

IN THE SUPREME COURT OF FLORIDA

Lee County Electric Cooperative, Inc.,)	
)	Case No. SC01-373
)	
Appellant,)	FPSC Docket No. 981827-EC
)	
vs.)	
)	
E. Leon Jacobs, Jr., et al.,)	
)	
Appellees.)	
)	

FLORIDA PUBLIC SERVICE COMMISSION'S RESPONSE
IN OPPOSITION TO MOTION FOR REHEARING

Appellee, the Florida Public Service Commission (Commission), pursuant to Rule 9.330, Florida Rules of Appellate Procedure, files this Response to the Motion for Rehearing filed by appellant, Lee County Electric Cooperative, Inc. (LCEC). The Commission urges this Court to deny LCEC's motion.

Pursuant to Rule 9.330(a), Florida Rules of Appellate Procedure:

[a] motion for rehearing shall state with particularity the points of law or fact that in the opinion of the movant the court has overlooked or misapprehended in its decision, and shall not present issues not previously raised in the proceeding.

As stated by this Court:

[t]he sole and only purpose of a petition for rehearing is to call to the attention of the Court some fact, precedent or rule of law which the Court has overlooked in rendering its decision.

Goode v. Hialeah Race Course, Inc., 246 So. 2d 105, 106 (Fla.

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- JPC _____
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1971).

A motion for rehearing is not intended as a vehicle for a party to reargue the case or to express dissatisfaction with the court's holding. Diamond Cab Company of Miami v. King, 146 So. 2d 889, 891 (Fla. 1962). However, that is exactly what LCEC has done in its motion for rehearing. All of the points raised by LCEC were briefed by the parties and considered by the Court.

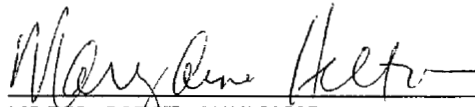
Concerning the points raised by LCEC, the Court was not persuaded by LCEC's plain language argument on pages 13 to 17 of its Initial Brief. Nor was the Court convinced by LCEC's arguments at pages 17 through 23 of its Initial Brief that the purpose of the Grid Bill compels a finding that the Commission has jurisdiction over Seminole's rate structure. In addition, the Court did not find it relevant that the Commission's staff recommended that the Commission did have jurisdiction as argued by LCEC on page one of its Initial Brief. Moreover, the meaning of the term rate structure was briefed by the parties and discussed at oral argument. (Initial Brief at 4-5, Commission's Answer Brief at 12-13, Seminole's Answer Brief at 10-13). The Court was also not convinced by LCEC's regulatory gap arguments at pages 23-27 of its Initial Brief. Finally, notwithstanding that this is a case of first impression, the parties addressed the Commission's long-standing interpretation of the statute that the Commission did not

have jurisdiction over Seminole's rate structure. (Initial Brief at 27-31, Commission's Answer at 25-28, Seminole's Answer at 18-23) LCEC's motion is simply an attempt to reargue its case and should be denied.

For the foregoing reasons, the Commission urges the Court to deny Lee County Electric Cooperative, Inc.'s Motion for Rehearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished this 30th day of May, 2002, by U.S. Mail, to the following:

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