192.43	206.57	214.29	214.29	218.96	218.96	209.46	209.46	215.24	245.69	197.45
COVB (City)	182.67	195.52	203.25	203.25	207.91	207.91	198.42	198.42	204.19	234.63	197.45
OUC Orlando	153.43	153.43	153.43	153.43	162.80	162.80	162.80	185.73	185.73	185.73	185.73
FP&L (County)	157.36	157.58	157.58	169.49	170.00	167.71	167.71	167.71	166.16	164.05	153.38
Service plus 2.56% Gross Receipts Tax											
COVB (County)	197.35	211.86	219.78	219.78	224.56	224.56	214.83	214.83	220.75	251.98	202.50
COVB (IR Shores)	197.35	211.86	219.78	219.78	224.56	224.56	214.83	214.83	220.75	251.98	202.50
COVB (City)	187.34	200.53	208.45	208.45	213.23	213.23	203.49	203.49	209.42	240.63	202.50
OUC Orlando	157.35	157.35	157.35	157.35	166.97	166.97	166.97	190.48	190.48	190.48	190.48
FP&L (County)	161.38	161.61	161.61	173.83	174.35	172.00	172.00	172.00	170.41	168.24	157.31
% more vs FP&L											
COVB (County)	22%	31%	36%	26%	29%	31%	25%	25%	30%	50%	29%
COVB (IR Shores)	22%	31%	36%	26%	29%	31%	25%	25%	30%	50%	29%
COVB (City)	16%	24%	29%	20%	22%	24%	18%	18%	23%	43%	29%
OUC Orlando	-2%	-3%	-3%	-9%	-4%	-3%	-3%	11%	12%	13%	21%
FP&L (County)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%



Electric Utility Rates Parity
City of Vero Beach vs. the OUC vs. FP&L
9/15/2009

2,000 Kwhs per month

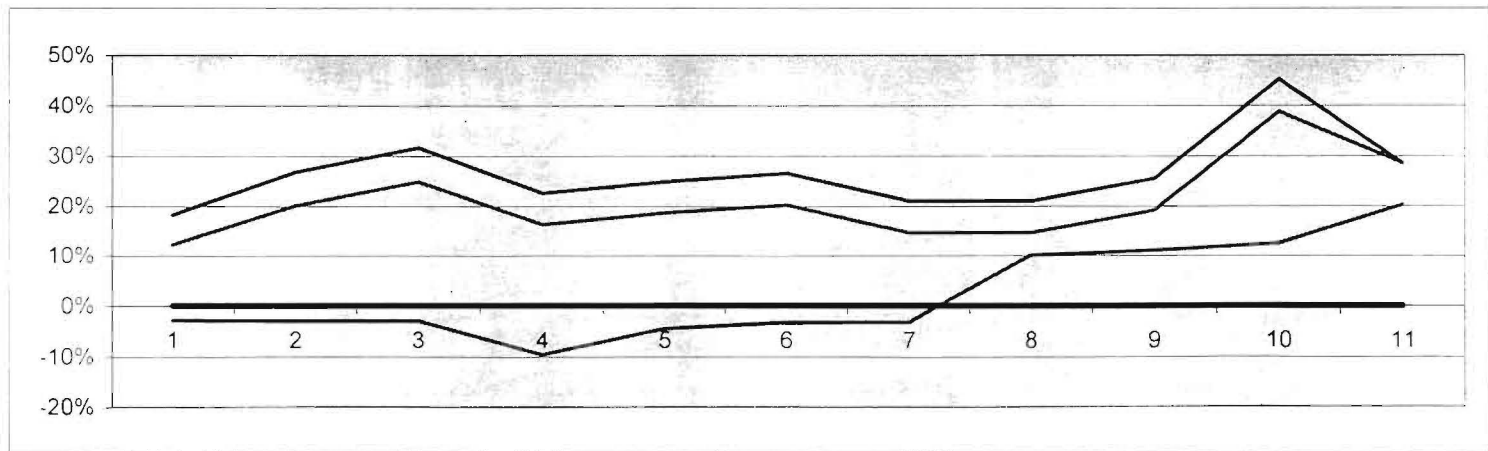
	2008 Jan-Mar	2008 Apr-Jun	2008 Jul	2008 Aug-Sep	2008 Oct-Dec	2009 Jan	2009 Feb	2009 Mar-Apr	2009 May	2009 Jun-Sep	2010 Jan
Service only											
COVB (County)	253.93	272.78	283.08	283.08	289.30	289.30	276.64	276.64	284.34	324.94	268.95
COVB (IR Shores)	253.93	272.78	283.08	283.08	289.30	289.30	276.64	276.64	284.34	324.94	268.95
COVB (City)	241.15	258.29	268.59	268.59	274.81	274.81	262.15	262.15	269.85	310.43	268.95
OUC Orlando	208.90	208.90	208.90	208.90	221.41	221.41	221.41	251.64	251.64	251.64	251.64
FP&L (County)	214.80	215.10	215.10	230.98	231.66	228.60	228.60	228.60	226.54	223.72	209.26

Service plus 2.56% Gross Receipts Tax

COVB (County)	260.43	279.76	290.33	290.33	296.71	296.71	283.72	283.72	291.62	333.26	275.84
COVB (IR Shores)	260.43	279.76	290.33	290.33	296.71	296.71	283.72	283.72	291.62	333.26	275.84
COVB (City)	247.32	264.90	275.47	275.47	281.85	281.85	268.86	268.86	276.76	318.38	275.84
OUC Orlando	214.25	214.25	214.25	214.25	227.08	227.08	227.08	258.08	258.08	258.08	258.08
FP&L (County)	220.30	220.61	220.61	236.89	237.59	234.45	234.45	234.45	232.34	229.45	214.62

% more vs FP&L

COVB (County)	18%	27%	32%	23%	25%	27%	21%	21%	26%	45%	29%
COVB (IR Shores)	18%	27%	32%	23%	25%	27%	21%	21%	26%	45%	29%
COVB (City)	12%	20%	25%	16%	19%	20%	15%	15%	19%	39%	29%
OUC Orlando	-3%	-3%	-3%	-10%	-4%	-3%	-3%	10%	11%	12%	20%
FP&L (County)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%



Electric Utility Rate Parity
City of Vero Beach vs. the OUC vs. FP&L
9/15/2009

2,500 Kwhs per month

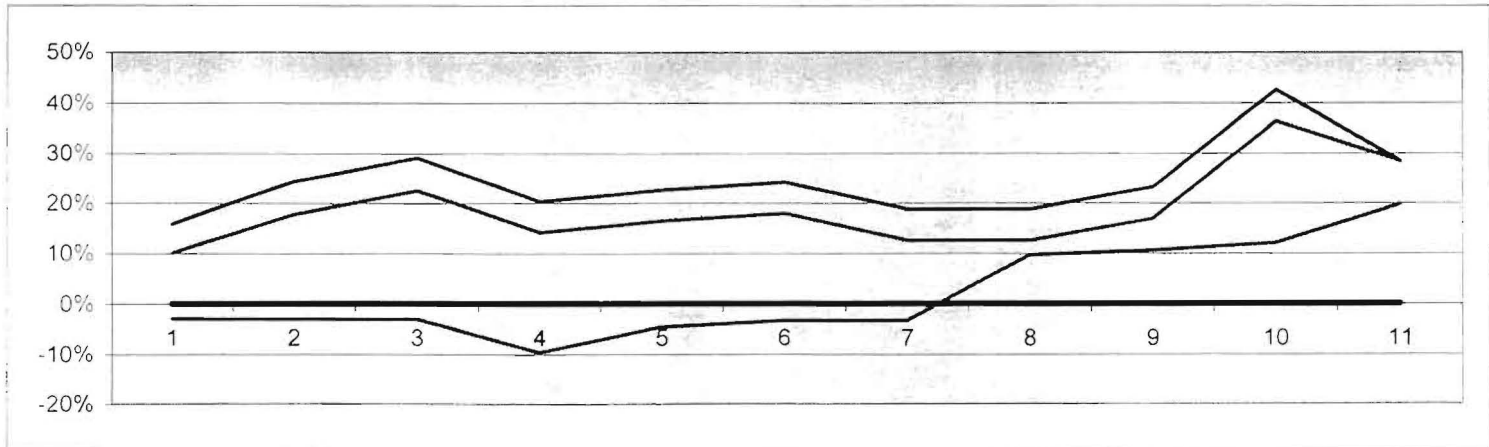
	2008 Jan-Mar	2008 Apr-Jun	2008 Jul	2008 Aug-Sep	2008 Oct-Dec	2009 Jan	2009 Feb	2009 Mar-Apr	2009 May	2009 Jun-Sep	2010 Jan
Service only											
COVB (County)	315.43	338.99	351.87	351.87	359.64	359.64	343.82	343.82	353.44	404.19	340.45
COVB (IR Shores)	315.43	338.99	351.87	351.87	359.64	359.64	343.82	343.82	353.44	404.19	340.45
COVB (City)	299.64	321.06	333.94	333.94	341.71	341.71	325.89	325.89	335.51	386.24	340.45
OUC Orlando	264.38	264.38	264.38	264.38	280.02	280.02	280.02	317.55	317.55	317.55	317.55
FP&L (County)	272.25	272.62	272.62	292.47	293.32	289.50	289.50	289.50	286.92	283.40	265.14

Service plus 2.56% Gross Receipts Tax

COVB (County)	323.50	347.67	360.88	360.88	368.85	368.85	352.62	352.62	362.49	414.54	349.17
COVB (IR Shores)	323.50	347.67	360.88	360.88	368.85	368.85	352.62	352.62	362.49	414.54	349.17
COVB (City)	307.31	329.28	342.48	342.48	350.46	350.46	334.23	334.23	344.10	396.12	349.17
OUC Orlando	271.14	271.14	271.14	271.14	287.19	287.19	287.19	325.68	325.68	325.68	325.68
FP&L (County)	279.21	279.60	279.60	299.96	300.83	296.91	296.91	296.91	294.27	290.65	271.93

% more vs FP&L

COVB (County)	16%	24%	29%	20%	23%	24%	19%	19%	23%	43%	28%
COVB (IR Shores)	16%	24%	29%	20%	23%	24%	19%	19%	23%	43%	28%
COVB (City)	10%	18%	22%	14%	16%	18%	13%	13%	17%	36%	28%
OUC Orlando	-3%	-3%	-3%	-10%	-5%	-3%	-3%	10%	11%	12%	20%
FP&L (County)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%



Electric Utility Rate Disparity
City of Vero Beach vs. the OUC vs. FP&L
9/15/2009

3,000 Kwhs per month

	2008 Jan-Mar	2008 Apr-Jun	2008 Jul	2008 Aug-Sep	2008 Oct-Dec	2009 Jan	2009 Feb	2009 Mar-Apr	2009 May	2009 Jun-Sep	2010 Jan
Service only											
COVB (County)	376.92	405.21	420.66	420.66	429.99	429.99	411.00	411.00	422.55	483.45	411.95
COVB (IR Shores)	376.92	405.21	420.66	420.66	429.99	429.99	411.00	411.00	422.55	483.45	411.95
COVB (City)	358.12	383.83	399.28	399.28	408.61	408.61	389.62	389.62	401.17	462.04	411.95
OUC Orlando	319.85	319.85	319.85	319.85	338.63	338.63	338.63	383.46	383.46	383.46	383.46
FP&L (County)	329.69	330.14	330.14	353.96	354.98	350.39	350.39	350.39	347.30	343.07	321.02
Service plus 2.56% Gross Receipts Tax											
COVB (County)	386.57	415.58	431.42	431.42	440.99	440.99	421.52	421.52	433.36	495.82	422.50
COVB (IR Shores)	386.57	415.58	431.42	431.42	440.99	440.99	421.52	421.52	433.36	495.82	422.50
COVB (City)	367.29	393.66	409.50	409.50	419.07	419.07	399.59	399.59	411.44	473.87	422.50
OUC Orlando	328.04	328.04	328.04	328.04	347.30	347.30	347.30	393.28	393.28	393.28	393.28
FP&L (County)	338.13	338.59	338.59	363.02	364.07	359.36	359.36	359.36	356.19	351.85	329.24
% more vs FP&L											
COVB (County)	14%	23%	27%	19%	21%	23%	17%	17%	22%	41%	28%
COVB (IR Shores)	14%	23%	27%	19%	21%	23%	17%	17%	22%	41%	28%
COVB (City)	9%	16%	21%	13%	15%	17%	11%	11%	16%	35%	28%
OUC Orlando	-3%	-3%	-3%	-10%	-5%	-3%	-3%	9%	10%	12%	19%
FP&L (County)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%

