

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of TALQUIN ELECTRIC) DOCKET NO. 881602-EU
 COOPERATIVE, INC. to resolve)
 territorial disputes with CITY OF)
 TALLAHASSEE.)

In re: Petition of CITY OF TALLAHASSEE) DOCKET NO. 890326-EU
 for interpretation of its rights and)
 duties pursuant to Chapter 366, et al.,) ORDER NO. 21283
 Florida Statutes.)
 ISSUED: 5-24-89

ORDER DENYING ORAL ARGUMENT
AND RECONSIDERATION OF ORDER NO. 21044

The Florida Rural Electric Cooperative Association (FRECA) filed a petition to intervene in Docket No. 881602-EU on March 29, 1989. FRECA is an association of eighteen rural electric cooperatives operating in the State of Florida. On April 14, 1989, Order No. 21044, granting intervention to FRECA was issued. The City of Tallahassee filed a Request for Oral Argument and Motion for Reconsideration of Order No. 21044 and Opposition to Intervention of FRECA on April 21, 1989. FRECA responded to the motion on May 10, 1989. On May 12, 1989 the City moved to strike the FRECA response. The City supplemented this motion by letter dated May 12, 1989. FRECA responded on May 19, 1989.

I will dispose of the request for oral argument first. The City has filed three separate pleadings on this issue and FRECA has filed two. Both sides have made their positions clear and cited authorities for these positions in the pleadings. Oral argument will be denied because I do not believe that my understanding of this issue would be enhanced by oral argument.

The City of Tallahassee initially attacked FRECA's intervention on two grounds, one procedural and the other substantive. The procedural objection relates to the timing of issuance of Order No. 21044. The City points out that FRECA intervened by petition, which would give the City until April 24, 1989, to respond under Commission rules. Order No. 21044 was issued on April 14, 1989, well before the April 24, 1989, date, thus depriving the City of its opportunity to respond to the intervention. To correct the problem of the premature issuance of the order, I will consider the merits of the City's position without regard to the fact the order has already issued.

The City points out that Docket No. 881602-EU is a specific territorial dispute between the parties and not a generic investigation or rulemaking docket. While this is true the issues have been broadened somewhat with the consolidation of Docket No. 881602-EU and Docket No. 890326-EU. Specifically the City of Tallahassee argues that FRECA lacks standing pursuant to Florida Society of Ophthalmology v. Board of Optometry, 532 So.2d 1279 (Fla. 1st DCA 1988). There the court stated that "[t]he concept of standing is nothing more than a selective method for restricting access to the adjudicative process, whether it be administrative or purely judicial, by

ORDER NO. 21283
 DOCKETS NOS. 881602-EU and 890326-EU
 PAGE 2

limiting the proceeding to actual disputes between persons whose rights and interests subject to protection by the statutes involved are immediately and substantially affected." Id. at 1284. See also Florida Home Builders v. Department of Labor, 412 So.2d 351 (Fla. 1982).


This is a legally complex proceeding. We have repeatedly indicated that one of the parties' goals in Commission proceedings should be to educate the Commissioners concerning the matters at issue. I believe that FRECA's input could assist in that goal and I therefore uphold the decision to allow FRECA to intervene. In allowing this intervention, I am seeking FRECA's input on this case, not generic questions that are more appropriately put to the Legislature. This Commission, in my view, should decide those matters that come before it and not broaden those matters to answer abstract questions.

Therefore, based on the foregoing, it is

ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that the City of Tallahassee's Request for Oral Argument dated April 21, 1989, is hereby denied. It is further

ORDERED that the City of Tallahassee's Motion for Reconsideration of Order No. 21044 is hereby denied.

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 24th day of MAY, 1989.


 THOMAS M. BEARD, Commissioner
 and Prehearing Officer

(S E A L)

RDV