

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and Petition of the City of Cape Coral, Florida, for an Investigation into the Rate Structure of Lee County Electric Cooperative, Inc.

Docket No. 160060-EC

Date: November 18, 2016

Response of the City of Cape Coral to Lee County Electric Cooperative's Motion to Strike

The City of Cape Coral, a political subdivision of the State of Florida ("Cape Coral" or "City"), and Florida's 10th largest city, hereby responds to the Motion to Strike filed by Lee County Electric Cooperative, Inc. ("LCEC"), a rural electric cooperative, and states as follows:

1. On March 15, 2016, Cape Coral filed a petition and complaint seeking a Commission investigation of improper subsidization within LCEC's rate structure.
2. On April 12, 2016, LCEC filed a motion to dismiss Cape Coral's petition and complaint.
3. On April 19, 2016, Cape Coral filed its response to LCEC's motion. The response stands on its own.
4. On November 10, 2016, Cape Coral filed a letter with this Commission rescinding the City's prior request that the Commission hold this proceeding in abeyance ("Cape Coral's Letter").
5. On November 15, 2016, LCEC filed a motion to strike portions of Cape Coral's Letter.
6. LCEC characterizes Cape Coral's Letter as a supplemental response to LCEC's motion to dismiss. Cape Coral's Letter is a letter conveying information to the Commission, not a response to LCEC's motion.
7. Alternatively, in footnote 1 of its motion, LCEC suggests that Cape Coral's Letter may be characterized as a motion. Cape Coral's Letter is a letter conveying information to the Commission, not a motion of any kind.
8. Cape Coral has researched, briefly, the authority of a utility regulated by this Commission to seek substantive relief from the Commission based upon a utility's mischaracterization of correspondence filed by a petitioner/complainant. Cape Coral has found no such authorization.
9. If LCEC is suggesting that the Commission or Commission staff should or can simply ignore all relevant Commission precedent upon its own research unless every such precedent is specifically stated in a pleading, such suggestion is without merit. The Commission cannot ignore its prior orders and precedent established in them.
10. Exhaustive research of all Commission records likely would reveal Commission investigations of improper subsidies within the rate structures of many electric cooperatives and municipal electric utilities. However, Cape Coral has found no subsidization investigation by the Commission of LCEC's rate structure, ever.
11. Finally, each Commission order cited by LCEC addresses a situation where a party files a "reply" to a "response" to a motion. Cape Coral's Letter is neither a supplemental response to a motion nor a reply to a response. The orders cited are inapposite. Cape Coral's Letter speaks for itself.
12. LCEC's motion to strike is frivolous, wasteful and should be denied. Cape Coral's Letter is a letter conveying information to the Commission.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery to the following (unless otherwise noted below) on the 18th day of November, 2016:

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