

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of amendment to territorial agreement in Orange County by Orlando Utilities Commission and Progress Energy Florida, Inc.

DOCKET NO. 050220-EU
ORDER NO. PSC-05-0707-PAA-EU
ISSUED: June 29, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING AMENDMENT AND EXTENSION OF TERRITORIAL
AGREEMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On March 31, 2005, Progress Energy Florida, Inc. (PEF) and Orlando Utilities Commission (OUC) filed a Joint Petition for Approval of Amendment to Territorial Agreement (Amendment). The Amendment proposed to amend the then effective territorial agreement (Current Agreement) in Orange County which was due to expire on April 5, 2005, by extending that agreement through December 31, 2005.

Pursuant to Section 366.04(2)(d), Florida Statutes, we have the authority "to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under" our jurisdiction.

Amendment and Extension of Current Agreement

OUC and PEF state that the Current Agreement should be extended in order to allow them additional time to pursue their negotiations toward a new territorial agreement to replace the Current Agreement. The Current Agreement was previously approved by Order No. PSC-

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95-0440-FOF-EU, issued April 5, 1995, in Docket No. 940656-EU, In re: Petition to require Florida Power Corporation to comply with territorial agreement approved by Order No. 6194, by Orlando Utilities Commission. Pursuant to that Order, the Current Agreement was to have expired under its own terms on April 5, 2005, ten years after the issuance of Order No. PSC-95-0440-FOF-EU.

Pursuant to the Amendment, the Current Agreement would simply be extended through December 31, 2005, to allow the Joint Petitioners additional time to pursue their negotiations toward a new territorial agreement. The Amendment states that it will become effective and enforceable only upon issuance of an Order by this Commission approving the Amendment in its entirety. The proposed Amendment involves no customer or facility transfers.

A review of the proposed Amendment shows that it is in compliance with Rule 25-6.0440, Florida Administrative Code, and Section 366.04(2)(d), Florida Statutes, the laws governing territorial agreements. Moreover, we find that the Amendment is a reasonable resolution which will reduce the likelihood of future uneconomic and unnecessary duplication of facilities along the boundary lines, in accordance with our policy and the public interest. Therefore, we approve in its entirety the Joint Petition for Approval of Amendment to Territorial Agreement in Orange County by PEF and the OUC. The Amendment shall become effective upon the issuance of a Consummating Order finalizing the Proposed Agency Action Order approving this Amendment.

Based on the foregoing, it is

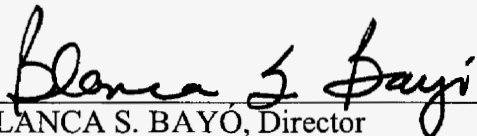
ORDERED by the Florida Public Service Commission that the Joint Petition for Approval of Amendment to Territorial Agreement in Orange County by Progress Energy Florida, Inc. and the Orlando Utilities Commission is approved in its entirety. It is further

ORDERED that the Amendment shall become effective upon the issuance of a Consummating Order finalizing this Proposed Agency Action Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no substantially affected person files a protest within 21 days of the issuance of this Proposed Agency Action Order, this docket shall be closed upon the issuance of the Consummating Order. In the event there is a timely protest, this docket shall remain open pending resolution of the protest.

By ORDER of the Florida Public Service Commission this 29th day of June, 2005.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 20, 2005.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.