

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power
& Light Company for approval of
Amendment No. 2 to territorial
agreement with Peace River
Electric Cooperative, Inc.

DOCKET NO. 980274-EU
ORDER NO. PSC-98-0735-FOF-EU
ISSUED: MAY 28, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING AMENDMENT TO 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.

By Order No. 18332, issued October 22, 1987, we approved the
original territorial agreement between Florida Power & Light
Company (FPL) and Peace River Electric Cooperative, Inc. (PRECO).
Order No. 18332 became final and effective through Order No. 19140,
issued April 13, 1988. By Order No. 24671, issued June 17, 1991,
the original territorial agreement was amended to modify the
territorial boundary between FPL and PRECO in Manatee County,
Florida.

Section 1 of the original territorial agreement provides in
relevant part:

Section 1 - Term. This Agreement shall become effective
upon approval as a territorial agreement by the Florida
Public Service Commission and shall continue in effect
until termination, or until supplemented or amended by

DOCUMENT NUMBER-DATE

05802 MAY 28 88

FPSC-RECORDS/REPORTING

mutual written agreement of the parties and approval of the Florida Public Service Commission...

Section 6 of the original Territorial Agreement provides in relevant part:

Section 6 - Elimination of Overlapping Services. FPL and PRECO agree to use reasonable efforts to eliminate, during the term of the Agreement, electric service by either party in the retail service areas of the other party. This effort shall include the identification of potential customer and facilities transfers which would eliminate duplication of facilities or avoid hazardous conditions. Any transfers shall be subject to review and approval by the Florida Public Service Commission.

By petition filed February 23, 1998, FPL, with the concurrence of PRECO, seeks our approval of Amendment No. 2 to the territorial agreement, which is attached hereto as Attachment A and incorporated herein by reference. This amendment reflects a minor change in the parties' territorial boundary in Manatee County, Florida. The specific area affected by this amendment is Phase I of a residential subdivision called Saddlebag Creek Ranches (Saddlebag Creek or subdivision).

Saddlebag Creek currently straddles the existing territorial boundary between the utilities' service areas with the majority of the lots lying within FPL's service area. Amendment No. 2 would transfer 13 lots which are located north of the existing territorial boundary from PRECO to FPL. FPL has indicated that it has sufficient distribution facilities in the area to serve the entire subdivision. Neither FPL nor PRECO will exchange or transfer any electrical facilities or existing customers under Amendment No. 2.

FPL estimates that the cost of providing electric service to the 13 lots would be approximately \$12,525 in materials, labor, and overhead. FPL stated that it will not impose a contribution in aid of construction on the subdivision's developer. FPL currently has a distribution line that runs parallel to State Road 70. This distribution line is directly across State Road 70 from the subdivision. FPL has indicated that it will extend service to the subdivision from this distribution line.

ORDER NO. PSC-98-0735-FOF-EU
DOCKET NO. 980274-EU
PAGE 3

Conversely, PRECO has estimated that the total cost of building an extension from its nearest distribution facilities to the subdivision will be approximately \$35,100. PRECO has indicated that it would impose a \$29,100 contribution in aid of construction on the developer. The net cost to PRECO's members, therefore, would be approximately \$6,000.

Based on the foregoing, we find that Amendment No. 2 will promote the more efficient use of, and avoid uneconomic duplication of, FPL and PRECO's facilities within and near the subdivision, consistent with Section 6 of the original territorial agreement. We note that the developer of the subdivision supports this amendment. In conclusion, we find that Amendment No. 2 is in the public interest and should be approved.

Based on the foregoing, it is

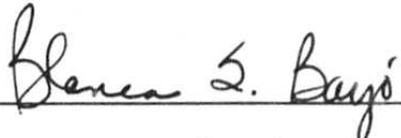
ORDERED by the Florida Public Service Commission that Florida Power & Light Company's petition for approval of Amendment No. 2 to its territorial agreement with Peace River Electric Cooperative, Inc. is granted. The amendment, attached hereto as Attachment A and incorporated herein by reference, will avoid uneconomic duplication of facilities and is in the public interest. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

ORDER NO. PSC-98-0735-FOF-EU
DOCKET NO. 980274-EU
PAGE 4

By ORDER of the Florida Public Service Commission this 28th
day of May, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WCK

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 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.

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 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 18, 1998.

ORDER NO. PSC-98-0735-FOF-EU
DOCKET NO. 980274-EU
PAGE 5

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 substantially 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.

AMENDMENT NO. 2 TO TERRITORIAL AGREEMENT
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND
PEACE RIVER ELECTRIC COOPERATIVE, INC.

Florida Power & Light Company ("FPL") and Peace River Electric Cooperative, Inc. ("PRECO") hereby amend, subject to the approval of the Florida Public Service Commission ("FPSC"), the Territorial Agreement between FPL and PRECO (i) entered on July 17, 1987, and approved by the FPSC on October 22, 1987, by Order No. 18332, and subsequently finalized by the FPSC on April 13, 1988, by Order No. 19140, and (ii) amended on January 28, 1991, and approved by the FPSC on June 17, 1991, by Order No. 24671, as set forth below:

1. The Territorial Agreement between FPL and PRECO, as amended and approved by the FPSC pursuant to Orders Nos. 18332, 19140 and 24671, remains in full force and effect except as further amended herein.
2. This Amendment No. 2 is to again modify Section 2 - Scope of the FPL-PRECO Territorial Agreement, which identified multiple-paged Exhibit A as the maps depicting the FPL-PRECO territorial boundaries in DeSoto, Hardee, Manatee and Sarasota Counties.
3. Pursuant to this Amendment No. 2, the territorial boundary identified on Page 28 of 33 of Exhibit A to the original FPL-PRECO Territorial Agreement is to be modified as depicted

(highlighted) on Amendment No. 2 -- Exhibit A. The area highlighted on Amendment No. 2 -- Exhibit A is a residential subdivision called Saddlebag Creek Ranches, and represents Phase I of that development. As depicted on this map, Phase I of Saddlebag Creek Ranches straddles the existing territorial boundary between FPL's and PRECO's service areas. The majority of the lots in Phase I lie within FPL's service area. This Amendment No. 2 would transfer the highlighted area north of the existing territorial boundary from PRECO to FPL to enable FPL, which already has distribution facilities in the area, to serve the entire development. No electrical facilities or existing customers will be exchanged or transferred by either FPL or PRECO. A metes and bounds description of the area to be transferred is set forth on Amendment No. 2 -- Exhibit B. Amendment No. 2 -- Exhibits A and B are incorporated herein by reference.

4. Upon FPL's and PRECO's execution of this Amendment No. 2, FPL and PRECO will seek approval hereof by filing a petition for such approval with the FPSC.
5. This Amendment No. 2 shall become effective upon its approval by the FPSC.

LAND DESCRIPTION OF NORTHERN PORTION OF SADDLEBAG CREEK RANCHES:

A PARCEL OF LAND LOCATED IN SECTIONS 31 AND 32, TOWNSHIP 35 SOUTH, RANGE 21 EAST, MANATEE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4"X4" CONCRETE MONUMENT (#1735) MARKING THE NORTHEAST CORNER OF THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SECTION 32, TOWNSHIP 35 SOUTH, RANGE 21 EAST, MANATEE COUNTY, FLORIDA, THENCE ALONG THE NORTH LINE OF SAID WEST ONE-HALF NORTH 89°32'48" WEST A DISTANCE OF 2081.41 FEET TO A FOUND 4"X4" CONCRETE MONUMENT (#1324) MARKING THE POINT OF BEGINNING, THENCE CONTINUE NORTH 89°32'48" WEST A DISTANCE OF 5086.81 FEET TO A POINT, THENCE NORTH 01°41'14" EAST A DISTANCE OF 398.11 FEET TO A POINT, THENCE SOUTH 89°16'41" EAST A DISTANCE OF 956.25 FEET TO A FOUND REBAR AND CAP (#2230) MARKING THE SOUTHWEST CORNER OF MARKS PROPERTY AS PER OFFICIAL RECORDS BOOK 1385; PAGE 652, THENCE ALONG THE SOUTHEASTERLY LINE OF SAID MARKS PROPERTY NORTH 77°59'41" EAST A DISTANCE OF 3203.75 FEET TO A FOUND REBAR AND CAP (#2230), THENCE NORTH 00°18'10" WEST A DISTANCE OF 1416.69 FEET TO A POINT, THENCE NORTH 88°20'50" EAST A DISTANCE OF 998.67 FEET TO A SET REBAR AND CAP (#3524), THENCE SOUTH 00°07'43" WEST A DISTANCE OF 2538.00 FEET TO THE POINT OF BEGINNING, CONTAINING 119.18 ACRES MORE OR LESS.

AMENDMENT NO. 2 - EXHIBIT B