



Pam Bondi Attorney General

Seniors vs Crime

A Special Project of the Florida Attorney General

SVC Case File AL00395

June 2, 2014

Nicolle Shalley
Gainesville City Attorney
200 E. University Avenue, Suite 425
Gainesville, FL 32601
(352) 334-5011

*Region Four
Alachua County Sheriff's Office
PO Box 5489
Gainesville, FL 32627-5489
352- 367- 4023*

Dear City Attorney Shalley:

Thank you for your reply dated May 28, 2014. This office is able to discuss factual research rather than legal authority concerning any matter. To that end, we are more interested in the Public Service Tax collected by GRU for the City of Gainesville rather than what is occurring elsewhere in Florida.

Your reply indicates the Gainesville municipal Public Service Tax is assessed by city ordinance against the purchase of electricity in apparent compliance with controlling Florida statute 166.231(1). This, too, is the statute relied upon and supplied to this office by our complainant.

Your reply also confirms Gainesville's application of its municipal Public Service Tax extends beyond the purchase of electricity. In addition, the Gainesville municipal Public Service Tax adds tax to a non-electric power item – GRU's Electric Customer Charge. You point out (p.3, para.5), "Our research confirms that it is common practice throughout the State to apply the Public Service Tax to the customer charge...". I would submit that action and reliance simply upon a common practice seems insufficient to add application of the Public Service Tax to items beyond the State's legislative definition. Your reply quotes Florida statute 166.231(1)(a) and (b) that in pertinent part defines a person's "purchase of electric power"; that being the consumption of "it" – and "it" being "power." The singular exemption of Public Service Tax against a "fuel adjustment charge" may simply be due to its extremely close relationship to consumption.

Your reply (pages 2 and 3) commingle the terms "...purchase in the city of electricity...", "base rate" and "utility service" regarding city ordinance and application of the Public Service Tax. This office is developing a more simplistic working tool for potential use by others to better understand this issue. I have attached a draft copy of this working tool/scenario and I would appreciate your input as it relates to the topic in question. Our premise is that a common practice or a city ordinance cannot supersede a state law.

Thank you for your kind attention to these matters.

Sincerely,
File Copy

John Caravella
SVC Office Manager

PREVENTING VICTIMIZATION AND PROVIDING A WAY FOR SENIORS TO CONTRIBUTE TO THE SAFETY OF ALL FLORIDIANS