

ORIGINAL

Matilda Sanders

From: James A. McGee [jmcgee@tampabay.rr.com]
Sent: Friday, May 07, 2004 12:48 PM
To: Filings@psc.state.fl.us
Cc: JThompson@ausley.com; Rosanne Gervasi
Subject: Docket No. 040231-EU; Joint Response to Staff Data Request

This electronic filing is made by
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Docket No. 040231-EU
In re: Joint Petition of Talquin Electric
Cooperative and Progress Energy
Florida for approval of a territorial
agreement in Leon and Wakulla
Counties.

On behalf of Progress Energy Florida
and Talquin Electric Cooperative

Consisting of 4 pages.

The attached document for filing is the
Joint Response to Staff Data
Request dated April 7, 2004,
including a filing letter.

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FPSC-COMMISSION CLERK



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JAMES A. MCGEE
ASSOCIATE GENERAL COUNSEL
PROGRESS ENERGY SERVICE COMPANY, LLC

May 7, 2004

VIA ELECTRONIC FILING

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 040231-EU

Dear Ms. Bayó:

Enclosed for filing in the subject docket on behalf of Talquin Electric Cooperative, Inc. and Progress Energy Florida, Inc., is the Joint Response to Staff Data Request dated April 7, 2004.

Please acknowledge your receipt of the above filing as provided in the Commission's electronic filing procedures. Thank you for your assistance in this matter.

Very truly yours,

s/ James A. McGee

JAM/scc
Enclosures

cc: Rosanne Gervasi, Esquire
James Harold Thompson, Esquire

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Joint Response to Staff Data Request dated April 7, 2004

1. *The Proposed Agreement, at Section 3.1.1, appears to indicate that the affected retail electric customers subject to be transferred and listed in Exhibit B of the above-referenced Petition will not be contacted until after the Commission approves the Proposed Agreement. Rule 25-6.0440(I), F.A.C., requires submission of a proposed territorial agreement to include assurance that the affected customers have been contacted and the difference in rates explained, as well as information with respect to the degree of acceptance by the affected customers. Please reconcile the apparent contradiction and explain why delayed notification and transfer is proposed.*

Response: Unlike the Extra-Territorial Customers described in Section 3.1.3, the Extra-Territorial Customers referred to in Sections 3.3.1 and 3.1.2 and listed in Exhibit B are not subject to transfer upon approval of the Agreement. They will not become subject to transfer unless (1) they remain after five years and have not voluntarily agreed to receive service from the utility in whose service area they are located, (2) one of the utilities elects to request Commission approval to require the transfer of any such remaining customers, which the other utility may contest, and (3) the Commission approves the request. If and when these Extra-Territorial Customers actually become subject to transfer, *i.e.*, when the second of these conditions have been met, they will be notified in a manner similar to the Extra-Territorial Customers described in Section 3.1.3 who are currently subject to transfer.

2. *Please refer to Section 3.1.2 of the Proposed Agreement. Why is five years a reasonable period of time within which to solicit the voluntary transfer of the customers listed in Exhibit B of the Petition?*

Response: Exhibit B lists the remaining 25 customers of 272 Extra-Territorial Customers who were served by Talquin at the beginning of the first territorial agreement between the parties. The parties agreed that providing an additional five years under the proposed Territorial Agreement would allow a reasonable period for further attrition and voluntary transfers to take place, and thereby

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either eliminating or minimizing the number of these customers who might then be subject to a required transfer.

3. The proposed Agreement, at Section 1.4, defines "Point of Use" as the location where the customers' end-use facilities consume electricity. Please explain, with examples, how Section 1.4 will be implemented and how Section 1.4 avoids future uneconomic duplication.

Response: Section 1.4 does not require implementation, since it is simply a definition. However, the establishment of this Point-of-Use definition is intended to implement the decision of the Commission and the holding of the Supreme Court in the Lee County case referenced in the following question. The definition makes clear that the location of a customer's point of use, not the point of delivery, determines which utility is authorized by the Territorial Agreement to serve the customer.

4. The Proposed Agreement, at Section 2.2, indicates that neither party will knowingly serve or attempt to serve any new customer whose Point of Use facilities are located within the Territorial Area of the other except for temporary service purposes. Please explain how the utilities propose to monitor the placement of the customers' end-use facilities and issues arising from customer constructed facilities similar to Lee County Elec. Co-op. v. Marks, 501 So. 2d 585 (Fla. 1987) (the extension cord case).

Response: There are no monitoring implications associated with the Point-of-Use language in Section 2.2 beyond the monitoring that would otherwise be associated with the requirements and obligations imposed by Section 2.2 in the absence of this language. In the event a question were to arise regarding whether the service provided to a customer is consistent with the requirements of Section 2.2, this language makes it clear that the answer is to be determined by the location of the customer's Point of Use facilities, thus avoiding the possibility that a different answer might result from the location of the customer's point of delivery. See the response to question 3 above.

5. The Proposed Agreement, at Section 2.3, appears to indicate that temporary retail electric service of more than one year are not reported to the Commission

if lost revenue is paid by the utility serving the extra-territorial customer to the utility with the obligation to serve. If so, please answer the following:

a. Explain why the same mechanism is not proposed to avoid the transfer of customers and facilities.

b. Explain why the Commission should not be informed that extra-territorial service is being provided on an ongoing and/or indefinite basis.

c. Explain how such a policy avoids commingling of facilities and uneconomic duplication.

Response: Any such appearance is incorrect. The *proviso* is intended to make clear that the utility's acceptance of a request to provide temporary service carries with it no obligation to reimburse the requesting utility for its lost revenues. This language does not in any way qualify or alter the requirement to seek Commission approval of temporary service arrangements greater than one year.

6. Does Progress Energy Florida, Inc. object to filing an annual report that includes the number of extra-territorial temporary services greater than one year and the serving utility? If so, explain.

Response: As clarified in the preceding response, the Commission will receive an explicit notification of every instance in which temporary service is provided, or is expected to be provided, for greater than one year, irrespective of reimbursement for lost revenues.

7. The proposed Agreement, at Section 3.2.2, addresses the methodology of pricing facilities subject to transfer, but does not state that the parties have agreed to any specific term for "life of the asset." What is the term that the parties have agreed to?

Response: The "life of the asset" cannot be predetermined and agreed upon in advance of the various facilities transfers that may take place pursuant to the Agreement. The composite life of the various assets comprising the particular facilities involved in any given transfer is a variable that depends on the kind

and mix of those assets. Once the facilities of a particular transfer have been identified, the accumulated depreciation of the assets comprising the facilities is determined from the books and records of the transferring utility and used to calculate the compensation to be paid by the receiving utility. This is the same long-standing procedure that has been used to determine compensation for transferred facilities under similar provisions in Progress Energy's territorial agreements with other utilities.

8. Is Progress Energy Florida, Inc., providing retail electric service to any industrial and commercial customers within Leon County pursuant to Order No. 12916, issued January 23, 1984, in Docket No. 830576-EU, that are not within Progress Energy Florida, Inc.'s proposed retail electric service area and that are not subject to be transferred to either the City of Tallahassee or to Talquin Electric Cooperative? Please explain.

Response: No. Order No. 12916 approved the extension of a territorial agreement between the company and the City of Tallahassee that has since expired. Therefore, Progress Energy is not serving any customers pursuant to that order. In addition, Progress Energy does not serve any commercial or industrial customers in Leon County who are located in the retail electric service area of Talquin as defined by the proposed Territorial Agreement.

9. Will Progress Energy Florida, Inc. include service interruptions to extra-territorial customers in its distribution reliability statistics? If not, why not?

Response: Under the proposed Territorial Agreement, no customers of Progress Energy will be located in Talquin's service territory and, therefore, it will not provide retail electric service to any Extra-Territorial Customers.

10. Will the proposed territorial boundary result in any inactive extra-territorial customer accounts? If so, which utility will serve the inactive accounts that become active?

Response: The Joint Petitioners do not understand the question. The proposed territorial boundary cannot cause an Extra-Territorial Customer's account to become inactive, and an inactive account cannot become an Extra-Territorial Customer's account. If an account served by one utility becomes inactive and then, because of change in the boundary line, the inactive account is located in the other utility's service territory, there is no Extra-Territorial Customer account because there is no customer. If a customer then opens the account so that it becomes active, the customer will be a New Customer, as defined in the agreement, not an Extra-Territorial Customer.