

State of Florida



Public Service Commission

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

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COMMISSION CLERK
100-1780

DATE: JULY 24, 2003

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

FROM: OFFICE OF THE GENERAL COUNSEL (RODAN) *JAR Malt*
DIVISION OF ECONOMIC REGULATION (BREMEN, WINDHAM) *JOJ 198*

RE: DOCKET NO. 030461-EI - JOINT PETITION OF FLORIDA POWER &
LIGHT COMPANY AND PROGRESS ENERGY FLORIDA, INC. FOR
APPROVAL OF AMENDMENT TO TERRITORIAL AGREEMENT TO MODIFY
TERRITORIAL BOUNDARY LINE IN TWO AREAS OF VOLUSIA COUNTY.

AGENDA: 08/05/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\030461.RCM
ATTACHMENT NOT AVAILABLE

CASE BACKGROUND

On May 28, 2003, Florida Power & Light Company ("FPL") and Progress Energy Florida, Inc. ("PEFI") (collectively, "the Joint Petitioners") jointly filed a petition to amend the existing territorial boundary between them. The proposed amendment consists of boundary line changes in two undeveloped locations in Volusia County, Florida. The existing territorial boundary between the Joint Petitioners was initially approved by Commission Order No. 3799, issued April 28, 1965, and subsequently amended by Order Nos. 5255 (October 29, 1971), 6184 (June 28, 1974), and 21309 (June 2, 1989). These orders comprise the Territorial Agreement and establish the retail territorial boundary between FPL and PEFI in Volusia County and elsewhere.

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The Commission has jurisdiction in this matter pursuant to several provisions of Chapter 366 Florida Statutes, including Sections 366.04 and 366.05, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the joint petition of FPL and PEFI to amend their territorial boundaries?

RECOMMENDATION: Yes. The amended territorial agreement should become effective the date of the Commission's consummating order approving the amendment. (RODAN, BREMAN, WINDHAM)

STAFF ANALYSIS: The Joint Petitioners' proposed amendment (Attachment A) to change the territorial boundary in Volusia County consists of boundary line changes in two undeveloped locations. The first boundary line change would place nine undeveloped residential lots currently in PEFI's retail service area into FPL's retail service area. The second territorial boundary line modification would place four undeveloped residential lots currently in FPL's retail service area into PEFI's retail service. The proposed amendment does not change any other provision of the existing agreement.

Rule 25-6.0440(2), Florida Administrative Code, states in pertinent part that:

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

(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.

There are no customers nor any distribution facilities within the geographic areas subject to the boundary modifications, and consequently the proposed modification, in and of itself, is not expected to cause a decrease in the reliability of electrical service to the existing or future customers of either utility. The Joint Petitioners used proximity of existing facilities and least cost to extend facilities as the basis to decide which utility was better situated to serve future customers. The proposed changes

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are likely to eliminate potential uneconomic duplication of facilities that may have otherwise occurred.

Staff believes the proposed amendment is consistent with Commission practice in approving territorial agreements and is in the public interest and thus recommends that the amendment be approved. The amended territorial agreement should be effective with the issuance of the Commission's consummating order approving the amendment.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order. If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order approving this agreement, the agreement should remain in effect pending resolution of the protest and the docket should remain open. (RODAN)

STAFF ANALYSIS: If a protest is filed by a person whose substantial interests are affected within 21 days of the Commission Order approving this agreement, the agreement should remain in effect pending resolution of the protest and the docket should remain open. If no protest is filed, the docket should be closed upon the issuance of a Consummating order.

AMENDMENT TO TERRITORIAL AGREEMENT

Florida Power & Light Company (FPL) and Progress Energy Florida, Inc., formerly Florida Power Corporation, (Progress Energy) enter into this Amendment to their Territorial Agreement on this _____ day of _____, 2003.

WITNESSETH:

WHEREAS, FPL and Progress Energy are parties to a currently effective territorial agreement approved and amended by Florida Public Service Commission Order No. 3799, dated April 28, 1965; Order No. 5255, dated October 29, 1971, Order No. 6184, dated June 28, 1974, and Order No. 21309, dated June 2, 1989, (the Territorial Agreement); and

WHEREAS, FPL and Progress Energy desire to further amend their Territorial Agreement by modifying the territorial boundary line in two areas within Volusia County, Florida in order to provide more efficient, less costly service to customers in these areas.

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

1. The territorial boundary line established by the Territorial Agreement shall be modified in the two areas of Volusia County depicted generally on the County Highway map attached hereto as Exhibit A, and as separately depicted on the detailed maps attached hereto as Exhibits B and C. Any conflict between the location of the modified territorial boundary line shown on the County Highway in Exhibit A and the modified territorial boundary line on the detailed maps in Exhibit B or C shall be resolved in favor of the detailed maps.

2. Except as modified herein, the territorial boundary line and all terms and conditions of the Territorial Agreement shall remain in full force and effect.

3. This Amendment to the Territorial Agreement 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, FPL 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.

FLORIDA POWER & LIGHT COMPANY

PROGRESS ENERGY FLORIDA, INC.

By _____
Name: _____
Title: _____

By _____
Name: _____
Title: _____