



FECA

Florida Electric Cooperatives Association, Inc.

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May 14, 1998

Ms. Blanca Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

980652-EC

RE: Alabama Electric Cooperative, Inc.'s Petition for Waiver

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen (15) copies of Alabama Electric Cooperative, Inc.'s Petition For Waiver of Rules 25-22.071-.072, F.A.C., Filing of Ten-Year Site Plan.

A copy of the Petition has also been sent to the Joint Administrative Procedures Committee.

Thank you for your assistance in this matter.

Sincerely,

Michelle Hershel
Director of Regulatory Affairs

DOCUMENT NUMBER-DATE

05395 MAY 14 88

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Alabama Electric Cooperative, Inc.'s) Docket No.
Petition for Waiver of Rule 25-22.071, F.A.C.,) Date Filed: May 14, 1998
Submission and Review of the Ten-Year Site)
Plan)

**PETITION FOR WAIVER
OF RULE 25-22.071, F.A.C.,
SUBMISSION AND REVIEW OF TEN-YEAR SITE PLAN
BY ALABAMA ELECTRIC COOPERATIVE, INC.**

Alabama Electric Cooperative, Inc. ("AEC"), by and through its undersigned attorneys and pursuant to Section 120.542, Florida Statutes and Rule 28-104.002, F.A.C., hereby request a waiver of Commission Rule 25-22.071, F.A.C. AEC maintains that it is not required to file a Ten-Year Site Plan, as its generation capacity in Florida is below the 250 MW threshold set forth in Rule 25-22.071(1)(a). However, in an abundance of caution, AEC requests a waiver of Rule 25-22.071, F.A.C., which requires certain Florida utilities to estimate their electric power-generating needs and the general location of their proposed electric power plant sites, as required by Section 186.801 of the Florida Statutes (1998). In support of its Petition for Waiver, AEC submits the following:

1. The name and address of Petitioner are:

Alabama Electric Cooperative, Inc.
P.O. Box 550
Andalusia, Alabama 36420
(334) 427-3000

2. All pleadings, notices, orders, schedules, recommendations and other documents to be filed or served in this Docket should be sent to:

DOCUMENT NUMBER-DATE

05395 MAY 14 88

FPSC-RECORDS/REPORTING

Michelle Hershel
Director of Regulatory Affairs
Florida Electric Cooperatives Association, Inc.
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Tallahassee, FL 32302 (850) 877-6166, fax (850) 656-5485

and

Gary Smith
Vice President, Legal & Corporate Affairs
Alabama Electric Cooperative, Inc.
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Andalusia, Alabama 36420
(334) 427-3000, fax (334) 222-3860

3. The specific rule the Petitioner is seeking a waiver from is Rule 25-22.071, F.A.C. which in pertinent part state:

Rule 25-22.071 Submission and Review of the Ten-Year Site Plans.

(1) Filing Requirements:

(a) All electric utilities in the State of Florida with existing generating capacity of 250 megawatts (mW) or greater shall prepare a ten-year site plan, and submit 25 copies to the Florida Public Service Commission's Division of Records and Reporting on the First working day of April of each year, unless extended. The plan shall date from December 31 of the prior calendar year.

4. The citation of the statute that Rule 25-22.071, F.A.C. is implementing is Section 185.801, F.S. and reads in part:

Section 186.801 Ten-year site plans. -

(1) Beginning January 1, 1974, each electric utility shall submit to the Public Service Commission a 10-year site plan which shall estimate its power-generating needs and the general location of its proposed power plant sites.

5. AEC is an electric utility, organized and operating as an electric cooperative corporation under Chapter 37 of the Code of Alabama (1975) and authorized to operate as an electric utility in the State of Florida under Chapter 425, Florida Statutes. AEC annually prepares Power Supply

Studies for the construction and/or purchase of generation capacity to meet its members' electric demand requirements. AEC's Power Supply Studies do not include the addition of any electric generation facilities to be constructed within the State of Florida for the foreseeable future.

6. The Ten-Year Site Plan law applies to Florida electric utilities with existing capacity of over 250 MW in the state of Florida. The statutory requirements and the implementing rules only apply to generators that own a power plant (or an aggregate of power plants), which generates over 250 MW in Florida. AEC owns generation facilities with a combined capacity of approximately 1170 MW. With the exception of a 11 MW diesel turbine unit which is located at Eglin Air Force Base in Walton County, Florida, all of AEC's generating units are situated within the State of Alabama and are subject to that Alabama's jurisdiction.

7. To expand the law to utilities which own and operate transmission and/or distribution lines and small amounts of generating capacity in Florida but maintain the bulk of their generation and related business in another state goes beyond the scope of Section 186.801, F.S. and Rule 25-22.071, F.A.C. The result of this expanded interpretation could be the filing of ten-year site plans by other entities not contemplated by the Commission or the Florida Legislature.

8. The underlying purpose of Section 186.801, Florida Statutes (1998), is for the Florida Public Service Commission to obtain information concerning the construction of electric generation facilities **in the State of Florida** over the next ten-year period, investigate possible alternatives to the planned electric generation facilities, and evaluate the potential environmental impact of the planned electric generation facilities.

9. Since AEC has no foreseeable plans to construct electric generation facilities in the State of Florida, the purposes of Section 186.801 will continue to be met even if AEC is granted a

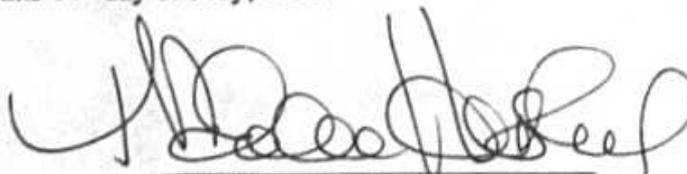
waiver from the filing requirements of a Ten-Year Site Plan.

10. AEC's preparation of a Ten-Year Site Plan would cause a substantial hardship on AEC because it would require commitment of economic and personnel resources to prepare information for the State of Florida in a format not otherwise required of AEC in its filings to federal or Alabama authorities.

11. The underlying purpose of the Statute will not be violated by this waiver. Section 186.801, F.S., governs future power generating needs and the location of proposed power plants and Rule 25-22.071, F.A.C. specifically addresses "electric utilities in the State of Florida." Until such time as AEC, in its long-range plans, considers potential additions to its generation capacity in Florida, AEC should not be required to file a ten-year site plan.

For the reasons stated above, Alabama Electric Cooperative, Inc. respectfully requests that the Florida Public Service Commission issue an Order in the above-referenced docket granting AEC a waiver from Rule 25-22.071, F.A.C., and the requirements of filing a Ten-Year Site Plan in 1998.

Respectfully submitted this 14th day of May, 1998.



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and

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