

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial agreement in DeSoto County by Florida Division of Chesapeake Utilities Corporation and Sebring Gas System, Inc.

DOCKET NO. 170036-GU
ORDER NO. PSC-17-0205-PAA-GU
ISSUED: May 23, 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 JOINT PETITION FOR 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 February 16, 2017, the Florida Division of Chesapeake Utilities Corporation (Chesapeake) and Sebring Gas System, Inc., (Sebring) filed a joint petition for approval of a territorial agreement in DeSoto County. On April 3, 2017, the petitioners filed an amended joint petition with a corrected proposed territorial agreement (proposed agreement) and map. The proposed agreement corrects an inaccurate description of the Sebring service area contained in the February 16, 2017 filing. The proposed agreement is Attachment A to the petition and the map is Attachment B to the petition.

The joint petitioners responded to Commission staff's data request on March 2, 2017. We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Decision

Pursuant to Section 366.04(3)(a), F.S., and Rule 25-7.0471, F.A.C., we have jurisdiction to approve territorial agreements between and among natural gas utilities. Unless the

Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.¹

The joint petitioners stated that over the past year they have independently pursued plans to extend service in DeSoto County, specifically to customers in and around the City of Arcadia. The joint petitioners stated that without the proposed agreement, the joint petitioners' extension plans would likely result in the uneconomic duplication of facilities and, potentially, a territorial dispute. The joint petitioners assert that approval of the proposed agreement will enable as many customers as possible to receive natural gas service.

Currently, Chesapeake and Sebring both have customers in DeSoto County; however, neither petitioner has facilities capable of serving the City of Arcadia. Under the proposed agreement, the joint petitioners have agreed that Chesapeake's service territory will be defined as all of DeSoto County, except for customers within Arcadia's municipal boundary and two specifically identified customers who are located just outside the Arcadia city limits and are currently served by Sebring. Sebring's service area will include customers within Arcadia's municipal boundaries and the two specifically identified customers outside Arcadia's municipal limits. The two customers are identified in the proposed agreement and in the map.

There are no customers or facilities to be transferred. The proposed agreement includes a provision that provides Chesapeake with a right of first refusal if Sebring decides to sell any portion of its natural gas or propane facilities. The proposed agreement states that prior to the second anniversary of the effective date (the date our decision becomes final), Sebring and Chesapeake will meet to review the status of the proposed agreement and will submit a status report to the Commission. After the second anniversary, the parties will meet no more than every fifth anniversary to review the status of the proposed agreement and provide a status report to the Commission.

The joint petitioners represent that the proposed agreement will not cause a decrease in the availability or reliability of natural gas service provided by Chesapeake or Sebring to existing or future ratepayers of either company. The joint petitioners represent that our approval of the proposed agreement will be consistent with Section 366.04, F.S., and Rule 25-7.0471, F.A.C. Further, the joint petitioners attest that the proposed agreement is in the public interest, will not adversely impact any customers, and will facilitate expansion by facilitating service to new customers and areas in an efficient manner.

After review of 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, that it eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of gas service. As such, we hereby approve the proposed territorial agreement between Chesapeake and Sebring.

¹ 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 proposed territorial agreement in DeSoto County between Florida Division of Chesapeake Utilities Corporation and Sebring Gas System, Inc. be 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 23rd day of May, 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.

WDT

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.

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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 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.