

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and petition to rescind approval of territorial agreement between Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc. by Mark Williams, as Trustee of S.A. Williams Trust, and S.A. Williams Corporation.

DOCKET NO. 090011-EU
ORDER NO. PSC-10-0304-PAA-EU
ISSUED: May 12, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING JOINT PETITION TO AMEND TERRITORIAL AGREEMENT
AND ACKNOWLEDGING VOLUNTARY DISMISSAL OF MARK WILLIAMS' PETITION
WITHOUT PREJUDICE

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 March 24, 2010, Progress Energy Florida, Inc. (PEF), Withlacoochee River Electric Cooperative (WREC), and Mr. Mark Williams (Customer), filed a petition to amend the current territorial agreement between PEF and WREC that was approved by Commission Order No. PSC-06-0202-PAA-EU.¹ The petition was submitted as a result of an agreement made to resolve all outstanding issues related to a January 5, 2009 complaint and petition filed by Mr. Williams. The petition to amend the current territorial agreement resolves the Customer's dispute concerning the provision of electric service to his property. On March 25, 2010, we received a notice of voluntary dismissal without prejudice of Mr. Williams' complaint and petition.

¹Order No. PSC-06-0202-PAA-EU, issued March 14, 2006, in Docket No. 040133-EU, 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.

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We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes.

DECISION

As stated in the March 24, 2010 joint petition, PEF and WREC are parties to a currently effective territorial agreement delineating their respective territories. The approved territorial agreement allowed Mr. Williams' property to be divided and served in part by both utilities. PEF, WREC, and Mr. Williams have resolved the dispute brought forth by Mr. Williams concerning the provision of electric service to his property. The Customer has agreed to cooperate in the transfer of his existing service to WREC, including access to his property. Pursuant to the terms of the agreement, the installation of the new service lines by WREC for the existing service, and the removal of PEF's equipment, service lines, and any appropriate remediation shall be coordinated and performed by the utilities without cost to the Customer. Any new connections or expansion of the service for future needs shall be pursuant to the applicable WREC policies and rates. The stipulation does not affect PEF's transmission lines and access easements upon the Customer's lands. Other than changing the boundaries affecting the Customer's parcels, as reflected in boundary modification maps attached to the filing, the amendment agreement indicates that there are no other proposed changes to the current territorial agreement we approved in 2006.

In addition to the agreement discussed above, on March 25, 2010, Mr. Williams filed a notice of voluntary dismissal without prejudice. The notice effectively withdrew Mr. Williams' complaint and petition against PEF and WREC.

Rule 25-6.0440(2), Florida Administrative Code, provides that in approving territorial agreements, we may consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities. We have determined that the agreement will not cause a detriment to the public interest, and the agreement shall be approved. We acknowledge the voluntary dismissal without prejudice of Mr. Williams' complaint and petition.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative's joint petition to amend the current territorial agreement between PEF and WREC that was approved by Commission Order No. PSC-06-0202-PAA-EU is hereby granted. It is further

ORDERED that Mark Williams' notice of voluntary dismissal without prejudice is hereby acknowledged. 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 Commission Clerk, 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 12th day of May, 2010.



ANN COLE
Commission Clerk

(S E A L)

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 2, 2010.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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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.