

Diamond Williams

100459-EI

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Friday, January 07, 2011 2:59 PM
To: Beth Keating; J.R. Kelly; Cecilia Bradley; Filings@psc.state.fl.us; Katherine Fleming; Schef Wright
Subject: Electronic Filing - Docket No. 100459-EI
Attachments: 100459.Marianna.Petition2Intervene.1-7-11.pdf

a. Person responsible for this electronic filing:

Robert Scheffel Wright
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b. 100459-EI
 In Re: Petition for authority to implement a Demonstration Project consisting of proposed Time-of-Use and Interruptible rate schedules and corresponding fuel rates in the Northwest Division on an experimental basis and request for expedited treatment.

c. Document being filed on behalf of the City of Marianna, Florida.

d. There are a total of 6 pages.

e. The document attached for electronic filing is the Petition to Intervene of the City of Marianna, Florida.

(see attached file: 100459.Marianna.Petition2Intervene.1-7-11.pdf)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
 Secretary to Schef Wright
 Phone: 850-222-7206
 FAX: 850-561-6834

1-10-11
 Parties
 advised
 1/10/11

DOCUMENT # 100459-040
 00189 JAN-7-11
 FPSC-COMMISSION CLERK

1/7/2011

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

FACTUAL BACKGROUND

4. The City of Marianna, Florida is a political subdivision of the State of Florida, with a population of approximately 6,200 persons. The City operates police and fire departments, water, wastewater, and natural gas utility systems, and provides other municipal services to its citizens. The City has several electric service accounts through which it purchases retail electric service from FPU. The City enacted its Ordinance No. 981, which is the Franchise Agreement or Franchise Ordinance between the City and FPU.

5. Section 17 of the Franchise Ordinance requires FPU to develop "Time of Use" and "Interruptible" electric rates or similar electric rate schedules, which must, by the terms of the Franchise Ordinance, be "mutually agreed to by" FPU and the City, and which must be effective by February 17, 2011.

6. FPU has filed its proposed Time of Use and Interruptible rate schedules with the PSC in this docket. (For convenience, the term "Time of Use" is abbreviated as "TOU" herein, references to "Interruptible" rates and services are abbreviated as "IS" (for "Interruptible Service"), and the rate schedules collectively are abbreviated and referred to as "TOU/IS" rates or rate schedules.) As a customer of FPU, the City would have the option of taking service under these rate schedules. FPU's proposals are for "pilot" or "experimental" rates that would be available to limited numbers of customers within each tariff schedule, e.g., residential, small commercial, and large commercial.

MARIANNA'S STANDING

7. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997), Agrico Chemical Co. v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 135 (Fla. 1982). In this docket, the Commission will decide whether to approve FPU's proposed pilot or experimental TOU/IS rates. As a customer of FPU, Marianna will be eligible to take service under rate schedules applicable to the City's accounts, and accordingly, Marianna's substantial interests in access to fair, just, reasonable, and non-discriminatory rates and service will be determined in this proceeding.

8. Accordingly, Marianna's substantial interests in this proceeding are of sufficient immediacy to entitle it to participate in this docket and are exactly the type of interests that the proceeding is designed to protect, namely the interests of utility customers in having access to fair, just, reasonable, and non-discriminatory rates and service.

ISSUES OF MATERIAL FACT

9. The City of Marianna believes that the relevant issues of material fact that must be determined in this proceeding are as follows:

- a. Whether FPU's proposed TOU/IS tariffs, including the terms and conditions included in the tariffs, and associated rates are fair, just, reasonable, and non-discriminatory;
- b. Whether it is appropriate to implement FPU's proposed TOU/IS tariffs and rates on a "pilot" or "experimental" basis;

- c. Whether FPU's proposed subscription limits on the TOU/IS tariffs are appropriate; and
- d. Whether FPU's proposed TOU/IS rates provide appropriate cost signals to customers relative to the costs incurred by FPU to provide service on a time-of-use basis and on an interruptible basis; and
- e. (Ultimate issue) Whether FPU's proposed TOU/IS rates should be approved.

STATEMENT OF ULTIMATE FACTS ALLEGED

10. At this early point in this docket, the only issue raised by the City's Petition to Intervene is simply whether this Petition should be granted. As to this immediate issue, the City of Marianna is entitled to intervene because, as a customer of FPU, the City's substantial interests will be determined by the Commission's actions herein.

11. Regarding the substantive facts relating to FPU's TOU/IS rate proposals, the City has engaged experts who are presently reviewing the proposed TOU/IS rates and supporting documentation. After completing its review of FPU's proposals, the City will provide its positions on the issues in this docket consistent with the Commission's procedures and applicable procedural orders.

STATUTES AND RULES THAT ENTITLE THE CITY TO INTERVENE

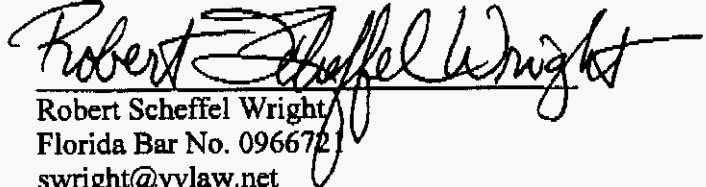
12. The applicable statutes and rules that entitle the City of Marianna to intervene in this docket include, but are not limited to, Chapter 120, Florida Statutes, and Rules 25-22.039 and 28-106.205, F.A.C.

CONCLUSION AND RELIEF REQUESTED

The City of Marianna's substantial interests will be determined by the Commission's actions in this proceeding, and accordingly, the City is entitled to intervene in this proceeding as prayed herein.

WHEREFORE, as explained in the foregoing Petition to Intervene, the City of Marianna, Florida respectfully asks the Commission to issue its order GRANTING this Petition to Intervene and requiring that all parties serve copies of all pleadings and other documents on the City's attorneys named above.

Respectfully submitted this 7th day of January, 2011.



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CERTIFICATE OF SERVICE

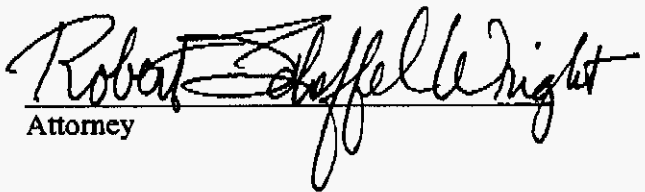
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery and U.S. Mail this 7th day of January, 2011, to the following:

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