

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition of Orlando Utilities Commission and Progress Energy Florida, Inc. for approval of term extension to territorial agreement in Orange County.	DOCKET NO. 050977-EU ORDER NO. PSC-06-0201-PAA-EU ISSUED: March 14, 2006
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The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING SECOND AMENDMENT AND EXTENSION OF TERRITORIAL  
AGREEMENT

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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On December 29, 2005, Progress Energy Florida, Inc. (PEF) and Orlando Utilities Commission (OUC) filed a Joint Petition for approval of a term extension to Territorial Agreement in Orange County (Second Amendment). This Second Amendment proposes a second extension of the Territorial Agreement which had originally been scheduled to expire on April 5, 2005. By Order No. PSC-05-0707-PAA-EU, issued June 29, 2005, in Docket No. 050220-EU, In re: Joint petition for approval of amendment to territorial agreement in Orange County by Orlando Utilities Commission and Progress Energy Florida, Inc., the Commission granted a request for the first extension of time and extended the expiration date of the Territorial Agreement through December 31, 2005. The parties now seek a further extension through June 30, 2006.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Pursuant to Section 366.04(2)(d), Florida Statutes, we have the authority “to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under” our jurisdiction.

Second Amendment and Extension of Current Territorial Agreement

OUC and PEF state that the Territorial Agreement should be extended again in order to allow them additional time to pursue their negotiations toward a new territorial agreement to replace the current Territorial Agreement. OUC and PEF also state that there has been rapid growth in the area, and that they are attempting to work out an agreement that will minimize the formation of enclaves that would be better served by the other utility.

The current Territorial Agreement was previously approved by Order No. PSC-95-0440-FOF-EU, issued April 5, 1995, in Docket No. 940656-EU, In re: Petition to require Florida Power Corporation to comply with territorial agreement approved by Order No. 6194, by Orlando Utilities Commission. Pursuant to that Order, the Territorial Agreement was to have expired under its own terms on April 5, 2005, ten years after the issuance of Order No. PSC-95-0440-FOF-EU. The expiration date was extended to December 31, 2005, by Order No. PSC-05-0707-PAA-EU.

Pursuant to the Second Amendment, the Territorial Agreement would be further extended through June 30, 2006, to allow the Joint Petitioners additional time to pursue their negotiations toward a new territorial agreement. The Second Amendment states that it will become effective and enforceable only upon issuance of an Order by the Commission approving the Second Amendment in its entirety. The proposed Second Amendment involves no customer or facility transfers.

A review of the proposed Second Amendment shows that it is in compliance with Rule 25-6.0440, Florida Administrative Code, and Section 366.04(2)(d), Florida Statutes, the laws governing territorial agreements. Moreover, we find that the Second Amendment is a reasonable resolution which will reduce the likelihood of future uneconomic and unnecessary duplication of facilities along the boundary lines, in accordance with our policy and the public interest. Therefore, we approve in its entirety the Joint Petition for Approval of Second Amendment to Territorial Agreement in Orange County by PEF and the OUC. The Second Amendment shall become effective upon the issuance of a Consummating Order finalizing the Proposed Agency Action Order approving this Second Amendment.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Petition for Approval of Second Amendment to Territorial Agreement in Orange County by Progress Energy Florida, Inc. and the Orlando Utilities Commission is approved in its entirety. It is further

ORDERED that the Second Amendment shall become effective upon the issuance of a Consummating Order finalizing this Proposed Agency Action Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no substantially affected person files a protest within 21 days of the issuance of this Proposed Agency Action Order, this docket shall be closed upon the issuance of the Consummating Order. In the event there is a timely protest, this docket shall remain open pending resolution of the protest.

By ORDER of the Florida Public Service Commission this 14th day of March, 2006.



BLANCA S. BAYO, Director  
Division of the Commission Clerk  
and Administrative Services

(SEAL)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 4, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.