



Florida Municipal Power Agency

Nicholas P. Guarriello  
General Manager and CEO

March 5, 2014

RE: City of Vero Beach

BY EMAIL

Eric E. Silagy  
President  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408

Dear Eric:

I am extremely disappointed with the presentation that Amy Brunjes and the FPL staff made to the Vero Beach city council on Tuesday, March 4, 2014. I write to address only a handful of Ms. Brunjes' misstatements and the most significant disagreements I have with your letter to me of February 26, 2014.

First, you and FPL staff repeatedly refer to FMPA's efforts and involvement in FPL's transaction with the City of Vero Beach as requiring good faith. Far more than demonstrating mere good faith, FMPA has in more than three years of discussions with the City repeatedly explained again-and-again—because of Vero Beach's participation in four of FMPA's power supply projects—what steps the City must take with FPL to sell its electric system.

FMPA has repeatedly pointed out that the project contracts that Vero Beach has entered into with its fellow municipal electric utilities do not permit the transaction that the City has embarked on. Those project contracts only permit the sale of Vero Beach's electric utility system to another municipal electric utility who is eligible to be a member of FMPA and which takes an assignment of Vero Beach's project interests and obligations. However, FMPA has suggested possible paths forward for such a sale and even provided some form documents to Vero Beach's transactional attorneys. Good faith does not, however, obligate FMPA to carry the responsibility of getting the sale done: that is the City's and FPL's obligation alone.

Second, you and Ms. Brunjes have now repeatedly discussed the benefits of OUC assuming Vero Beach's project contracts as a positive to FMPA after FPL's deal with the City closes because, as you say "OUC is a better credit risk than the City." But your letter closes with

the new requirement that FMPA's All-Requirements Power Supply Project directly take an assignment from Vero Beach of its interests in the Stanton and Stanton II Projects and, then, FMPA reassign those interests at some point in the future to OUC. It seems more straight forward, as I have mentioned before, for FPL and OUC to directly negotiate a price—be it \$52 million or any other figure—for the up-to three-year power sale, which would avoid any IRS private use restrictions. FMPA does not need the capacity and energy from Vero Beach's Stanton and Stanton II Projects interests between now and the end of 2017 and the \$52 million payment to FMPA is not a windfall. Your assertion that the \$52 million payment will “provide a significant financial benefit to the municipal members of FMPA and their respective customers” is wrong.

Contrary to your letter, FMPA will not and legally cannot entertain such a direct assignment for a period of time to the FMPA All-Requirements Project followed by a further assignment by FMPA at a later date to OUC. This is different and, indeed contrary, to every discussion that FMPA, Vero Beach, and FPL have had thus far. Publicly putting such additional terms into the deal at this stage is not helpful.

Third, two of the disagreements in your letter require me to state FMPA's positions again. FMPA will not terminate the Vero Beach project contracts and enter into new project contracts with OUC. The Vero Beach contracts must be properly assigned to OUC. And, the amendments and waivers necessary for Vero Beach to sell its electric system to FPL prior to October 1, 2016, will require the unanimous approval of each of the 20 FMPA member utilities that participate in the St. Lucie, Stanton, Stanton II, and All-Requirements Power Supply Projects.

Fourth, you and Ms. Brunjes extoll the virtues of the proposal that Vero Beach's transactional attorneys made to FMPA last summer, while expressing supreme confidence in being able to close FPL's deal with the City by January 1, 2015. Yet, the two are at odds. The transactional attorney's proposal was to have FMPA waive the attorneys' error in giving the City's contract withdrawal notice so that Vero Beach's withdrawal could be accomplished on October 1, 2015, at which time a closing on the sale could occur if all other conditions are met. Absent FMPA's waiver, the current withdrawal date is October 1, 2016.

Last summer Vero Beach's transactional attorneys proposed that (a) FMPA terminate the Vero Beach project contracts, which FMPA will not do; (b) not seek waivers and consents from the 20 project participants, which FMPA must do; (c) Vero Beach provide an insurance policy to insure Vero Beach's contract obligations to meet its contingent liabilities; and (d) Vero Beach pledge a first lien on its franchise fee and public service tax revenues in the event the insurance coverage is inadequate or unavailable for any reason. Specific to the All-Requirements Project, the transactional attorneys also proposed that Vero Beach's stranded costs be paid on October 1, 2015, and a second payment be made by Vero Beach on October 1, 2016, if there were additional stranded costs that arose between 2015 and 2016. The second stranded costs payment would also be secured by the pledge of Vero Beach's public service tax revenues. Even if FMPA accepted the transactional attorney's proposal, which has never been articulated in sufficient detail for FMPA to analyze from

business and legal perspectives—for example, the draft coverage terms of the insurance policy have never been provided—the City and FPL would not be able to achieve a closing until after October 1, 2015.

I have only heard the push for a closing by January 1, 2015, in FPL's recent press pieces and Ms. Brunjes' presentation. So, I am frankly confused as to what FPL expects.

I do agree with the statement in your letter, however, that completion of a deal with FMPA is “conditioned on the closing of FPL’s acquisition of the COVB electric utility and further subject to execution of definitive agreement and related documents by the affected parties.”

Please understand, FMPA will continue to work with Vero Beach, but this letter writing campaign should end. FMPA, however, remains willing to work on the very many genuine issues that Vero Beach must still address. In the meantime, there is very little that FMPA can independently undertake to accomplish an unlikely closing by the end of this year.

Very truly yours,



Nicholas P. Guarriello  
General Manager and CEO

NPG:su

cc: Frederick M. Bryant  
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