



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

COMMISSION
CLERK

RECEIVED FPSC
JUN 14 PM 3:19

DATE: JUNE 5, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (C. KEATING) *WKC RJ*
DIVISION OF ECONOMIC REGULATION (WINDHAM) *BMW WEA 192 West*

RE: DOCKET NO. 030406-EU - JOINT PETITION FOR APPROVAL OF TERM
EXTENSION TO TERRITORIAL AGREEMENTS IN CITRUS AND PASCO
COUNTIES, BY PROGRESS ENERGY FLORIDA, INC. AND
WITHLACOOCHEE RIVER ELECTRIC COOPERATIVE, INC.

AGENDA: 06/17/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\GCO\WP\030406.RCM

CASE BACKGROUND

Withlacoochee River Electric Cooperative, Inc. ("WREC") and Progress Energy Florida, Inc. ("Progress") are parties to four currently effective territorial agreements delineating their respective service territories in Citrus County (the "Citrus Agreement"), western Pasco County (the "West Pasco Agreement"), eastern Pasco County (the "East Pasco Agreement"), and Hernando County (the "Hernando Agreement"). The Commission approved the Citrus and West Pasco Agreements by Order No. 19610, issued July 5, 1988, in Docket No. 880234-EU; the East Pasco Agreement by Order No. 20368, issued November 30, 1988, in Docket No. 881164-EU; and the Hernando Agreement by Order No. 25309, issued November 7, 1991, in Docket No. 910940-EU.

DOCUMENT NUMBER-DATE
04972 JUN-48
FPSC-COMMISSION CLERK

The Citrus and West Pasco Agreements have 15-year terms that will expire on July 5, 2003. The East Pasco Agreement also has a 15-year term that will expire on November 30, 2003. The Hernando Agreement has an initial 15-year term that expires on November 7, 2006, and is subject to automatic renewal for an additional 15-year term.

On April 28, 2003, WREC and Progress filed a joint petition seeking approval of an Amendment to the Citrus, West Pasco, and East Pasco Agreements that would extend the term of the three agreements through December 31, 2004. The proposed Amendment is attached hereto as Attachment A. The Commission has jurisdiction over this matter pursuant to Chapter 366, Florida Statutes, including Section 366.04, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the joint petition of Withlacoochee River Electric Cooperative, Inc., and Progress Energy Florida, Inc., for approval of an Amendment to the parties' Citrus, West Pasco, and East Pasco territorial agreements?

RECOMMENDATION: Yes. The joint petition should be granted. The Amendment should become effective as of the date that the Commission's order approving the Amendment becomes final by issuance of a consummating order.

STAFF ANALYSIS: In their joint petition, WREC and Progress state that, recognizing the impending expirations of the Citrus, West Pasco, and East Pasco territorial agreements, they began discussions aimed at negotiating new territorial agreements to replace the Citrus and West Pasco Agreements and then negotiating a replacement for the East Pasco Agreement. In the course of these discussions, WREC and Progress concluded that their interests and those of their customers would be better served by consolidating all four of their existing territorial agreements, including the Hernando Agreement, into a single comprehensive and updated territorial agreement.

In the joint petition, WREC and Progress assert that the remaining terms of the Citrus, West Pasco, and East Pasco Agreements would not provide the time required to properly prepare a consolidated territorial agreement. They indicate that the work required to produce a comprehensive consolidated territorial agreement would include a detailed field review of the existing territorial boundary lines to determine where modification may be necessary to accommodate changed circumstances. Therefore, WREC and Progress seek approval of an Amendment to the Citrus, West Pasco, and East Pasco Agreements that would extend the term of the three agreements through December 31, 2004, to allow sufficient time to prepare, file, and obtain Commission approval of a new consolidated territorial agreement.

Subsection (1) of Rule 25-6.0440, Florida Administrative Code, provides that all territorial agreements between electric utilities must be submitted to the Commission for approval. That subsection further provides that any modifications, changes, or corrections to an approved territorial agreement must be approved by the Commission. Subsection (2) of the rule requires that the Commission, in approving a territorial agreement, must consider the following:

- (a) the reasonableness of the purchase price of any facilities being transferred;
- (b) the reasonable likelihood that the agreement, in and of itself, will not cause a decrease in the reliability of electric 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.

The Amendment proposed by WREC and Progress serves only to extend the term of the Citrus, West Pasco, and East Pasco Agreements to and including December 31, 2004. The Amendment provides that all other terms and conditions of the three agreements shall remain in full force and effect. The Amendment does not involve a redrawing of boundary lines or a transfer of facilities or customers. Thus, the Amendment does not raise any concern in light of the considerations listed in subsection (2) of Rule 25-6.0440.

DOCKET NO. 030406-EU

DATE: June 5, 2003

Approval of the proposed Amendment would allow WREC and Progress the additional time they feel is necessary to prepare and obtain approval of a consolidated territorial agreement for their respective service territories in Citrus, Hernando, and Pasco Counties. Further, approval of the proposed Amendment would have no negative impact on customers. Therefore, staff recommends that the Commission grant the joint petition for approval of the Amendment.

Although the joint petition does not request an effective date for the Amendment, the Amendment itself provides that it shall become effective upon issuance of a Commission order approving the Amendment in its entirety. Consistent with Commission practice and the terms of the Amendment, staff recommends that the Amendment become effective as of the date that the Commission's order approving the Amendment becomes final by issuance of a consummating order.

DOCKET NO. 030406-EU

DATE: June 5, 2003

ISSUE 2: 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: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

AMENDMENT TO TERRITORIAL AGREEMENTS

Withlacoochee River Electric Cooperative, Inc. (WREC) and Progress Energy Florida, Inc., formerly Florida Power Corporation, (Progress Energy) enter into this Amendment to their Territorial Agreements for Citrus and Pasco Counties on this 24th day of April, 2003.

WITNESSETH:

WHEREAS, WREC and Progress Energy are parties to four currently effective territorial agreements delineating their respective service territories in Citrus County (the Citrus Agreement), western Pasco County (the West Pasco Agreement), eastern Pasco County (the East Pasco Agreement), and Hernando County (the Hernando Agreement). The Florida Public Service Commission (FPSC) approved the Citrus and West Pasco Agreements by Order No. 19610, issued July 5, 1988 in Docket No. 880234-EU; the East Pasco Agreement by Order No. 20368, issued November 30, 1988 in Docket No. 881164-EU; and the Hernando Agreement by Order No. 25309, issued November 7, 1991 in Docket No. 910940-EU; and

WHEREAS, in recognition of the impending expirations of the Citrus and West Pasco Agreements on July 5, 2003, and the East Pasco Agreement on November 7, 2003, WREC and Progress Energy began negotiations for the purpose of entering new territorial agreements to replace the soon to expire agreements, and, in the course thereof, concluded that their interests and those of their customers would be best served by consolidating all of the existing Territorial Agreements, including the Hernando Agreement, into a single updated agreement; and

WHEREAS, in view of the expanded scope of work to produce a comprehensive consolidated territorial agreement, WREC and Progress Energy desire to extend the

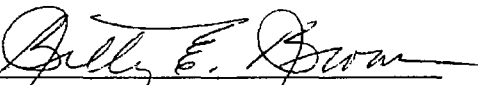
expiration dates of the Citrus, West Pasco and East Pasco Agreements in order to provide sufficient time to properly prepare the consolidated territorial agreement.

NOW, THEREFORE, WREC and Progress Energy hereby agree as follows:


1. The terms of the Citrus, West Pasco and East Pasco Agreements shall be extended to and including December 31, 2004.
2. Except as modified herein, the terms and conditions of the Citrus, West Pasco and East Pasco Agreements shall remain in full force and effect.
3. This Amendment to the Territorial Agreements will become effective and enforceable only upon the issuance of an order by the Florida Public Service Commission approving the Amendment in its entirety.

IN WITNESS WHEREOF, WREC and Progress Energy have caused this Amendment to be executed in duplicate by their duly authorized representatives on the day and year first above stated.

**Withlacoochee River Electric
Cooperative, Inc.**

By 
Name: Billy E. Brown
Title: Executive Vice President

Progress Energy Florida, Inc.

By 
Name: Vincent M. Dolan
Title: Vice President