

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of term extension to territorial agreements in Citrus and Pasco Counties, by Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc.

DOCKET NO. 030406-EU  
ORDER NO. PSC-03-0789-PAA-EU  
ISSUED: July 3, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING TERM EXTENSION TO TERRITORIAL AGREEMENTS

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.

Withlacoochee River Electric Cooperative, Inc. ("WREC") and Progress Energy Florida, Inc. ("Progress") are parties to four currently effective territorial agreements delineating their respective service territories in Citrus County (the "Citrus Agreement"), western Pasco County (the "West Pasco Agreement"), eastern Pasco County (the "East Pasco Agreement"), and Hernando County (the "Hernando Agreement"). This Commission approved the Citrus and West Pasco Agreements by Order No. 19610, issued July 5, 1988, in Docket No. 880234-EU; the East Pasco Agreement by Order No. 20368, issued November 30, 1988, in Docket No. 881164-EU; and the Hernando Agreement by Order No. 25309, issued November 7, 1991, in Docket No. 910940-EU.

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The Citrus and West Pasco Agreements have 15-year terms that will expire on July 5, 2003. The East Pasco Agreement also has a 15-year term that will expire on November 30, 2003. The Hernando Agreement has an initial 15-year term that expires on November 7, 2006, and is subject to automatic renewal for an additional 15-year term.

On April 28, 2003, WREC and Progress filed a joint petition seeking approval of an Amendment to the Citrus, West Pasco, and East Pasco Agreements that would extend the term of the three agreements through December 31, 2004. The Amendment is attached hereto as Attachment A. We have jurisdiction over this matter pursuant to Chapter 366, Florida Statutes, including Section 366.04, Florida Statutes.

In their joint petition, WREC and Progress state that, recognizing the impending expirations of the Citrus, West Pasco, and East Pasco territorial agreements, they began discussions aimed at negotiating new territorial agreements to replace the Citrus and West Pasco Agreements and then negotiating a replacement for the East Pasco Agreement. In the course of these discussions, WREC and Progress concluded that their interests and those of their customers would be better served by consolidating all four of their existing territorial agreements, including the Hernando Agreement, into a single comprehensive and updated territorial agreement.

In the joint petition, WREC and Progress assert that the remaining terms of the Citrus, West Pasco, and East Pasco Agreements would not provide the time required to properly prepare a consolidated territorial agreement. They indicate that the work required to produce a comprehensive consolidated territorial agreement would include a detailed field review of the existing territorial boundary lines to determine where modification may be necessary to accommodate changed circumstances. Therefore, WREC and Progress seek approval of an Amendment to the Citrus, West Pasco, and East Pasco Agreements that would extend the term of the three agreements through December 31, 2004, to allow sufficient time to prepare, file, and obtain our approval of a new consolidated territorial agreement.

Subsection (1) of Rule 25-6.0440, Florida Administrative Code, provides that all territorial agreements between electric utilities

must be submitted to this Commission for approval. That subsection further provides that any modifications, changes, or corrections to an approved territorial agreement must be approved by this Commission. Subsection (2) of the rule requires that, in approving a territorial agreement, we consider the following:

- (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 electric 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 Amendment proposed by WREC and Progress serves only to extend the term of the Citrus, West Pasco, and East Pasco Agreements to and including December 31, 2004. The Amendment provides that all other terms and conditions of the three agreements shall remain in full force and effect. The Amendment does not involve a redrawing of boundary lines or a transfer of facilities or customers. Thus, we find that the Amendment does not raise any concern in light of the considerations listed in subsection (2) of Rule 25-6.0440.

Our approval of the Amendment would allow WREC and Progress the additional time they feel is necessary to prepare and obtain our approval of a consolidated territorial agreement for their respective service territories in Citrus, Hernando, and Pasco Counties. Further, we find that approval of the Amendment would have no negative impact on customers. Therefore, we grant the joint petition for approval of the Amendment.

Although the joint petition does not request an effective date for the Amendment, the Amendment itself provides that it shall become effective upon issuance of a Commission order approving the Amendment in its entirety. Consistent with this Commission's practice and the terms of the Amendment, we find that the Amendment shall become effective as of the date this Order becomes final by issuance of a consummating order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the joint petition of Withlacoochee River Electric Cooperative, Inc., and Progress Energy Florida, Inc., for approval of an Amendment to extend the term of the Citrus, West Pasco, and East Pasco territorial agreements is granted. It is further

ORDERED that the Amendment shall become effective as of the date this Order becomes final by issuance of a consummating order.

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 the Commission Clerk and Administrative Services, 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 3rd Day of July, 2003.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

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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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 24, 2003.

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.

AMENDMENT TO TERRITORIAL AGREEMENTS

Withlacoochee River Electric Cooperative, Inc. (WREC) and Progress Energy Florida, Inc., formerly Florida Power Corporation, (Progress Energy) enter into this Amendment to their Territorial Agreements for Citrus and Pasco Counties on this 24th day of April, 2003.

**WITNESSETH:**

WHEREAS, WREC and Progress Energy are parties to four currently effective territorial agreements delineating their respective service territories in Citrus County (the Citrus Agreement), western Pasco County (the West Pasco Agreement), eastern Pasco County (the East Pasco Agreement), and Hernando County (the Hernando Agreement). The Florida Public Service Commission (FPSC) approved the Citrus and West Pasco Agreements by Order No. 19610, issued July 5, 1988 in Docket No. 880234-EU; the East Pasco Agreement by Order No. 20368, issued November 30, 1988 in Docket No. 881164-EU; and the Hernando Agreement by Order No. 25309, issued November 7, 1991 in Docket No. 910940-EU; and

WHEREAS, in recognition of the impending expirations of the Citrus and West Pasco Agreements on July 5, 2003, and the East Pasco Agreement on November 7, 2003, WREC and Progress Energy began negotiations for the purpose of entering new territorial agreements to replace the soon to expire agreements, and, in the course thereof, concluded that their interests and those of their customers would be best served by consolidating all of the existing Territorial Agreements, including the Hernando Agreement, into a single updated agreement; and

WHEREAS, in view of the expanded scope of work to produce a comprehensive consolidated territorial agreement, WREC and Progress Energy desire to extend the

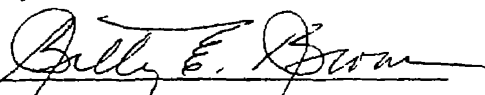
expiration dates of the Citrus, West Pasco and East Pasco Agreements in order to provide sufficient time to properly prepare the consolidated territorial agreement.

NOW, THEREFORE, WREC and Progress Energy hereby agree as follows:

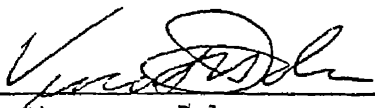
1. The terms of the Citrus, West Pasco and East Pasco Agreements shall be extended to and including December 31, 2004.
2. Except as modified herein, the terms and conditions of the Citrus, West Pasco and East Pasco Agreements shall remain in full force and effect.
3. This Amendment to the Territorial Agreements will become effective and enforceable only upon the issuance of an order by the Florida Public Service Commission approving the Amendment in its entirety.

IN WITNESS WHEREOF, WREC and Progress Energy have caused this Amendment to be executed in duplicate by their duly authorized representatives on the day and year first above stated.

**Withlacoochee River Electric  
Cooperative, Inc.**

By   
Name: Billy E. Brown  
Title: Executive Vice President

**Progress Energy Florida, Inc.**

By   
Name: Vincent M. Dolan  
Title: Vice President