

Eric Fryson

From: William E. Sexton [wesexton@brownandsextonlaw.com]
Sent: Friday, July 06, 2012 2:35 PM
To: Filings@psc.state.fl.us
Cc: 'John Cooper'; 'William E. Sexton'; 'Mark Jason Crawford'
Subject: CITY OF STARKE'S RESPONSE TO REPLY/REBUTTAL BY BRADFORD COUNTY SCHOOL DISTRICT - Docket 120053, Complaint of Bradford County School District against the City of Starke

Attachments: SCAN2423_000.pdf

Pursuant to the Public Service Commission electronic filing requirements:

- a. For the filer's contact information, please see email signature below;
- b. This filing is for Docket 120053, Complaint of Bradford County School District against the City of Starke;
- c. The attached response is filed on behalf of the City of Starke, Florida;
- d. The total number of pages in each attached document is indicated below; and
- e. Response to Complaint (22 pages).

Thank you.

William E. Sexton
Attorney and Counselor at Law

BROWN & SEXTON
Attorneys at Law
486 North Temple Avenue
Post Office Box 40
Starke, Florida 32091
Telephone (904) 964-8272
Facsimile (904) 964-3796
Email wesexton@brownandsextonlaw.com

This electronic message is from the Law Offices of Brown & Sexton and contains information which is confidential and privileged. If you believe you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this electronic message or its contents is prohibited. If you have received this electronic transmission in error, please immediately notify me by telephone at (904) 964-8272.

7/6/2012

DOCUMENT NUMBER-DATE
04518 JUL-6 2012
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: COMPLAINT OF BRADFORD
COUNTY SCHOOL DISTRICT
AGAINST THE CITY OF STARKE

Docket No. 120053-EM

CITY OF STARKE'S RESPONSE TO REPLY/REBUTTAL
BY BRADFORD COUNTY SCHOOL DISTRICT

COMES NOW, the City of Starke, Florida, and responds to the *Reply/Rebuttal to the City of Starke's Response to the Complaint* filed by the Bradford County School District as follows:

I. BACKGROUND

On or about March 7, 2012, the Bradford County School District (DISTRICT) filed a *Formal Complaint* (Complaint) against the City of Starke, Florida (CITY) with the Florida Public Service Commission (PSC). On or about June 6, 2012, the CITY filed with the PSC its *Response to Complaint* (Response) and on or about June 11, 2012, the DISTRICT filed with the PSC its *Reply/Rebuttal to the City of Starke's Response to the Complaint* (Reply/Rebuttal) raising new arguments. The irony of the DISTRICT's Reply/Rebuttal is that it makes the false accusation that the CITY's Response "completely fails to address the issues raised by the DISTRICT" while failing to consider any of the actual data presented by the CITY. While the meritless claims by the DISTRICT, particularly in its Reply/Rebuttal, do not require a response, the CITY nevertheless finds itself compelled to correct many blatant misstatements of fact contained in the DISTRICT's Reply/Rebuttal.

II. JURISDICTION

The DISTRICT repeatedly claimed in its original Complaint to the PSC that its electric rates were too high. After being confronted with the fact that the PSC does not have jurisdiction over municipal utility rates and after conceding this issue, the DISTRICT has changed its complaint. It now states that it has no complaint regarding the "rates" charged by the CITY. Instead, the DISTRICT now contends that it is the "rate structure" which is at issue.

In doing so, the DISTRICT now claims that it was not able to locate any definition for "rate structure" in the *Florida Statutes* or the *Florida Administrative Code* and is therefore now asking the PSC to utilize a dictionary definition for the term.¹ The DISTRICT's statement on this issue is clearly false. Section 25-9.051 of the *Florida Administrative Code* is titled "Definitions". In subsection (7) it states the following definition for the term "rate structure":

"Rate structure" refers to the classification system used in justifying different rates and, more specifically, to the rate relationship between various customer classes, as well as the rate relationship between members of a customer class.

This definition is supported by the PSC's own statement regarding electric utility rates which states, "Our job is to see that the total amount the utility says it needs is collected fairly from all customer classes".

If the issue being raised by the DISTRICT is a "rate structure" issue, notwithstanding the DISTRICT's inability to locate the aforementioned definition, then

¹ On page 5 of the DISTRICT's Reply/Rebuttal, just prior to the notation where Superintendent Moore's "definition/quote" was apparently supposed to have been inserted, the DISTRICT states that the term "rate structure" is not defined in the *Florida Statutes* or the *Florida Administrative Code*. The term is clearly defined in the *Florida Administrative Code*. The problem for the DISTRICT is that "rate structure" is defined as a classification system relating to the assessment of different rates among different customers; *not* the formula for or the relationship between the base rate and the PCA, as suggested by the DISTRICT.

the issue for the PSC is not the relationship between the CITY's PCA and its base rate², but rather whether the PCA and the base rates (1) effectively cover the CITY's costs and (2) are equitably allocated between electric utility customer classes. No facts, data nor even argument is offered by the DISTRICT as to the rate relationship between the CITY's customer classes. Nor are any facts, data or argument offered or as to the rate relationship between members of a customer class.

The CITY demonstrated in its Response that the CITY is not generating significant net revenue from its electric utility service and that its net revenue has significantly decreased over the last several years. The rate charged by the CITY for commercial electric utility service is actually less than the rate charged by the CITY to residential electric utility customers who use greater than 1,000 kWh per month.

III. ELECTRIC UTILITY RATE

The DISTRICT claims that its electric utility rate is too high. The DISTRICT acknowledges that this issue began when it noticed that its utility bills from the CITY were higher than those received from other utility providers. This apparently caused the DISTRICT's finance office "at the request of the Superintendent"³ to investigate the matter and to determine a "total cost of electrical service per kilowatt hour" for each of the three electric utility providers that serve the DISTRICT. The DISTRICT then

² How a municipality allocates its costs of providing electrical power between its base rate and its PCA matters little or not at all as is illustrated in the attached "Exhibit 1". The total monthly bill remains the same for each customer.

³ Interestingly, the Reply/Rebuttal by the DISTRICT, in a poor attempt to counter the fact that the current PSC Complaint by the DISTRICT is a political ploy by the DISTRICT's Superintendent who is seeking reelection, claims that the Complaint was made not only by the Superintendent but by the School Board as well. The DISTRICT's Reply/Rebuttal however, states that Ms. Moore caused the DISTRICT to begin its "inquiry" into this electric rate matter with the CITY and apparently inadvertently contains the note on Page 5 of the Reply/Rebuttal, "Beth...I need your definition/quote".

concluded that the "most accurate methodology to compare providers is to compare costs per kWh". There is no evidence however, as to the exact process by which the DISTRICT's finance office made its calculations. There was apparently no consideration of other factors which affect a per kilowatt hour analysis. A simplistic per kilowatt hour analysis fails to take into account other charges, taxes and fees imposed and collected by other utility providers. The proper methodology is to include and analysis the total charges of each provider. The CITY asked the engineering firm currently preparing the comprehensive rate study referenced in the CITY's Response, Science Applications International Corporation (SAIC) (formerly R. W. Beck), to prepare a detailed explanation⁴ of the fault in the DISTRICT's overly simplistic calculations. Their explanation states:

"In comparing the City's electric rates with other utilities in Florida, the City's rates are comparable to the average of the municipal electric rates in Florida. In comparing electric rates, all charges should be included and total charges for a twelve month period should be divided by total kWh used to arrive at an overall dollars per kWh, not a simple arithmetic average of certain charges per kWh. For example, Florida Power & Light Company (FPL) includes on its electric bills charges associated with its Energy Conservation Cost Recovery Charge, its Capacity Payment Recovery Charge, its Environmental Cost Recovery Charge, its Power Factor Charge, Tax Adjustment and Franchise Fees (franchise fees alone are typically 6%)."

The CITY finds it worth noting at this point that the CITY's electric utility rate is one of the lowest in the Florida Municipal Electric Association and lower than some investor-owned utilities. An advertisement prepared and circulated by Florida Power &

⁴ Attached to and referenced in the SAIC explanation are two documents attached hereto ("Exhibit 2") and incorporated herein by reference.

Light⁵ is attached hereto ("Exhibit 3") and is incorporated herein by reference. An example report prepared by FMPA for April 2012⁶ is also attached hereto ("Exhibit 4") and is incorporated herein by reference.

IV. POWER COST ADJUSTMENT

The DISTRICT claims that its Complaint is not about the rate charged by the CITY but rather "whether the formula being used by the CITY is appropriate". On November 6, 1985 the PSC approved a document titled Electric Documentation, Volume I which was filed by the CITY and which set forth the formula to be used in calculating what was then called the Power Cost Base Adjustment and which became the PCA. The document is attached hereto ("Exhibit 5") and is incorporated herein by reference. The formula set forth in that document and approved by the PSC is *exactly* the same formula which is used today by the CITY to calculate its PCA. There has been no change to the formula or the methodology for the calculation. Another false allegation by the DISTRICT is its claim that the PCA is calculated monthly by the CITY's auditor. That is simply not true. The DISTRICT's claim that the CITY has somehow altered its process for calculating the PCA has no basis in fact and is simply an attempt by the DISTRICT to ask the PSC to take issue with a matter which is outside the PSC's jurisdiction.

⁵ The FP&L advertisement shows the typical cost for residential consumers based upon a month with a 1000 kWh of electric use. It shows that the City of Starke is the sixth lowest in the State of Florida using an annual average data for the period between January 2011 and December 2011.

⁶ This FMPA chart shows a residential bill comparison for the month of April 2012 and demonstrates that the CITY has a total rate lower than the average for municipal utilities and just slightly higher than the average for all investor-owned utilities. Moreover, this chart shows that the CITY's base rate *and* PCA are lower than many of the other utilities on the chart.

V. TRUE-UP

The CITY's response specifically explained its quarterly "true-up" process which accounts for over or under adjustments to the PCA and the electric utility rate. The CITY repeatedly explained the true-up process to the DISTRICT and to DISTRICT staff and has provided the DISTRICT with numerous documents showing how the true-up is applied each quarter. Despite all of that, the DISTRICT apparently remains unable to comprehend the process and how it corrects any errors in the PCA and the rates ultimately charged to electric utility customers. Because of the DISTRICT's apparent inability or unwillingness to concede that the true-ups correct quarterly any over or under billings, the CITY asked SAIC to prepare a precise explanation of the true-up for both the DISTRICT and the PSC. SAIC's true-up explanation which is being provided to the DISTRICT states:

As part of its Power Cost Adjustment, the City of Starke calculates a "Prior Period True-Up" every three months, as shown on Worksheet #2⁷. As shown on this worksheet, the actual cost of power (in dollars) from its supplier FMPA in the prior three months is compared to the power costs (in dollars) collected from its customers in its base rates and power cost adjustment in the prior three months. The difference in dollars is calculated and then averaged and applied to the upcoming three months. In this manner, any over recovery or under recovery (whether from a difference in kWh sales, power supply costs, loss factor or other factor) is passed back to all customers on the same dollars per kWh basis. This process is used by most utilities and can be considered to be the industry standard.

As is clear from the detailed true-up explanation, the CITY is utilizing an industry-standard process to insure that the PCA is accurate and that any adjustments to the PCA are equitably passed back to the electric utility customers, including the DISTRICT. See the attached "Exhibit 2".

⁷ See "Exhibit 2".

The DISTRICT's original Complaint to the PSC focused upon alleged inaccuracies in the CITY's projected line losses without taking into account the quarterly true-ups. It is unclear whether this oversight was intentional or whether the DISTRICT simply forgot that any over or under charges were corrected quarterly. Confronted in the pleadings with the true-ups, the DISTRICT now falsely claims that the CITY is somehow siphoning money away from the electric utility fund into a Rate Stabilization Fund (RSF). The portion of the DISTRICT's Reply/Rebuttal discussing the CITY's RSF demonstrates one or both of the following:

- (1) The DISTRICT's complete failure to grasp the concept of how electric utility billing works, including the base rate, the PCA, the true-up and the RSF; and/or
- (2) The DISTRICT's unbridled attempt to make any and every possible false allegation concerning the CITY so as to influence the public and to complicate and confuse the issue pending before the PSC.

In response to the false allegations, the CITY asked SAIC to explain the RSF and was provided the following:

Another part of the Power Cost Adjustment is the Rate Stabilization Fund Adjustment. The City has established a Rate Stabilization Fund, in which funds are deposited and withdrawn over a twelve month period in order to stabilize the monthly variations in power costs applied to customer bills. Over a twelve month period, the amounts deposited are approximately equal to the amounts withdrawn, so the net effect over the period is approximately zero. This process is used by many municipal utilities in Florida.

Again, the facts show that the DISTRICT's allegations are without merit. The Rate Stabilization Fund is a common practice for municipal utilities, instituted to benefit customers, and which has achieved its stated purpose of stabilizing monthly utility bills.

VI. LINE LOSS

The DISTRICT now claims that the CITY is provided monthly data reports from the Florida Municipal Power Association (FMPA) that show actual line loss. This is simply not true and again, in response to the DISTRICT's "challenge" that the CITY turn over those documents, the CITY has provided the DISTRICT with each and every document which it has requested pursuant to numerous and voluminous Chapter 119, *Florida Statutes*, public records requests.

VII. RATE STUDY

SAIC is in the process of finalizing its rate study and is scheduled to formally present its findings to the Starke City Commission on July 12, 2012. The DISTRICT has or will be personally invited to attend the workshop so that the DISTRICT may better understand the facets of utility billing and have answered any questions the DISTRICT may have with regard to the rate study it requested.

It is anticipated that the rate study will find that existing rates under recover revenue requirements for fiscal year 2012. It is also anticipated that the study will recommend rate increases for both residential and commercial customers; that the CITY continue to recover purchase power costs through the PCA; with its base energy cost factor of \$0.4779 per kWh in the PCA.

While the CITY appreciates that the DISTRICT is "pleased" that the CITY has engaged SAIC to prepare a comprehensive rate study, the CITY finds it interesting that the DISTRICT has changed its story with regard to its desiring that a rate study be completed. This is yet another example of the DISTRICT and Superintendent Moore's

politically motivated attacks against the CITY and for the instant PSC matter. The DISTRICT, once it learned that the CITY engaged SAIC to perform the comprehensive rate study, and once it learned that the study would likely recommend an *increase* in commercial and residential electric utility rates and/or a transition to a demand rate structure, is now concerned that the study, performed at its own request, will actually result in higher commercial utility rates or the transition to a demand rate structure, both of which would negatively impact the DISTRICT and, potentially, all of the CITY's electric utility customers. It is not anticipated that Ms. Moore will recommend that the CITY implement the recommendations contained in the rate study which was performed at her request.

VIII. CONSERVATION MEASURES

In response to the CITY's analytical determination that the DISTRICT's increased electric utility bills are the results of the DISTRICT's increased electrical consumption rather than changes or adjustments to the CITY's electric utility rates, the DISTRICT's Reply/Rebuttal provides one footnote which, although containing no actual factual or analytical data, claims that the DISTRICT has undergone an energy audit. No evidence or data was offered by the DISTRICT to demonstrate any success at energy conservation.

While it may be the case that the DISTRICT had an energy audit, no explanation is offered as to why the DISTRICT's electric usage continues to increase when other and adjacent school districts have found the means to dramatically reduce their electric consumption. It is the CITY's understanding that the recommendations from said

energy audit have not been implemented. The CITY is not aware of any software or control mechanisms at the DISTRICT's facilities which would provide greater energy efficiency. Regardless of the DISTRICT's claim that it has imposed an energy conservation program, the fact remains its electric usage has increased a total of 32.39% over the past 128 months, with a 22.82% increased usage occurring during just the last 42 months. In other words nearly 80% of the DISTRICT's increased consumption of electrical power over the last ten years has occurred during the last 42 months while Superintendent Moore has held office. This is why the DISTRICT's electric bills continue increase each year. The CITY strongly encourages the DISTRICT to being implementing the recommendations of its energy audit and to do so not only in words but in action and deed.

IX. CONCLUSION

The DISTRICT's error-ridden Reply/Rebuttal is yet another distraction from the actual, legal issue currently pending before the PSC. The fact is that the PSC simply does not have jurisdiction over the concerns alleged by the DISTRICT. The DISTRICT makes no complaints and takes no issue with the rate relationship between the CITY's various customer classes or with the relationship between members of its customer classes. The PSC should not adopt a new definition for "rate structure" which differs from the definition contained in the *Florida Administrative Code*. No clever slide-of-hand nor repeated false allegations can alter the fact that the CITY utilizes a PSC-approved formula for calculating its PCA. That process and the resulting electric utility rate have been reviewed and approved by the CITY's auditors, FMPA and now one of the most

reputable engineering firms available, SAIC. The resulting electric rates assessed by the CITY are both legal and appropriate.

WHEREFORE, the City of Starke, Florida respectfully requests that the Florida Public Service Commission dismiss the *Formal Complaint* filed by the Bradford County School District for lack of jurisdiction.

RESPECTFULLY SUBMITTED this 6th day of July 2012.

CITY OF STARKE, FLORIDA

s/ Terence M. Brown

TERENCE M. BROWN

Florida Bar Number 0289612

BROWN & SEXTON

City Attorney for the City of Starke, Florida

486 North Temple Avenue

Starke, Florida 32091

Telephone (904) 964-8272

Facsimile (904) 964-3796

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy has been furnished by U.S. Mail to JOHN S. COOPER, attorney for the Bradford County School District, 100 North Call Street, Starke, Florida 32091, this 6th day of July 2012.

s/ Terence M. Brown

TERENCE M. BROWN

City of Starke, Florida

Alternative Base Energy Costs

Proposed Residential Service at 1,000 kWh's

Amount in Base (\$/kWh)	Existing \$0.04779	Alternative 1 \$0.09004	Alternative 2 \$0.0000
Customer Charge	\$6.75	\$6.75	\$6.75
Base Purchased Power Costs	\$47.79	\$90.04	\$0.00
Losses at 6.5%	3.11	5.86	0.00
Other Base Costs	<u>22.00</u>	<u>22.00</u>	<u>22.00</u>
Total Base Energy Charge	\$72.90	\$117.90	\$22.00
Power Cost Adjustment	\$45.00	\$0.00	\$95.90
TOTAL BILL AMOUNT	<u>\$124.65</u>	<u>\$124.65</u>	<u>\$124.65</u>

**CITY OF STARKE
ELECTRIC DEPARTMENT
PRIOR PERIOD TRUE-UP WORKSHEET
FOR THE POWER COST BASE ADJUSTMENT FACTOR**

Line No.	Item	Energy Month Ended			Quarterly Totals
		November 2010	December 2010	January 2011	
1	Actual Cost Of Power With True-Up	\$488,803.80	\$682,644.45	\$515,974.21	\$1,685,222.56
2	Net Retail Sales	5,219,694	5,352,594	6,553,870	17,126,158
3	Base Power Cost Recovery	\$249,449.18	\$255,800.47	\$313,209.45	\$818,459.10
4	Power Cost Base Adjustment Revenue	\$285,372.18	\$293,028.10	\$359,669.47	\$938,069.75
5	Total Power Cost Recovery	\$534,821.36	\$548,828.57	\$672,878.92	\$1,756,528.85
6	True-Up Difference	<u>(\$48,217.48)</u>	<u>\$133,815.88</u>	<u>(\$156,904.71)</u>	<u>(\$71,306.29)</u>
7	Monthly True-Up Under/(Over) Recovery				<u>(23,768.78)</u>
8	Applicable For Billing Months Of: April 2011, May 2011, June 2011				

Footnotes:

- (1) From Worksheet # 1 line 6 column (c)
- (2) Actual kwh billed from Monthly Recap Sheet
- (3) Line 2 times .04779 (base cost)
- (4) Actual Fuel Cost Adj. from Monthly Recap Sheet
- (5) Line 3 plus Line 4
- (6) Line 1 Minus Line 5 - (Over)/Under Recovered
- (7) Line 6 Divided By 3 = Monthly True-Up

Prepared by: RT Ricky Thompson/ Operations Manager

5/18/2011
Date:

Reviewed by: W

Date:



City of Starke, Florida

Power Cost Adjustment True-Up

- Power Costs are Trued-up Every Three Months.
- Power Costs Recovered through the PCA are Compared to Actual Costs.
- Over or Under Recovery of Power Costs are Passed Through to All Customers.

Month	True-Up (\$)
October 2010	\$81,594.56
November 2010	81,594.56
December 2010	(39,497.84)
January 2011	(39,497.84)
February 2011	(39,497.84)
March 2011	(23,768.76)
April 2011	(23,768.76)
May 2011	(23,768.76)
June 2011	9,951.00
July 2011	9,951.00
August 2011	9,951.00
September 2011	26,725.69

SAIC



Lowest residential bill in Florida

FPL's typical residential 1,000-kWh customer bill is the lowest among the state's 55 electric utilities

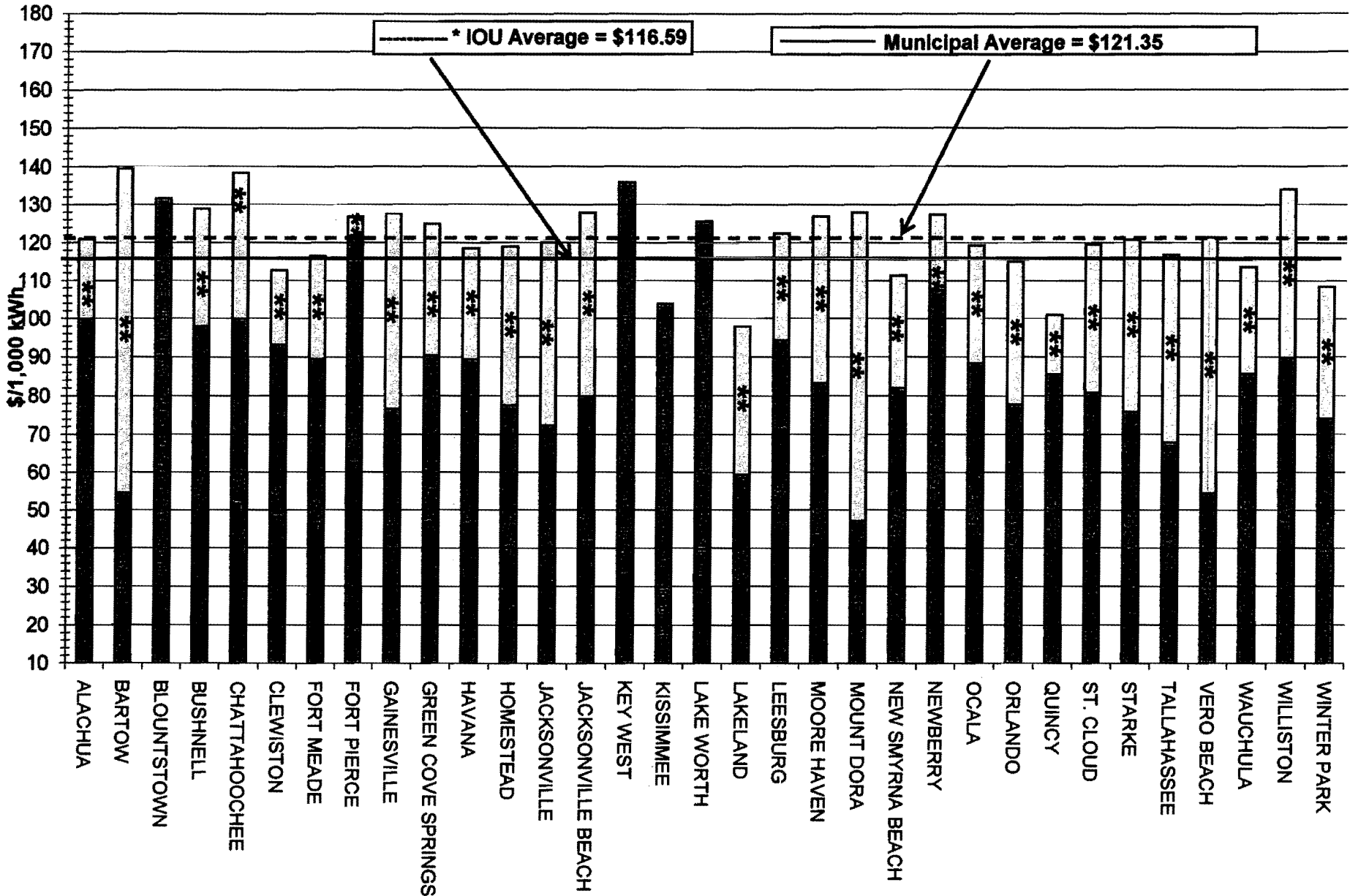
Annual average of January - December 2011 data



Average of typical 1,000 kWh January through December 2011 monthly bill data compiled from the Florida Public Service Commission, Florida Municipal Electric Association, Reedy Creek Improvement District, Florida Electric Cooperatives Association and Jacksonville Electric Authority. Figures include state gross receipts tax of about 2.5 percent. Florida Average is the average of all bills depicted. Florida Public Utilities Company operates as one utility; however, they have separate bills for Marianna and Fernandina Beach.

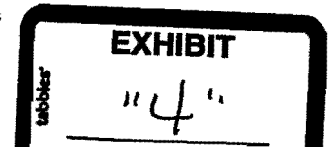


Residential Bill Comparison, April 2012



* Includes average 6% franchise fee.

** Fuel, Purchased Power, or Cost Adjustment



ELECTRIC DOCUMENTATION
VOLUME I

CITY OF STARKE, FLORIDA

209 N. THOMPSON STREET
POST OFFICE DRAWER C
STARKE, FLORIDA 32091

904/964-5027

Submitted to Florida Public Service Commission

EXHIBIT
tabbies
"5"

ISSUED: Neil Tucker
City Clerk

EFFECTIVE: October 1, 1984

APPROVED

NOV 6 1985

Florida Public Service Commission
Authority No. ME-85-22

PCBA

POWER COST BASE ADJUSTMENT CLAUSE

AVAILABILITY:

This power cost base adjustment clause is applicable to and becomes a part of all the City's retail rate schedules.

BILLING:

The monthly bill computed under the appropriate retail rate schedule will be increased or decreased by an amount equal to the result of multiplying the kWh used by the power cost base adjustment factor F, determined as follows:

$$F = \left[\frac{F_m}{S_m} - \$0.04779 \right] \times \frac{1}{1-L}$$

Where:

1. F = Monthly adjustment factor in dollars per kWh rounded to the nearest one-thousandth of a cent.
2. F_m = Total applicable monthly fuel and net interchange costs incurred during the proceeding calendar month which reflect:
 - (a) fossil fuel and lubrication oil consumed in the City's own generating units; plus
 - (b) the cost of power and energy purchases from the Florida Municipal Power Agency or any other supplier, the cost of purchases for scheduled maintenance, and the net energy and transmission wheeling costs of energy purchases when such energy is purchased on an economic dispatch basis to substitute for the City's own higher cost of energy; plus

(Continued on Sheet No. 6.1)

ISSUED: Neil Tucker
City ClerkEFFECTIVE: October 1, 1984

APPROVED

NOV 6 1985

Florida Public Service Commission

Authority No. ME-85-22

PCBA

(Continued from Sheet No. 6.0)

- (c) the actual identifiable purchased power costs associated with power and energy purchased for reasons other than identified in (b) above; minus
 - (d) the energy costs of fossil fueled generation recovered through inter-system sales including the fuel costs related to the economy energy sales and other energy sold on an economic dispatch basis; plus
 - (e) an amount to correct for over-recovery or under-recovery of the actual applicable fuel costs as defined in (a), (b), (c), and (d) above, during the latest three (3) month period of (i) April, May, June; (ii) July, August, September; (iii) October, November, December; (iv) January, February, March, determined as the difference between actual applicable fuel and net interchange costs and the costs actually billed during the same period.
3. S_m = kWh in the month applicable to the incurrence of the fuel and net interchange costs described in 2(a), (b), (c), (d), and (e), and is equal to the sum of net generation, purchases, and interchange in, less inter-system sales.
4. L = System losses to be adjusted at the beginning of each fiscal year (October), based on the actual prior fiscal year's losses.

ISSUED: Neil Tucker
City ClerkEFFECTIVE: October 1, 1984

APPROVED

NOV 6 1985

Florida Public Service Commission
Authority No. ME-85-22