

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of amendment to territorial agreement between Florida Power Corporation and Tampa Electric Company.

DOCKET NO. 001448-EI
ORDER NO. PSC-01-0393-PAA-EI
ISSUED: February 15, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PROPOSED 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.

On September 25, 2000, pursuant to Section 366.04(2)(d), Florida Statutes, and Rule 25-6.0440, Florida Administrative Code, FPC and TECO filed a Joint Petition for Approval of Second Amendment to Territorial Agreement. The proposed amendment is included as Attachment A to this Order. FPC and TECO request an amendment to their agreement to continue their efforts to minimize costs to their respective customers by avoiding unnecessary duplications of generation, transmission and distribution facilities.

I. Statutory Authority

DOCUMENT NUMBER-DATE

02147 FEB 15 2001

FPC-RECORDS REPORTING

Section 366.04(2)(d), Florida Statutes, grants this Commission authority to approve territorial agreements between and among rural electric cooperatives, municipal electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. This Commission has enacted Rule 25-6.0440(2), Florida Administrative Code, to administer its statutory authority to approve territorial agreements. This rule governs the approval process. Pursuant to this rule, utilities wishing to have territorial agreements approved by this Commission must petition for approval. In the petition, the utilities must set forth the following information:

1. the geographical area to be served by each utility
2. a map and a written description of the area
3. the terms and conditions pertaining to the implementation of the agreement, and any other terms and conditions pertaining to the agreement
4. the number and class of customers to be transferred
5. assurance that the affected customers have been contacted and the difference in rates explained
6. information with respect to the degree of acceptance by affected customers
7. an official Florida Department of Transportation (DOT) General Highway County map for each affected county depicting boundary lines established by the territorial agreement

In approving territorial agreements, the Commission may consider, but not be limited to consideration of:

- (a) the reasonableness of the purchase price of any facilities being transferred;
- (b) the reasonable likelihood that the agreement, in and of itself, will not cause a decrease in the reliability of electrical service to the existing or future ratepayers of any utility party to the agreement; and
- (c) the reasonable likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities.

The above standards were adopted to ensure that the general body of ratepayers is not harmed by the approval of territorial agreements.

In addition, in interpreting this Commission's authority to review territorial agreements, the Florida Supreme Court has held the appropriate standard is the "no-detriment test." Utilities Comm'n of City of New Smyrna v. FPSC, 469 So. 2d 731 (Fla. 1985). The Court stated that our approval should be based on the effect the territorial agreement will have on all customers in the territory, not just whether transferred customers will benefit. See id. at 732. "For PSC approval, any customer transfer in a proposed territorial agreement must not harm the public." Id. at 733.

II. The Proposed Agreement

The area in question in this docket is an open area planned for development as a residential community. A modification of the territorial boundary in this area is necessary because the layout of the planned community does not provide reasonable access options to both utilities which allows them to comply with the existing territorial boundary. The utilities have proposed a new boundary line which follows lot lines to approximate the historic boundary line and allocates the same number of future customers to each utility. The utility proposal does not follow along natural access routes such as the planned roadways or other natural boundaries.

We believe that the proposal will result in higher costs and decreased quality of service in the area of two cul-de-sac roads, Gorreta Lane and Road Number 2 for the future customers who would be served by FPC in these areas. The proposed agreement holds the potential for uneconomic duplication of facilities because both utilities will be required to access each of these cul-de-sacs when one utility, in this case TECO, can provide service more efficiently and reliably. FPC's additional facilities include two pole lines along residential lot lines from the south, crossing a natural gas easement, and along residential lot lines into the development area addressed by this proposed amendment. FPC's proposed pole lines would bound eight residential lots and require four additional utility easements. FPC estimated the extra cost of building the two pole lines required for access would be at least \$4200. The additional FPC circuit in each cul-de-sac also requires additional terminal poles. We believe FPC's two pole lines and additional terminal poles entails extra cost and will result in higher construction costs, higher maintenance cost, reduced reliability, and access problems for future maintenance and emergency situations.

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There are no current customers affected by this agreement since the new subdivision is not completed. However, we believe the proposed amendment did not fully address the possibility of future customer complaints and customer outages due to lack of access between homes and between lots. A simpler design with one utility serving the above-mentioned cul-de-sacs is likely to reduce lot impacts and create additional savings for the utilities. We hereby deny the petition because the proposed boundary line does not avoid future uneconomic duplications of facilities and is expected to decrease the quality of service to the area as discussed above.

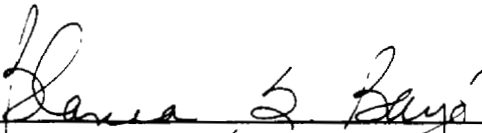
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation and Tampa Electric Company's proposed amendment to their territorial agreement is hereby denied. 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 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" attached hereto. It is further

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

By ORDER of the Florida Public Service Commission this 15th day of February, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.

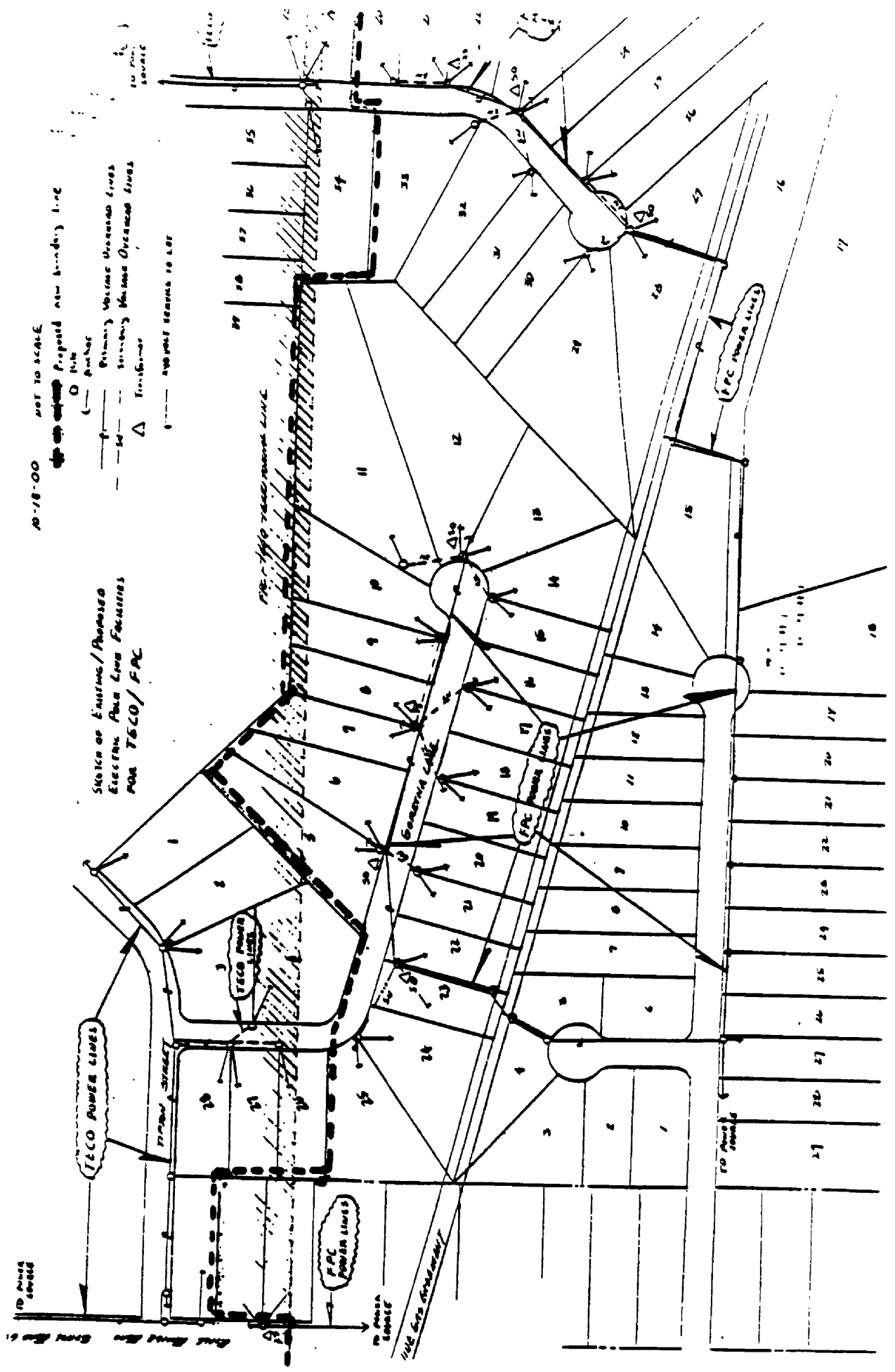
Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 8, 2001.

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 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.

Docket No. 001448-EI
Attachment A: Sketch of Existing and Proposed
TECO/FPC Electric Lines



10-18-00 NOT TO SCALE

Proposed new boundary line

Existing line

Transformer

TECO Transformer

FPC Transformer

Support structure to let

Sketch of Existing/Proposed
Electric Area Line Facilities
FOR TECO/FPC

TECO POWER LINES

FPC POWER LINES

FPC POWER LINES

FPC POWER LINES

FPC POWER LINES

TECO SOURCE

FPC SOURCE

TECO TRANSFORMER

FPC TRANSFORMER

TECO SUBSTATION

FPC SUBSTATION

TECO SOURCE

FPC SOURCE

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