

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of agreement  
for temporary territorial variance between  
Tampa Electric Company and Peace River  
Electric Cooperative, Inc.

DOCKET NO. 120247-EU  
ORDER NO. PSC-12-0661-PAA-EU  
ISSUED: December 17, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING AGREEMENT FOR TEMPORARY TERRITORIAL VARIANCE

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 October 2, 2012, Tampa Electric Company (TECO) and Peace River Electric Cooperative, Inc. (PRECO) filed a joint petition for Approval of Agreement for Temporary Territorial Variance (variance agreement).

The variance agreement resulted from a complaint and request for expedited relief filed by Mosaic Fertilizer LLC (Mosaic) in Docket No. 120225-EU against TECO and PRECO. Mosaic has phosphate mining operations located in Hillsborough and Manatee Counties. These operations involve the use of mobile draglines and related equipment that traverse the mining areas. Mosaic has two new planned mining sites, in separate areas, each of which is located partly in TECO's and partly in PRECO's Commission approved service territories. The electric-consuming mobile facilities in the two planned sites will traverse the territorial boundaries between TECO and PRECO in the normal course of business. Mosaic stated that due to the mobile nature of its mining operations, it is not only impractical, but unsafe and inefficient for Mosaic to take power from two different utilities for the same operations. To ensure the safety

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of its operation, Mosaic requires that power be delivered from a single source supplier. Mosaic takes service at 69 kilovolt (KV) transmission level.

Mosaic stated in its complaint that despite discussions over several months, TECO and PRECO had been unable to resolve the issue of electric service to Mosaic. Mosaic became concerned that no resolution would be reached and presented for Commission approval prior to Mosaic's need to begin mining the two new areas as soon as November 2012. Therefore, Mosaic requested that the Commission resolve the complaint on an expedited basis and require a single utility provider to provide service to Mosaic's mobile mining equipment that traverses the territorial boundaries between TECO and PRECO.

On September 21, 2012, staff sent data requests in Docket No. 120225-EU to Mosaic, TECO, and PRECO. On September 25, in an informal meeting between the parties to discuss the complaint and Mosaic's planned mining sites, TECO and PRECO represented that they were attempting to satisfy Mosaic's power supply needs for its planned mining operations. Shortly thereafter, on September 28, 2012, TECO and PRECO entered into a variance agreement designed to enable the two utilities to each serve one of the two planned Mosaic mining sites. TECO and PRECO filed this petition for a territorial variance on October 2, 2012, and on October 3, 2012, Mosaic filed a voluntary dismissal of its complaint. Mosaic has represented that it supports the proposed variance agreement.

As explained below, we approve the proposed temporary territorial variance. We note that in Docket No. 120248-EU we approved a new 25-year territorial agreement between TECO and PRECO to replace the territorial agreement that expired in May 2012. The new territorial agreement includes a provision that allows for agreements for variances such as the one proposed here. We have jurisdiction over this matter pursuant to section 366.04, Florida Statutes.

### DECISION

#### Mosaic's planned mining areas

There are two mining areas at issue, both approximately 700 acres in size. The first area is referred to as F1 Clay Settling Area (F1), and is adjacent to Mosaic's Four Corners processing plant. That area is located primarily in PRECO's service territory in Manatee County. Mosaic expects pre-production activities to start in January 2013 and last approximately 1 ½ years. Pre-production activities include dredge mining to remove clay and sand pumping to remove sand from the area to be mined. Both the dredge mining and sand pumping operations will have continuous pump systems that will cross between PRECO and TECO service territory. Once the pre-production mining is complete, Mosaic expects dragline production mining to last approximately four years. The draglines may cross the TECO/PRECO territorial boundary multiple times a day. The F1 mining site is shown in Attachment A to this Order.

The second area is referred to as Mining Unit 20E (20E), and is located primarily in TECO's service territory in Hillsborough County. Mosaic's mining process in 20E will include pre-production dewatering pumps to lower the water table in the area to be mined, and dragline

production mining. Operations are expected to start in spring 2013 and last approximately four years. The 20E mining site is shown in Attachment B to this Order.

Proposed variance agreement

Under the proposed variance agreement, PRECO will serve the F1 mining area, and TECO will serve the E20 mining area. With respect to the F1 area, the variance agreement specifies that while PRECO will serve Mosaic's phosphate load within the F1 area as shown in Attachment A, TECO will continue to serve all existing pump load in Hillsborough and Polk County, and any other phosphate load. The parties state that the proposed agreement will honor Mosaic's request for a single source transmission level power supply to each of the two mining sites in a manner that will avoid unnecessary and uneconomic duplication of transmission facilities. The variance agreement is effective for an initial term of five years and will be effective on the date our Order approving the agreement is issued. Thereafter, the variance agreement shall extend for succeeding one year terms until terminated by either party upon one year's advance written notice to the other party. The agreement may also be terminated in advance of the expiration of the initial term or any subsequent one year extensions upon receipt of written notice by Mosaic.

The proposed provision of electric service to Mosaic in the F1 and E20 areas aligns itself with the territorial agreement between TECO and PRECO the Commission approved in 1987. That agreement establishes that the territorial boundary line is the county line separating Hillsborough and Manatee Counties, with TECO providing service north of the boundary line in Hillsborough County, and PRECO providing service south of the boundary line in Manatee County.

The proposed variance agreement is temporary in nature and does not require the amendment of the Commission approved territorial agreement between TECO and PRECO. As stated in the background, the 1987 territorial agreement has expired and we approved a new long term territorial agreement in Docket No. 120248-EU. The new territorial agreement allows for temporary agreements for variances such as the one proposed in this docket without formal modification of the agreement. Mosaic will take service under each utility's appropriate rate tariff.

F1 area

Both TECO and PRECO have existing facilities in close proximity to the proposed loads. PRECO does not generate electricity and purchases wholesale power from Seminole Electric Cooperative, Inc. (Seminole). Seminole purchases additional power from TECO specifically to allow PRECO to serve Mosaic's mining load around the F1 area through a wholesale delivery meter near the F1 area. PRECO has used this wholesale delivery point in the past to serve other Mosaic mining operations. To enable PRECO to serve the F1 area, TECO and Seminole extended their wholesale contract for TECO to sell power to Seminole for delivery to PRECO, using TECO's transmission lines. TECO explained that Mosaic takes service within TECO's territory as an interruptible customer for processing plants and other mining related activities and needs all its phosphate load to be interrupted at the same time. The wholesale arrangement

whereby TECO provides power to PRECO via a TECO/Seminole wholesale contract ensures that if there is an interruption on TECO's system, Mosaic's F1 load served by PRECO gets interrupted at the same time as any Mosaic load served by TECO associated with but outside the F1 mining site. TECO further stated that, although the current wholesale contract between TECO and Seminole will expire in December 2012, an extension of the contract has been filed with the Federal Energy Regulatory Commission (FERC) for approval. TECO does not anticipate that FERC will object to the contract extension.

#### 20E area

Neither TECO nor PRECO will have to install any facilities to serve the 20E area. However, Mosaic will have to expand its existing transmission facilities to serve the 20E mining load from either TECO or PRECO. If Mosaic extends its transmission lines to TECO's nearest transmission metering point, Mosaic will need to build approximately ½ mile of transmission line because the bulk of the mining area is in Hillsborough County. If Mosaic extends its transmission lines to PRECO's nearest metering point, Mosaic will need to build approximately two miles of transmission lines to reach the mining site. For issues of safety and cost to Mosaic, as well as avoidance of duplication of facilities, it therefore is reasonable that TECO serve the 20E area.

#### Additional agreements affected

Both Florida Power & Light Company (FPL) and Progress Energy Florida, Inc. (PEF) are adjacent utilities with existing territorial agreements with TECO and PRECO addressing the areas where the two planned Mosaic mining sites are located. These agreements require that FPL and PEF agree to any changes in who serves the areas. Both FPL and PEF have consented to the approval of the proposed variance agreement.

#### Prior Commission Orders related to Mosaic

In prior dockets we have recognized the unique reliability requirements of Mosaic's mobile facilities that traverse territorial boundaries and approved agreements that traverse the territorial boundaries between utilities serving in the area.<sup>1</sup> We previously approved a temporary territorial variance that enabled TECO to provide service to Mosaic's Altman mining facility in northern Manatee County.<sup>2</sup> The Altman facility is located in PRECO's service territory. Adjacent utilities FPL, PEF, and PRECO did not have facilities in place at the time to serve the

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<sup>1</sup> See Order Nos. PSC-02-0929-AS-EI, issued July 11, 2002, in Docket No. 020105-EI, 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.; PSC-03-1215-PAA-EU, issued October 27, 2003, in Docket No. 030526-EU, 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.; and PSC-10-0580-PAA-EU, issued September 22, 2010, in Docket No. 10036-EU, In re: Joint petition for approval to extend territorial agreement by Progress Energy Florida, Inc., Tampa Electric Company, and The Mosaic Company.

<sup>2</sup> Order No. PSC-07-0906-PAA-EI, issued November 8, 2007, in Docket No. 070546-EI, In re: Petition for expedited approval of temporary territorial variance by Tampa Electric Company.

Altman facility in a economically feasible manner, while TECO was able to provide immediate service.

Conclusion

We find that a temporary territorial variance is in the public interest in this instance, and we approve it. The variance provides a resolution to Mosaic's concerns raised in its complaint and avoids a territorial dispute between TECO and PRECO. The parties shall file a report with us at the end of the initial 5-year term of the variance agreement regarding the status of the provision of temporary service to Mosaic, and shall notify us at the termination of the variance agreement.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint petition for approval of agreement for temporary territorial variance between Tampa Electric Company and Peace River Electric Cooperative, Inc. is approved. It is further

ORDERED that the parties shall file a report with us at the end of the initial 5-year term of the variance agreement regarding the status of the provision of temporary service to Mosaic, and shall notify us at the termination of the variance agreement. 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 17th day of December, 2012.



DOROTHY E. MENASCO  
Commission Deputy Clerk II  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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.

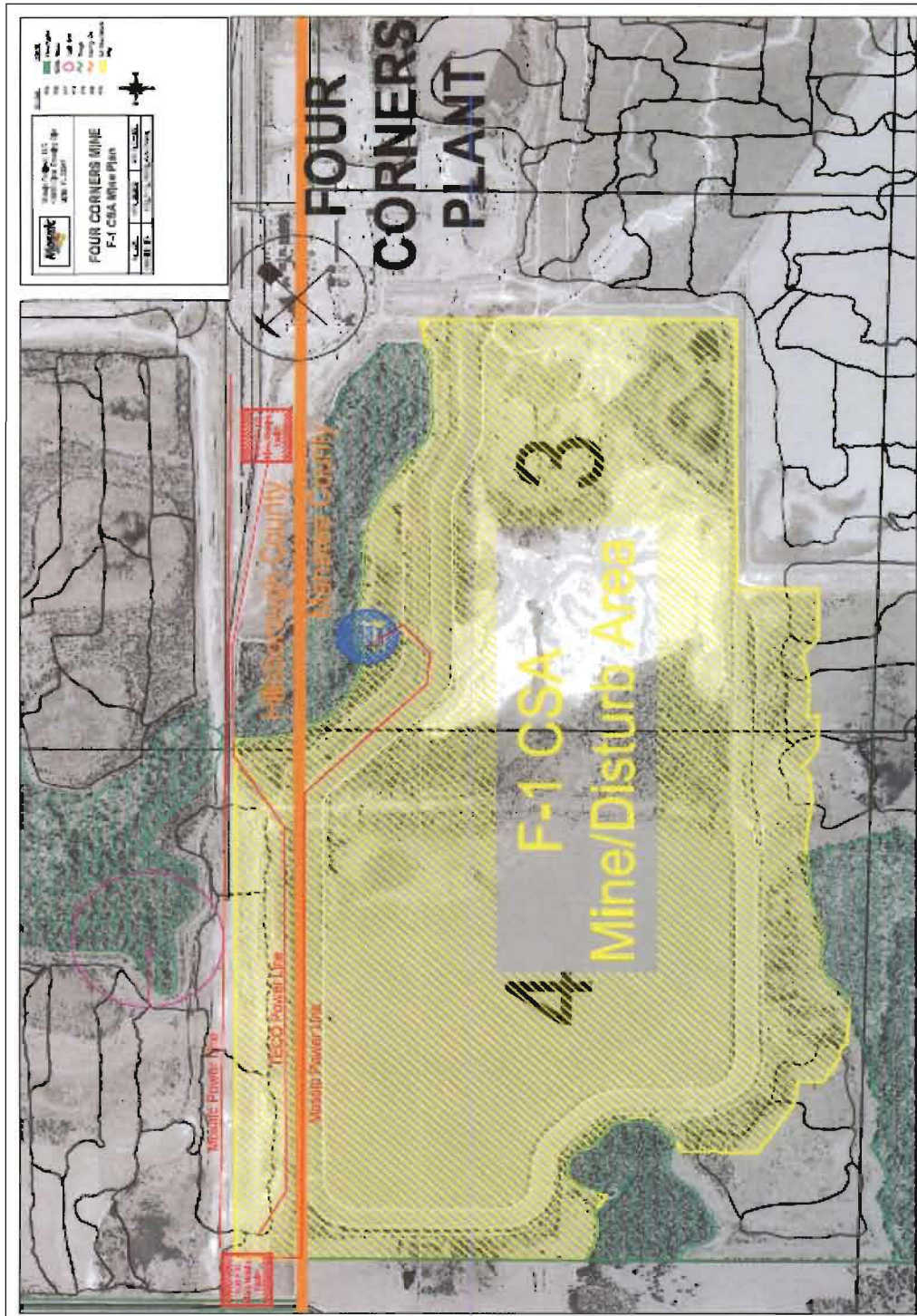
Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 January 7, 2013.

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.

F1 Mining Area



E 20 Mining Area

