

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and Petition by
Lee County Electric Cooperative,
Inc. for an Investigation of the
Rate Structure of Seminole
Electric Cooperative, Inc.

DOCKET NO. 981827-EC
ORDER NO. PSC-00-1443-PCO-EC
ISSUED: August 9, 2000

ORDER GRANTING CONTINUANCE OF HEARING AND PREHEARING
CONFERENCE AND GRANTING STAY OF DISCOVERY

On December 9, 1998, Lee County Electric Cooperative, Inc. ("LCEC") filed a Complaint against Seminole Electric Cooperative, Inc. ("Seminole") and Petition requesting that this Commission take the following actions: (1) direct Seminole to file with this Commission its recently adopted Rate Schedule SECI-7, together with appropriate supporting documentation; and (2) conduct a full investigation and evidentiary hearing into the rate structure of Rate Schedule SECI-7 in order to determine the appropriate rate structure to be prescribed. On January 4, 1999, Seminole filed a motion to dismiss LCEC's Complaint and Petition for lack of jurisdiction. LCEC timely filed a memorandum in opposition to Seminole's motion to dismiss. The Commission heard oral argument on Seminole's motion to dismiss on February 16, 1999, and again on November 16, 1999. As indicated in Order No. PSC-99-2389-PCO-EC, issued December 7, 1999, Seminole's motion to dismiss failed for lack of support by a majority of this Commission. As a result, LCEC's Complaint and Petition was set for an evidentiary hearing, which is currently scheduled for August 25, 2000.

On August 1, 2000, LCEC and Seminole (hereinafter, "the parties") filed a joint motion requesting that: (1) discovery and the hearing in this docket be continued until further notice from the parties; and (2) the panel assigned to this docket, based on the existing pleadings and record in this proceeding, address and enter a final order addressing whether the Commission has subject matter jurisdiction over LCEC's Complaint and Petition. In the joint motion, the parties acknowledge that they have moved forward toward hearing in this docket, having engaged in discovery, filed prefiled testimony, and filed prehearing statements. The parties state, however, that because subject matter jurisdiction continues to be a threshold issue in this proceeding, they have agreed to seek a stay of discovery and a continuance of the final hearing until the panel assigned to this docket has issued a final order addressing the question of subject matter jurisdiction and all appeals of that order have been exhausted. The parties request that the panel's consideration of this matter be based on the existing pleadings and record in this docket. The parties assert

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that this procedure will allow them to avoid unnecessary legal expense. The parties indicate that they are willing to orally argue the jurisdictional issue again if such argument would assist any Commissioners who have not yet heard the case. Finally, the parties state that if it is determined that the Commission has jurisdiction over the subject matter of LCEC's Complaint and Petition, they will attempt to resolve any outstanding rate structure issues prior to moving forward with discovery and a hearing in this docket.

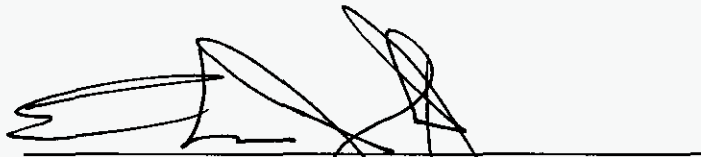
Upon review of the joint motion, I find that the parties' request to have the hearing continued and discovery stayed appears reasonable. Therefore, with the consent of the Chairman, the hearing shall be continued and all discovery shall be stayed pending a determination on the jurisdictional issue. In addition, the prehearing conference scheduled in this docket for August 7, 2000, shall be continued until such time as may be necessary to proceed to hearing. The jurisdictional issue will be addressed as expeditiously as possible.

This Order is entered pursuant to the authority granted in Rule 28-106.211, Florida Administrative Code.

Based upon the foregoing, it is hereby

ORDERED by Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, that the hearing and prehearing conference scheduled in this docket shall be continued and all discovery shall be stayed pending a determination on whether the Commission has subject matter jurisdiction to address the Complaint and Petition of Lee County Electric Cooperative, Inc.

By ORDER of Commissioner E. Leon Jacobs, Jr., Prehearing Officer, this 9th day of August, 2000.



E. LEON JACOBS, JR.
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.