

ORIGINAL

Matilda Sanders

From: James A. McGee [jmcgee@tampabay.rr.com]
Sent: Thursday, March 31, 2005 8:24 AM
To: Filings@psc.state.fl.us
Cc: RYoung@yvlaw.net; TTart@ouc.com
Subject: OUC-PEF Joint Petition to Extend Territorial Agreement
Attachments: OUC-PEF Joint Petition 3-31-05.pdf

This electronic filing is made by
James A. McGee
P.O. Box 14042
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727-820-5184
james.mcgee@pgnmail.com

050220 - EU

Docket: None (initial filing).

In re: Joint Petition of Orlando Utilities Commission and Progress Energy Florida for approval of a term extension to their territorial agreement in Orange County.

On behalf of **Orlando Utilities Commission**
and **Progress Energy Florida**.

Consisting of **7 pages**.

The document attached for filing is the above-referenced **Joint Petition**, including the Territorial Agreement Amendment as Exhibit A and a filing letter.

DOCUMENT NUMBER-DATE

03136 MAR 31 05

FPSC-COMMISSION CLERK



ORIGINAL

JAMES A. MCGEE
ASSOCIATE GENERAL COUNSEL
PROGRESS ENERGY SERVICE COMPANY, LLC

March 31, 2005

VIA ELECTRONIC FILING

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

050220-EU

Re: Joint Petition of Orlando Utilities Commission and Progress Energy Florida for approval of a term extension to their territorial agreement in Orange County.

Dear Ms. Bayó:

Enclosed for filing on behalf of Orlando Utilities Commission and Progress Energy Florida, Inc., is the subject Joint Petition.

Please acknowledge your receipt of the above filing as provided in the Commission's electronic filing procedures. Thank you for your assistance in this matter.

Very truly yours,

s/ James A. McGee

JAM/scc
Enclosure

cc: Roy C. Young, Esquire
Thomas B. Tart, Esquire

DOCUMENT NUMBER-DATE

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03136 MAR 31 05

FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Orlando Utilities
Commission and Progress Energy
Florida for approval of a term
extension to their territorial agreement
in Orange County.

Docket No. 050220-EU

Submitted for filing:
March 31, 2005

JOINT PETITION

Orlando Utilities Commission (“OUC”) and Progress Energy Florida, Inc., (“Progress Energy”) (collectively, “the Joint Petitioners”) pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440, F.A.C., jointly petition the Florida Public Service Commission (“the Commission”) for approval of an Amendment to their currently effective territorial agreement in Orange County, attached as Exhibit A, extending the term of the agreement through December 31, 2005, which is intended to allow the Joint Petitioners additional time to pursue their negotiations toward a new territorial agreement to replace the current agreement upon its expiration. In support hereof, the Joint Petitioners represent as follows:

1. The Joint Petitioners are electric utilities organized under the laws of Florida and are subject to the regulatory jurisdiction of the Commission pursuant to Section 366.04(2), F.S. OUC’s principal offices are located in Orlando, Florida. Progress Energy’s principal offices are located in St. Petersburg, Florida.

2. All pleading, notices and other communications in this matter should be served on the undersigned attorneys for OUC and Progress Energy.

3. OUC and Progress Energy are parties to a currently effective territorial agreement delineating their respective service territories in Orange and Osceola Counties (the "Current Agreement"), which was approved by the Commission in Order No. PSC-95-0440-FOF-EU, issued April 5, 1995 in Docket No. 940565-EU. The Current Agreement has 10-year term that will expire on April 13, 2005.

4. With the approach of the Current Agreement's expiration date, OUC and Progress Energy began discussions regarding a new territorial agreement to replace the Current Agreement. It has now become apparent to the parties that pursuing the opportunity to successfully conclude their negotiations will require considerably more time than is afforded by the impending expiration of the Current Agreement. To provide sufficient time for OUC and Progress Energy to thoroughly pursue this opportunity and, if successful, to seek Commission approval of a replacement territorial agreement, the parties have entered into an amendment of the Current Agreement attached as Exhibit A to this Joint Petition (the "Amendment") which, upon approval by this Commission, will extend its expiration date through December 31, 2005.

5. The Commission has long recognized that, properly constructed,
territorial agreements between adjacent utilities are in the public interest. The

Joint Petitioners believe and therefore represent that the Amendment, which will provide them a further opportunity to enter into such a territorial agreement, is similarly in the public interest.

WHEREFORE, OUC and Progress Energy respectfully request that the Commission grant this Joint Petition and approve the Amendment contained in Exhibit A hereto.

Respectfully submitted,

s/ James A. McGee

James A. McGee
Associate General Counsel
Progress Energy Service Company, LLC
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St. Petersburg, Florida 33733-4042
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Facsimile: 727-820-5519
Attorney for
PROGRESS ENERGY FLORIDA, INC.

s/ Roy C. Young

Roy C. Young
Young & van Assenderp, P.A.
Post Office Box 1833
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Facsimile: 850-561-6834
Attorney for
ORLANDO UTILITIES COMMISSION

EXHIBIT A

**AMENDMENT TO TERRITORIAL AGREEMENT
between
Orlando Utilities Commission
and
Progress Energy Florida**

AMENDMENT TO TERRITORIAL AGREEMENT

Orlando Utilities Commission (OUC) and Progress Energy Florida, Inc. (Progress Energy), enter into this Amendment to their Territorial Agreement for Orange County on this 31st day of March, 2005.

WITNESSETH:

WHEREAS, OUC and Progress Energy are parties to a currently effective territorial agreement delineating their respective service territories in Orange County (the Current Agreement), which has been approved by order of the Florida Public Service Commission (FPSC); and

WHEREAS, the term of the Current Agreement will expire on April 13, 2005; and

WHEREAS, OUC and Progress Energy have entered into negotiations for the purpose of reaching a new territorial agreement to replace the Current Agreement upon its expiration; and

WHEREAS, OUC and Progress Energy recognize that they will be unable to successfully conclude their negotiations by the expiration date of the Current Agreement as it presently exists; and

WHEREAS, OUC and Progress Energy desire to extend the expiration of the Current Agreement through December 31, 2005 in order to provide sufficient time to pursue the opportunity for a successful conclusion of their negotiations, and to seek Commission approval of the resulting new territorial agreement,

NOW, THEREFORE, OUC and Progress Energy hereby agree as follows:

1. The term of the Current Agreement, shall be extended to and including December 31, 2005.

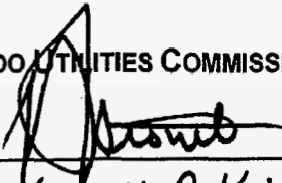
2. Except as modified herein, the terms and conditions of the Current Agreements shall remain in full force and effect.

3. This Amendment to the Current Agreement will become effective and enforceable only upon the issuance of an order by the Florida Public Service Commission approving the Amendment in its entirety.

IN WITNESS WHEREOF, OUC and Progress Energy have caused this Amendment to be executed in duplicate by their duly authorized representatives on the day and year first above stated.


ORLANDO UTILITIES COMMISSION

By


Name: Kenneth P. Ksionek
Title: General Manager + CEO

PROGRESS ENERGY FLORIDA, INC.

By


Name: Vincent M. Dolan
Title: Vice President

APPROVED AS TO FORM
LEGAL DEPARTMENT

DATE: 3-21-05 BY: J. Jant