

In re: Joint petition for approval of agreement concerning service to four customers in Clay County by Clay Electric Cooperative, Inc. and Florida Power & Light Company.

DOCKET NO. 020933-EU
ORDER NO. PSC-02-1644-PAA-EU
ISSUED: November 25, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING 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.

On August 29, 2002, Florida Power & Light Company (FPL) and Clay Electric Cooperative, Inc. (Clay) filed a Joint Petition for Approval of Agreement. The Agreement, attached hereto as Attachment A and incorporated herein by reference, represents the resolution of a customer complaint and issues that arose between FPL and Clay concerning the provision of electric service to four FPL customers in Bradford County. Because FPL and Clay have not previously entered into a territorial agreement with each other relative to Bradford County, the Agreement is recognized as a new territorial agreement for the affected area.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

In March 2001, Mr. Jeffrey McRae submitted a complaint to this Commission concerning an FPL distribution line traversing his property. The line has been used by FPL for over 30 years as a single phase primary line, which crosses Mr. McRae's property and then feeds three other customers: Jerome Johns, C.E. Johns, and Ray Davenport. Clay serves customers in the adjacent area to the south. Clay installed facilities to serve these four customers, leading to a dispute between FPL and Clay concerning the provision of electric service to these customers.

The purpose of the Agreement is to resolve the concerns of and provide electric service to the four customers in this area in an economical and non-duplicative fashion. FPL and Clay have worked cooperatively toward a resolution. Under the Agreement, customers Jerome Johns, C.E. Johns, and Ray Davenport will be transferred from FPL to Clay upon our approval of the Agreement. Those three customers support the transfer of their service to Clay. Further, the Agreement provides that the FPL facilities serving those three customers will be transferred to and removed by Clay, at its own expense. FPL's facilities serving those three customers are aging, and FPL has limited access to the facilities. FPL asserts these facilities have no remaining book value. Under the Agreement, Clay will also remove, at its own expense, all its facilities installed to serve Mr. McRae. Mr. McRae will be served by FPL, and the FPL line crossing Mr. McRae's property will be removed. Mr. McRae supports this resolution.

We find that the Agreement provides a reasonable resolution of Mr. McRae's complaint and avoids potential uneconomic duplication of facilities by FPL and Clay. We note that the FPL facilities being transferred to Clay for removal have no remaining book value. Further, we note that the transfer is supported by the affected customers. We find that the Agreement will likely improve service to the affected customers and is not likely to cause a decrease in the reliability of service to existing or future ratepayers of the two utilities. In conclusion, we find that the Agreement is in the public interest and therefore grant FPL and Clay's Joint Petition for Approval of Agreement.

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Based on the foregoing, it is

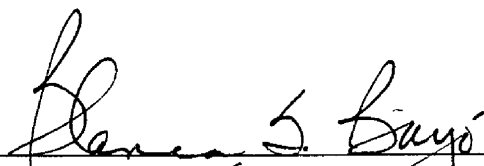
ORDERED by the Florida Public Service Commission that the Joint Petition for Approval of Agreement by Florida Power & Light Company and Clay Electric Cooperative, Inc., is granted. It is further

ORDERED that the Agreement, attached hereto as Attachment A and incorporated in this Order by reference, 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 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 in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 25th day of November, 2002.



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

(S E A L)

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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 December 16, 2002.

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.

Agreement

This Agreement is made between Florida Power & Light Company ("FPL") and Clay Electric Cooperative, Inc. ("Clay") in order to resolve the concerns of and provide electric utility service to four customers in an economical and non-duplicative fashion. FPL and Clay (the "Parties") hereby agree as follows:

1. FPL is providing electric service to the following four customers: Jerome Johns, C.E. Johns, Ray Davenport and Jeffrey McRae. The Parties agree that Jerome Johns, C.E. Johns and Ray Davenport will be transferred to Clay on a date to be agreed upon by the Parties and each customer, and that Clay will henceforth provide electric service to them.
2. FPL has installed certain facilities to serve the three customers being transferred to Clay. The Parties agree that Clay will remove all such FPL facilities at Clay's expense. FPL asserts these facilities have no remaining book value.
3. Clay has installed certain facilities to serve Mr. McRae. The Parties agree that Clay will remove all such facilities at its own expense, including the underground primary and the associated padmount transformer.
4. Removal of facilities as set forth above shall occur on a date or dates to be agreed upon by the Parties.
5. This Agreement shall be effective upon approval by the Florida Public Service Commission.

AGREED this 21ST day of August, 2002.

FLORIDA POWER & LIGHT COMPANY

BY: *A. Williams*
TITLE: *Vice President of Distribution Operations*
DATE: *8/21/02*

CLAY ELCTRIC COOPERATIVE, INC.

BY: *William C. [Signature]*
TITLE: *General Manager*
DATE: *8/8/02*

