

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition of Withlacoochee River Electric Cooperative, Inc. to modify territorial agreement or, in the alternative, to resolve territorial dispute with Progress Energy Florida, Inc. in Hernando County.

DOCKET NO. 040133-EU
ORDER NO. PSC-04-0339-PCO-EU
ISSUED: March 31, 2004

ORDER GRANTING MOTION TO TOLL TIME FOR RESPONSE TO PETITION

This proceeding was initiated by the filing of a petition by Withlacoochee River Electric Cooperative, Inc. (WREC) requesting that the Commission modify its territorial agreement with Progress Energy Florida, Inc. (Progress). WREC is requesting the modification in order to serve the entire 425 acre property owned by Majestic Oaks Partners, LLC (Majestic). The existing territorial boundary splits Majestic's property between the service areas of WREC and Progress.

On March 1, 2004, Progress filed an Agreed Upon Motion to Toll Time for Response to Petition. No response was filed to Progress's motion. In the motion, Progress requests to toll the time for filing its response to the petition of WREC until seven days after either WREC or Progress files a notice with the Commission terminating the tolling period.

In support of the motion, Progress states that it and WREC have recently undertaken discussions to try to reach a settlement of the issues currently pending before the Commission. According to Progress, an initial meeting on February 25, 2004, produced constructive and promising discussions regarding settlement, as well as the recognition that settlement discussions would be aided by the cessation of adversarial pleadings to allow settlement talks to continue. Based upon this understanding, counsel for WREC and Progress have agreed to an arrangement whereby the time for filing Progress's response would be tolled until seven days after either party files a notice with the Commission terminating the tolling period, with the notice served by either facsimile, electronic mail, or overnight delivery. Both parties believe that the tolling of time requested by the motion would facilitate their efforts to reach a settlement of this proceeding. Progress states that the counsel for WREC has authorized it to represent that WREC supports and concurs with the motion and the tolling of time requested for the filing of Progress's responsive pleading.

Having reviewed the motion and considered the arguments, I find that Progress's Motion to Toll Time for Response to Petition shall be granted. In order to allow the parties time to negotiate a settlement, the time for Progress to file its response to the petition of WREC shall be tolled until seven days after either WREC or Progress files a notice with the Commission terminating the tolling period. In addition, Progress and WREC shall file joint status reports every 60 days from the date of this Order apprising the Commission of the status of settlement discussions.

DOCUMENT NUMBER-DATE

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Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Progress Energy Florida, Inc.'s Agreed Upon Motion to Toll Time for Response to Petition is hereby granted as set forth in the body of this Order. It is further

ORDERED that Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc. shall file joint status reports every 60 days from the date of this Order apprising the Commission of the status of settlement discussions.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 31st day of March, 2004.



LILA A. JABER
Commissioner and Prehearing Officer

(SEAL)

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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 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in

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the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.