



# FECA

Florida Electric Cooperatives Association, Inc.

2916 Apalachee Parkway  
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Tallahassee, Florida 32302  
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ORIGINAL

November 24, 1997

Ms. Blanca Bayo  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, FL 32399-0850

RE: Docket No. 971313-EU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and fifteen copies of Peace River Electric Cooperative Inc.'s Petition for Leave to Intervene and Request for Hearing. Thank you for your assistance in this matter.

Sincerely,

Michelle Hershel

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- LIN \_\_\_\_\_
- DPC \_\_\_\_\_
- ROH \_\_\_\_\_
- SEC 1 \_\_\_\_\_
- NAS \_\_\_\_\_
- OTH mg to DON \_\_\_\_\_

DOCUMENT NUMBER-DATE  
12057 NOV 24 5  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of IMC-Agrico Company )  
for a Declaratory Statement Confirming )  
Non-Jurisdictional Nature of Planned )  
Self-Generation. )

Docket No. 971313-EU  
Filed: November 21, 1997

ORIGINAL

**PEACE RIVER ELECTRIC COOPERATIVE, INC.'S  
PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR HEARING**

Pursuant to Rule 25-22.039, F.A.C., Peace River Electric Cooperative, Inc. ("PREC") petitions the Commission for leave to intervene in the above-referenced docket as an entity who has a substantial interest in the proceeding and states in support thereof:

1. The name and address of the Petitioner are:

Peace River Electric Cooperative, Inc.  
P.O. Box 1310  
Wauchula, Florida 33873

2. All notices, order, pleadings and other communications in this proceeding should be sent to:

John Haswell, Esquire  
Chandler, Lang & Haswell  
211 N.E. 1st Street  
Gainesville, Florida 32601

William T. Mulcay, General Mger.  
Peace River Electric Cooperative  
P.O. Box 1310  
Wauchula, FL 33873

Michelle Hershel, Esquire  
Florida Electric Cooperatives Association, Inc.  
P.O. Box 590  
Tallahassee, FL 32302

Tim Woodbury, V.P. Corp. Planning  
Seminole Electric Cooperative  
P.O. 272000  
Tampa, FL 33688-2000

3. Peace River Electric Cooperative, Inc. ("PREC") is a member-owned electric cooperative organized under Chapter 425, Florida Statutes and is an "electric utility" as defined under Section 366.02(2), Florida Statutes.

4. IMCA is currently a retail customer of PREC. PREC supplies IMCA with power at 69 kV at a retail interruptible rate. For the most recent 12-month period, the monthly load supplied

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has averaged approximately 14,500 kW with an average monthly energy usage of approximately 6,400,000 kWh. IMCA is engaged in phosphate mining at the location served. As the mining operations are concluded at one location, the draglines and other mining equipment are subject to move to other locations within PREC's retail territory.

5. In its petition, IMCA states that it plans to develop additional facilities for the generation and delivery of electrical power to serve the requirements of its mining and processing complex in central Florida. This will be accomplished by building a natural gas-fired combined cycle electric generating unit and a 69 kV transmission line through a lease and contract transaction with a "partnership".

5. Though IMCA's proposed arrangement is similar to another transaction of a phosphate manufacturer in Florida, certain distinctions do exist and the failure of IMCA to provide necessary information to the Commission and current utility providers of IMCA is critical in ascertaining whether or not the proposed lease arrangement is truly self-generation or in fact an attempt to sell electricity at retail to one of PREC's customers.

6. The distinguishing factor in the proposed scenario proposed by IMCA is a lease arrangement with the generation owner and the consumer versus full ownership by the owner/consumer. In its determination of whether or not this arrangement is truly self-generation, the Commission must ensure that all risks are assumed by the lessee.

7. Since IMCA has not provided even a draft of the lease or O&M contracts for review by the Commission, the Commission should hold off in making a determination of self-generation until a full 120.57 hearing is held to enable substantially affected parties, such as PREC, to seek discovery of pertinent terms and conditions of the proposal.

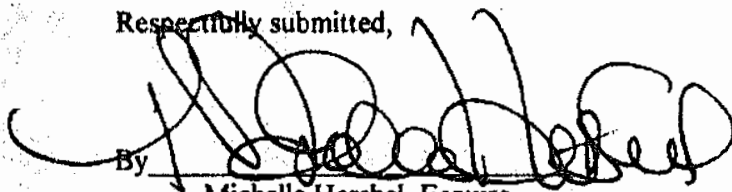
8. In the absence of information from IMCA, PREC disputes IMCA's claim that IMCA will

acquire an ownership interest in the facility and that the use of the energy produced by its share of the facility's capacity constitutes self-generation. PREC contends that when additional information becomes available for review by the Commission, the Commission could determine IMCA's proposed arrangement to be a sale of electricity to a retail customer.

9. In order to protect its substantial interests, to include possible loss of load, reduction in revenues and increased cost of service to its consumer-owners, PREC asks that it be afforded party status and that a 120.57 hearing be established to ensure adequate facts are presented to the Commission.

WHEREFORE, Peace River Electric Cooperative, Inc. respectfully requests that the Commission grant this petition for leave to intervene and request for hearing.

Respectfully submitted,

By 

Michelle Hershel, Esquire  
Florida Electric Cooperative Assoc.  
P.O. Box 590  
Tallahassee, FL 32302

John Haswell, Esquire  
Chandler, Lang & Haswell  
211 N.E. 1st Street  
Gainesville, FL 32601

Attorneys for PREC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Peace River Electric Cooperative, Inc.'s Petition for Leave to Intervene and Request for Hearing has been furnished by U.S. Mail or Hand Delivery (\*) this 24th day of November, 1997 to the following:

Richard Bellak\*  
Division of Appeals  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Lee L. Willis  
James D. Beasley  
Ausley & McMullen  
227 South Calhoun Street  
Tallahassee, FL 32301

James A. McGee  
P.O. Box 14042  
St. Petersburg, FL 33733-4042

  
Michelle Hershel