

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial agreement in Alachua County by Clay Electric Cooperative, Inc. and the City of Newberry.

DOCKET NO. 160242-EU
ORDER NO. PSC-17-0054-PAA-EU
ISSUED: February 20, 2017

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS
DONALD J. POLMANN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING 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 (F.A.C.).

BACKGROUND

On December 7, 2016, Clay Electric Cooperative, Inc. (Clay) and the City of Newberry (Newberry) filed a joint petition for approval of a territorial agreement (proposed agreement) in Alachua County. The proposed agreement is Attachment A to the petition while the maps and written descriptions delineating the area to be served by the proposed agreement are provided in the petition as Exhibits A and C, respectively (due to the voluminous nature of the exhibits, they are not attached to this order). The joint petitioners' territorial agreement was approved by the Commission in 1991 and amended in 2001 (current agreement).¹ The current agreement expired on September 18, 2009. The joint petitioners stated that they continued to abide by the current agreement after its expiration. The joint petitioners responded to staff's data request on January 5, 2017. This Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

DECISION

Pursuant to Section 366.04(2)(d), F.S. and Rule 25-6.0440(2), F.A.C., this Commission has jurisdiction to approve territorial agreements between and among rural electric cooperatives,

¹ Order No. 25080, issued September 18, 1991, in Docket No. 910678-EU, In re: Joint Petition of Clay Electric Cooperative, Inc. and City of Newberry, Florida for approval of territorial agreement; Order No. PSC-01-0566-PAA-EU, issued March 12, 2001, in Docket No. 001834-EU, In re: Joint petition for approval of amendment to territorial agreement between Clay Electric Cooperative, Inc. and City of Newberry.

municipal electric utilities, and other electric utilities. Unless we determine that the agreement will cause a detriment to the public interest, the agreement should be approved.²

The petitioners stated that the proposed agreement was entered into primarily to replace the expired agreement. The proposed agreement includes the exchange of service areas where each petitioner believes it can provide better service. These service areas are, for the most part, undeveloped and on the edge of each petitioner's respective territory. Two customers will be transferred from Clay to Newberry under the proposed agreement. All facilities to be transferred under the proposed agreement are secondary service facilities (i.e., the connection of service drops from the transformer to the meter). The joint petitioners stated that due to the age and condition of the facilities, there will not be a purchase price for the facilities. The duration of the proposed agreement is an initial term of 30 years. Five-year automatic renewals will follow the initial term, unless Clay or Newberry notifies the other in writing one year in advance of the expiration of the initial term or any subsequent five-year renewal.

The proposed transfer of two customers results from combining a section of land currently served by Clay and Newberry. A development with residential and retail commercial use is planned for this land and the joint petitioners agree that the development is best served by one utility and that Newberry should serve the development. As a result of this proposed transfer, two Clay customers will be transferred to Newberry. One customer receives residential service on a farm and the other customer, the construction company for the development, is a general service commercial customer. Pursuant to Rule 25-6.0440(1)(d), F.A.C., letters were sent to the customers on November 14, 2016, advising them of the proposed transfer and the rate change; no responses have been received. The rate comparison for the residential customer is \$111.90 for Clay and \$113.50 for Newberry (1,000 kWh per month). The rate comparison for the general service customer is \$171.05 for Clay and \$181.80 for Newberry (1,500 kWh per month). Clay will refund any deposits either as a credit on the customer's final bill or send a check refunding the deposit. The joint petitioners anticipate the transfers will be completed within 12 months of the effective date of the order and will notify the Commission in writing if more time is needed. According to the joint petitioners, there will be no compensation for the transfer of customers.

The joint petitioners assert that the proposed agreement will avoid duplication of services and wasteful expenditures and will protect the health and safety of the public from potentially hazardous conditions. The joint petitioners believe and represent that our approval of the proposed agreement is in the public interest.

After reviewing the petition, the proposed agreement, and the joint petitioners' responses to staff's data request, we find that the proposed agreement is in the public interest and will enable Clay and Newberry to better serve their current and future customers. It appears that the proposed agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service for either utility. Therefore, we find that the proposed agreement between Clay and Newberry creates no detriment and is in the public interest and hereby approve it.

² Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Petition to Approve Territorial Agreement filed by Clay Electric Cooperative, Inc. and the City of Newberry filed on December 7, 2016, is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective, and this docket shall be closed, upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Office of 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.

By ORDER of the Florida Public Service Commission this 20th day of February, 2017.



CARLOTTA S. STAUFFER
Commission Clerk
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.

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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 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

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petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 13, 2017.

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.