

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Motion for) DOCKET NO. 891245-EU
approval of Territorial Agreement) ORDER NO. PSC-92-0111-FOF-EU
and Dismissal of Territorial) ISSUED: 3/27/92
Dispute.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On October 23, 1989, Florida Power & Light Company (FPL) filed with the Commission a petition to resolve a territorial dispute with Fort Pierce Utility Authority (FPUA). The petition stated that FPL provided electric service to areas in and around the corporate limits of Ft. Pierce and that FPUA had extended its service area so as to duplicate FPL's facilities.

After several motions were exchanged by the parties, on March 29, 1990 the parties filed with the Commission a joint motion for substitution of parties, and a stipulation and petition for suspension of CASR. The joint motion stated that the parties were negotiating a settlement.

On January 29, 1992, FPL and FPUA filed a joint motion seeking approval of a territorial agreement (agreement) and dismissal of territorial dispute pursuant to Rules 25-6.0439 and 25-6.0440, Florida Administrative Code. The agreement included detailed terms and conditions and specifically identified the geographic area to be served by each utility. The agreement also contained a detailed map of the area.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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This agreement appears to eliminate duplication which has resulted in needless and wasteful expenditures. It also establishes reasonable territorial boundaries to be observed by both parties. The parties have agreed that neither will provide or offer to provide electric service at retail to customers within the territory served by the other party except as provided in Section 2.1 of the agreement.

In order to eliminate overlapping facilities, the parties have agreed to transfer certain customer accounts and distribution facilities. Sections 2.2 & 2.3 of the agreement identify the customer accounts to be transferred. Section 2.5 describes the time frame and conditions under which the accounts will be transferred. The distribution facilities necessary to effect these transfers must be transferred to the appropriate party within three years after the date this order becomes final.

Section 4.1 of the agreement provides that it will remain in effect until this Commission modifies or withdraws approval. Section 4.1 further provides that modification or withdrawal of Commission approval "shall be based on a finding that modification or withdrawal is necessary in the public interest because of changed conditions or other circumstances not present at the time this agreement was approved by the Commission." The parties have agreed on the record that the purpose of this language is to guide the parties and not to bind the Commission. The parties have further agreed on the record that the Commission may modify or withdraw its approval for any lawful reason, and that the Commission is not bound by the above quoted portion of Section 4-1.

All affected customers have been notified of the transfer and have been provided a comparison of the rates of FPL and FPUA.

The agreement does not prevent either party from providing bulk power supply to wholesale customers for resale wherever they may be located.

We believe the proposed agreement satisfies the provisions of Subsection 366.04 (2)(d), Florida Statutes and Rule 25-6.0440, Florida Administrative Code. We also believe that the agreement satisfies the intent of Subsection 366.04(5), Florida Statutes to avoid uneconomic duplication of generation, transmission, and distribution facilities in the state. The agreement is in the best interest of the general body of ratepayers. As provided by Rule 25-6.0440(1), Florida Administrative Code, any modification,

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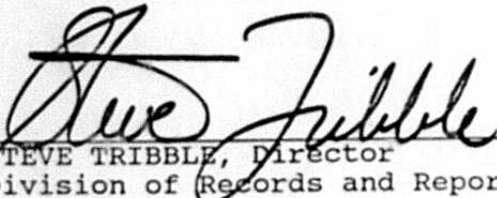
changes, or corrections to the agreement must be approved by this Commission.

It is therefore,

ORDERED by the Florida Public Service Commission that the territorial agreement filed by Florida Power and Light Company and Fort Pierce Utility Authority on January 29, 1992, is hereby approved. It is further

ORDERED that this Order shall become final and the docket closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this
27th day of MARCH, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MAP:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

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The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on

4/17/92.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.