



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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REPORTING

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RECEIVED PSC

DATE: JANUARY 4, 2001

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAY)

FROM: DIVISION OF SAFETY AND ELECTRIC RELIABILITY (BREMAN)
DIVISION OF LEGAL SERVICES (WALKER) *Row modified for VE uom JDJ*

RE: DOCKET NO. 970022-EU - PETITION BY FLORIDA POWER & LIGHT COMPANY FOR ENFORCEMENT OF ORDER 4285, WHICH APPROVED A TERRITORIAL AGREEMENT AND ESTABLISHED BOUNDARIES BETWEEN THE COMPANY AND THE CITY OF HOMESTEAD.

AGENDA: 01/16/01 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\SER\WP\970022.RCM

CASE BACKGROUND

On December 1, 1967, by Order No. PSC 4285, in Docket No. 9056-EU, the Commission approved the Territorial Agreement between Florida Power & Light Company (FPL or Company) and the City of Homestead (City). On January 6, 1997, FPL filed a Petition for Enforcement of PSC Order No. 4285. By Order No. PSC-97-1132-FOF-EU, issued September 29, 1997, the Commission ordered that electric service for Silver Eagle Distributors, Ltd. and Contender Boats shall be transferred from the City to FPL. Additionally, the Commission ordered that the City and FPL shall negotiate in good faith to develop a plan for the transfer of electric service and shall file a petition with the Commission for approval of the transfer.

In March 2000, the Florida Supreme Court upheld the Commission's 1997 decision regarding FPL's right to serve the area known as the Park of Commerce, located within FPL's service

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territory. As a result, the City must transfer two customers, Silver Eagle, Ltd. and Contender Boats, to FPL. On December 1, 2000, FPL filed a Motion for Approval of Transfer of Customers (Motion) with the Commission. A copy of the Motion is included as Attachment A to this recommendation.

The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve FPL's Motion for Approval of Transfer of Customers?

RECOMMENDATION: Yes. FPL's Motion for Approval of Transfer of Customers is in the public interest and should be approved.
(WALKER, BREMAN)

STAFF ANALYSIS:

I. The Proposed Transfer

The Motion for which FPL seeks approval requests the Commission to approve a transfer of customers pursuant to Order No. PSC-97-1132-FOF-EU, issued September 29, 1997, and affirmed by the Florida Supreme Court in Opinion No. SC-91820, issued March 16, 2000, which enforced the FPL-City of Homestead Territorial Agreement, established in Order No. PSC-4285, Docket No. 9056-EU.

Paragraph 1 of the Motion describes the terms and conditions pertaining to the implementation of the territorial agreement between FPL and the City of Homestead. Paragraph 2 contains a purchase option. Any facilities not purchased by FPL will be removed at the expense of the City. Paragraph 3 provides that associated easements, streetlight contracts, franchise agreements and joint use agreements necessary for FPL to provide electrical service to the Park of Commerce will be included with the purchase of the facilities by FPL. Additionally, Paragraph 3 details the procedures in handling major repairs caused by hurricanes, tropical storms, tornadoes, etc. during the transfer period. Paragraph 4 contains the agreement by the City to refund customer deposits and FPL has agreed to require no greater deposit from the customers than the previous deposit with the City. FPL states that the transfer will be scheduled to be completed within one year of Commission approval of its Motion. Further, the Motion provides that if relocation of existing facilities scheduled to be

transferred is required, due to government mandate, prior to the transfer of the facilities, the City shall timely notify FPL by letter to allow for FPL to carry out the relocation.

Based upon information contained in the petition and the motion, staff believes that FPL's proposed transfer is in the best interest of the public.

II. Conclusion

Staff recommends that FPL's Motion for Approval of Transfer of Customers be approved. There does not appear to be any reasonable likelihood that the transfer will cause a decrease in the reliability of electric service to the existing or future ratepayers of City of Homestead and FPL. Staff believes that the transfer is in the public interest and consistent with the Commission's goal to eliminate all existing and potential uneconomic duplication of electrical facilities in the State of Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. There is no further action required to be taken in this docket. Therefore, it should be closed.

STAFF ANALYSIS: The appeal is concluded and the last remaining matter has been addressed by the filing of FPL's Motion for Approval of Transfer of Customers. Therefore, no further action is required to be taken in this docket and it may be closed.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by Florida Power & Light)
Company for Enforcement of)
Order No. 4285 in Docket No.)
9056-EU, which approved a terri-)
torial agreement and established)
boundaries between the Company)
and the City of Homestead.)
_____)

DOCKET NO 970022-EU

53-1000

MOTION FOR APPROVAL OF TRANSFER OF CUSTOMERS

Florida Power & Light Company (hereinafter "FPL") hereby moves and requests the Commission to approve a transfer of customers pursuant to Commission Order No. PSC-97-1132-FOF-EU, dated September 29, 1997, and upheld by the Florida Supreme Court in its Opinion No SC91820, dated March 16, 2000, which enforced the FPL-City of Homestead Territorial Agreement established in the Commission's Order No. 4285 in Docket No. 9056-EU. In support of this Motion, FPL further states:

1 Following the Florida Supreme Court's decision upholding the Order of the Florida Public Service Commission, FPL and the City of Homestead have agreed that the City of Homestead will transfer Silver Eagle, Ltd. and Contender Boats to FPL in order to carry out the Order of this Commission and the Florida Supreme Court.

2. FPL will have the option to purchase existing facilities owned by the City of Homestead which are being used to supply electricity to Silver Eagle, Contender and the Park of Commerce that are useful to them at Net Book Value to be determined at the time the facilities are transferred Any facilities not purchased by FPL will be removed at the expense of the City of Homestead

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3 Associated easements, streetlight contracts, franchise agreements, and joint use agreements necessary for FPL to provide electrical service to the Park of Commerce will be included with the purchase of the facilities by FPL. During the transfer period, if major repairs to the facilities are needed due to damage from a hurricane, tropical storm, tornado, etc , FPL will have the opportunity to do the repairs itself or to allow the City of Homestead to make the repairs and to bill FPL for those expenses.

4 The City of Homestead has agreed to refund customer deposits and FPL will require no greater deposit from the customers than the previous deposit made with the City of Homestead.

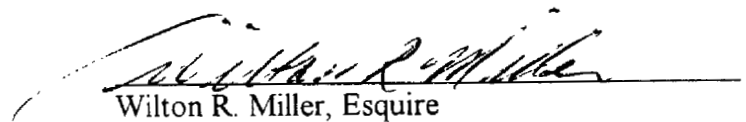
5 The transfer will be scheduled to be completed within one (1) year of Commission approval of this Motion.

6 If relocation of existing facilities scheduled to be transferred is required, due to government mandate, prior to the transfer of the facilities, the City of Homestead shall timely notify FPL by letter to allow for FPL to carry out the relocation.

7. FPL represents that the proposed transfer is in the best interest of the public.

WHEREFORE, FPL respectfully requests approval of the proposed transfer of customers.

Respectfully submitted this 1st day of December, 2000.

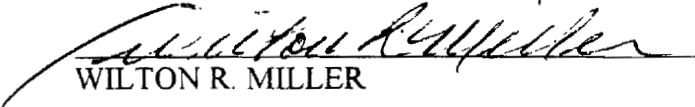


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ATTORNEY FOR FLORIDA POWER &
LIGHT COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion for Approval of Transfer of Customers has been furnished to L. Lee Williams, Jr., Esquire, Williams, Gautier, Gwynn and DeLoach, Post Office Box 4128, Tallahassee, FL 32315-4128, by United States Mail, postage prepaid, this 1st day of December, 2000


WILTON R. MILLER