

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: December 26, 2012

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (M. Brown) *MB*
Division of Economics (Garl) *EGD*
Division of Engineering (Watts) *PA J.W.D.*
-T302

RE: Docket No. 120305-EU – Joint petition for renewal of territorial agreement and approval of a third amendment, by Clay Electric Cooperative, Inc. and the City of Green Cove Springs.

AGENDA: 01/08/13 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECO\WP\120305.RCM.DOC

Case Background

On February 11, 1992, the Commission approved a 20-year Territorial Agreement (the Agreement) and two amendments between Clay Electric Cooperative, Inc. (CEC) and the City of Green Cove Springs (the City).¹ The Agreement expired in May of this year and the parties have been operating under the Agreement on a year-to-year basis.

¹ See Order No. 25707, issued February 11, 1992, in Docket No. 911106-EU, In re: Joint Petition for approval of territorial agreement between Clay Electric Cooperative, Inc. and the City of Green Cove Springs.

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On December 5, 2012, CEC and the City jointly filed a petition requesting Commission approval of the renewal of the Agreement and approval of the Third Amendment to the Agreement.

The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve the joint petition for renewal of the Territorial Agreement and the Third Amendment to the Agreement between Clay Electric Cooperative, Inc., and the City of Green Cove Springs?

Recommendation: Yes. The renewal of the Territorial Agreement and the Third Amendment to the Agreement between Clay Electric Cooperative, Inc., and the City of Green Cove Springs is in the public interest and should be approved. (Garl, M. Brown)

Staff Analysis: On December 5, 2012, CEC and the City filed a joint petition for renewal of the territorial agreement and approval of the Third Amendment to the Agreement. The Agreement, previous amendments, the Third Amendment, as well as associated maps and territory description, are included as Attachment A. The original agreement was for a period of 20 years which expired in February 2012. Accordingly, the parties agreed to renew the Agreement and add a Third Amendment as of November 20, 2012.

Pursuant to Section 366.04(2)(d), F.S., the Commission has jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Pursuant to Rule 25-6.0440(2), F.A.C., in approving territorial agreements, the Commission may 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 the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved. Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

The Agreement has not changed, except for the addition of the Third Amendment, which is simply the formal agreement to extend the Agreement for an additional 20 years. The maps the parties provided with their joint petition have not changed and reflect the same boundaries. There are no new customer transfers affected by renewal of the Agreement, so there was no need to contact any customers to explain differences in rates. Likewise, there are no existing facilities being transferred and there is no reasonable likelihood that the renewed Agreement, in and of itself, will cause a decrease in the reliability of electric service to existing or future customers of either party. The parties state that the Agreement renewal will avoid confusion and potential uneconomic duplication of facilities and that the Agreement renewal is in the public interest.

Based on the above, staff recommends that the renewed territorial agreement between CEC and the City is in the public interest and should be approved.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order. (M. Brown)

Staff Analysis: If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.