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July 24, 2000

Ms. Blanca S. Bayó
Director, Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Seminole Electric Docket # 981827-EC

Dear Ms. Bayó:

Enclosed for filing on behalf of Seminole Electric Cooperative, Inc. are the original and fifteen copies of its Prehearing Statement.

By copy of this letter, this document has been furnished to the parties on the attached service list.

Very truly yours,



Richard D. Melson

RDM/kcg
Enclosures
cc: Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Complaint and petition by)	
Lee County Electric Cooperative,)	
Inc. for an investigation of the)	Docket No. 981827-EC
rate structure of Seminole)	
Electric Cooperative, Inc.)	Filed: July 24, 2000
_____)	

SEMINOLE'S PREHEARING STATEMENT

Seminole Electric Cooperative, Inc. ("Seminole") hereby files its prehearing statement in accordance with the requirements of Order No. PSC-00-0632-PCO-TP.

A. Appearances. Richard D. Melson, Hopping Green Sams & Smith, P.A., P.O. Box 6526, Tallahassee, FL 32314, and Robert A. Mora, Allen, Dell, Frank and Trinkle, P.A., P.O. Box 2111, Tampa, FL 33601 appearing on behalf of Seminole Electric Cooperative, Inc.

B. Known Witnesses. Seminole will present the direct testimony of the following witness:

<u>Witness</u>	<u>Issues</u>
James P. Duncan	2, 3, 4
Timothy S. Woodbury	2, 3, 4, 5
Trudy S. Novak	3, 4, 5
David E. Christianson	3, 4, 5

C. Known Exhibits. Seminole intends to introduce the following exhibits:

<u>Witness</u>	<u>Exhibit</u>	<u>Description</u>
Timothy S. Woodbury	TSW-1	Map of Seminole Member Systems
	TSW-2	Rate Schedule SECI-7
	TSW-3	Rate Schedule SECI-7b
	TSW-4	Seminole Strategic Plan
	TSW-5	Rate Committee Minutes -- March 13, 1998
	TSW-6	Rate Committee Workshop Materials -- April 9, 1998
	TSW-7	Rate Committee Minutes -- May 13, 1998
	TSW-8	Trustees Minutes -- May 14, 1998
	TSW-9	Rate Committee Minutes -- July 8, 1998
	TSW-10	Rate Committee Minutes -- October 7, 1998
	TSW-11	Trustees Minutes -- October 7-8, 1998
	TSW-12	Comparison of Average Rates -- SECI-6b vs. Seasonal Rate Structure
	TSW-13	Seminole Member Average Power Cost vs. Load Factor (Actual 1999)
	TSW-14	Rate Schedule SECI-7a
	TSW-15	Rate Committee Minutes -- October 13, 1999
	TSW-16	Rate Committee Minutes -- November 3, 1999

	TSW-17	Rate Committee Minutes -- December 8, 1999
	TSW-18	Trustees Minutes -- December 8-9, 1999
	TSW-19	Seminole Member Average Power Cost vs. Load Factor (Budget 2000)
	TSW-20	Seminole Rate Structure History
Trudy S. Novak	TSN-1	Rate Schedule SECI-7b
	TSN-2	Rate Schedule SECI-6b
	TSN-3	Comparison of Average Member Rates -- SECI-6b vs. Structure Underlying SECI-7
	TSN-4	Calculation of Average Production Demand Rate for 2000
	TSN-5	Calculation of Payne Creek Costs on 8-Month and 12-Month Billing Basis
	TSN-6	Calculation of New Combustion Turbine Costs on 8-Month and 12-Month Billing Basis
	TSN-7	Summary of Seminole's Assignment of Costs
	TSN-8	Cost of Service Study Supporting SECI-7b
David E. Christianson	DEC-1	Burns and McDonnell Cost of Service Study and Wholesale Rate Design
	DEC-2	Comparison of Revenue Collected -- BMCD Rates

vs. SECI-7b

DEC-3

Comparison of Expected
Average Wholesale Power
Cost in 2000 -- BMcD
Rates vs. SECI-7b

DEC-4

Comparison of Expected
Average Wholesale Power
Cost in 2000 -- LCEC Alt.
2 Rates vs. SECI-7b

Seminole reserves the right to introduce as exhibits Lee County Electric Cooperative's responses to discovery and to identify additional exhibits for purposes of cross-examination.

D. Basic Position. The Commission does not have jurisdiction over Seminole's rate structure for wholesale service to its Members. If the Commission nevertheless asserts jurisdiction, it should defer to the judgment of Seminole's Board of Trustees, so long as Seminole demonstrates that the rate structure has been approved by the Board in compliance with the requirements of the Wholesale Power Contracts between Seminole and its Members. Such deference is appropriate given the fact that each Member has equal voting representation the Board, and each Trustee has a fiduciary obligation to act in the best interests of Seminole.

In any event, Seminole's wholesale rate structure in Rate Schedule SECI-7b is fair, just and reasonable and should be approved by the Commission. The rate structure is consistent with Seminole's Strategic Plan, it gives appropriate price

signals to Seminole's member systems to make cost-effective and efficient capital investments, it results in average rates to Members which fairly reflect variations in load factor, it is supported by an appropriate cost study, and it is consistent with generally accepted ratemaking standards.

E. Issues. Seminole's positions on the issues identified in Order No. PSC-00-0632-PCO-TP are as follows:

Issue 1. Does the Commission have jurisdiction over the subject matter of Lee County Electric Cooperative's Complaint and Petition.

Seminole: No. The Commission does not have rate structure jurisdiction over wholesale transactions between a cooperative and its members pursuant to a voluntarily negotiated wholesale power contract. Section 366.04(2), Florida Statutes, should not be construed to provide such authority for three reasons: first, for the past 25 years, the Commission has never interpreted this statute to give it jurisdiction over Seminole's wholesale rate structure; second, this long-standing practical interpretation is consistent with the underlying purpose of the statute; and third, any reasonable doubt about the Commission's exercise of a particular power must be resolved against the exercise of that power. (Legal Issue)

Issue 2. What standard of review should the Commission apply to the wholesale rate structure at issue in this proceeding?

Seminole: If the Commission determines that it has jurisdiction, it should limit its review to the question of whether the rate structure at issue was adopted by Seminole's Board of Trustees in full compliance with the provisions of the Wholesale Power Contracts between Seminole and its Member systems. Such a standard of review is necessary to honor the unique relationship between Seminole and

its members and to avoid problems that would arise if the Commission goes beyond the contractual requirements in reviewing Seminole's rate schedule. (Duncan, Woodbury)

Issue 3. Is Seminole Electric Cooperative's wholesale rate structure in Rate Schedule SECI-7b fair, just and reasonable?

Seminole: Yes. The rate structure in Rate Schedule SECI-7b was adopted in full compliance with the requirements of the Wholesale Power Contracts between Seminole and its Members; is consistent with Seminole's Strategic Plan; gives appropriate price signals to Seminole's Member systems to make cost-effective and efficient capital investments; results in average rates to Members which fairly reflect variations in load factor; is supported by an appropriate cost study; is consistent with generally accepted ratemaking standards; and is otherwise fair, just and reasonable. (Duncan, Woodbury, Novak, Christianson)

Issue 4. Should the Commission prescribe a wholesale rate structure for Seminole Electric Cooperative to become effective January 1, 2001.

Seminole: No. As stated in Issue 1, the Commission lacks jurisdiction to prescribe a wholesale rate structure for Seminole. In any event, the Commission should not prescribe a rate structure for any electric utility unless it first finds that the existing rate structure is not fair, just and reasonable. As stated in Issue 3, Seminole's existing rate structure meets this standard. (Duncan, Woodbury, Novak, Christianson)

Issue 5. If the Commission determines that it should prescribe a rate structure for Seminole Electric Cooperative, what is the appropriate rate structure to prescribe?

Seminole: The appropriate rate structure would be that contained in SECI-7b. Lee County Electric Cooperative has not borne its burden of proving that

any of the alternative rate structures it advocates is superior to the rate structure contained in Seminole's currently effective rate schedule.
(Woodbury, Novak, Christianson)

Issue 6. Should this docket be closed?

Seminole: Yes.

F. Stipulations. Seminole is not aware of any issues that have been stipulated by the parties.

G. Pending Motions. Seminole has no pending motions that require action at this time.

H. Requirements of Order. Seminole believes that this prehearing statement is fully responsive to the requirements of the Order on Procedure.

RESPECTFULLY SUBMITTED this 24th day of July, 2000.

HOPPING GREEN SAMS & SMITH, P.A.

By: 

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(850) 425-2313

Attorneys for Seminole Electric
Cooperative, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail or Hand Delivery (*) this 24th day of July, 2000.

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