

OVERVIEW OF AMENDED COMPLAINT

Because mediation proceedings between the Town of Indian River Shores and the City of Vero Beach were unable to resolve the Town's concerns regarding the City's high electric rates and utility management practices, the Town has been left with no choice but to move forward again with its lawsuit. In order to manage litigation expenditures, and focus its claims on the most critical issues related to rate relief and recognition of the Town's legal rights, the Town has amended its Complaint in the lawsuit.

Like its initial Complaint, the Town's Amended Complaint addresses the unreasonable rates charged by the City and the Town's rights to protect itself and its residents from such rates. In particular, the Amended Complaint emphasizes the important legal issues at stake here, where one municipality – the City – seeks to assert extra-territorial monopoly power within the corporate limits of another municipality – the Town – without the Town's consent. There are four counts in the Amended Complaint:

- Count I seeks a declaration that upon the imminent expiration of the Franchise Agreement between the Town and the City (set to expire on November 6, 2016), the City does not have the legal right to provide electric service within the Town without the Town's consent. Count I also seeks recognition that the Town has the right to decide how electric service is to be furnished to its inhabitants after the Franchise Agreement expires.
- Count II is based on the City's breach of the Franchise Agreement because the City has asserted it will continue to encroach and provide electric service in the Town even after the agreed-upon expiration of the Franchise Agreement.
- Counts III and IV are based on the City's violation of the Franchise Agreement and violation of the City's general duties under Florida law, each of which requires the City to charge only reasonable rates and to prudently manage its utility in order to protect its customers from unreasonable rates.

The Town has requested that certain issues in Counts II, III and IV be tried by jury.

Unlike the Town's initial Complaint, the Amended Complaint has been streamlined to omit constitutional claims by an individual resident, and claims about the City's non-compliance with Section 366.04(7), Florida Statutes. That statute requires the City to conduct a referendum election regarding representative management of its utility, an issue which is ultimately secondary to the Town's core concerns regarding the City's unlawful extra-territorial service, breach of the Franchise Agreement, imprudent utility management and unreasonable rates.