

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2017-308**

A RESOLUTION OF THE CITY COMMISSION OF AUTHORIZING THE FILING OF A COMPLAINT AGAINST FLORIDA POWER AND LIGHT AND DIRECTING THE CITY ATTORNEY'S OFFICE TO ENGAGE IN EFFORTS TO SETTLE THE MATTER.

**WHEREAS**, in Resolution 2017-247, the City Commission made known its concern for the health, safety, and welfare of City residents as a result of extensive power outages during and after Hurricane Irma due to Florida Power and Light's (FPL) delay in restoring power to all customers within a reasonable time frame; and

**WHEREAS**, in Resolution 2017-247, the City Commission directed the City Attorney's Office to take enforcement action, including but not limited to, sending cease and desist letters, pursuant to the City Attorney's authority in sections 2-201 and 2-203 of the City Code and to review the possibility of filing a complaint against FPL; and

**WHEREAS**, enforcement action was taken against FPL by way of a cease and desist letter and subsequent code enforcement citation; and

**WHEREAS**, a Complaint was drafted by special counsel to the City Attorney's Office based on FPL violating the franchise agreement that the utility company has with the City; and

**WHEREAS**, after reviewing the Complaint and hearing from the City Attorney's Office, special counsel and counsel for FPL, the City Commission directed the City Attorney's Office to proceed;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** That the City Commission is acting pursuant to section 2-201(e)(3) of the City Code and approves the Complaint in substantially the form attached and authorizes the City Attorney, through his office and special counsel, to modify the complaint as deemed appropriate.

**SECTION 3.** That the City Commission authorizes the Complaint be filed in Circuit Court, if necessary, following a bona fide effort to settle the matter with FPL. If the City Attorney determines that such an effort has occurred, and if no settlement is reached, the City Attorney will notify the City Commission and proceed with filing the Complaint.

**SECTION 4.** Based on applicable statutory and case law, because the action sounds in contract (franchise agreement), and because the Public Service Commission (PSC) does not have jurisdiction over contract claims or the relief requested, the City Commission approves the filing of the matter in Circuit Court. In the event it is later determined that the PSC does have jurisdiction, or it is determined by the City Attorney that it is appropriate to do so, the City Commission authorizes filing a similar complaint with the PSC.

**SECTION 5.** That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-FOURTH DAY OF OCTOBER, A.D., 2017.

(Moved: Keon / Seconded: Mena)  
(Yeas: Mena, Keon, Lago, Valdes-Fauli)  
(Majority: 4-0 Vote)  
(Abstain: Quesada)  
(Agenda Item; J-1)

APPROVED:



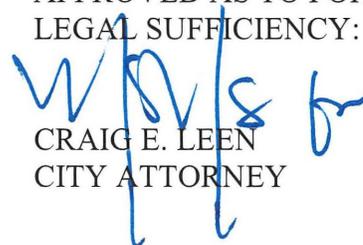
RAUL VALDES-FAULI  
MAYOR

ATTEST:



For WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:



CRAIG E. LEEN  
CITY ATTORNEY