

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Suwannee Valley)	DOCKET NO. 881516-EU
Electric Cooperative, Inc. to Resolve)	
a Territorial Dispute with Florida)	ORDER NO. 20878
Power Corporation (Highway 51).)	
)	ISSUED: 3-10-89

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER DENYING MOTION TO DISMISS

BY THE COMMISSION:

On November 23, 1988, Suwannee Valley Electric Cooperative, Inc. (SVEC) filed a complaint with the Commission to resolve a territorial dispute in Lafayette County between itself and Florida Power Corporation (FPC). SVEC alleged that FPC was attempting to construct facilities to serve residential customers in an area historically served by SVEC. SVEC filed a similar complaint in Docket No. 881517-EU. FPC filed Motions to Dismiss in both dockets, alleging that SVEC's complaint failed to state a cause of action and that the cooperative did not make specific factual allegations regarding criteria the Commission adopted in Order No. 15210 for the purpose of resolving territorial disputes.

According to Florida Statute Section 366.04(2), the Commission has jurisdiction to resolve any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities and other electric utilities under its jurisdiction. The Commission may decide that a territorial dispute exists when there is a disagreement between two or more electric utilities as to which utility has the exclusive right and exclusive obligation to serve a particular geographical area.

We find that SVEC has alleged facts which, if true, constitute a territorial dispute over which this Commission has jurisdiction: that FPC wishes to serve a customer or customers in an area historically served by the cooperative, that the cooperative has the ability to serve the disputed areas and has constructed electric service lines to serve specified residences within those areas. Further, the criteria mentioned by FPC constitute standards of resolution rather than requirements for pleading, and should be addressed by the parties in the discovery and hearing process.

FPC's Motion to Dismiss also contains a brief motion for more definite statement and to compel separate statements, alleging that the cooperative's complaint is so vague and ambiguous that FPC cannot frame a responsive pleading. For the reasons set forth above, we deny FPC's entire Motion to Dismiss.

DOCUMENT NUMBER-DATE

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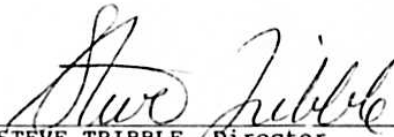
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After a thorough review of the facts as alleged by SVEC and of the law applicable to Florida Power Corporation's Motion, it is

ORDERED that Florida Power Corporation's Motion to Dismiss is denied.

By ORDER of the Florida Public Service Commission, this 10th day of MARCH, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

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