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WILLIAM H. CHANDLER  
1920-1992

April 25, 1997

Blanca Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2549 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0650

470502-66

RE: Clay Electric Cooperative, Inc

Dear Ms. Bayo

Enclosed herewith please find the original and fifteen (15) copies of a Petition for Declaratory Statement for Clay Electric Cooperative Inc., which I would appreciate your filing

Very truly yours,

  
John H. Haswell

JHH/lez  
Enclosures

ACK \_\_\_\_\_ cc Bill Phillips, General Manager  
AFA \_\_\_\_\_ Henry Barrow  
APP \_\_\_\_\_ Lucille Wright, Esquire  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG \_\_\_\_\_  
LIT \_\_\_\_\_  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**IN RE: Application of Rules 25-6.0441(2)(a) )  
and 25.6.0441(2)(d), Florida Administrative )  
Code to a Customer Request for Service )**

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**DOCKET NO**

**PETITION FOR DECLARATORY STATEMENT**

**Clay Electric Cooperative, Inc. ("CEC") by and through its undersigned attorneys, files herewith its Petition for a Declaratory Statement pursuant to Rule 25-22.020 and 25-22.021, Florida Administrative Code and says**

- 1 The Petitioner is Clay Electric Cooperative, Inc.**
- 2 The Petitioner's address is Post Office Box 308, Keystone Heights, Florida 32656.**
- 3 The name of the agency to which this petition is addressed is the Florida Public Service Commission.**
- 4 The Commission rules to which this petition is addressed Rule 25-6.0441(2)(a) and 25.6.0441(2)(d).**
- 5 Description of how these rules affect Petitioner in its particular circumstances only.**
  - a CEC is an electric utility providing service in thirteen (13) counties in North Florida, including Baker County**
  - b In May of 1995, CEC was approached by an industrial manufacturing firm known as River City Plastics ("RCP"), a company that produces plastic piping by extruding it in molds, requesting price and service information for a proposed new**

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FPSC-RECORDS/REPORTING

manufacturing plant near the Baker County Industrial Park near Sanderson in Baker County, Florida.

c. RCP was planning on moving out of Duval County where its plant was being served by the Jacksonville Electric Authority, to the new location which lies between Highway US 90 and Interstate 10 east of the intersection of those two highways with State Road 229.

d. RCP hired an engineering firm to review its project needs, including electric service, and also reviewed proposals by both CEC and Florida Power & Light Company ("FPL").

e. RCP's extrusion process depends on electric service with no interruption. Consequently, RCP's primary requirement is that the selected utility provide it with dual service back-up, so that the plant can be served directly from two sources. In the event of an outage on one source, the second source will provide immediate back-up service.

f. CEC provided RCP with a proposal meeting RCP's requirements to provide the requested dual feed service without requiring RCP to pay the cost of the back-up service other than the lease of two generators supplied by CEC.

g. FPL also provided a proposal for service to the site, but would not agree to provide dual feed service. RCP's engineer indicated that it would be very expensive for FPL to provide the dual feed service and the additional expense would have to be paid by RCP.

h. RCP's agent, the engineering company, contacted the Florida Public Service Commission and spoke with the Bureau Chief of Consumer Affairs (Bobby

Cunningham) and Katrina Tew, and were advised that there was no territorial agreement between CEC and FPL covering the affected area, that either FPL or CEC could provide service to the new facility, and that there would be no problem with the PSC

i. The site for the new RCP plant is approximately 1,800 feet east of an existing FPL substation, and approximately the same distance west of the nearest CEC single phase facility.

j. To provide the service requested by RCP, FPL would be required to extend three phase service for approximately three-quarters (¾) of a mile from its nearby substation, and construct a new three phase service from its Macclenny substation which is approximately 7.6 miles away. FPL will not construct the new three phase service to its other substation unless RCP pays the cost of such construction

k. To provide the service required by RCP, CEC will be required to upgrade its existing service from its Sanderson substation approximately two (2) miles away and lease two (2) load management generators to the customer for the back-up, dual feed service.

l. FPL has advised CEC that it will challenge service by CEC in a territorial dispute proceeding before the Florida Public Service Commission if CEC extends service to RCP.

m. CEC has received a formal written request for service by RCP and is ready, willing, and able to provide such service.

n. RCP projects that service by CEC will cost it \$8,000 00 per month less than service by FPL.

6. Based on the factual background stated in 5 above, CEC has a question

about the applicability of Rules 5-6 0041(2)(a) and (2)(d) of the Commission rules. The potential impact on CEC should FPL file a territorial dispute proceeding (if CEC were to provide service to RCP) is the loss of the revenue it would receive from RCP and its stranded investment in any facilities it constructs to serve the site if the PSC were to require the customer to take service from FPL.

7. CEC believes that the character of service offered by the two utilities is fundamentally different, that is, CEC is prepared to provide the customer with dual feed service, a mandatory requirement of the customer, and FPL is not willing to do so. In addition, the customer, after evaluating the character of service and the price of such service has selected CEC to be its utility of choice.

WHEREFORE, CEC requests a declaratory statement from the PSC in answer to the following question:

**DOES A TERRITORIAL DISPUTE EXIST WHEN**

- (1) A customer requests service from Utility A on a site that currently has no service by Utility A, nor by neighboring Utility B,
- (2) There is no territorial agreement approved by the PSC between Utility A and Utility B in effect covering the site,
- (3) Utility A does not have but is willing to provide the character of service requested by the customer (in this case, dual feed service),
- (4) Utility B does not have and is not willing to provide the character of service requested by the customer, and,
- (5) Utility B has stated that it will file a territorial dispute proceeding seeking the right to serve the customer, even though the awarding of such service to it will

not enable the customer to receive the character of service it requires

Respectfully submitted,

  
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John H. Haswell, Esquire  
Florida Bar No. 162536  
Chandler, Lang & Haswell, P.A.  
Post Office Box 23879  
Gainesville, Florida 32602  
(352) 376-5226  
(352) 372-8858 - facsimile

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. mail to the following:

Lucille Wright  
Florida Power and Light Company  
3103 East Duval Street  
Lake City, Florida 32055

Legal Division  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

on this 25 day of April, 1997

  
\_\_\_\_\_  
John H. Haswell