

Eric Fryson

090524-EM

From: Coment, Wayne [WComent@covb.org]
Sent: Wednesday, May 09, 2012 1:32 PM
To: Filings@psc.state.fl.us
Cc: Vonada, Joyce; 'Dr. Stephen J. Faherty, Sr.'; 'glenn@HFBLLC.com'
Subject: Docket No. 090524-EM Motion to Continue Docket in Abeyance
Attachments: Joint.Motion.Continue.Abeyance.may.2012.pdf

Please find attached for filing the parties' joint motion to continue Docket No. 090524-EM in abeyance.
Thank you for your assistance.

Wayne R. Coment
City Attorney
City of Vero Beach
Telephone: 772-978-4730
Facsimile: 772-978-4733
wcoment@covb.org

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5/9/2012

DOCUMENT NUMBER DATE
02967 MAY-9 2012
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint Against the City of Vero)
Beach, Florida, by Stephen J. Faherty and)
Glenn Fraser Heran)
_____)

DOCKET NO. 090524-EM
FILED: December 18, 2009

JOINT MOTION TO CONTINUE DOCKET IN ABEYANCE

The parties in the above-referenced matter, Stephen J. Faherty and Glenn Fraser Heran (hereinafter "Complainants"), and the City of Vero Beach (hereinafter "City"), jointly request that formal proceedings in Docket No. 090524-EM continue in abeyance until January 31, 2014 and in support of this request the parties state as follows:

1. On or about April 12, 2011, the Complainants and the City agreed to hold formal proceedings in Docket No. 090524-EM in abeyance until approximately September 15, 2011 in order to allow time for the City to complete its review and analysis of a non-binding letter of intent tendered to the City by Florida Power & Light Company (hereinafter "FPL") regarding a potential purchase of the City's electric utility and to enter into negotiations for such potential sale and purchase.

2. Subsequent to the parties' aforementioned agreement to hold the proceedings in abeyance, the City has taken affirmative actions in pursuing the potential sale of its electric utility, including but not limited to: engagement of consultants to prepare valuations and reports; retained legal representation to assist the City in negotiations with FPL; agreed to extend the period of due diligence with FPL until September 30, 2012; a referendum question was put before the electors of the City on November 8, 2011 to seek approval of the lease of the City's power plant site as required by the City's Charter, which referendum was approved; instituted a Request for Qualifications process seeking parties interested in assuming the City's contracts with the Florida Municipal Power Agency (hereinafter "FMPA") and the Orlando Utilities Commission (hereinafter "OUC"); and invited FPL representatives to assist the City in discussions with FMPA and OUC in resolution of the City's contract issues.

3. In light of the foregoing continuing activities, the parties previously agreed and requested on September 7, 2011 to continue this docket in abeyance until June 29, 2012, which request was granted September 9, 2011.

4. The forgoing activities and negotiations between City and FPL are ongoing and a closing date for the potential sale transaction has been tentatively set for on or about January 1, 2014.

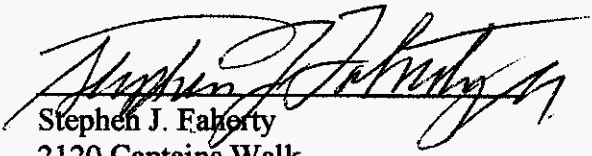
5. By continuing the formal proceedings in abeyance, the parties can avoid having to file pleadings and engage in other procedural activities such as discovery at this time and the City can concentrate its efforts on due diligence and negotiations with FPL regarding the potential sale and purchase transaction.

6. The Complainants and the City understand and acknowledge that such continuation of the abeyance in Docket No. 090524-EM, if granted, includes the parties' agreement that no party waives any rights to raise issues or defenses, oppose or move to strike issues, move to dismiss, or any other rights that the respective parties may have and that any applicable statutes of limitation or other time limitation shall be deemed tolled.

WHEREFORE, the parties respectfully request the proceedings in Docket No. 090524-EM continue to be held in abeyance until January 31, 2014.

Respectfully submitted this 6th day of May 2012.

COMPLAINANTS:



Stephen J. Faherty
2120 Captains Walk
Vero Beach, Florida 32963-2821
(772) 231-8139
fahertydoc@earthlink.net



Glenn Fraser Heran
6985 57th Street
Vero Beach, Florida 32967
(772) 473-7629
Glenn@HFBLLC.com

CITY OF VERO BEACH:



Wayne R. Coment
City Attorney
Fl. Bar No. 0999695
1053 20th Place
P.O. Box 1389
Vero Beach, Florida 32961-1389
wcoment@covb.org

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a true copy of the foregoing Joint Motion to Continue Docket in Abeyance was furnished to the following by electronic and/or U.S. Mail this 6th day of May 2012.

Martha Carter Brown, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

J. R. Kelly, Esquire, Public Counsel
Office of the Public Counsel
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400

Dr. Stephen J. Faherty
2120 Captains Walk
Vero Beach, Florida 32963-2821

Mr. Glenn Fraser Heran
6985 57th Street
Vero Beach, Florida 32967



Wayne R. Coment
Attorney for City of Vero Beach