

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial settlement agreement by Tampa Electric Company, Progress Energy Florida, Inc., and The Mosaic Company.

DOCKET NO. 050500-EU
ORDER NO. PSC-05-0934-PAA-EU
ISSUED: September 21, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING TERRITORIAL SETTLEMENT 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.

BACKGROUND

On July 25, 2005, Progress Energy Florida, Inc. (PEF), Tampa Electric Company (TECO), and Mosaic Phosphates Company (Mosaic) filed a joint petition for approval of a Settlement Agreement that addresses the provision of electric service to Mosaic's mobile facilities, which periodically traverse the approved territorial boundaries between TECO and PEF. The proposed Settlement Agreement is the third such agreement between the Joint Petitioners that addresses the unique reliability requirements of mobile facilities, payments, and Commission notification of changes in service. The prior agreements approved in Order Nos. PSC-02-0929-AS-EI¹ and PSC-03-1215-PAA-EU² expire on August 10, 2005 and November 20,

¹ In Re: Joint petition of Florida Power Corporation and Tampa Electric Company for expedited declaratory relief concerning provision of electric service to an industrial customer's facilities located in Tampa Electric Company's Commission-approved service territory, issued July 11, 2002, in Docket No. 020105-EI.

² In Re: Joint petition of Tampa Electric Company, IMC Phosphates Company and Progress Energy Florida, Inc. for approval of provision of electric service by Progress Energy Florida, Inc. to certain facilities owned and operated by IMC Phosphates Company in Tampa Electric Company's Commission-approved service territory, issued October 27, 2003, in Docket No. 030526-EU.

DOCUMENT NUMBER-DATE

08924 SEP 21 05

FPSC-COMMISSION CLERK

2005, respectively. The proposed Settlement Agreement (Attachment 1) is intended to replace the prior agreements, extend the same mechanisms approved in the prior orders for an additional five years, and change the payments Mosaic will make to TECO. The Settlement Agreement requires our approval to be consistent with statutory authority and as part of the Commission's ongoing, active supervision of electric utility territorial agreements.

As explained below, we approve the Settlement Agreement. We have jurisdiction pursuant to Sections 366.04, and 366.05, Florida Statutes.

DECISION

Mosaic operates interconnected phosphate mining equipment, consisting of pumps, slurry pipelines, and draglines (mobile facilities), in a region that is bisected by the retail service areas of TECO and PEF. From time to time, Mosaic moves these mobile facilities from one retail service territory to the other, traversing the approved territorial boundaries between TECO and PEF. Mosaic prefers that only one utility provide the electric requirements of its mobile facility, because reliability is compromised when more than one utility provides electric service to different components of the facility.

In Order No. PSC-02-0929-AS-EI, we approved an agreement between TECO, PEF and Mosaic that allows one utility to provide all the electric requirements of a mobile facility regardless of location. In Order No. PSC-03-1215-PAA-EU, we approved an agreement extending the same concept to certain new Mosaic phosphate mining operations that were not contemplated at the time the first Order was issued. The proposed Settlement Agreement is substantially similar to the existing agreements. The only material change is the proposed termination of certain payments Mosaic currently makes to TECO for the load that is located in TECO's territory but served by PEF.

Under the new agreement, Mosaic will only be required to make payment to PEF pursuant to PEF's then-current IST-1 or otherwise applicable rate schedule. This differs from the existing agreement, which requires Mosaic to pay TECO an amount equal to the positive difference between the base rate charges billable under TECO's IST-1 rate schedule and PEF's IST-1 rate schedule. Under the new agreement, Mosaic will only be required to make payments to TECO if Mosaic fails to notify TECO prior to the commencement of new service to a mobile facility as described in Paragraph 5 of the proposed agreement. As under the existing agreement, PEF will pay TECO 50% of the base revenues (adjusted for the appropriate interruptible service billing credit) collected from Mosaic for the load. The new agreement provides for identical treatment for load that is located in PEF's territory but served by TECO. The proposed change in payments does not result in lower rates to Mosaic than would otherwise be applicable to non-mobile facilities.

The Commission recognizes that the parties may, of necessity, implement the resolution of future situations concerning electric service to Mosaic's Mobile Facilities, as contemplated in paragraph 4 of the Settlement Agreement, in advance of the parties submitting such resolutions to the Commission for its approval. However, we are satisfied that the procedures and pricing mechanism set forth in paragraph 5 to be used in addressing issues raised by future service to

Mosaic Mobile Facilities are sufficiently clear and specific to avoid the exercise of undue discretion by the parties and are in the public interest. The Commission will review each resolution when filed and approve or take other appropriate action in response thereto, consistent with its statutory authority and as part of its ongoing, active supervision of this settlement and the application and implementation of territorial agreements.

The proposed Settlement Agreement avoids potential retail territorial disputes between TECO and PEF, addresses service reliability, and is consistent with the Commission's longstanding policy of encouraging agreements. We find that the proposed Settlement Agreement is in the public interest and we approve it, effective with the issuance of our Consummating Order in this docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint petition for approval of territorial settlement agreement by Tampa Electric Company, Progress Energy Florida, Inc., and The Mosaic Company is granted. It is further

ORDERED that this Order shall become final upon 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

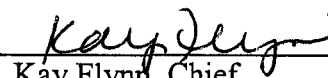
ORDERED that the settlement agreement shall be effective upon issuance of the Consummating Order. It is further

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

By ORDER of the Florida Public Service Commission this 21st day of September, 2005.

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

By:



Kay Flynn, Chief
Bureau of Records

(SEAL)

MCB

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 October 12, 2005.

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.