

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of amended territorial agreement in Citrus County by Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc. | DOCKET NO. 100282-EU
ORDER NO. PSC-10-0559-PAA-EU
ISSUED: September 7, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

NOTICE OF PROPOSED AGENCY ACTION
ORDER AMENDING 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.

Background

On May 12, 2010, Progress Energy Florida, Inc. (PEF) and Withlacoochee River Electric Cooperative, Inc. (WREC) filed a joint petition for approval to amend the territorial agreement approved by Order No. PSC-06-0202-PAA-EU.¹ That order dealt with the consolidation and amendment of several territorial agreements between PEF and WREC in Citrus, Pasco, and Hernando Counties, as well as an agreement that resolved a territorial dispute involving a parcel of land owned by Majestic Oaks Partners, LLC in Hernando County. This joint petition requests a modification to the territory boundary in Citrus County at Crystal Paradise Estates Units 3 & 4, in order to comply with a requirement by Citrus County to vacate a right-of-way within the Crystal River Airport as part of a taxiway relocation and widening project. This amendment will require the transfer of approximately 31 customers and related distribution facilities currently served by PEF to WREC.

¹ See Order 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.

DOCUMENT NUMBER-DATE

07509 SEP-7 2010

FPSC-COMMISSION OFFICE

This Order addresses the parties' joint petition for approval of the amended territorial agreement. We have jurisdiction over the matter pursuant to Section 366.04, Florida Statutes (F.S.).

Analysis and Ruling

As stated above, PEF and WREC filed a joint petition for approval to amend the territorial agreement approved by Order No. PSC-06-0202-PAA-EU. The need for the amendment arose because of a Citrus County construction project to relocate and widen the Crystal River Airport Taxiway. As stated in an April 28, 2010 letter from the Southwest Florida Water Management District to the County, the project has not been completed to specification. The County must complete the removal of a berm in an on-site retention pond. PEF currently has distribution facilities that are located within the berm, and the facilities must be disconnected and removed in order for the County to comply with the project specifications. In order to continue to serve the approximately 31 customers currently served by those facilities, PEF would have to construct new facilities and re-route distribution lines. The affected customers are located near the PEF/WREC territory boundary and are directly adjacent to customers currently being served by WREC. Therefore, in order to avoid duplication of services and wasteful expenditures, the parties have agreed to modify the service territory boundary and transfer the 31 customers from PEF to WREC.

The transfer of customers will be initiated as soon as possible to allow the County to comply with the construction project specifications. The current PEF lines will be disconnected from a terminal pole on the south side of the Crystal River Airport, and the underground distribution facilities that currently run south to north under the airport property will be removed. The underground facilities will also be disconnected from the terminal pole on the north side of the airport. This terminal pole will be transferred to WREC, and WREC will make a connection to the pole to serve the affected customers. PEF will refund all applicable deposits to the transferred customers, and WREC does not plan to require a deposit initially in order to lessen the impact on the customers. Each of the customers that will be affected by the transfer was sent a letter explaining the provisions of the proposed amendment and the necessity of Commission approval, and informing them of their opportunity to be heard regarding the petition. To date, the parties have received no customer responses to the proposed amendment.

Pursuant to Section 366.04(2)(d), F.S., we have jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Pursuant to Rule 25-6.0440(2), Florida Administrative Code, 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. Unless we determine that the agreement will cause a detriment to the public interest, the agreement should be approved. Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

In this instance, we find that the territorial amendment proposed by PEF and WREC eliminates existing or potential uneconomic duplication of facilities, does not cause a decrease in the reliability of electric service to existing or future ratepayers, will not occur at any significant cost, and prevents wasteful expenditures by the parties. It also allows Citrus County to complete its airport construction project to specification. Based on all of the above, the proposed amendment to the current territorial agreement is in the public interest and is hereby approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed amendment to the current territorial agreement approved by Order No. PSC-06-0202-PAA-EU between Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc. is in the public interest and is hereby approved. 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 7th day of September, 2010.



ANN COLE
Commission Clerk

(SEAL)

ARW

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 September 28, 2010.

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.