



# FECA

**Florida Electric Cooperatives Association, Inc.**

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June 11, 2014

Mr. Mark Zych  
Technical Assistance and  
Dispute Resolution  
Florida Department of Revenue  
P.O. Box 7443  
Tallahassee, FL 32314

RE: Request for Letter of Technical Assistance

Dear Mr. Zych:

The Florida Electric Cooperatives Association, Inc. (FECA) is the trade association for seventeen electric cooperatives (2 wholesale and 15 distribution) who provide energy and electricity in Florida. Pursuant to Rule 12-11.003, F.A.C., an association may request a Letter of Technical Assistance (LTA) on behalf of its members. FECA files this request for a LTA on behalf of the following FECA members: Central Florida Electric Cooperative, Inc., CHELCO, Clay Electric Cooperative, Inc., Escambia River Electric Cooperative, Inc., Florida Keys Electric Cooperative Association, Inc., Glades Electric Cooperative, Inc., Gulf Coast Electric Cooperative, Inc., Okefenoke Rural Electric Membership Corporation, Peace River Electric Cooperative, Inc., PowerSouth, Seminole Electric Cooperative, Inc., Sumter Electric Cooperative, Inc., Suwannee Valley Electric Cooperative, Inc., Talquin Electric Cooperative, Inc., Tri-County Electric Cooperative, Inc., West Florida Electric Cooperative, Inc., and Withlacoochee River Electric Cooperative, Inc.

Pursuant to the requirements of Rule 12-11.003(4), F.A.C., FECA has no knowledge of this issue being involved in a return of any FECA's members. In

addition, to the best of our knowledge the issues contained in this request for a LTA are not being considered by the Department of Revenue (DOR), have not been examined or assessed for a refund, are not in litigation involving any of FECA's members and have not been ruled on by DOR in prior LTAs. FECA agrees to disseminate the LTA to all of its members.

FECA requests this LTA in order to clarify changes made to the sales tax on electricity and the addition of a new gross receipts tax in HB 5601, which was passed by the Florida Legislature on May 2, 2014 and signed into law by the Governor on May 12, 2014, and takes effect on July 1. HB 5601 lowers the sales tax on electricity from 7% to 4.35% and levies an additional gross receipts tax of 2.6%. The new gross receipts tax will apply to the same transactions as the sales tax, be governed by the sales tax statute, and will not be subject to the old gross receipts tax, the public service tax, or franchise fees. Section 6 of HB 5601 states that the sales tax and the new gross receipts tax may be collected as a "combined rate of 6.95 percent."

FECA believes that the new law allows utilities to administer the sales and new gross receipts tax as one combined tax (6.95%), effective July 1, 2014. This combined tax may still be referred to as "Sales Tax" on customers' bills. Further, it is contemplated that under the new law, FECA's members will remit the combined tax to DOR as a single item on DOR's return and DOR will be required to divide the combined tax into the appropriate State funding options. To ensure the prompt collection and remittance of taxes on electricity to DOR, and to safeguard FECA's members from potential noncompliance claims by the July 1 effective date, FECA respectfully requests a LTA on the following issues:

**Issue 1: Can an electric cooperative continue to entitle the new combined sales/gross receipts tax, which consists of the 4.35% sales tax and the new 2.6% gross receipts tax (6.95% together) as "Sales Tax" on the customer's bill or does the title need to mention the new gross receipts tax (Section 203.01(1)(b)4.)?**

A trial run of a customer's bill which adds the new gross receipts tax to the description of the current sales tax line item has caused some serious formatting issues on the bills. Since HB 5601 allows utilities to collect a combined rate of 6.95%, which consists of the 4.35% and

2.6 % required under Chapters 212 and 203, FECA believes there is no legal requirement to separately state the taxes or to amend the description of the "Sales Tax" line item on the customer's bill to include the new gross receipts tax.

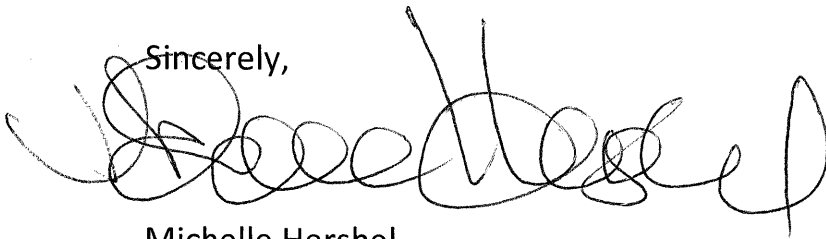
**Issue 2: Can an electric cooperative remit the new combined sales/gross receipts tax, which consists of the 4.35% sales tax and the new 2.6% gross receipts tax, as one amount (6.95%) on DOR's sales tax return?**

Given the language in HB 5601 which allows a seller of electric power to collect a combined rate of 6.95%, FECA believes this combined rate can be remitted to DOR on DOR's sales tax return.

FECA respectfully requests a LTA from DOR on the above issues to ensure its members correctly collect, remit, describe and implement the changes to sales tax on electricity and the new additional gross receipts tax on the sale of electricity found in Engrossed HB 5601.

Thank you for your assistance and please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Hershel", written over a series of horizontal lines.

Michelle Hershel  
FECA, Director of Regulatory Affairs

cc: FECA Members