

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition for Approval) Docket No. 910085-EI
of Territorial Agreement Between) Order No. 24593
Tampa Electric Company and Florida) Issued: 5/29/91
Power Corporation)
)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 GERALD L. GUNTER
 MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTIONORDER APPROVING TERRITORIAL AGREEMENT BETWEEN
TAMPA ELECTRIC COMPANY AND FLORIDA POWER CORPORATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On January 22, 1991, Tampa Electric Company (TECO) and Florida Power Corporation (FPC), entered into a Territorial Agreement concerning their territories in Hillsborough, Pasco, Pinellas, and Polk Counties. On January 23, 1991, in Document No. 734-91, the parties jointly petitioned this Commission for approval of their Territorial Agreement.

TECO and FPC had previously entered into a Territorial Agreement, dated February 23, 1960, which was subsequently amended on July 18, 1977, and June 28, 1988. Also, in Order No. 22634, issued March 5, 1990, we approved a Settlement Agreement (Agrico Agreement) between TECO and FPC whereby the parties agreed upon the procedure to follow when providing electric service to Agrico Chemical Company in Polk County. We note that the Agrico Agreement is subject to renewal or extension only upon our approval.

In the agreement at issue, dated November 13, 1990, both FPC and TECO agree that neither will serve or attempt to serve any new customers whose end-use facilities are located within the territorial area of the other party, with the exception of service in Winter Haven. TECO presently serves the City of Winter Haven. Accordingly, Section 2.6 of the Agreement states that if the city limits of Winter Haven are extended, by annexation, into part of

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FPC's territory, this newly annexed area shall become a part of TECO's territory. We find that this transfer of territory by annexation, within Winter Haven, shall not require further approval by us; however, we must approve all other modifications to the Agreement.

In order to minimize inconvenience to their customers, each party to the Agreement may continue to serve their existing customers in the territorial area of the other, except as provided in Section 2.4 of the Agreement. FPC has 28 electrical accounts in TECO's service area, and TECO has 1 electrical account in FPC's service area. We find that existing customers located in the territorial area of the other utility, listed on Exhibit "C" of the Agreement, may request to become customers of the other party at any time. In addition, we find that the existing customers listed on Exhibit "C" shall be transferred to the other party whenever there is a "change in use."

Section 2.7 of the Territorial Agreement, which covers Bulk Power for Resale, was amended in the First Amendment to Agreement, which was executed by the parties on May 22, 1991. The parties made the First Amendment to Agreement to comply with the Final Judgment in United States v. Florida Power Corp. and Tampa Electric Co., No. 68-297-Civ-T (M.D. Fla. August 19, 1971).

We find that this Territorial Agreement will help eliminate duplication of facilities and provide for a coordinated electrical system. Further, we find that this Territorial Agreement will not affect the rights and obligations of the parties to serve Agrico's facilities as established in the Agrico Agreement. Accordingly, we find that the Territorial Agreement dated November 13, 1990, and amended on May 22, 1991, is hereby approved, and that it shall remain in affect for 15 years.

Finally, we find that this docket shall be closed if no protest or notice of appeal is timely filed.

It is, therefore,

ORDERED by the Florida Public Service Commission that the Territorial Agreement between Tampa Electric Company and Florida Power Corporation dated November 13, 1990, and as modified by the First Amendment to Agreement, dated May 22, 1991, is hereby approved. It is further

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ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for a formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0970, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 29th
 day of MAY, 1991.

 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)

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by: Karp & Zuer
 Chief, Bureau of Records

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 action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), 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 June 18, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by

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Rule 25-22.029(6), Florida Administrative Code.

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 and effective 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 effective date of this order, 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.