



February 22, 2011

Honorable Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington D.C. 20549

Re: Proposed Rule on Registration of Municipal Advisors
File No. S7-45-10

Dear Secretary Murphy:

The Florida Municipal Electric Association (FMEA) represents 34 community-owned, public power electric utilities serving three million Floridians. Furthermore, we have one joint action agency in the state, which purchases wholesale power and owns power plants on behalf of its 30 public power community members.

FMEA agrees with the comments of the American Public Power Association and the Government Finance Officers Association on this issue.

We have significant concerns with this proposed SEC rule, which would likely require the governing board representatives of several of our members and the joint action agency to register as municipal advisors. We believe that this does not reflect the actual role these governing board members serve in fulfilling their responsibilities, and if enacted, would lead to a heavy personal reporting burden for the individuals involved and create an extreme difficulty for FMEA's utility authorities in seeking out quality individuals to serve on their governing boards.

Every single one of the utility authorities in Florida that is governed by an appointed board has its board appointments approved by the local elected officials in the communities they serve. The impacted Florida communities comprise more than 700,000 customers and represent 54% of all public power sales in the state. These utilities are:

- JEA (Jacksonville)
- Orlando Utilities Commission
- Utilities Commission of the City of New Smyrna Beach
- Fort Pierce Utilities Authority, and
- Kissimmee Utility Authority.

The governing boards of these utilities are appointed by elected officials. These appointed officials have full authority to regulate the rates and policies of the local utility and are held to the same standard as the elected officials who appoint them. These appointed board members reside in their communities, and all are customers of the utility they represent.

Fundamentally, appointed board members are different from “municipal advisors.” Utilities regularly hire advisors to assist on a variety of matters, including financial, engineering, safety, operations and customer service. These individuals, and the companies they represent, are hired consultants that advise utilities. They do not in any official manner represent the customers of the utility, and do not regulate the utility’s rates. They do not provide any form of strategic direction. On the contrary, appointed board members do represent the utility’s customers, without any compensation whatsoever, and do regulate its electric rates. They do set the utility’s strategic direction. They do set all policies for the organizations they represent. This is an important distinction, which clearly indicates they serve as policy makers and regulators, not advisors.

To fulfill their responsibilities, appointed governing board members contribute their knowledge, skills and expertise to the utility’s board. They come from a variety of groups as varied as the local populations they serve, including the business community, residential homeowners, and large industry. Most volunteer their time to serve on their local utility board, and should not be subject to mandatory personal and financial disclosure. With such a requirement, many individuals might choose not to serve on their local governing board. This would limit the pool of qualified candidates available to serve, ultimately hurting the policy making and regulatory process of these utilities.

The impacted joint action agency is the Florida Municipal Power Agency (FMPA), serving communities throughout Florida. The following cities are the owners of FMPA, who each provide representatives to its Board of Directors:

- Alachua
- Bartow
- Blountstown
- Bushnell
- Chattahoochee
- Clewiston
- Fort Meade
- Fort Pierce
- Gainesville
- Green Cove Springs
- Havana
- Homestead
- Jacksonville Beach
- Key West
- Kissimmee
- Lake Worth
- Lakeland
- Leesburg
- Moore Haven
- Mount Dora
- New Smyrna Beach
- Newberry
- Ocala
- Orlando
- Quincy
- St. Cloud
- Starke
- Vero Beach
- Wauchula
- Williston

FMPA has an appointed board with representatives from each of its member utilities. This direct representation provides a high degree of accountability. The responsibilities of these board members vary by utility. Some are city or utility managers and some are directors. The managers and directors are themselves municipal employees and so are already exempt from the statute's definition of "municipal advisor."

In addition, in some cases, a member utility may appoint a community representative to FMPA's board, such as an elected official or an appointed governing board member. Such a board member serves in the same governance and oversight role for FMPA as are provided by fellow board members who are utility managers and directors. Yet, the two are treated differently by the proposed rule. Under the SEC's proposed rule, only the community representative board member would be in jeopardy of being required to register as a "municipal advisor."

The proposed rule would require municipal advisors to file forms with the SEC, and information from these forms would be publicly available. If public power utilities' appointed board members were required to register as municipal advisors, they would most logically complete Form MA-1. The large majority of the disclosure questions are applicable to a person's municipal-advisor-related or investment-related activities. The form's questions are clearly not relevant to the professional lives of the citizens serving as regulators on public power utility boards.

Municipal entities rely on the expertise, community leadership and civic mindedness of appointed board members. Differentiating between elected and appointed boards is contrary to the objective of fair and reasonable oversight of our locally owned community utilities.

Our member cities have been providing electric service to their communities without financial incident for decades, several for more than 100 years. We respectfully request that our members' hard-working, dedicated, appointed board members not be subjected to an undue burden nor deterred from volunteering their service to their fellow citizens and the public interest.

FMEA appreciates the opportunity to comment on the proposed Rule on Registration of Municipal Advisors. Please feel free to contact me at (850) 224-3314, ext. 1, if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Barry Moline". The signature is written in black ink and is positioned above the printed name and title.

Barry Moline
Executive Director