

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of FLORIDA) DOCKET NO. 891245-EU
POWER AND LIGHT COMPANY for) ORDER NO. PSC-94-1200-FOF-EU
resolution of a territorial) ISSUED: September 30, 1994
dispute with FORT PIERCE UTILITY)
AUTHORITY.)
_____)

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING TERRITORIAL AGREEMENT

BY THE COMMISSION:

In 1989, Florida Power and Light Company (FPL) filed with the Commission a Petition to Resolve Territorial Dispute against Fort Pierce Utilities Authority (FPUA). Approximately two years later, FPL and FPUA entered into a territorial agreement. The agreement provided for the transfer of approximately 900 customers from FPUA to FPL and 3,200 customers from FPL to FPUA, 2,100 of whom were residents of North Hutchinson Island. We issued a Notice of Proposed Agency Action approving the territorial agreement.

North Hutchinson Island residents, displeased with the proposed transfer of customers, petitioned the Commission for a public hearing at which they voiced concern relative to FPUA's: 1) higher rates; 2) inferior conservation programs; and 3) lack of presence on the island. In September of 1992, after an evidentiary hearing, we issued an Order Denying Approval of the Territorial Agreement. FPUA directly appealed to the Florida Supreme Court. On November 8, 1993, the Supreme Court issued its decision, affirming the our Order. An administrative hearing to resolve the territorial dispute between FPL and FPUA was scheduled for April 7, 1994.

DOCUMENT NUMBER-DATE

10009 SEP 30 1994

FPSC-RECORDS/REPORTING

On March 11, 1994, FPL and FPUA jointly filed a motion requesting a continuance of the hearing and the procedural schedule established for this case. The parties requested the continuance "based upon the fact that settlement negotiations have begun and the parties believe there is a likelihood that they will be able to settle their differences amicably." On March 15, 1994, the parties' joint motion for continuance was granted and the April 7, 1994 hearing was cancelled.

On June 14, 1994, FPL and FPUA filed a joint motion for approval of territorial agreement and dismissal of territorial dispute. Attached to the motion and incorporated therein by reference, in accordance with Section 366.04(2)(d), Florida Statutes, is the proposed agreement with attached appendixes A, B, C and D. Appendix A is a map of the City of Ft. Pierce and the surrounding area in St. Lucie County, Florida, depicting a service area boundary line which identifies the respective service areas of FPL and FPUA. Appendix B is a listing of customer accounts to be transferred from FPUA to FPL. Appendix C is a listing of customer accounts to be transferred from FPL to FPUA. Appendix D states that customer accounts shall be transferred in no particular order.

On July 13, 1994, staff filed interrogatories to FPL and FPUA, requesting information on service reliability, customers and facilities to be transferred, documentation that customers to be transferred had been contacted, and the degree of customer approval, disapproval and total number of customers reporting. On August 12, 1994, FPUA filed its answers to staff's interrogatories. FPL filed its answers on August 17, 1994.

The purpose of this agreement is to separate the parties' respective service areas in portions of St. Lucie county. FPL and FPUA have agreed upon transfer of certain customers, service area boundaries, and binding conditions that will preclude either party from providing service outside their respective service areas. It appears that the parties have reasonably achieved the goal of eliminating and avoiding uneconomic duplication.

The parties have submitted a map that identifies the proposed territorial boundary and the twelve areas that will ultimately be transferred. Within these areas are 326 residential and 21 commercial FPL customer accounts, deposits and associated facilities and 309 residential and 108 commercial FPUA customer accounts, deposits and associated facilities. All transfers of customer accounts and associated facilities will be completed within six months after approval of the territorial agreement. By transferring these customers, the parties' respective services will have been effectively separated with all existing service enclaves

ORDER NO. PSC-94-1200-FOF-EU
DOCKET NO. 891245-EU
PAGE 3

removed. Affected customers have been contacted by letter and notified of the difference in rates. We do not believe that there will be any decrease in the reliability of electric service received by those customers.

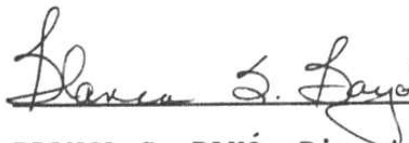
We find that the territorial agreement is in the public interest and that its adoption will further the Commission's policy of avoiding unnecessary and uneconomic duplication of facilities.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the territorial agreement filed June 14, 1994, by Florida Power and Light Company and Fort Pierce Utility Authority is hereby approved. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceedings is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, 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 30th day of September, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MAP

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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 21, 1994.

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