

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and Petition of the City
of Cape Coral, Florida, for an
investigation into the rate structure of
Lee County Electric Cooperative, Inc.

DOCKET NO.: 160060-EC

DATE: April 4, 2016

**LEE COUNTY ELECTRIC COOPERATIVE, INC.'S NOTICE OF FILING RESPONSE
TO CUSTOMER COMPLAINT**

Lee County Electric Cooperative, Inc. ("LCEC"), pursuant to Rule 25-22.032(6)(b)-(c), Florida Administrative Code, gives notice that it has responded to the customer complaint filed by the City of Cape Coral (the "City") in the above referenced docket on March 15, 2016 by sending a written response to the City on April 4, 2016 by certified mail and email (the "Response"). LCEC refers the Commission to the attached Response for purposes of addressing the likely cause of the City's complaint, the actions taken by LCEC to resolve the complaint, and LCEC's resolution or proposed resolution of the complaint. Without conceding that the issues raised in the City's complaint fall within the Commission's jurisdiction, LCEC will file a formal motion in response to the complaint and petition within the time allowed by Florida Administrative Code Rule 28-106.204(2).

Respectfully submitted this 4th day of April, 2016.

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/s/D. Bruce May, Jr. _____

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by electronic mail to: Brian P. Armstrong, P.O. Box 5055, Tallahassee FL 32314-5055 [Brian@brianarmstronglaw.com]; Dolores Menendez, City of Cape Coral, 1015 Cultural Park Boulevard, Cape Coral FL 33990 [dmenendez@capecoral.net]; Danijela Janjic, Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850 [djanjic@psc.state.fl.us] this 4th day of April, 2016.

/s/ D. Bruce May, Jr. _____
D. Bruce May, Jr.



April 4, 2016

By Certified Mail and Electronic Correspondence

John Szerlag, City Manager
City of Cape Coral
1015 Cultural Park Boulevard
City of Cape Coral, FL 33990

SUBJECT: Complaint and Petition of the City of Cape Coral for an investigation into the rate structure of Lee County Electric Cooperative, Inc. ("Complaint")

Dear Mr. Szerlag:

Lee County Electric Cooperative (LCEC) has received the City of Cape Coral's (City) Complaint filed at the Florida Public Service Commission (PSC) on March 15, 2016. We have carefully reviewed the concerns raised in the Complaint, and we firmly believe in the importance of listening to members and trying to address their concerns. To that end, we are pleased to report that LCEC is already addressing some of the concerns expressed in the Complaint.

In particular, we note that your Complaint raises concerns about LCEC's current contributions-in-aid-of-construction (CIAC) charges. Before the City filed its Complaint, other members had previously voiced similar concerns, and LCEC has been actively reviewing its CIAC practices since July of 2015. More importantly, LCEC has been considering a change in its current CIAC policy since November of 2015. The change being considered would effectively mirror the CIAC policies of investor-owned utilities that have been approved by the PSC. This issue will be addressed by the LCEC Board of Trustees at its open meeting on May 19. Thus, we believe it is premature to seek relief from the PSC on this issue while it is under consideration.

While LCEC takes seriously the concerns of its members and welcomes them to participate in LCEC's process for setting its rates and policies, LCEC does not believe it is the PSC's responsibility to address the issues framed in your Complaint. Please allow me to explain. By law, cooperatives operate under a democratic, "one member/one vote" governance structure that gives members direct control in electing the Board of Trustees which, in turn, determines the level of the rates that members pay for electric service. Because a cooperative's rate policies are member-driven, the Florida Legislature does not provide the PSC jurisdiction over the levels of a cooperative's rates and charges. In the case of LCEC's LED streetlight tariff, your Board of Trustees decided to introduce this service relatively recently in response to member demand, even though many other utilities in Florida do not yet offer the service. Because it is a new offering, we understand that the level of the LED streetlight rates may need to be modified after assessing our initial experiences; and thus, we will continue to evaluate those rates. But Florida law sensibly requires that the rates ultimately should be determined pursuant to the cooperative's democratic self-governance structure rather than by the PSC. The same is true regarding your concerns about the level of the CIAC charges. Your concerns regarding LCEC's compliance with requirements under Chapter 425, Florida Statutes, also are outside of the PSC's jurisdiction.

Finally, while the PSC has limited jurisdiction over the relationship between classes of cooperative customers (i.e., rate structure), your proposal that LCEC abandon its long-standing, PSC-approved customer classification system in favor of a radically different system designed around geographically differentiated rates based on customer densities is a fundamental policy decision for LCEC's member-elected Trustees. While we can certainly appreciate how a municipality might think geographically differentiated rates would be sensible, a deeper look at the issue shows why that is not the case.

As your Complaint correctly notes, LCEC began performing a cost-of-service study in 2015 as a part of its normal business practice. However, when that study is complete, it will not address the cost of serving a new, density-based customer classification that you propose. Cost-of-service classifications based on geographic location and customer densities would require LCEC to perform a separate and extensive study that goes well beyond accepted approaches to rate design. None of LCEC's prior cost-of-service studies has ever addressed this unconventional theory. In fact, the standard treatise on cost-of-service studies – the *Electric Utility Cost Allocation Manual*, published by the National Association of Regulatory Utility Commissioners (NARUC) – does not even consider methodologies that classify and allocate fixed costs to rate classes on the basis of customer densities. We do not believe it would be a productive use of LCEC's limited resources to delve into a very expensive and difficult study of the density-based classification system that the City proposed. The fact is, no matter what the study costs, it is difficult to imagine that any such study would lead to density-based rate classification since by far the largest cost component of electric utility service is generation supply, and generation supply costs have nothing whatsoever to do with customer density.

There are many other reasons that it is not sound policy to differentiate rates based on customer location and density. The City itself has a wide diversity of customer densities, including many undeveloped areas, and thus is not a homogenous area that would warrant a separate rate classification. LCEC also serves a number of areas such as Marco Island, Matlacha, Captiva, and Everglades City that have customer densities higher than the City. Thus, if density is to be the proper determinant of rate classes, then that density classification approach would need to be applied equally across LCEC's entire service area, not just within the City, so that rates are not unduly discriminatory. In other words, if LCEC were to grant a preference to the City because of density considerations, it would have to grant the same preference to other areas similarly situated. This could produce an enormous number of rate zones which would be virtually impossible to administer.

Moreover, creating a density-based customer classification system would require continuous and costly analysis of service areas whose densities will be in constant flux due to ongoing development. This model would continually beg the question of where, and how often, to draw the dividing line between more and less "dense" areas. If you carry this logic to the extreme, the combination of load characteristics and specific infrastructure requirements would potentially create a unique rate for every single member on the system.

Price discrimination based on population densities could also raise a number of controversial public policy issues, such as potentially impeding economic development in low-density areas, disadvantaging Native American communities located in more rural areas, and charging different rates for basically the same type, level, and use of service.

Finally, you may be unaware of the risks of a "city-only" rate classification and the potential harm this policy shift could pose to members located within the City limits, particularly since the risk of storm

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damage to utility infrastructure within the City may be higher than the risk of storm damage in more inland areas. For example, if the rates paid by those members within the City are based on the costs of serving just that isolated area, and a tropical storm were to damage utility infrastructure within the City disproportionately, members within the City could experience rate shock resulting from such costs not being spread more evenly across the entire system.

For all of these reasons, we believe that preserving the existing customer classifications and continuing with uniform rates and single tariff pricing is far more cost-effective and consistent with widely-accepted electric utility practices. It spreads risks and costs across the system as a whole, is more efficient to administrate, and results in stable, predictable, and fairly allocated rates.

We hope that this helps explain LCEC's reluctance to invest substantial amounts of its limited resources to investigate the density-based rate classification proposed by the City. Because this would represent a dramatic departure from normal utility practices and could lead to increases in rates to some of LCEC's members, including those inside the City, we believe this is an issue more appropriately resolved by the local cooperative membership and not by the PSC.

Even though your complaint involves concerns outside the PSC's jurisdiction, the local process through which LCEC's rates and rate structure are developed and promulgated has been and remains fully open to you and all other LCEC members. LCEC encourages you to continue participating in that deliberative self-governance process.

Please be assured that LCEC is committed to fairly and cost-effectively serving all of its members in the City. We are proud that we continue to have some of the lowest rates among the 56 electric utilities in the state of Florida and have reduced our rates four times over the past two years. In fact, setting aside the Public Service Tax which the City imposed, LCEC members within the City are paying less for electricity today than they paid seven years ago.

Should you have any additional questions, please do not hesitate to contact me.

Regards,



Dennie Hamilton
Executive Vice President
and Chief Executive Officer

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