

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Amendment of Tariffs to Include ) DOCKET NO. 910596-EC  
Discount for City of Jay Accounts by )  
Escambia River Electric Cooperative, ) ORDER NO. 25024  
Inc. )  
\_\_\_\_\_ ) ISSUED: 9/6/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
MICHAEL MCK. WILSON

ORDER APPROVING WITHDRAWAL OF TARIFF SHEETS  
AND CLOSING DOCKET

BY THE COMMISSION:

On March 12, 1991 the Escambia River Electric Cooperative (EREC) submitted several revised tariffs to the Commission for approval. The rate revision analysis that accompanied the filing revealed that EREC provided the City of Jay, Florida with a twenty percent discount from its tariffed rates. The discount was provided to the City pursuant to a franchise agreement executed in the 1950's.

We reviewed the effect of EREC's discount to the City at our June 25, 1991 Agenda Conference, and decided to send EREC a comment letter reflecting our concern over the discount. In that letter we explained that the discount contravenes our established policy against preferential rates for municipalities holding franchise agreements with utilities, because those rates are not cost based or equitable. We also explained that preferential rates for municipalities are inconsistent with our policies regarding collection of franchise fees. We requested that EREC demonstrate for us how its discount to the city was cost based or equitable.

Our policy against preferential rate treatment for municipalities with franchise agreements was established in Florida Power Corporation's 1980 and 1982 rate cases. Florida Power Corporation (FPC) provided service under a separate preferential municipal service rate schedule to the accounts of all municipalities that it served pursuant to a franchise agreement. In the 1980 rate case, we stated that "a rate of this type was not cost based and, as a matter of equity, could not be justified." (Order No. 11628, page 42). We eliminated FPC's municipal service

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rate in its 1982 rate case, and the policy instituted there remains our policy today.

Preferential rate treatment for municipalities with franchise agreements is also inconsistent with our policy on franchise fees, because franchise fees are only to be collected from those customers who reside within the jurisdiction of the governmental body charging the franchise fees. They are the only customers that receive a benefit from the fees collected.

We do not perceive any benefits [from franchise fees] being derived by ratepayers residing in an area outside the jurisdiction of the governmental body which imposes the fees. Conversely, it is clear that the fees collected are utilized for services rendered to residents within the jurisdiction of the governmental body, and it is they who should bear the incidence of such fees.

Order No. 6742, p.1. See also: Order No. 6591, p.12; Order No. 6794, p.13; Order 6650, p.10; and Order No. 6681, p.9.

The effect of EREC's discount for the City of Jay was to raise the rates of all other ratepayers, because the required or desired total revenue requirement of the utility is the same with or without the discount. The utility's other ratepayers bore the expense of the City of Jay's discount, while the savings from the discount was used to provide services only to residents of the city. The effect was the same as that of collecting franchise fees from all ratepayers regardless of whether they resided in the jurisdiction of the governmental body.

On July 8, 1991 EREC responded to our comment letter and stated that it could not demonstrate that the discount to the city was cost-based or equitable. EREC further stated that it wished to withdraw the proposed tariff sheets containing the discount provision. EREC represented to us that the withdrawal would effectively cancel the discount.

We approve EREC's withdrawal of the tariffs, we thank EREC for its prompt response to our concerns, and we will close this docket as soon as the protest period has expired.

It is therefore

ORDERED by the Florida Public Service Commission that EREC's withdrawal of its tariff sheets containing a discount for the City of Jay is approved. It is further

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ORDERED that this docket may be closed if no protest is timely filed.

By ORDER of the Florida Public Service Commission, this 6th  
day of SEPTEMBER, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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oescambi.mcb

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 9/27/91

In the absence of such a petition, this Order shall become final on the day subsequent to the above date.

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Any objection or protest filed in this docket before the issuance date of this Order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this Order becomes final on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the date this Order becomes final, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure. The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.