

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL POWER COMMISSION

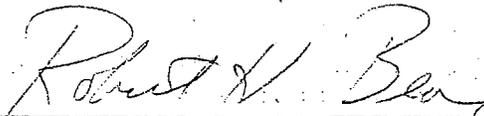
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OFFICE OF THE SECRETARY
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FEDERAL POWER COMMISSION

Florida Power and Light Company) Docket No. E-9574
)

ERRATA SHEET FOR "DAWSON ET AL.
PROTEST, PETITION TO INTERVENE
AND MOTION TO REJECT APPLICATION"

- Page 1: Correct Part III to reflect correct residence for Eugene Lyon.
- Pages 6-7: Correct Paragraph 3 of Page 6 and the following paragraph on Page 7 to reflect that the Internal Revenue Service has not formally ruled on the tax status of the municipal bonds but that it has indicated that this tax status may be in jeopardy.
- Page 11: Correct the reference to a "decision" by the Internal Revenue Service.

Respectfully submitted,


Robert Harley Bear

January 18, 1977

Law Offices of:

Spiegel & McDiarmid
2600 Virginia Avenue, N.W.
Washington, D.C. 20037

VERIFICATION

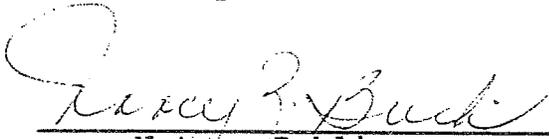
District of Columbia, SS:

Robert Harley Bear, being first duly sworn, deposes and says that he is an attorney for John B. Dawson, Fred Gossett and Eugene Lyon, and that as such he has signed the foregoing Errata Sheet For "Dawson et al. Protest, Petition To Intervene And Motion To Reject Application" for and on behalf of said parties; that he is authorized by the parties so to do; that he has read said Errata Sheet and is familiar with the contents thereof; and that the matters and things therein set forth are true and correct to the best of his knowledge, information and belief.



Robert Harley Bear

Subscribed and sworn to
before me this 18 day
of January, 1977.


Nancy Z. Buck
Notary Public

My Commission Expires September 30, 1979

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of §1.17 of the Rules of Practice and Procedure.

Dated at Washington, D.C. this 18 day of January, 1977.


Robert Harley Bear

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL POWER COMMISSION

Florida Power and Light Company) Docket No. E-9574
)

DAWSON ET AL.
PROTEST, PETITION TO INTERVENE
AND MOTION TO REJECT APPLICATION

I.

John B. Dawson, Fred Gossett and Eugene Lyon, by their attorneys, hereby (1) protest the application filed by Florida Power and Light Company ("FP&L") for the Commission's authorization for a proposed purchase by that Company of the electric system of the City of Vero Beach, Florida; (2) petition to intervene in this proceeding and request to be made a full party thereto; (3) move to reject the application, and, in the alternative, (4) request hearings.

II.

The names and addresses of the persons to whom all communication concerning this pleading should be addressed are as follows:

George Spiegel, Esq.
Robert Harley Bear, Esq.
Spiegel & McDiarmid
2600 Virginia Avenue, N.W.
Washington, D.C. 20037

Joseph Jacobs, Esq.
Irvin, Varn, Jacobs & Odom
305 South Gadsden Street
Tallahassee, Florida 32302

III.

John B. Dawson is a resident and taxpayer of the City of Vero Beach, Florida and an electric purchaser from the municipal power system which is the subject of the proposed sale under consideration in this proceeding. Eugene Lyon is an electric purchaser from said municipal power system and a resident of Indian River County. Fred Gossett is an electric purchaser from FP&L and a resident of Indian River County. As residents, taxpayers and electric ratepayers in the City of Vero Beach area, they have been deprived of the full benefits of the City's municipal system because of the anticompetitive and unreasonable refusal

of FP&L to allow the City of Vero Beach an opportunity to share in the development of low-cost generation. To the extent the sale of the municipal systems might be a matter of necessity, as alleged by FP&L, this necessity has occurred because of the failure of FP&L to deal reasonably with the City in terms of access to cheaper sources of bulk power including refusal to provide transmission service, and coordinated power supply development, and to cooperate in the establishment of an effective Florida Power Pool. It also appears that FP&L failed to disclose in a timely manner material facts bearing upon proposals by FP&L for an increase in rates which was a significant factor in evaluation of the need to sell the system.

FP&L announced a decision to seek a major wholesale rate increase during the weekend before the vote by the voters of Vero Beach authorizing the sale. Although this rate request must have been under study for quite some time prior to the announcement, FP&L did not disclose these plans on a timely basis to those responsible for evaluating and negotiating the sale or the voters and apparently did not disclose to the City's accounting firm so that this known factor could be taken into account in the firm's rate projections comparing the sale of this Vero Beach system to municipal operation.

As concerned citizens, taxpayers and ratepayers, these individuals have been injured by the actions of FP&L which tend to deprive the voters of Vero Beach of a meaningful choice in determining whether to sell their system to FP&L. These individuals also are injured by the proposed sale in that there has not been an appraisal of the value of the municipal electric system; the accounting study, upon which FP&L relies to meet its burden to show that the sale is in the public interest, is on its face insufficient for this purpose; the terms of the sale, primarily those relating to the purchase price, are too uncertain to permit a reasoned evaluation of the purchase offer of FP&L by either the voters of Vero Beach or this Commission; the sale endangers the City's credit by placing the tax status of the municipal bonds issued by Vero Beach in jeopardy; and depending upon the financing ultimately adopted may adversely affect investor confidence in municipal financing in view of substitution of cash or other securities for municipal bonds without notice in the prior bond sale and despite an explicit promise to the bondholders "that the City will not sell...the system"*/

*/ Depending upon facts beyond the knowledge of intervenors, proposal may violate securities laws. These facts must be investigated.

Assuming there are no violations of the Sherman or Clayton Acts */, the intervenors recognize that the citizens of the City of Vero Beach have the right to make political choices concerning the sale of the system. However, when there is a concealment until the eve of the referendum of information available to the proposed purchaser of the system and when the decision to sell is influenced by unreasonable economic pressure brought to bear by the purchaser, this Commission cannot rely upon the City's decision in order to fulfill its responsibility to evaluate the public interest. Citizens, taxpayers and ratepayers of the City, such as the above intervenors, must be given standing as parties because:

- (1) They stand to suffer economic injury if the City fails to obtain the benefits of municipal operation of the utility system because of economic pressure of FP&L;
- (2) They stand to suffer economic injury if the City fails to realize the full value of the system if the sale goes forward on the basis of inadequate information for the public to make its decision;
- (3) They stand to suffer economic injury if the sale of the system impairs the City's credit by jeopardizing the tax status of the municipal bond issues.
- (4) Intervenors will be able to assist the Commission in evaluating the public interest considerations involved as "private attorneys general".

IV.

Statement of Intervenors' Position

The Application should be rejected for the failure of FP&L to allege sufficient facts to justify any finding that the sale is in the public interest. Section 33.2(p) of the Commission's Rules, 18 C.F.R. §33.2(p), requires an application under Section 203 of the Federal Power Act to state:

"The facts relied upon by the applicants to show that the proposed disposition, merger or consolidation of facilities or acquisition of securities will be consistent with the public interest." (emphasis added)

*/ Petitioners understand that the Department of Justice is investigating possible antitrust violations by FP&L.

In attempting to meet this burden, FP&L chose to place its entire reliance upon a study commissioned by the city made by the accounting firm of Ernst and Ernst which it says shows that the City has no alternative to the sale of the system. Application pp. 8-9. In its letter of understanding of March 29, 1976, to the City Council, and in its final report, Ernst and Ernst stated the following:

In our work we will identify alternatives to the sale that we may learn of. However, we will not conduct detail evaluation of the alternatives. This would not be possible in the time frame you have established and we believe that it would confuse the already complex issue of the impact of the proposed sale of the electric system. If you request, we will make our personnel available to assist in evaluating alternatives. But, such work is outside the scope of the present engagement. (Emphasis added)

In addition, the firm made the following comments regarding alternatives at the Vero Beach City Council meeting on April 6, 1976, also quoted in the formal report:

We understand that, between the present situation of operating a generating, transmission and distribution utility; (sic) and sale of the entire utility operations to FP&L, there may be a wide variety of alternatives.

Some of these alternatives may involve disposition of parts of your utility, purchased power considerations and participation in joint venture power projects. While some of these alternatives may produce results that present financial improvements over present conditions, to our knowledge they have not been developed (from engineering and cost standpoints) to the point where they can be evaluated and reported on in sufficient detail to provide voters with the needed intelligence to make their selections. (Emphasis added)

To the extent possible, however, we do intend to identify reasonable alternatives as well as some of the important items that must be considered in developing information on them which can be evaluated. Much of this information, as you well know, would

involve engineering and other technical disciplines beyond the capabilities of our firm. (Emphasis added)

Furthermore, Ernst and Ernst did not evaluate the sales prices in terms of an appraised value of assets to be sold. For example, such appraisals would include studies of the re-production cost new and other standard measures of value of the physical assets, which are an important consideration in determining market value. Also, the major criterion used in its evaluation of alternatives was Florida Power and Light Company's retail rates in effect at the time of the study.

FP&L first made it known it was requesting a substantial retail rate increase only during the week-end before the Tuesday vote decided to authorize the proposed sale. Although this rate request must have been in preparation for quite some time, FP&L failed to give this information to Ernst and Ernst while that firm was evaluating the purchase proposal for the City. The public release of the rate increase on the eve of the election was timed to create a false facade of releasing the information in a timely manner. As a practical matter, many voters would not have known of the increase when they went to the polls. There was no time to evaluate its effect nor to receive the benefit of the views and informed judgment of those opposing the sale concerning the significance of the FP&L rate increase because the timing of the announcement effectively gave the Company the last word without any opportunity for comment by the opponents. Such tactics violate the obligations of a public utility to deal openly and honestly with the public. Attachment A hereto is a copy of the advertisement run by FP&L in the Vero Beach Press to announce its election-eve bombshell. According to the advertisement run by FP&L, Vero Beach rates would still be 15% higher than the rates of Florida Power and Light Company after the FP&L increase. This representation must be analyzed. But, in any event, the timing of the announcement failed to allow sale opponents any opportunity to make their comparison of the benefits of municipal operation versus sale of the system in light of the rate information held back by FP&L until the very last minute. For example, the Ernst and Ernst report rated various possibilities for improving the system in terms of the chance of closing the rate differential between Vero Beach and FP&L. With less of a differential, the chances of closing this gap would have increased for each of these possibilities.

The sale and exchange of securities is a major aspect of this sale of the municipal system. The purchase proposal provides for the acquisition of securities by the City from FP&L. Exhibit B to Exhibit L of Application. Holding back information or manipulation of information in connection with a sale of securities is a direct violation of Rule 10 b-5 of the Rules of the Securities and Exchange Commission and Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. §78j(b). The securities aspect of this transaction is essential to its success. Without it, there would be no means of providing security for the holders of the non-callable revenue bonds. */ The FPC should consider this matter in connection with its evaluation of the public interest standard of the Federal Power Act, and it should call this matter to the attention of the Securities and Exchange Commission for appropriate action.

The manipulation of information available to the people of Vero Beach in connection with the proposed site of the municipal electric system is not an isolated instance. Attachment B is a news article and editorial which indicates that in Daytona Beach, Florida, FP&L indicated to that City it would refuse to cooperate with a consulting firm it didn't approve of if the City chose that firm to make a study in connection with a proposal for municipal operation of the electric distribution system. However, FP&L did indicate it would cooperate with other firms that met with its approval.

According to press reports and on information and belief, the Internal Revenue Service has very recently informally indicated that the tax-free status of the municipal bonds used to finance the municipal plant may be in jeopardy if the sale of the system takes place as planned. **/ FP&L has repeatedly stated to the City's voters that its offer has a value to the City of \$42,606,000. Reference Exhibit L of Application pages 1-2. However, according to the public notice prepared by FP&L, the sales price is \$39,057,000.

*/ Even this procedure may be inadequate to safeguard the rights of bondholders under the bond indentures.

**/ As such, this would change the bargain between the City and the bondholders.

The difference of \$3,547,000 reflects an apparent profit to be made by FP&L because it would receive the benefit of the low-cost municipal financing. Thus, while FP&L represents to the voters of Vero Beach that it is making an offer to the City with a value of \$42.6 million, it will only be required to lay out \$39 million. As indicated by the preliminary press report of the I.R.S. initial position, such use of municipal financing may be an abuse of the tax exemption for municipal bonds. See Attachment C hereto. If the tax status of the bonds is jeopardized, the City's credit may be irreparably damaged.

A possible tax ruling may render the issues in the case moot if FP&L and the City fail to arrive at an agreeable figure to govern the sales price for the municipal electric system if FP&L is not allowed to take advantage of the lower-cost financing of the municipal electric system. Until such time as FP&L and the City of Vero Beach are able to resolve this problem, it would appear that FPC consideration of the proposed sale would be premature.

Consideration of the price term is especially important in this case because no independent appraisal of the electric system has been made on behalf of the City. The Ernst and Ernst study relied upon so heavily by applicant fails to mention any consideration of the adequacy of the purchase price of the system. Nor was any effort made to invite competitive bids for the system.

The proposed sale has been justified to the voters of Vero Beach on the grounds that the sale had become necessary because the City could not compete with the rates of FP&L. However, it appears that FP&L has unreasonably used its monopoly control of transmission and low-cost generation facilities within its service area for the purpose of restricting the economic vitality of the municipal electric systems. Under such circumstances, the FPC cannot approve, as consistent with the public interest, the sale of this system which has been made necessary by the anticompetitive behavior of FP&L, and, in any event, must withhold approval until such activities are eliminated and rectified and the matter can be presented to the voters in better circumstances.

FP&L is Florida's dominant electric utility. This dominant position is beyond dispute and has been documented as follows by the Department of Justice in its "Advice Letter" of November 14, 1973 (pp. 2-3) concerning FP&L's application before the Nuclear Regulatory Commission for a construction permit for its St. Lucie Unit No. 2 (NRC Docket No. 50-389A):

Applicant is by far the largest electric utility in the State of Florida; it serves approximately half of the statewide electric load. Headquartered in Miami, its area of operation includes most of southern Florida and extends up the east coast to the Georgia border. As of the end of 1972, it provided retail electric power to 574 communities with over 1,500,000 customers. Its total energy sales for 1972 were 28,927,803 megawatt hours. Applicant's summer 1972 peak load was 6,011 megawatts; its dependable generating capacity at that time was 6,585 megawatts--over 70 percent of the generation in the area. Its system of generating stations is integrated by over 3,400 miles of high-voltage transmission lines, approximately 90 percent of the high-voltage transmission in the area--including the 230 kilowatt main transmission grid for southern Florida and the east coast.

Applicant calls itself 'the nation's fastest growing electric utility.' Florida's rapid growth has been concentrated in the area in which it serves; and for the past several years, the Applicant has added more new customers than any other electric utility in the United States. Applicant's projected peak load for 1980 is 14,475 megawatts--over twice its 1972 load--and generating capacity is planned to increase more than 10,000 megawatts to meet that load.

This dominant economic position has profound implications for small municipal utilities in Florida. Because of recent curtailments in deliveries of natural gas, the transportation difficulties involved with using coal for generating in Florida and the unwillingness of the FP&L to allow smaller systems access to nuclear generation, municipal systems such as Vero Beach for the present find themselves dependent upon expensive imported fuel oil. As further documented in the Department of Justice "Advice Letter", supra (pp. 3-4):

As we have advised you previously, there are substantial economies of scale in the business of generation and bulk supply of electric power. Nuclear power, which is expected to be the cheapest kind of base-load electric power available to meet future load growth, may be produced economically only from large generating units -- units with a capacity of 500 megawatts or

more. Most electric generating systems cannot install and market power from such large units on their own. They can employ large units--and achieve the economies of scale necessary to compete effectively in today's electric power markets--only through coordination with other generating systems. High-voltage transmission is the necessary medium for such coordination.

Applicant's control over the transmission network in its area has given it the power to grant or deny access to coordination--and thereby access to the benefits of large-scale, low-cost, base-load nuclear generation--to neighboring smaller systems. There have been some allegations that Applicant may have used this power to deny coordinating benefits to smaller systems or to take the predominant share of the benefits of such coordination as has been entered into.

FP&L has repeatedly used this monopoly power to restrict the power supply alternatives of Vero Beach. According to press reports, Vero Beach's City Manager John Little has been trying to obtain a power supply, which is less expensive than its self-generation, from the Orlando Utilities Commission. Orlando is willing to sell such power. However, FP&L has apparently refused to transmit it:

[Vero Beach City Manager John] Little indicated FPL wants to keep the disparity between city and FPL rates as wide as possible as an inducement to go through with the sale of the power system, and a recent presentation of the OUC power purchase plan to FPL officials met with a 'negative' reaction.

'What would you do if you were in their position?' Little asked. Attachment D hereto.

Vero Beach's City Manager has also stated to the press that the Vero Beach transmission and distribution operation is more economic than that of FP&L:

'We are solely dependent on imported fuel oil, which is killing us,' succinctly replied Little. 'If it were possible to sell our generating plant, I wouldn't even consider going out of the T&D (transmission and distribution) business,' added Little. Attachment E hereto.

These observations by Mr. Little clearly support the conclusions drawn by Robert E. Bathen, a partner in the consulting engineering firm of R.W. Beck & Associates and manager of its Orlando office, in an analysis of the power supply alternatives that should be available to Vero Beach made in response to an inquiry by Vero Beach City Manager John Little. Attachment F hereto. This analysis leads to the conclusion that absent limitation on such alternatives that should be available to cities such as Vero Beach -- for example, full power supply coordination and purchase of wholesale power from FP&L -- continued operation of the Vero Beach system could be economic.

FP&L "proposes to continue to operate the generating facilities of Vero Beach at their present location for an indefinite period of time after the date of acquisition." Exhibit L to Application p. 3. This documents the value the generating plant has to the FP&L system. This being the case, there appears no cognate reason for the failure to consider the sale of the City's generation equipment (or capacity sales utilizing the City's generation plant) with the City staying in the transmission and distribution business.

Moreover, FP&L has consistently discouraged the City of Vero Beach from attempting to purchase wholesale power from FP&L. In 1967, for example, FP&L rejected a request by Vero Beach to purchase wholesale power. See Attachments G and H hereto. The Company stated it was "reluctant" to go further into the matter of selling wholesale power to the City of Vero Beach because of the need to study three other alternatives, two of which involved the takeover by FP&L of the City's business by "outright purchase" or "30-year lease" of the system.

In addition to wholesale power service by FP&L, the Commission should consider the alternate advantages of interconnection and full-scale coordination and pooling which would benefit both Vero Beach and FP&L ratepayers. The sale appears to violate the policies of the Clayton Act in that it may substantially lessen competition.

In view of the foregoing, there is a need for a full development of all the facts regarding FP&L's actions herein, in the light of the full circumstances before an informed judgment can be made by the parties, and the Commission, as to whether the proposed sale is consistent with the public interest.

*/ If the Vero Beach electric system is sold, Vero Beach residents will purchase from FP&L at retail. In view of the further monopolization of wholesale and retail power markets represented by the sale, conditions would be required to the sale assuring that they receive benefits associated with competitive wholesale supply conditions.

WHEREFORE, it appears: (1) that the application by FP&L fails on its face to allege sufficient facts to justify a finding of consistency with the public interest required for FPC authorization of the sale of the municipal system of Vero Beach; (2) that the application is premature because the Internal Revenue Service is likely to disallow the planned defeasance of the municipal obligations and thus invalidate the critical price term and therefore require further negotiations between Vero Beach and FP&L before the transaction can be considered by the FPC; (3) that FP&L may have violated its utility and securities law obligations to deal openly and with full disclosure of all pertinent considerations to the public in connection with the proposed sale; and (4) that the City of Vero Beach has been deprived of meaningful alternatives by the anticompetitive activities of FP&L, inconsistent with antitrust law or relief, has placed pressure on the citizens of Vero Beach to sell the system and deprived them of a free choice. Intervenor request that they be granted intervention in this proceeding with full rights of a party thereto and that the Application be rejected, and in the alternative, that the Commission enter into a full investigation and hearing on the matter.

Respectfully submitted,

George Spiegel by RHB
George Spiegel

Robert H. Bear
Robert Harley Bear

Law Offices of:
Spiegel & McDiarmid
2600 Virginia Avenue, N.W.
Washington, D.C. 20037
202-333-4500



An open letter to every Vero Beach resident from Florida Power & Light Company's Ralph Mulholland.

September 4, 1976

Dear Vero Beach Resident:

On September 3, 1976, Florida Power & Light Company informed the Public Service Commission of our intention to file for rate relief. When you first heard or read that Florida Power & Light Company was asking for rate relief, two questions probably popped right into your minds:

What will this do to my electric bill if we vote to sell our electric system to Florida Power & Light Company?

Why does this come now, at the last minute, before the referendum?

I'd like to ease your mind on both these points with quick answers.

First, there will be no effect on your electric bill at all for quite a while. It generally takes months for the Public Service Commission to study and act on a rate request. We will be well into 1977 before a final decision is made.

Meanwhile, if you approve the sale in Tuesday's vote and it is concluded in the near future, you will begin enjoying Florida Power & Light Company's present rates—which are, as you know, considerably lower than what you now pay.

If our rate request is eventually granted by the Public Service Commission, the electric bills of all Florida Power & Light customers will rise. But you will still pay significantly less when Florida Power & Light Company provides you electric service than if Vero Beach continued to operate the electric system.

As for the timing: Friday, September 3, was the earliest possible day we could prepare all the details and paperwork for the Public Service Commission. In fact, we didn't expect to be ready until the end of September.

We wanted you to have all the facts before you vote, so a lot of people at Florida Power & Light Company worked overtime to speed things up. Getting the news a few days before the vote may not be ideal... but it sure beats getting the news after the vote.

Now, I'd like to give you more of the details because you're entitled to a full, frank explanation. To give you an idea how the vote and our rate request might affect your electric bills, here are some figures based on a residential customer in Vero Beach who uses 1000 kilowatt hours per month. First, we made a comparison using the average monthly bills this customer would have paid over the first eight months of 1976.

AT PRESENT RATES

VERO BEACH	FLORIDA POWER & LIGHT
\$47.58	\$38.40

Vero Beach rates are 24% higher than Florida Power & Light Company.

Now suppose during 1977 the Public Service Commission approves Florida Power & Light Company's request for rate relief in full. Compare the average bill based on that with what this same customer would pay if Vero Beach continued to operate the electric system. To make this comparison realistic, we must add to the Vero Beach rate the 12.7% increase which its accounting firm, Ernst & Ernst, informed the City would be necessary:

AFTER RATE INCREASES

VERO BEACH	FLORIDA POWER & LIGHT
\$53.60	\$46.60

This still indicates Vero Beach rates to be 15% higher than Florida Power & Light Company.

All these figures include local utility taxes, fuel adjustment and franchise fees.

We expect to have a new nuclear generating unit at St. Lucie in service in the near future. This should bring annual fuel savings of more than \$100 million that will be passed directly to our customers through a reduction in the fuel adjustment, which has been reflected above.

So there you have it: even with Florida Power & Light Company's full rate relief request approved, you will still realize a considerable saving.

Why does all this come just now, with the referendum only a few days away? All through the negotiations with Vero Beach we have been completely frank about the possibility of a rate increase.

We pointed out that Florida Power & Light Company faces the same tremendous cost pressures that are squeezing every electric utility in Florida. Florida Power & Light Company is paying the inflated costs of 1976 with income from a 1974 rate structure.

Florida Power & Light Company rates have traditionally been among the lowest in Florida. We are confident that in the long run, when the other Florida electric utilities adjust to meet rising costs, you'll find Florida Power & Light Company rates near the bottom of the list.

It's true that we didn't suddenly decide on the morning of September 3 to ask for rate relief. All year we've said publicly that we were seriously concerned about rising costs and the possibility of a rate request has often been considered.

When we couldn't postpone the inevitable any longer, we started preparing the facts and figures we need to support our request. It's a big and complicated job and, as I said before, it looked like we couldn't be ready until the end of September.

This worried me a lot because I knew your referendum was coming on September 7. I asked our people to really put the pressure on—to work nights and weekends if necessary to get our request to the Public Service Commission ready before September 7. They did a great job. Within a few minutes after we filed our request with the Public Service Commission, I was able to pass the information on to your City officials and your local news media.

To sum it all up, we did everything we could to give you the news before the referendum. Even if Florida Power & Light's full request is granted, you'll still pay less for Florida Power & Light service than you'd pay if Vero Beach continued to operate the electric system.

We sincerely believe the proposed sale will be a good thing—good for Vero Beach electric customers, and good for the City itself. If it is approved, we pledge to deliver you reliable electric service at the lowest possible cost. We hope you will give us the opportunity to keep this promise.

Sincerely,
FLORIDA POWER & LIGHT COMPANY

R.G. Mulholland
Senior Vice President

MORNING JOURNAL

FPL Walkout Threat Voiced over Consultant Choice

By **BOB DESIDERIO**
News-Journal Staff Writer

R.W. Beck & Associates, Orlando, and two other consultants seeking to make an electric takeover feasibility study for the city will be invited to submit proposals here May 12, the City Commission decided Monday.

The commission voted unanimously to hear the three firms cite a threat by Kermit Coble, lawyer for Florida Power and Light Co., that FPL won't cooperate in the study if R.W. Beck is selected.

"Mr. Beck is fighting us in two or three other places," emphasized Coble, adding: "He is well known to be biased."

Coble handed out several unidentified clippings of "articles" concerning the firms participation in a New York State group pushing for public power.

Coble balanced his attack, conceding: "They are a good company, don't misunderstand me, and they are qualified to make your study."

However, he immediately quoted from another clipping which allegedly reported that someone felt the firm hadn't done well with a report for an unidentified client. "I hate to say this," added Coble.

"Any of the other 14 (original list of prospective consultants) we could cooperate with and do business (with), and (we) would. This is it! This is your decision and that's all we got to say," concluded Coble.

"Mr. Mayor," said Commissioner Rubin Hancock, "I don't think certain people here should make up our minds (about) what we're going to hear."

"We should interview them and if we find them biased we'll throw them out," added Hancock.

Commissioner Bud Davis noted that being invited and being selected are two different things. "If Beck appears to

be biased, then you can throw him out."

City Atty. John Chew said disqualification of one of the three firms would force the commission to select a replacement. He noted that state law requires the city to line up three firms with which to negotiate.

Mayor Larry Kelly then asked Charles E. Burkett, executive president of Russell & Axon, "How do you feel about problems encountered in doing the study?"

Burkett, acting in an advisory capacity only, declined to discuss another consultant's integrity. However, he noted: "It's tough for a firm to come here and make a study when you've got a problem to begin with, but I am sure that they've run into this before in many places."

"I think they're all capable organizations, and I am sure that if you sign a contract with them, they're going to perform accordingly."

"I think simple justice requires that we invite them in here and hear their side of it," declared City Manager Russell Smith.

"I told Mr. Coble if he weren't on the other side, I would like to have him on my side," said Kelly, adding goodnaturedly: "I like the best."

The other two firms invited are Black & Veatch, Kansas City, Mo., and Ford, Bacon & Davis, New York City.

The Mayor instructed Smith to include in the invitations a request that the three firms "come prepared to address themselves to franchise negotiations," as an alternative if the study indicates taking over FPL's distribution facilities in the city isn't feasible. The company's 30 year franchise expires Oct. 22, 1977.

The consultant presentations will start at 9 a.m., May 12 in the Police Administration Building Annex.

RECEIVED

MAY 7 1976

COMMUNICATIONS SECTION

Daytona Beach News
5-29,394 5-43,022

APR -27-76

Editorials

The City Can't Afford To Compromise On FPL Study

THERE ARE REPORTS that Florida Power & Light Company has conducted its own study and has determined it would be feasible for the City of Daytona Beach to take over the distribution of power within the city.

FPL officials naturally couldn't be expected to confirm the reports. But this could explain why FPL representatives have been lobbying city officials to exclude R. W. Beck & Associates from consideration to do a feasibility study.

A screening committee has recommended five firms for consideration and the City Manager's office rated Beck & Associates "best qualified for city purposes."

SOME COMMISSIONERS have indicated they might compromise and vote to select one of the other firms because FPL is adamantly opposed to the Beck firm.

The firm has represented other cities in Florida and has tangled with FPL and Florida Power Corporation on some occasions.

If the interests of the city's taxpayers are paramount, as they should be, what's wrong with hiring a firm that has a good track record of protecting public interests against powerful utility companies?

THREE OF THE FIVE firms are scheduled for interviews and appear to be especially well qualified.

The Beck firm has made numerous feasibility studies in the public power area during the last five years. Black & Veatch and a third firm, Ford, Bacon & Davis, have made numerous studies, as well, during the last five years.

But Black & Veatch has done work during the last five years for Florida Power Corporation, which has a "mutual aid agreement" with FPL in

tion and otherwise cooperate. Ford, Bacon & Davis didn't indicate in its proposal whether it has made any feasibility studies during the last five years.

THE COST of the proposed study is another important consideration.

The Beck firm has said it could do the study for \$50,000 if it gets cooperation from FPL — cooperation that was pledged by utility officials when the city first discussed the possibility of doing a study.

Black & Veatch has estimated the cost could range anywhere from \$55,000 up to \$150,000. The top figure would be \$40,000 more than the city staff has estimated as the maximum the city should spend.

The Ford firm has estimated a cost of \$68,000.

SOME WEIGHT should be given to the comments from the City Manager's office in summarizing the qualifications of the firms.

The staff concluded the Ford firm is "very capable" and appears to have the qualifications to "complete satisfactorily a study which would meet our requirements."

Black & Veatch was rated very simply as "an outstanding and well-qualified firm."

But the top rating went to the Beck firm, which the staff said is "supremely qualified in the area of valuation and acquisition studies relating to municipal systems." The staff concluded the firm has "substantial direct experience as it relates to our request" and "for city purposes, they are the best qualified."

When the time comes to hire one of these firms the City Commission should recognize that FPL is in an

Power Plant Passes But Defeasance Fails

By Ed Dangler

There was good news and there was bad news in Vero Beach Thursday.

First, the good news. The new unit four at the city's power plant finally passed its sulfur emission tests and will be issued an operating permit by the state Department of Environmental Regulation.

Now for the bad news. The Internal Revenue Service turned thumbs down on a planned method of retiring, or defeasing, about \$30 million in bonds owed on the electric system. This ruling, fears City Manager John Little, could throw a roadblock in the planned sale of the electric facilities to the Florida Power and Light Company.

The operating permit and the manner of defeasing the electric bonds are both conditional items in the sale to FP & L. Unit four at the plant was tested on more than one occasion before finally passing the emission tests, conducted by a Texas

company. The testing agency advised Little Thursday that the plant had finally met stringent state and federal emission standards. The city accomplished the feat with the use of a lower than normal sulfur content fuel.

Once the written report is in Little's hands, he will either personally deliver an application for an operating permit, or have it delivered, to the DER office in Orlando, probably early this week.

"That's the only good news I've received this afternoon," commented the city manager, while sampling some Christmas cheer in the city's planning office. He lamented the fact, although not unexpected, that the IRS would not approve allowing a tax exempt status to FP & L for its planned payoff of the electric bonds, as is allowed for municipally-owned electric systems.

To pay off the \$30 million owed on the system, the city plans to purchase treasury certificates and pay as the bonds become due. This would be with

money provided by the purchaser. Any profit to be made with the defeasance of the bonds was to go to FP & L. The IRS informally notified Little that FP & L cannot profit on the tax-exempt status of the municipal bonds.

The city manager said he and Councilman David Gregg Jr., city negotiators in the proposed sale, had argued with FP & L about the bond issue. The IRS ruling now means that if the city can defease the bonds for a lesser amount, the difference would belong to the city, since it is tax-exempt and FP & L is not.

If the bonds could have been defeased in November, 1976, the money required would have amounted to approximately \$27 million, meaning a \$3 million-plus profit for the purchaser; in this case, FP & L, until the IRS stepped into the picture.

Little said the ruling could affect the planned sale of the electric system, if FP & L is not willing to pay the face value of the bonds.

Vero Beach Journal 12/25/76

FPL's Sale Pinch May Kill Bill Savings

By MIKE THOMAS

Special Staff

VERO BEACH — Florida Power and Light's desire to keep the pressure on the city to sell its power system may doom efforts for city utility customers to gain some relief this summer from astronomical electric bills, it was learned this week.

City Manager John Little has been trying quietly over the past month to work out an arrangement with the Orlando Utilities Commission (OUC) to purchase excess power to offset a predicted 25 per cent jump in the fuel adjustment charge that will come when the city is forced to start using low sulphur fuel early this summer.

LITTLE SAID Monday the Orlando municipal utility has agreed to furnish the power and the savings to Vero Beach electric customers could be "considerable."

The hitch in the plan is the only

way to get the power from Orlando to Vero Beach is over FPL lines, and the giant private utility is reluctant to cooperate.

The Vero Beach City Council agreed, in principle, to a recommendation in February to pursue attempts to sell the municipal power system to FPL for \$42.5 million.

BECAUSE THE only reason for the council to consider selling the system is the high cost of locally-produced electricity, FPL is reluctant to do anything that would tend to reduce the price and thus remove some of the urgency felt by the public and city officials who are facing a fuel adjustment charge of more than \$25 per 1,000 kilowatt hours when the use of expensive low-sulphur fuel becomes mandatory this summer.

Little is maintaining purchasing cheaper OUC power would only be a temporary relief for local users, and not an alternative to selling the system.

"Anything I can do to help this summer, I want to do it," Little said.

LITTLE INDICATED FPL wants to keep the disparity between city and FPL rates as wide as possible as an inducement to

go through with the sale of the power system, and a recent presentation of the OUC power purchase plan to FPL officials met with a "negative" reaction.

"What would you do if you were in their position?" Little asked.

FPL has consistently resisted attempts to use its lines as a common carrier for other systems and does not even have a set charge for such use, known as "wheeling," so that the amount of savings to city customers by purchasing our power, if FPL agreed to cooperate, cannot be determined now, Little said.

LITTLE SAID if FPL refuses to go along with the request to use its lines this summer, the city could go to court, but such an action would put the city in the uncomfortable position of both suing FPL and trying to work out a sale agreement at the same time.

Even if FPL refuses to cooperate with the city's attempts to purchase Orlando power, Little said there is a possibility the city could purchase FPL power to help keep electric bills down this summer.

"I don't care where I get it from," Little said. "I'd get it from the devil himself if it was cheaper than our generating costs."

Costs For Oil, Not Transmission, Kill Power Operations

FLORIDA POWER & LIGHT Co.'s new nuclear power unit on Hutchinson Island south of Fort Pierce and Vero Beach is scheduled for initial fueling today, but for all the good it will do the two cities the unit might as well be on the moon.

Although the company and the two cities have agreements to buy and sell each other power, that doesn't include the sale by FP&L of a single watt of relatively cheap, nuclear generated power.

That's mainly why Vero Beach is negotiating with FP&L for the sale of its entire electrical plant and system to FP&L, and why Fort Pierce is considering the same move.

It might appear that Daytona Beach, which is considering the question of getting into the power distribution business, is swimming against the tide when two cities with electric

utilities are ready to throw in the towel. Or is it?

EAST WEEK asked City Manager John Little of Vero Beach, and City Manager Charles Jackson of Fort Pierce why their cities are preparing to sell out.

"We are solely dependent on imported fuel oil, which is killing us," succinctly replied Little. "If it were possible to sell our generating plant, I wouldn't even consider going out of the T&D (transmission and distribution) business," added Little.

"As it is, the bulk of our debt is in the generating plant, and to get out of the generating business, we would have to find a buyer for this plant. There are no domestic buyers, and we would get only 25 cents on the dollar if we sold to an overseas buyer. We have the best small plant in the state, but



Bob Desiderio
CITY HALL

and the best reliability regardless of size," declared Little.

He explained that without access to nuclear power or natural gas fuel and being dependent on high priced imported oil, more than

half of the system's \$13 million in revenue goes for fuel. FP&L can do the same job for about \$4 million less a year. Aside from the advantages of diversified fuel supplies, FP&L enjoys an inherent advantage that large generating units have over smaller ones, emphasized Little.

"IT'S A SITUATION, because we have an excellent plant, but no matter how good the staff is we're fighting a losing battle. As far as the transmission and distribution is concerned, we operate better than they do," he noted.

Jackson, former city manager of Daytona Beach, echoed Little's observations. "We're both in the same bind," said Jackson.

He said the city has an estimate from an engineer which indicates that the big generator efficiency factor alone, with the company and the city using oil, gives FP&L a \$1

million a year advantage over Fort Pierce.

WHEN THIS MANAGERS were their cities had sought nuclear power, FP&L, Little snorted and Jackson chuckled.

"They won't sell it to us," said Little. "They haven't said anything," said son.

Clearly, when it comes to power plant, FP&L, the nation's fifth largest utility system, has the blue chip reputation of whether it will be feasible for Daytona Beach to go into T&D business is another proposition, the two managers indicated.

Perhaps the City Commission will March 17 whether Daytonians are cut know more about the proposition by authorizing the city administration to how much a feasibility study would cost.

Evening News

DAYTONA BEACH, FLORIDA, MONDAY, MARCH 1, 1970

LOCAL • Florida News

R. W. BECK AND ASSOCIATES

ENGINEERS AND CONSULTANTS

PLANNING
DESIGN
RATES
ANALYSES
EVALUATIONS
MANAGEMENT

1510 EAST COLONIAL DRIVE
POST OFFICE BOX 6817
ORLANDO, FLORIDA 32803
TELEPHONE 305-896-4911

SEATTLE, WASH
DENVER, COI
PHOENIX, A
ORLANDO, F
COLUMBUS, NE
WELLESLEY, MASSACH
INDIANAPOLIS, I

FILE NO.

April 2, 1976

Memorandum to: Mr. John Little

From: Robert E. Bathen

Subject: Power Supply Alternatives for Vero Beach

Following your telephone call yesterday, in preparation for our meeting today, I have given a good deal of thought to the possible power supply alternatives that may be, or should be, available to Vero Beach. Should the City of Vero Beach decide to engage R. W. Beck and Associates to assist it in making such evaluations in cooperation with Ernst & Ernst and any other consultants the City might engage, I believe the City should explore fully the following alternatives prior to making any final decision with respect to an offer by Florida Power & Light Company to purchase the entire Vero Beach electric generation, transmission and distribution system. These alternatives should be weighed in any comprehensive analysis of the economic (and non-economic) considerations of a possible sale of the system.

1. Apparently FP&L is prepared to sell power to the citizens of Vero Beach at retail at FP&L's average system cost. Aside from the distribution system which FP&L would have to purchase, that means that at the input to the City's system it would be supplying power at its average bulk power cost of generation and transmission. This would include power from the entire mix of FP&L's present and planned future generation including nuclear, gas-fired fossil units, and oil-fired fossil units (and coal if the Company ever should decide to go to coal). As in any offer to purchase a system, there is inherent in FP&L's offer a willingness to supply such power and energy at average system cost to retail customers. Therefore, I can think of no sound basis for FP&L's refusing to supply wholesale power to Vero Beach at average system cost. FP&L now supplies wholesale power for resale to rural electric cooperatives, the City of New Smyrna Beach, and the City of Homestead. This power is supplied pursuant to FP&L's standard "SR" rate which is on file with and regulated by the Federal Power Commission. If, therefore, Vero Beach were to become a wholesale

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power purchaser under the SR rate for its full or partial requirements, its customers would receive the same benefits, without the loss of the system assets, that they would receive if the system were to be sold insofar as cost of bulk power supply is concerned. Furthermore, as to the cost of generation and transmission to FP&L, since it would recover its full cost under the SR rate, it would be in an economically identical position in making such sales at wholesale to Vero Beach as if it purchased the system and supplied power at retail.

Under such an alternative, the question arises as to what Vero Beach would do with any or all of its generating capacity that would be idled because of a purchase of wholesale power from the Company. Based on our experience in general, and studies of the New Smyrna Beach system in particular, it is likely that under such an alternative the most economical arrangement would be for Vero Beach to purchase only a portion of its requirements under the SR rate and provide peaking and reserves from its own existing generating resources. To the extent that partial requirements firm power purchases under the SR rate would idle generating capacity, it would seem to me that when comparing the embedded cost to the City of such generating capacity with the cost of new generating coming on the system and planned for the future (up to \$1,000-\$1,200/kW), Vero Beach should be able to make sales of such surplus capacity to other utilities in the state at a price which will more than cover its embedded fixed charges on such capacity. One possible source of such sales would be to FP&L as a credit against the SR rate billings. In such instances, Vero Beach might agree to place its units under FP&L's operational control so that FP&L could call on the capacity during emergencies, peak load periods, scheduled outages, etc., on the FP&L system.

Full exploration and evaluation of this alternative offers the prospect of immediate reductions in the cost of power to Vero Beach and the rates to its customers. I think this was one of your primary concerns in talking with me on the phone yesterday. You could not see any way to achieve a short term solution that might result in rates for your customers competitive with those of FP&L's retail rates.

2. Without excluding or limiting the alternative discussed above, it should be recognized that the strongest impediment to Vero Beach's pursuing favorable power supply alternatives is the present lack in the State of Florida of a truly integrated pooling arrangement for power supply resources among all utilities. The generating resources of the utilities in the State of Florida are not planned or operated under a true pool concept such as exists

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and has existed for many years in other areas of the country. Under such a true pooling concept, the planning is done jointly to assure the most economical unit sizes, optimum utilization of the best sites for particular types of generation, economical planning of transmission, judicious use of transmission rights-of-way, optimum mix of generation utilizing the various types of fuel supply (nuclear, coal, oil, and gas), and optimum operational efficiency of existing and planned generating units under a single system dispatch concept. Under such an operating concept, units are dispatched against load of the entire region in accordance with equal incremental heat rates taking into consideration fuel cost variables and variable O&M cost, no load running costs, start-up costs, etc. Extensive studies have been made and presented to all members of the Florida Coordinating Group (FCG) which demonstrate the economies to all the citizens in the state of just this aspect of a true pooling concept, that is, integrated operation optimizing for the total good of the region as opposed to individual companies.

If, and to the extent, a major utility in a region resists efforts by others in the region to create such a pool, such resistance inhibits the alternatives of small systems. If such a situation exists, it would be unreasonable to expect a small system to make a decision with respect to the merits of a proposal for it to sell its system if that system is somehow denied the opportunity to participate in the benefits of such true pool concept, particularly if the potential purchaser of the system is a party to preventing consideration by the small system of the benefits of such alternatives. Until reasonable assurance is secured that such impediments as might exist are, or will be removed, so that a small system can evaluate its costs of power supply as a member of such a regional pool, any analysis of the economics of sale versus continued operation of its system would be distorted in favor of the alternative to sell.

3. Although R. W. Beck and Associates has never been called upon to make any specific studies of the cost of electric service in the City of Vero Beach, it has been our impression over the 34 years we have served utilities in the state that up until the 1973 oil embargo and the more recent failure of Florida Gas Transmission Company to supply substantial gas to the City, its rates were competitive with those of the Company and substantial dollar benefits accrued to the City's General Fund. Clearly the virtually complete loss of gas supply under contracted rates which has required the City to purchase presently high cost fuel oil to replace such gas is the predominant factor in the cost of electric service to the customers. As

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you know, eight sister cities in the state, namely, Sebring, Lakeland, Starke, Kissimmee, Tallahassee, Gainesville, Homestead, and Fort Pierce, formed a "Fuels Committee" some years ago. Due to the efforts of that committee through litigation with FGT, the "fuel oil escalator" clause in its various gas contracts which was previously unlimited was reduced to 6 mills/therm. Also, as a result of that litigation, FGT entered into a stipulation in the United States District Court for the Southern District of Florida, Miami Division, wherein it agreed to "exert its best efforts" to secure gas for the preferred interruptible customers, which include the cities, up to new larger contract quantities set forth in the stipulation. Although Vero Beach was not a party to this action, it nonetheless benefitted in the same manner as the other cities. The court maintained jurisdiction to enforce the provisions of the stipulation agreement. In a recent motion to the court, the cities have raised serious questions as to whether or not FGT has indeed made its "best efforts" to secure the gas and have sought the court's assistance in securing enforcement of the terms of the stipulation agreement if FGT is found to be in violation thereof in any way.

Further, it should be pointed out that FP&L enjoys a substantial benefit through its T-2 and T-3 gas contracts with FGT whereby under contractual arrangements with well-head suppliers and FGT, it secures gas at a cost comparable to that Vero Beach would pay for gas if it could get it. Also, FP&L is presently not subjected to interruptions or curtailments under the T-2 and T-3 contracts such as Vero Beach is currently experiencing and which FGT has said it will experience even further in the future.

An analysis should be made of the extent to which additional gas supplies might be made available in the future as a result of the cities' suit or otherwise. In addition, an analysis should be made of the possibility of reduced gas deliveries to FP&L under its T-2 and T-3 contracts. Any reduction in gas to FP&L would have an increasing effect on FP&L's rates. Further any such reduction in supplies to FP&L could have the effect of increasing the gas available to Vero Beach.

4. You are well aware of the current benefits that low cost nuclear energy is providing to the customers of FP&L and other utility systems across the country as compared to the current high cost of fossil energy. A number of cities in the state have written FP&L and the Justice Department requesting participation in FP&L's future nuclear units. I understand that a number of those cities are giving serious consideration to filing motions prior to April 14 to intervene in hearings before the Nuclear Regulatory Commission (NRC) regarding the conditions of license to FP&L which must be issued by NRC.

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The cities are seeking direct access to such nuclear capacity and energy (purchase of a fair share thereof), commitments by the Applicant with respect to pooling, provision of transmission service to facilitate interchange of power between utilities in the state, access to coordination of planning for generating resources and access to coordination of operating such resources, and other conditions that the intervenors may consider necessary in order that granting of licenses for such large nuclear plants does not "create or maintain a situation inconsistent with the nation's antitrust laws."

In addition to the future nuclear plants which, because of their long lead times are not scheduled for completion until well into the eighties, FP&L has under construction its St. Lucie Unit 1 which is scheduled for commercial operation this year and St. Lucie 2 which is scheduled for commercial operation in 1980. The St. Lucie units and the future nuclear units would be granted operating licenses for commercial operation under Title 10 of the Code of Federal Regulations, Section 50.22, Class 103 licenses; for commercial and industrial facilities. It is my understanding that this section requires an antitrust review by the Justice Department and, if felt necessary, antitrust hearings before the NRC. Before passage of this legislation in 1970, it was possible for utilities to secure a license under Section 104(b) which was a research and development license and did not require an antitrust review. This is the type of license that FP&L enjoys on its Turkey Point 3 and 4 nuclear units. Since FP&L did not offer access to these units to other utilities in the state and antitrust review did not come into play, there are no participants in these units other than FP&L.

There are a number of alternatives with respect to direct access to all of the above mentioned nuclear units on the FP&L system that I as a power supply engineer would strongly recommend Vero Beach to pursue subject to the City's receiving competent legal advice with respect to its rights to secure access to any or all of the subject units, or in the alternative, its rights to secure a fair proportion of nuclear generation from one or more such units such that its mix of nuclear and fossil generation is comparable to that of FP&L at any time including the present.

As you and the City Commission recognize, evaluation of alternatives such as those discussed above as well as others, is essential in giving consideration as to the best course of action for the City of Vero Beach to take in such an important matter. The current high cost of fuel and its effect on your electric rates is a significant problem. However, this current problem of Vero Beach should not obscure the fact that the entire industry is having problems. Inflation and long lead times are adding millions of dollars

April 2, 1976

to the investments for new generation by the major utilities. No one I know of is predicting that the rates of large utilities like FP&L are going to do anything but increase in the future. This is only to point out that what may be a rate differential today in favor of FP&L may shift to a rate advantage for municipal systems in the future if they are permitted to pursue all of the alternatives that should be available to them. The inherent advantages of lower cost, tax exempt financing available to municipals for distribution, transmission and generation investment require overwhelming disparities in the bus-bar cost of power of investor-owned utilities before costs to consumers are equal, or lower, for the investor-owned systems. If the municipal systems are permitted to share fairly in the planning and financing of large units and utilize their existing smaller units in the most economical way, the historical economic benefits of municipal ownership should be restored.

We would be pleased to assist Vero Beach in making engineering and economic evaluations of its alternatives and in pursuing such alternatives in negotiations, meetings, etc., in order to evaluate fully both short range and long range effects of each.

However, you recognize of course that in order to pursue some of these alternatives, municipal systems must have competent legal counsel and guidance of attorneys experienced in such matters, which expertise, as engineers, we do not possess.



Robert E. Bathen

REB/ebf

MEMO TO FILE

COPIES TO

Mr. R. C. Fullerton

Mr. J. G. Spencer,

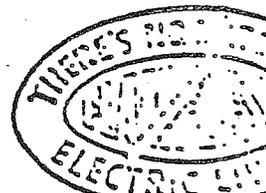
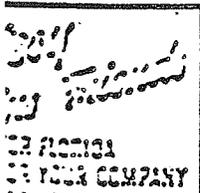
R. D. Hill

SUBJECT

Mr. R. D. Cox and I visited with a group representing the City of Vero Beach on November 21, 1967 at noontime. Those present besides Mr. Cox and myself were: Mr. F. C. Wallace of Black and Veatch; Mr. James T. Vocelle, City Attorney; Mr. Jack Sturgis, City Commissioner, and who operates a lumber and supply company; Mr. Fred J. Prestin, City Commissioner; Mr. James Pryde, City Manager, and Mr. Fred Gossett, Plant Manager.

This meeting was the result of an earlier call to Mr. Fullerton from Mr. Prestin which was relayed to me. I visited these people to discuss several matters.

1. A territorial agreement, which to some degree had been investigated previously, but was held up as a result of conversation several months ago with Mr. Pryde who was not informed at the time, being newly appointed. The result of this discussion was that Mr. Frank Phillips, Distribution Manager, Mr. Wallace and I should review the territory and establish a territorial agreement which I would told would have to be approved on our part by the Florida Utilities Commission. I told them I was not interested in losing any customers but would work toward adjustments to the best interests of Florida Power & Light Company and Vero Beach.
2. The question of wholesale power was presented and I told them I did not think this was a good idea and then withdrew my answer and stated I thought a review of the third purpose of the meeting, (discussion of emergency service), might enter into this and be a solution. I said we would be glad to discuss this but that it would depend, of course, on the interpretation of what constituted emergency service. This then brought on the third question.
3. I told them that we are still interested in working out something that would be amicable to them and ourselves in the way of emergency service but that it was a subject of further discussion for conclusions.



Mr. Wallace brought up the question of rates and trading of power and also at the time made a statement that Messrs. Spencer and Fuqua had previously told them they were not interested in wholesale power.

At this time I asked them (those representing the city), as a diversion, whether they were interesting in selling or leasing the property to us. They said "yes," that they would be interested in a proposal and asked how long it would take to make such a proposal. I told them that if we had the information a proposal could be made in about 30 days.

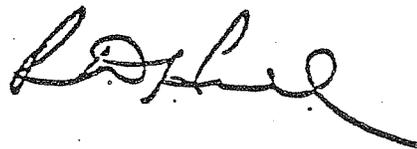
At this point Mr. Wallace read a proposal to the group that we were presumed to have made in 1959. He plans to send me a copy of this. At this time Mr. Vocelle spoke up and said their charter did not permit the sale of their property but that this was not something he would be too concerned about as a referendum and legislation change could be made if something of this nature was worked out.

It was further proposed by Mr. Sturgis that the answers to the questions Mr. Vocelle stated as being necessary; namely, territorial agreement, wholesale power and emergency tie, should be in writing.

Further Notes

I see that it is necessary that other members of the Commission should be visited to get their attitude regarding these matters. I think I should visit with Mr. Phillips and work out the territorial agreement as soon as practicable. Also, since Mr. Spencer had worked with me on Vero Beach matters previously that he again enter the picture with me in my visitations up there.

I have obtained copies of the 1965 and the 1966 audit of the Electric Revenue Fund and also received a copy of the Review of Electric System Planning that Black and Veatch submitted on November 20, 1967.



West Palm Beach, Florida
November 28, 1967

City Commission of Vero Beach
Vero Beach, Florida

Attention: Mr. James Pryde, City Manager

Gentlemen:

It was a pleasure to meet with the officials of Vero Beach to discuss electrical problems. After the discussion, it was concluded that I would answer three important questions as soon as possible.

The first was about a territorial agreement. I am sure that this readily can be done and you requested Mr. Frank Phillips and Mr. F. C. Wallace to work with me. Approval by the Public Service Commission is necessary and we feel, and know that you will agree, that this territorial agreement must be concluded before either the City or our company can properly measure the problem and determine which further action would be in its best interest, which is, of course, its customers' best interest.

The second question was about an emergency tie with your system to furnish whatever power you may need in case of an emergency. Pending the development of a territorial agreement and further decisions to which we refer below, we will be in a position to make an emergency tie with your system. This will take the pressures of immediacy off both the City and our company and provide time for further study and discussion.

The third question involves wholesale power to the City and we are reluctant to go further into this at this time as we believe there are other alternatives which should first be fully studied. These will include:

- (a) Similar arrangements for interchange of power between us such as we now have with the City of Jacksonville and Orlando Utilities Commission.
- (b) The outright purchase of your present system by our company.
- (c) A 30-year lease of your present system by our company for our operation.

We feel these alternatives should be given full and free discussion and deliberation by both groups before going into the matter of negotiating a wholesale power contract so that we all can be sure that the eventual determination is based on full understanding of all the facts.

Very truly yours,



R. D. Hill
Vice President

RDH:mj

cc - Mr. R. C. Fullerton ✓
Mr. J. G. Spencer, Jr.

VERIFICATION

District of Columbia, SS:

Robert Harley Bear, being first duly sworn, deposes and says that he is an attorney for Dawson, et al., and that as such he has signed the foregoing Protest, Petition To Intervene and Motion To Reject Application, for and on behalf of said party; that he is authorized by the party so to do; that he has read said Protest and is familiar with the contents thereof; and that the matters and things therein set forth are true and correct to the best of his knowledge, information and belief.



Robert Harley Bear

Subscribed and sworn to
before me this 10th day
of January, 1977.

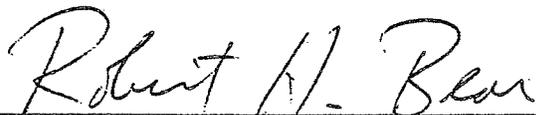

Notary Public

My Commission Expires September 30, 1978

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of §1.17 of the Rules of Practice and Procedure.

Dated at Washington, D.C., this 10th day of January
1977.



Robert Harley Bear