

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSIONER
CLERK

DATE: FEBRUARY 6, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (HOLLEY) *JAN West*
DIVISION OF ECONOMIC REGULATION (KUMMER) *CSL* **JOS**

RE: DOCKET NO. 021011-EC - INFORMAL COMPLAINT AGAINST
WITHLACOOCHEE RIVER ELECTRIC COOPERATIVE, INC. BY
SADDLEBROOK RESORT CONDOMINIUM ASSOCIATION, INC., REQUEST
FOR DETERMINATION THAT SADDLEBROOK'S UNIT OWNERS BE
ALLOWED TO TAKE SERVICE FROM WREC THROUGH MASTER METERS,
AND FOR RECLASSIFICATION OF SRCA OWNERS UNDER WREC'S RATE
STRUCTURE AS GENERAL SERVICE DEMAND ACCOUNTS RATHER THAN
RESIDENTIAL.

AGENDA: 02/18/03 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\021011.RCM

CASE BACKGROUND

Saddlebrook Resort Condominium Association, Inc. (Saddlebrook Condo Association) is a customer of Withlacoochee River Electric Cooperative, Inc. (WREC), located in Wesley Chapel, Florida. Saddlebrook is a golf and tennis resort that operates pursuant to Chapter 509.242, Florida Statutes, as a public lodging establishment. The Saddlebrook Condo Association represents the investors/owners of the condominium units located in the Saddlebrook resort. Each owner of the condominium unit is a member of WREC and receives service from WREC through individual meters, and is served under WREC's residential rate schedule.

DOCUMENT NUMBER-DATE

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WREC is a non-profit electric distribution cooperative which owns and operates an electric distribution system and provides electric retail service to customers within Pasco, Hernando, and Citrus Counties, and which was organized under the Rural Electric Cooperative law, Chapter 425, Florida Statutes.

On September 27, 2002, Saddlebrook Condo Association filed an informal complaint against WREC, requesting determination from the Commission that Saddlebrook Condominium unit owners be allowed to take service from WREC through master meters in a similar manner as WREC serves the rest of the Saddlebrook Resort. Further, the complaint by Saddlebrook sought to reclassify Saddlebrook condominium owners under WREC's rate structure, thereby changing Saddlebrook condominium unit owners from residential customers to general service demand customers.

On October 17, 2002, WREC filed its Motion to Dismiss Saddlebrook's complaint. In support of its Motion to Dismiss, WREC stated that it is a non-profit electric distribution cooperative which owns and operates an electric distribution system, and is not a "public utility" as defined by Section 366.02(1), Florida Statutes, but is a cooperative organized and existing under the Rural Electric Cooperative law of Chapter 425, Florida Statutes. WREC further stated that the Commission lacked the subject matter jurisdiction to consider this complaint, as the Commission has limited statutory jurisdiction and authority over WREC, especially with respect to ordering a cooperative to reclassify a residential customer as a commercial customer. Accordingly, WREC's Motion sought to dismiss Saddlebrook's complaint with prejudice and close the docket.

In the course of discussions with staff and with one another, the parties came to the agreement that the Commission likely lacked the jurisdiction to consider Saddlebrook's complaint. Accordingly, the parties filed their Joint Motion for Approval of Stipulation for Dismissal with Prejudice of Informal Complaint with the Commission.

This recommendation addresses whether the Commission should accept the parties' Joint Motion for Approval of Stipulation, and accordingly, whether Saddlebrook's complaint should be dismissed with prejudice.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Saddlebrook's and WREC's Joint Motion for Approval of Stipulation for Dismissal with Prejudice of Informal Complaint?

RECOMMENDATION: Yes. The stipulation should be accepted, and Saddlebrook's informal complaint should be dismissed with prejudice as requested by the stipulation. (HOLLEY, KUMMER)

STAFF ANALYSIS: The essence of Saddlebrook's complaint is a request for the Commission to order WREC to allow Saddlebrook to install a master meter in lieu of individual meters required under WREC's residential tariff. Staff believes that the Commission's authority over a cooperative to prescribe a fair rate structure does not extend to the subject matter of Saddlebrook Condo Association's complaint. As stated previously, based upon staff's informal opinion and discussions with the parties, Saddlebrook Condo Association and WREC filed their Joint Motion for Approval of Stipulation for Dismissal with Prejudice of Informal Complaint with the Commission. In their joint motion, the parties stipulate that the Commission lacks subject matter jurisdiction to resolve the informal complaint filed by Saddlebrook Condo Association, that the complaint should be dismissed with prejudice, and that each party shall bear its own fees and costs incurred in connection with this docket.

Staff recommends that the Commission accept the proposed stipulation by the parties that the Commission lacks the jurisdiction to consider Saddlebrook Condo Association's informal complaint, that Saddlebrook's complaint should be dismissed with prejudice, and that each party should bear its own fees and costs incurred in connection with this docket.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves the parties' stipulation and Saddlebrook's complaint is dismissed, this docket should be closed. (HOLLEY)

STAFF ANALYSIS: If the Commission approves the parties' stipulation and Saddlebrook's complaint is dismissed, no further action will be necessary, and this docket should be closed.