



Public Service Commission

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RECORDS AND REPORTING

DATE: JANUARY 20, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF ELECTRIC AND GAS (BREMAN, D. LEE) *DL CL*
DIVISION OF LEGAL SERVICES (JAND) *RVE JJT*

RE: DOCKET NO. 991522-EU - JOINT PETITION FOR APPROVAL OF TERRITORIAL AGREEMENT BETWEEN CITY OF BUSHNELL AND SUMTER ELECTRIC COOPERATIVE, INC.

AGENDA: 2/1/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\EAG\WP\991522.RCM

CASE BACKGROUND

Pursuant to Section 366.04(2)(d), Florida Statutes, and Rule 25-6.0440, Florida Administrative Code, on October 7, 1999, Sumter Electric Cooperative (SECO) and the City of Bushnell (Bushnell) filed a Joint Petition for Approval of Territorial Agreement. A copy of the proposed agreement is included as Attachment A to this recommendation and is incorporated by reference herein. The two utilities previously entered into a territorial agreement on September 9, 1981. The Commission approved that agreement by Order No. 10676, issued in Docket No. 810367-EU, on March 30, 1982.

Since the approval of the previous agreement, the parties increasingly have become concerned that there is a potential for uneconomic duplication of facilities as a result of growth in the area. In an effort to avoid uneconomic duplication, Bushnell and SECO entered into a new territorial agreement on February 1, 1999. The new agreement establishes a new territorial boundary line between the utilities' respective retail territories. The

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agreement does not transfer either existing customers or existing facilities.

DISCUSSION OF ISSUES

ISSUE 1: Should the parties be required to provide a Florida Department of Transportation Highway County map for the affected county as required by Rule 25-6.0440, Florida Administrative Code?

RECOMMENDATION: Yes. The parties did not petition for a waiver or variance of Rule 25-6.0440, Florida Administrative Code, which requires parties filing for Commission approval of territorial agreements to file a Florida Department of Transportation General Highway County map for each affected county depicting boundary lines established by the territorial agreement. The parties should file the DOT Highway County map within thirty days of the Commission's vote on this matter. (JAYE)

STAFF ANALYSIS: At a noticed telephone conference between the parties and staff on December 17, 1999, staff indicated to the parties that they had not filed the required DOT highway county map. The parties explained that the area illustrated in the map they provided in Exhibit "A" to their petition is so small that it would not show up except as a dot on an official DOT highway county map. Staff believes, however, that even if this is the case, the parties should be required by the Commission to provide the official DOT highway county map as required by Rule 25-6.0440, Florida Administrative Code, because the parties did not petition for a waiver or variance of this rule when they filed their joint petition and supporting exhibits. Staff recommends that the map should be filed within thirty days of the Commission's vote on this matter.

ISSUE 2: Should the Commission approve the Joint Petition for Approval of a Territorial Agreement between City of Bushnell and Sumter Electric Cooperative, Inc.?

RECOMMENDATION: Yes, the Territorial Agreement between City of Bushnell and Sumter Electric Cooperative, Inc., is in the public interest and should be approved. (BREMAN, D. LEE, JAYE)

STAFF ANALYSIS:

I. Statutory Authority

Section 366.04(2)(d), Florida Statutes, gives the Commission the express authority to approve "territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction." The Commission has enacted Rule 25-6.0440, Florida Administrative Code, to administer its statutory authority to approve territorial agreements. This rule governs the approval process. Pursuant to this rule, utilities wishing to have territorial agreements approved by the Commission must petition for approval. In the petition, utilities must set forth the following information:

1. the geographical area to be served by each utility
2. a map and a written description of the area
3. the terms and conditions pertaining to the implementation of the agreement, and any other terms and conditions pertaining to the agreement
4. the number and class of customers to be transferred
5. assurance that the affected customers have been contacted and the difference in rates explained
6. information with respect to the degree of acceptance by affected customers
7. an official Florida Department of Transportation (DOT) General Highway County map for each affected county depicting boundary lines established by the territorial agreement.

In approving territorial agreements, the Commission may consider, but is not limited to consideration of the following:

1. the reasonableness of the purchase price of any facilities being transferred
2. 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
3. the reasonable likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities.

II. The Proposed Agreement

The agreement for which Bushnell and SECO seek approval establishes a territorial boundary for each utility's respective retail territory without transferring any existing customers or existing facilities. The agreement clearly describes the geographical areas to be served by each utility and depicts the boundaries of the new territories in Exhibit A to the agreement. Exhibit A to the agreement is a map of the area affected by the agreement. In Article II and IV the agreement describes the terms and conditions pertaining to the implementation of the agreement. Section 2.2 of the agreement contains guidelines for providing service to new customers. The parties agree that neither of them will knowingly serve or attempt to serve any new customer whose end-use facilities are located within the territorial area of the other party, except when exceptional circumstances, economic constraints, or good engineering practices may indicate otherwise. In such instances, one party may submit a written request to the other party to temporarily provide service to the new customer. The utilities agree to notify the Commission of any such arrangement that is anticipated to last for more than one year.

Based upon information contained in the petition and the agreement, staff believes that the agreement between Bushnell and SECO substantially complies with the requirements of Rule 25-6.0440, Florida Administrative Code.

III. Conclusion

Staff recommends that the new territorial agreement should become effective on the date the Commission order approving it becomes final. Upon approval, this agreement will supersede the prior territorial agreement. There is no reasonable likelihood that the agreement will cause a decrease in the reliability of electric service to the existing or future ratepayers of Bushnell and SECO.

Staff recommends that the territorial agreement between Bushnell and SECO be approved. Staff believes that the agreement is in the public interest and consistent with the Commission's goal to eliminate all existing and potential uneconomic duplication of electrical facilities in the State of Florida.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

STAFF ANALYSIS: If no protest is filed within 21 days of the issuance of this order, this docket should be closed upon the issuance of a consummating order.