



Memorandum

Memorandum No: 16-014

Date: January 22, 2016

To: Honorable Mayor and Commissioners

From: Lee R. Feldman, ICMA-CM, City Manager

Re: Florida Power & Light Public Service Taxes Dispute

The purpose of this memo is to provide an update regarding the City's position on a tax dispute with Florida Power and Light (FP&L) for underreported and delinquent public service taxes.

During 2015, the City contracted with Muniservices, LLC to provide public service tax audit services in an effort to accurately identify and resolve instances of non-compliance on the part of Florida Power and Light and to ensure enhanced compliance in the future. The period covered by this audit was October 1, 2010- September 30, 2013.

One finding which resulted from this audit was that FP&L underpaid taxes due to the City in the amount of \$774,206, including penalties and interest, through improper exemption of certain customers and the exclusion of miscellaneous service revenues charged to customers intrinsic to the provision of electrical services. FP&L has acknowledged and accepts the audit finding of a \$10,845 tax liability, \$2,711 penalty, and \$328 interest on the exempt customers issue and these amounts due have been resolved under appeal and are no longer in dispute.

However, FP&L protests the remaining \$593,669 tax liability, \$148,417 penalty, and \$18,236 interest for the failure to remit taxes on miscellaneous service revenues received from providing services to utility customers. The City maintains that the remaining tax, penalties, and interest are true and correct based on Florida Statutes, which grant municipalities the broad authority to levy taxes on separately stated charges inherent to the provision of electrical services.

Over the last several months, the City has attempted to engage in efforts to compromise or settle the amounts due from FP&L and to toll the statutory periods for appeal pursuant to Florida Statutes, however, FP&L recently elected to forego such efforts.

Thus, following conclusion of the City's reconsideration of FP&L's petition, on January 19, 2016, the City issued a written final Notice of Consideration and determination from FP&L's Petition for Reconsideration of audit assessments for underreported and delinquent Public Service Taxes.

I will keep you apprised as to any actions taken by FP&L in response. Please contact me directly with any questions, comments or concerns.

Attachment: 1. Final Notice of Reconsideration

C: Stanley D. Hawthorne, Assistant City Manager
Phil Thornburg, Interim Assistant City Manager
Cynthia A. Everett, City Attorney
Jeffrey A. Modarelli, City Clerk
John C. Herbst, City Auditor
Department Directors
CMO Managers