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GEORGE ANN C. BRACKO  
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Blanca Bayo  
Records and Recording  
Florida Public Service Commission

FROM: Roy C. Young

DATE: July 19, 2006

SUBJECT: Joint Petition of Orlando Utilities Commission & Florida Progress  
To Reopen and Extend Term of Territorial Agreement  
Docket # 050977-EU

060503-EU

Enclosed find original and fifteen copies of the following for filing:

Joint Petition of Orlando Utilities Commission and Florida Progress to Reopen and Extend  
Term of Territorial Agreement in the above-captioned case.

Thank you for your assistance.

RCY:swp  
Enclosures

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Joint Petition of Orlando Utilities Commission and Progress Energy Florida to reopen and extend term of their previous territorial agreement in Orange County.

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Docket No. 050977EU

Submitted for filing:  
7/19, 2006

060503-EU

**JOINT PETITION**

Orlando Utilities Commission ("OUC") and Progress Energy Florida, Inc., ("PEF") (collectively, "the Joint Petitioners"), pursuant to Section 366.04(2)(d), Fla. Stats., and Rule 25-6.0440, F.A.C., jointly petition the Florida Public Service Commission ("the Commission") to reopen and extend the term of their previous territorial agreement in Orange County, extending the term of the agreement through January 31, 2007, which is intended to allow the Joint Petitioners additional time to pursue their negotiations toward a new territorial agreement. In support hereof, the Joint Petitioners represent as follows:

1. The Joint Petitioners are electric utilities organized under the laws of Florida and are subject to the regulatory jurisdiction of the Commission pursuant to Section 366.04(2), Fla. Stats. OUC's principal offices are located in Orlando, Florida. PEF's principal offices are located in St. Petersburg, Florida.

2. All pleadings, notices, and other communications in this matter should be served on the undersigned attorneys for OUC and PEF.

3. OUC and PEF were parties to a territorial agreement delineating their respective service territories in Orange and Osceola Counties (the "Agreement"), which was approved by the Commission in Order No. PSC-95-0440-FOF-EU, issued April 5,

DOCUMENT NUMBER DATE

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1995 in Docket No. 940565-EU. The Agreement had a 10-year term that expired on April 13, 2005.

4. On March 31, 2005, the Joint Petitioners submitted a Joint Petition requesting approval of an Amendment to extend the term of the Agreement through December 31, 2005. By Order No. PSC-05-0707-PAA-EU issued June 29, 2005 in Docket No. 0502220-EU, the Commission approved the Amendment and Extension of Territorial Agreement, extending the terms of the Agreement through December 31, 2005.

5. On December 29, 2005, the Joint Petitioners submitted a Joint Petition requesting approval of a Second Amendment to extend the term of the Agreement through June 30, 2006. By Order No. PSC-06-0201-PAA-EU issued March 14, 2006 in Docket No. 050977-EU, the Commission approved the Amendment and Extension of Territorial Agreement, extending the terms of the Agreement through June 30, 2006. Under the terms of the Second Amendment, the Agreement expired on June 30, 2006.


6. OUC and PEF have been conducting discussions regarding a new territorial agreement to replace the Agreement. It has become apparent to the parties that they will need additional time to successfully conclude their negotiations. To provide sufficient time for OUC and PEF to thoroughly pursue continued negotiations and, if successful, to seek Commission approval of a replacement territorial agreement, the parties have entered into a stipulation attached as Exhibit A to this Joint Petition (the "Stipulation") which, upon approval by this Commission, will reopen the Agreement and will extend its expiration date through January 31, 2007. This Stipulation should allow the Joint

Petitioners enough time to conclude their negotiations, and the Joint Petitioners do not foresee a need to ask the Commission for further term extensions of the Agreement.

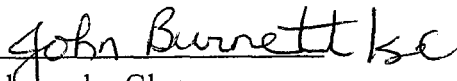
7. The Commission has long recognized that properly constructed territorial agreements between adjacent utilities are in the public interest. The Joint Petitioners believe and therefore represent that the Stipulation, which will provide them a further opportunity to enter into such a territorial agreement, is similarly in the public interest.

WHEREFORE, OUC and PEF respectfully request that the Commission grant this Joint Petition and approve the Stipulation contained in Exhibit A hereto.

Respectfully submitted,

s/ Roy C. Young   
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Attorney for

ORLANDO UTILITIES COMMISSION

s/ John Burnett   
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Deputy General Counsel-Florida  
John T. Burnett  
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Attorneys for  
PROGRESS ENERGY FLORIDA, INC.

**EXHIBIT A**

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**STUPULATION REGARDING TERRITORIAL AGREEMENT**

**Between**

**Orlando Utilities Commission**

**And**

**Progress Energy Florida**

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## **STIPULATION REGARDING TERRITORIAL AGREEMENT**

Orlando Utilities Commission (OUC) and Progress Energy Florida, Inc. (PEF) enter into this Stipulation regarding their previous territorial agreement for Orange County on this \_\_\_\_ day of \_\_\_\_\_, 2006.

### **WITNESSETH:**

WHEREAS, OUC and PEF were parties to a territorial agreement delineating their respective service territories in Orange County (the "Agreement"), which was approved by order of the Florida Public Service Commission (FPSC) and

WHEREAS, the term of the Agreement expired on April 13, 2005, and was extended through June 30, 2006 by a Second Amendment approved by order of the FPSC; and

WHEREAS, the term of the Agreement and Second Amendment expired on June 30, 2006; and

WHEREAS, OUC and PEF have entered into negotiations for the purpose of reaching a new territorial agreement to replace the Agreement; and

WHEREAS, OUC and PEF recognize that they will need additional time to successfully conclude their negotiations; and

WHEREAS, OUC and PEF desire to reopen and extend the term of the Agreement through January 31, 2007 in order to provide sufficient time to pursue the opportunity for a successful conclusion of their negotiations, and to seek Commission approval of the resulting new territorial agreement,

NOW, THEREFORE, OUC and PEF hereby agree as follows:

1. The Agreement shall be reopened and effective between the parties.

2. The term of the Agreement is extended to and including

January 31, 2007.

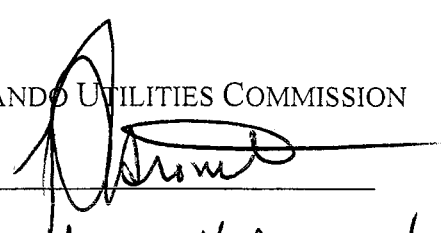
3. Except as modified herein, the original terms and conditions of the Agreement shall remain in full force and effect.

4. This Stipulation will become effective and enforceable only upon the issuance of an order by the Florida Public Service Commission approving the Stipulation in its entirety.

IN WITNESS WHEREOF, OUC and PEF have caused this Stipulation to be executed in duplicate by their duly authorized representatives on the day and year first above stated.

ORLANDO UTILITIES COMMISSION

By

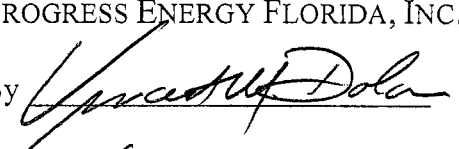


Name: KENNETH P. KSIONEK

Title: GENERAL MANAGER & CEO

PROGRESS ENERGY FLORIDA, INC.

By



Name: VINCENT M. DOLAN

Title: VICE PRESIDENT