

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval to extend territorial settlement agreement by Progress Energy Florida, Inc., Tampa Electric Company, and The Mosaic Company. | DOCKET NO. 100336-EU
ORDER NO. PSC-10-0580-PAA-EU
ISSUED: September 22, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING EXTENSION OF TERRITORIAL SETTLEMENT 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 June 23, 2010, Progress Energy Florida, Inc. (PEF), Tampa Electric Company (TECO), and The Mosaic Company (Mosaic), collectively, the Joint Petitioners, filed a joint petition for approval to extend the current Settlement Agreement, approved by Order No. PSC-05-0934-PAA-EU, issued September 21, 2005, in Docket No. 050500-EU. The current Settlement Agreement addresses the provision of electric service to Mosaic's mobile facilities that periodically traverse the approved territorial boundaries between TECO and PEF. It is the third such agreement¹ between the Joint Petitioners, addressing the unique reliability

¹ Two prior settlement agreements were approved by Order Nos. PSC-02-0929-AS-EI, issued July 11, 2002, in Docket No. 020105-EI, In re: Joint petition of Florida Power Corporation and Tampa Electric Company for expedited declaratory relief concerning provision of electric service to an industrial customer's facilities located in Tampa Electric Company's Commission-approved service territory; and PSC-03-1215-PAA-EU, issued October 27, 2003, in Docket No. 030526-EU, In re: Joint petition of Tampa Electric Company, IMC Phosphates Company and Progress Energy Florida, Inc. for approval of provision of electric service by Progress Energy Florida, Inc. to certain facilities owned and operated by IMC Phosphates Company in Tampa Electric Company's Commission-approved service territory.

DOCKET NUMBER DATE
7930 SEP 22 0
FPSC-COMMISSION CLERK

requirements of mobile facilities, payments, and notification of changes in service to this Commission. The Joint Petitioners now seek our approval to extend the current Settlement Agreement, set to expire on October 17, 2010, for an additional five years through October 17, 2015.

We have jurisdiction over this matter pursuant to several provisions of Chapter 366, Florida Statutes, including Sections 366.04, and 366.05, Florida Statutes (F.S.).

Decision

Mosaic operates interconnected phosphate mining equipment consisting of pumps, slurry pipelines, and draglines (mobile facilities) in a region that is bisected by the retail service areas of TECO and PEF. From time to time, Mosaic moves these mobile facilities from one retail service territory to another, traversing the approved territorial boundaries between TECO and PEF. Mosaic prefers that only one utility provide the electric requirements of a mobile facility because the reliability of the mobile facility is compromised when more than one utility provides electric service to different components of the facility.

By Order No. PSC-02-0929-AS-EI, we first approved an agreement that allowed PEF to provide all the electric requirements of a mobile facility regardless of location. By Order No. PSC-03-1215-PAA-EU, we then approved an agreement extending the same concept to certain new phosphate mining operations that were not contemplated at the time Order No. PSC-02-0929-AS-EI was issued. By Order No. PSC-05-0934-PAA-EU, both agreements were replaced by the current Settlement Agreement, which will expire on October 17, 2010.

Under the provisions of the current Settlement Agreement, which the Joint Petitioners are seeking to extend for an additional five years, PEF provides the electric service and bills Mosaic for the usage of the mobile facilities pursuant to PEF's applicable rate schedule. In response to our staff's data request, PEF stated that the Mosaic mobile facilities affected by the agreement include two draglines, two lift pumps, one pit pump, and two booster pumps. Mosaic's load is served at transmission level. PEF pays TECO on a quarterly basis 50 percent of the base revenue collected by PEF from Mosaic for the load covered under the Settlement Agreement. Since PEF actually serves the load, it is appropriate that PEF retains the fuel and other adjustment clause revenues collected from Mosaic and only remits a portion of base revenues to TECO. For the most recent 12-month period, PEF has paid TECO \$39,532.

We recognize that the Joint Petitioners may, of necessity, implement the resolution of future situations concerning electric service to Mosaic's Mobile Facilities, as contemplated in paragraph 4 of the Settlement Agreement, in advance of the Joint Petitioners submitting such resolutions to the Commission for its approval. However, we are satisfied that the procedures and pricing mechanism set forth in paragraph 5 to be used in addressing issues raised by future service to Mosaic Mobile Facilities are sufficiently clear and specific to avoid the exercise of undue discretion by the Joint Petitioners and are in the public interest. This Commission will review each resolution when filed and approve or take other appropriate action in response

thereto, consistent with its statutory authority and as part of its ongoing, active supervision of this settlement and the application and implementation of territorial agreements.²

We find extending the current Settlement Agreement avoids potential retail territorial disputes between TECO and PEF, addresses service reliability, and is consistent with our longstanding policy of encouraging agreements. Therefore, extending the current Settlement Agreement for an additional five years is in the public interest and is approved. The extension to the current Settlement Agreement shall become effective October 17, 2010.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the extension of the current Settlement Agreement shall be approved, effective October 17, 2010, for an additional five years. It is further

ORDERED that if no protest is filed, this docket shall be closed upon the issuance of a Consummating Order. If a protest is filed by a person whose substantial interests are affected within 21 days of this Order approving this extension to the current Settlement Agreement, the current Settlement Agreement shall remain in effect pending resolution of the protest and the docket shall remain open. 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.

² Our staff noted that a similar paragraph was included in Order No. PSC-05-0934-PAA-EU, approving the current Settlement Agreement. In response to our staff's data request about this paragraph, the Joint Petitioners explained that this language recognizes the need for flexibility in the provision of service to Mosaic's mobile mining operations while maintaining the goals of the territorial agreements between PEF and TECO. The Joint Petitioners indicated that this provision contained in this paragraph was not implemented during the term of the current Settlement Agreement. We believe that retaining this language is appropriate.

By ORDER of the Florida Public Service Commission this 22nd day of September, 2010.



ANN COLE
Commission Clerk

(S E A L)

ELS

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 October 13, 2010.

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.