

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of amendment
to territorial agreement between the City of
Tallahassee and Talquin Electric Cooperative,
Inc.

DOCKET NO. 140179-EU
ORDER NO. PSC-14-0680-PAA-EU
ISSUED: December 9, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING TERRITORIAL AGREEMENT AMENDMENT

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 (F.A.C.).

Background

On September 11, 2014, the City of Tallahassee (City) and Talquin Electric Cooperative, Inc. (Talquin) filed a joint petition for approval of an amendment to their existing territorial agreement (agreement). We approved the 30-year agreement in 1990, resolving a litany of disputes between the City and Talquin dating back to 1970.¹ The agreement requires Commission approval of any amendment to the agreement.

The agreement established service area boundaries, transfer of customers and facilities, and service to remaining and new customers. Specifically, the agreement divided Leon County into two electric service area rings, Zone A, the inner ring, to be served by the City, and Zone B, the outer ring, to be served by Talquin. The agreement also provides for the transfer of facilities from one zone to the other over the first 15 years of the agreement. The amendment primarily addresses the transfer of the remaining facilities as not all facility transfers contemplated in the agreement were completed within the 15-year timeframe. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes

¹ See Order Nos. 22506 and 22506-A, issued February 7, 1990, and February 20, 1990, respectively, in Docket Nos. 881602-EU and 890326-EU, In re: Petition of Talquin Electric Cooperative, Inc. to resolve territorial disputes with City of Tallahassee and Petition of City of Tallahassee for interpretation of its rights and duties pursuant to Chapter 366, F.S.

Decision

Pursuant to Section 366.04(2)(d), F.S., we have jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Rule 25-6.0440(2), F.A.C., provides that in approving territorial agreements, the Commission shall consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities. Unless we determine that the agreement will cause a detriment to the public interest, the agreement should be approved. Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

The City and Talquin's joint resolution states a three-fold purpose for the amendment to the agreement. First, the utilities wish to complete the transfer of facilities contemplated by the agreement. Second, the parties expanded the portion of the agreement dealing with solicitation for the transfer of customers. Finally, the amendment extends the term of the agreement until March 31, 2050. The amendment does not alter the existing boundaries or result in customer transfers.

Transfer of facilities

The utilities explained that the delay in service facility transfers contemplated in the agreement has centered around the valuation of the facilities being transferred, as the City and Talquin could not agree on the value of certain facilities. The amendment contains the methodology to price facilities which appears to resolve the previous valuation disagreements between the City and Talquin. In response to a Commission staff data request, the utilities jointly stated that the facility transfers of Talquin's facilities to the City scheduled from 1989 through 1992 were completed. Portions of the transfers from Talquin to the City scheduled for 1993, 2000, 2001, and 2002 were also completed. There have been no transfers of City facilities to Talquin to date.

To address the remaining transfers, the amendment replaces the transfer of facilities schedule (Section 5.1) and procedures for transfer (Section 5.2) contained in the existing agreement with new Sections 5.1 and 5.2. The new transfer of facilities schedule provides a modified approach to describing the location of the facilities to be transferred and states the intent to have all service facility transfers completed no later than December 31, 2019.

Section 5.2, procedures for transfer, adds specificity to the value of the service facilities. For the transfer of 1993/1994 Talquin service facilities to the City, the City will pay Talquin the lump sum of \$1.4 million. Going forward, all other non-substation facilities will be valued by multiplying the total number of service points (i.e., customers) served by the facilities being transferred by \$2,500. The amounts were derived based on current replacement cost of the facilities less depreciation.

For substation facilities, the amendment states that payment will also be calculated using the current replacement cost less depreciation methodology. When the utilities cannot agree on the valuation of facilities to be transferred, the amendment directs to the appraisals and arbitration procedures already contained in the agreement.

We note that reference is made in the agreement and in the amendment to “fair market value” for valuation of equipment and materials that have salvage values. Fair market value, however, is not defined. In approving the existing agreement, we addressed its limitation on asset valuation:²

Where the Agreement between investor-owned utilities which are subject to rate base regulation, we would, in performing our responsibility to ratepayers, look with more specificity at the methodology used to value facilities subject to transfer. Because the Agreement is between a cooperative and a municipal-owned utility over which we have no ratemaking jurisdiction, our role is not to pass on the wisdom of the elected methodology, but to assure the methodology used does not adversely affect the public interest.³

We believe the same limitation applies to the amendment. Since the amendment includes agreed-upon amounts for payments of facilities, the public interest is not adversely affected, and the transfer process will not cause a decrease in the reliability of electrical service to the existing or future ratepayers.

Solicitation of customers

The utilities explained that the amendment does not change the transfer of customers provisions in the existing agreement. Existing customers of one utility located in an area served by the other utility will continue to be transferred on a voluntary basis or as ownership changes as specified in the agreement.

The amendment only addresses details for the solicitation of voluntary customer transfers. Restrictions on solicitations include frequency of contact, prohibition of incentives to transfer, ceasing solicitations upon customer request, providing information about the other utility, and sharing the solicitation materials and process with the other utility.

Term extension

The existing agreement, approved by this Commission on February 7, 1990, was for a term of 30 years. The amendment extends the term by an additional 30 years until March 31, 2050.

²See Order No. 22506, issued February 7, 1990, in Docket No. 881602-EU, In re: Petition of Talquin Electric Cooperative, Inc. to resolve territorial disputes with City of Tallahassee at p. 4.

³Id.

We believe the mutually agreed upon extension of the term of the agreement demonstrates that the past discord between the City and Talquin has been resolved, and that both parties are productively working together in their and their customers' best interests.

Accordingly, we find that the amendment to the existing agreement is in the best interests of the City, Talquin, and their respective customers. Furthermore, the amendment to the territorial agreement between the City and Talquin will not cause a detriment to the public interest and therefore, we hereby approve it.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the amendment to the territorial agreement between the City of Tallahassee and Talquin Electric Cooperative, Inc. is approved. 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 Commission Clerk, 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 in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 9th day of December, 2014.



HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 30, 2014.

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.