

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for declaratory statement or)
other relief regarding the expiration of the)
Vero Beach electric service franchise) Docket No.: 140142-EM
agreement, by the Board of County) Filed: August 18, 2014
Commissioners, Indian River County,)
Florida.)
_____)

UNOPPOSED MOTION FOR THE SETTING OF FILING DATES

The Board of County Commissioners, Indian River County, Florida (the “Board”), by and through its undersigned counsel, pursuant to Rules 28-105.0027 and 28-106-204(1), Florida Administrative Code, hereby submits this Unopposed Motion for the Setting of Filing Dates (“Unopposed Motion”) by which the Board respectfully asks the Commission to issue an order to set filing dates based upon the agreement of parties and other filing entities in this docket for responses to the Board’s Petition for Declaratory Statement Petition and for the Board’s single response to all such filings. Specifically, the Board requests that those entities seeking intervention or amicus status that have not yet made a substantive response to the Petition be permitted to file such substantive response or amicus brief on or before the close of business Friday, August 22, 2014, and that the Board’s response to all substantive filings, including the Board’s response to the pending motion to dismiss, be filed in a single response document on or before the close of business Friday, August 29, 2014. In support of this Unopposed Motion, the Board states:

1. The Board initiated this docket on July 21, 2014, by filing with this Commission its Petition for Declaratory Statement and Other Such Relief. Pursuant to Section 120.565(3),

the Commission on July 23, 2014, properly submitted the required notice to the Florida Administrative Register (“FAR”). The FAR published the Commission’s notice in its July 24, 2014 edition. This notice specified that, “Except for good cause shown, motions to intervene or petitions for administrative hearing by substantially affected persons must be filed within 21 days after publication of this notice.”

2. Pursuant to the notice, and within 21 days, the City of Vero Beach (“City”) timely filed its Motion to Intervene, which was granted by Order No. PSC-14-0409-PCO-EM on August 12, 2014. On August 14, 2014, the City timely filed its Motion to Dismiss and Response in Opposition to the Declaratory Statement.

3. On August 14, 2014, the Orlando Utilities Commission (“OUC”) timely filed its Motion to Intervene and Motion for Leave to File Supplemental Pleadings, which is still pending at this time. OUC in its Motion requested “leave to file memoranda and other documents in support of this Motion to Intervene within three weeks or such other reasonable time as the Commission may determine.” OUC Motion, at 5.

4. On August 14, 2014, Florida Power and Light (“FPL”) timely filed its Motion to Intervene, which is still pending at this time. FPL in its Motion did not include or provide any substantive response to the Petition.

5. Also on August 14, 2014, several entities filed their respective motions for leave to file amicus briefs or memoranda of law. These entities include Duke Energy Florida (“Duke”), the Florida Electric Cooperatives Association, Inc. (“FECA”), Tampa Electric Company (“TECO”), and the Florida Municipal Electric Association (“FMEA”). Duke, FECA, and TECO simultaneously filed with or as a part of their respective amicus motions their respective briefs or memoranda containing their substantive positions with respect to the

Petition. FMEA separately requested that the Commission allow FMEA to file its amicus memorandum “on or before August 27, 2014.” FMEA Motion, at 4.

6. On the basis of discussions between and among counsel for the City, Duke, FECA, FMEA, FPL, OUC, TECO, and the Board, an agreement has been reached regarding the timing of any substantive filings that were requested and have yet to be made by FMEA, FPL, and OUC as follows: if FMEA, FPL, and OUC want to file a substantive response or an amicus brief/memorandum (as applicable) to the Petition, they shall file such document on or before the close of business Friday, August 22, 2014, and the Board’s response to all such substantive filings or amicus briefs/memorandums, including the Board’s response to the City of Vero Beach’s pending motion to dismiss, shall be filed in a single response document on or before the close of business Friday, August 29, 2014.

7. To the extent this Unopposed Motion requires the Board to request a waiver or extension of Rules 28-105.0027 and/or 28-106-204(1), Florida Administrative Code, the Board would request such a waiver or extension of time consistent with the agreement and schedule set forth herein.

8. The Board is authorized by the respective counsel for the City, Duke, FECA, FMEA, FPL, OUC, and TECO to represent to the Commission that each either agrees with the filing schedule set forth in this Unopposed Motion or has no objection to it being granted.

9. As several of those seeking amicus status acknowledge, there is no established procedure for non-party entities to seek amicus status and to submit briefs, memoranda, or to make other such comments to the Commission, although the Commission has in the past permitted such filings. The Board has not objected to any request from an entity seeking amicus status or to file some kind of response to the Petition. In view of the number and variety of

filings that have been made, and which are still sought to be made by those with pending motions, the Board believes that the requested filing schedule set forth herein will provide those who have filed motions for intervention or amicus status with the fair opportunity to present their positions and arguments to the Commission in a timely fashion. Likewise, with this schedule the Board will be able to respond to all of the filings, including the motion to dismiss, in a single comprehensive filing. This agreed schedule will best promote the Commission's efficient processing of the Board's Petition for Declaratory Statement. The Board notes, for the record, that this agreement pertains only to those entities that have already been granted party status or which timely filed an appropriate motion on or before August 14, 2014.

WHEREFORE, the Board of County Commissioners, Indian River County, Florida, respectfully requests that the Florida Public Service Commission grant this Unopposed Motion for the Setting of Filing Dates and that it issue its order as soon as possible in order to remove any confusion as to the proper time to file.

Respectfully submitted,

s/ Floyd R. Self

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following, by electronic delivery, on this 18th day of August, 2014.

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