

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendments to Rules 25-6.0440, F.A.C., Territorial Agreements for Electric Utilities, and 25-6.0441, F.A.C., Territorial Disputes for Electric Utilities.

DOCKET NO. 20200094-EU
ORDER NO. PSC-2020-0182-NOR-EU
ISSUED: June 10, 2020

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
JULIE I. BROWN
DONALD J. POLMANN
ANDREW GILES FAY

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has proposed the amendment of Rules 25-6.0440 and 25-6.0441, Florida Administrative Code, relating to territorial agreements for electric utilities and territorial disputes for electric utilities.

The attached Notice of Proposed Rules appeared in the June 10, 2020 edition of the Florida Administrative Register.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Requests for hearing on the proposed rules, information regarding the statement of estimated regulatory costs, or proposals for a lower cost regulatory alternative must be provided in writing and received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than July 1, 2020.

By ORDER of the Florida Public Service Commission this 10th day of June, 2020.



ADAM J. TEITZMAN
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.

KGWC

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NOS: RULE TITLES:

25-6.0440 Territorial Agreements for Electric Utilities

25-6.0441 Territorial Disputes for Electric Utilities

PURPOSE AND EFFECT: The purpose and effect of the rule amends is to identify the specific factors to be considered by the Commission in approving territorial agreements and resolving territorial disputes. The rule amendments also update and clarify the rules.

Docket No.20200094-EU

SUMMARY: These rules list factors the Commission may consider in ruling on territorial agreements and territorial disputes. Rule language in both rules that allowed the Commission to consider factors “not limited to” the listed factors has been deleted and replaced with language allowing the Commission to consider any other factor relevant in reaching a determination that the resolution of the territorial dispute or the approval of the territorial agreement is in the public interest. Amendments were also made to update and clarify the rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), FS, and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be minimal transactional costs to the individual and entities, including government entities, required to comply with the rule.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 350.127(2), 366.05(1) FS.

LAW IMPLEMENTED: 366.04(2), (4), (5), 366.05(7) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn G.W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

25-6.0440 Territorial Agreements for Electric Utilities.

(1) All territorial agreements between electric utilities ~~must shall~~ be submitted to the Commission for approval. Each territorial agreement ~~must shall~~ clearly identify the geographical area to be served by each utility. The submission ~~must shall~~ include:

(a) through (f) No change.

(2) Standards for Approval. In approving territorial agreements, the Commission may consider, ~~but not be limited to consideration of:~~

(a) No change.

(b) The reasonable likelihood that the agreement, in and of itself, will not cause a decrease in the reliability of electrical service to the existing or future ratepayers of any utility party to the agreement; ~~and~~

(c) The reasonable likelihood that the agreement will eliminate existing or potential uneconomic duplication of

facilities; ~~and~~.

(d) Any other factor the Commission finds relevant in reaching a determination that the territorial agreement is in the public interest.

(3) No change.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5), 366.05(7) FS. History—New 3-4-90, Amended 2-13-96, _____.

25-6.0441 Territorial Disputes for Electric Utilities.

(1) A territorial dispute proceeding may be initiated by a petition from an electric utility requesting the Commission to resolve the dispute. Additionally, the Commission may, on its own motion, identify the existence of a dispute and order the affected parties to participate in a proceeding to resolve it. Each utility ~~that which~~ is a party to a territorial dispute ~~must shall~~ provide a map and a written description of the disputed area along with the conditions that caused the dispute. Each utility party ~~must shall~~ also provide a description of the existing and planned load to be served in the area of dispute and a description of the type, additional cost, and reliability of electrical facilities and other utility services to be provided within the disputed area.

(2) In resolving territorial disputes, the Commission may consider, in addition to the factors listed in section 366.04(2)(c), F.S.: ~~but not be limited to consideration of:~~

(a) No change.

(b) The nature of the disputed area, including population and the type of utilities seeking to serve it, ~~the and~~ degree of urbanization of the area and its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services;

(c) The cost of each utility to provide distribution and subtransmission facilities to the disputed area presently and in the future; ~~and~~

(d) Any other factor the Commission finds relevant in reaching a determination that the resolution of the territorial dispute is in the public interest; and

~~(e)(4) If all other factors are substantially equal, customer~~ ~~Customer~~ preference ~~if all other factors are substantially equal.~~

(3) No change.

(4) Upon resolution of each territorial dispute, the parties to the dispute ~~must shall~~ submit to the Commission an official Florida Department of Transportation (DOT) General Highway County map for each affected county depicting boundary lines established by the resolution of the territorial dispute.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5), 366.05(7) FS. History—New 3-4-90, Amended 2-13-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn G. W. Cowdery

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 224, November 18, 2019.