

FALR, Inc.

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To: <falr@bellsouth.net>
Sent: Wednesday, May 28, 2014 7:45 PM
Subject: Observation 1

Dear Mr. Konish:

The basic premise of GRU's defense to tax the Electric Customer Charge (ECC) seems to come down to their page 3, paragraph 4; "In contrast, the fuel adjustment charge...." I find the following, I think significant, flaw in their premise of referring back to FS 166.231(1)(b):

I believe (1)(a) strictly restricts the municipal tax (Public Service Tax) to consumption.

I believe (1)(b) accepts that a "fuel adjustment charge" could be construed as a charge based upon consumption, which would allow a "fuel adjustment charge" to be taxed by (1)(a).

But (1)(b) seems to simply take taxing a "fuel adjustment charge" off the table; nothing more.

Specifically exempting the "fuel adjustment charge" simply takes it out of the realm of being considered a consumable; and it could easily be considered consumable in nature. After all, a "fuel adjustment charge" is indeed an extra charge based upon what was actually consumed, but the legislature apparently decided it should not be considered taxable as consumption. I think that's all (1)(b) does.

I believe this paragraph by the city attorney is an obfuscation by stating, "Florida Statutes do not provide an exemption for the customer charge" when in fact the Florida Statute (166.231(1)(a)) prohibits taxing the ECC by only allowing tax on what a person consumes; therefore, the ECC is by definition exempt from the municipal tax because it's not a consumable, which is contrary to the city attorneys' claim of the opposite (because they claim it's not specifically exempted).

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