

State of Florida



# 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-**

**DATE:** April 9, 2009

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of the General Counsel (Jaeger)  
Division of Economic Regulation (Redemann, Rieger)

*Handwritten initials and signatures: JSB, RRK, SPB, PJP, TJP, (M)*

**RE:** Docket No. 080632-EU – Joint petition for approval of amended territorial agreement in Sumter, Lake, Marion, Citrus and Levy Counties by Sumter Electric Cooperative, Inc. and Progress Energy Florida, Inc.

**AGENDA:** 04/21/09 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Skop

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\080632.RCM.DOC

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## Case Background

On October 9, 2008, Sumter Electric Cooperative, Inc. (SECO) and Progress Energy Florida, Inc., (PEF) filed a joint petition for approval of an amended territorial agreement dated October 1, 2008, in Sumter, Lake, Marion, Citrus, and Levy Counties. SECO and PEF are currently parties to two effective territorial agreements delineating their respective service territories in Sumter, Lake, Marion, Citrus, Levy, Pasco, and Hernando Counties.<sup>1</sup> The

<sup>1</sup> See Order No. PSC-93-0998-FOF-EU, issued July 9, 1993, in Docket No. 930360-EU, In re: Joint Petition for approval of territorial agreement between Florida Power Corporation and Sumter Electric Cooperative, Inc., which approved a territorial agreement between the parties for certain areas in Lake County; and Order No. PSC-97-0611-FOF-EU, issued May 28, 1997, in Docket No. 961533-EU, In re: Joint Petition for approval of territorial agreement between Florida Power Corporation and Sumter Electric Cooperative, Inc., which approved a territorial agreement between the parties for areas in Citrus, Lake, Marion, Levy, Hernando, Pasco, and Sumter Counties.

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petitioners have agreed to an amended consolidated territorial agreement to replace the current agreements. The petition indicated that the Commission has long recognized that properly constructed territorial agreements between adjacent utilities are in the public interest.

This recommendation was filed previously for consideration at the February 10, 2009 agenda conference. The case was deferred to allow the parties an opportunity to notice the customers affected by the agreement with updated rate information. Both SECO and PEF sent revised notification letters to the affected customers. In addition to the revised noticing information, this revised recommendation includes an additional discussion regarding the Commission's jurisdiction to approve territorial agreements between and among electric utilities.

This is staff's recommendation regarding the parties' joint petition for approval of the territorial agreement. The Commission has jurisdiction over the matter pursuant to Section 366.04, Florida Statutes.

### Discussion of Issues

**Issue 1:** Should the Commission approve the joint petition for approval of the territorial agreement between Sumter Electric Cooperative, Inc. (SECO) and Progress Energy Florida, Inc. (PEF)?

**Recommendation:** Yes. The joint petition for approval of the amended territorial agreement between SECO and PEF is in the public interest and should be approved. Since there will be customers transferred as a result of the agreement, it is recommended that, beginning one year from the date of the Commission order approving the agreement, annual reports should be submitted to the Commission concerning the status of the customer transfers. The reporting requirement shall continue until all Extra-Territorial Customers have been transferred and the terms of the amended agreement have been fully satisfied. (Jaeger, Redemann, Rieger)

**Staff Analysis:** As stated in the amended territorial agreement, the parties have agreed to replace the current agreements mentioned in the case background. The parties desire to amend, restate, and consolidate the current agreements in their entirety in order to gain further operational efficiencies and customer service improvements in their respective retail service territories in Sumter, Lake, Marion, Citrus and Levy Counties. It was noted in the agreement that the amended territorial agreement will continue to eliminate circumstances giving rise to the uneconomic duplication of service facilities and hazardous situations that the current agreements were intended to avoid.

Pursuant to the amended territorial agreement, there will be a transfer of customers, who are referred to as Extra-Territorial Customers. The parties have indicated that there will be 219 accounts (182 residential and 37 commercial) being transferred from SECO to PEF; and 136 accounts (119 residential and 17 commercial) being transferred from PEF to SECO. Names and service addresses of the customers subject to transfer have been attached to the agreement. The transfers of the Extra-Territorial Customers are expected to be completed within 36 months from the effective date of the amended agreement. The effective date shall be the date on which the Commission's final order granting approval in its entirety becomes no longer subject to judicial review. The parties will notify the Commission in writing if circumstances require additional time to complete the transfer.

The parties anticipate that the number of customers to be transferred and received by each party will be balanced. Any going concern compensation from one party to the other would be essentially offsetting. Upon the transfer of Extra-Territorial Customers, the receiving party may elect to purchase the facilities of the transferring party related exclusively to serving those customers. If service facilities are transferred, the amended agreement contains provisions for the value of the facilities based upon the replacement cost (new) less depreciation. If there are facilities of one party located in the service area of the other party that are not subject to transfer or removal as a result of the amended agreement, those facilities shall be constructed, operated, and maintained in such a manner as to minimize any interference with the operations of the other party.

Both SECO and PEF sent ~~several two rounds of~~ customer notification letters to their customers during the course of this case. The most recent notifications sent by SECO and PEF on March 2, 2009, and March 3, 2009, respectively (Attachment A), included updated rate information based on SECO's current rates and PEF's projected rate reduction expected to be implemented in April, 2009.<sup>2</sup> No negative responses were received. Sample copies of the letters providing notification to the affected customers were provided to staff with the agreement. These letters included sample rate comparisons between SECO and PEF, as well as information regarding refunds of deposits to the customers being transferred in earlier notifications. In addition, the parties have provided the Commission with a written assurance about customer deposits. This information explains that the customers being transferred will not be required to pay a deposit greater than the deposit that was previously charged by the other party from which the account is being transferred. Also, if the transferring party has no deposit on hand for the transferring account, the receiving party will not require a deposit. In addition, arrangements in the form of payment installments will be considered if a customer being transferred has difficulties paying the deposit to the receiving party.

The parties agree that the provisions and performance of the amended agreement are subject to the regulatory authority of the Commission, and shall have no effect until such approval has been obtained. Any proposed modification to the amended agreement shall be submitted to the Commission for approval. In addition, the parties agree to jointly petition the Commission to resolve any dispute concerning the provisions of the agreement or the parties' performance of the agreement. Also, as mentioned earlier, the amended agreement supersedes the current agreements and all other prior agreements between the parties defining the boundaries of their respective territorial areas in Sumter, Lake, Marion, Citrus, Levy, Pasco, and Hernando Counties. The term of the agreement shall continue in effect for a period of ten years, with no provision for automatic renewal.

Pursuant to Section 366.04(2)(d), Florida Statutes, the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Rule 25-6.0440(2), Florida Administrative Code, provides that in approving territorial agreements, the Commission may consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved. See Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985). In this instance, the territorial agreement proposed by SECO and Progress eliminates existing or potential uneconomic duplication of facilities, and it does not cause a decrease in the reliability of electric service to existing or future ratepayers.

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<sup>2</sup> See Docket No. 090001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

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Based on the above, staff recommends that the joint petition for approval of the amended territorial agreement between SECO and PEF is in the public interest and should be approved. Because there will be customers transferred as a result of the agreement, beginning one year from the date of the Commission order approving the agreement, annual reports should be submitted to the Commission concerning the status of the customer transfers. The reporting requirement shall continue until all Extra-Territorial Customers have been transferred and the terms of the amended agreement have been fully satisfied.

Docket No. 080632-EU

Date: April 9, 2009

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order. (Jaeger)

**Staff Analysis:** If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.



March 2, 2009

Dear SECO Member:

To ensure that electric utilities in Florida, such as Sumter Electric Cooperative, Inc. (SECO), are able to provide reliable and economical electric service to their customers, utilities enter into agreements with one another establishing the geographical areas in which each utility is the exclusive provider of electric service. These agreements help avoid the unnecessary and uneconomic construction of duplicate electrical distribution lines and other facilities to serve their customers. Approval of the Florida Public Service Commission (FPSC) is required to ensure these objectives are met.

Over the past many years, we at SECO have had the pleasure of serving customers in your area under territorial agreements approved by the FPSC in the 1990s between our company and our neighboring utility, Progress Energy Florida Inc. (PEF). We have entered into an amended territorial agreement with PEF that was filed with the FPSC on October 9, 2008, which will revise some of the service area boundaries between the utilities and enable each utility to serve its customers more reliably and economically. The new agreement must be approved by the FPSC before it can become effective, and customers have the opportunity prior to that approval to provide their comments to the Commission.

If approved by the FPSC, the terms of the amended territorial agreement call on PEF to provide electric service in your area. Your account would be transferred to PEF at some point within the next three years. While we regret losing the opportunity to serve you in the future, PEF is an excellent utility and we are confident you will find their service to be satisfactory. You will not need to do anything to initiate this transfer since SECO and PEF will handle all of the arrangements on your behalf. You will be contacted and provided additional information closer to the date of the actual transfer.

You may recall receiving a similar letter last year. Due to recent rate changes by Progress Energy, we are mailing a second letter to provide you an update on current rates. In January 2009, the residential rate for PEF for 1,000 Kilowatt-Hours (KWH) was \$137.87. If the Commission approves the rate reduction, the projected rate expected to be implemented in April 2009 will be \$122.70. Comparatively, the residential rate for SECO for 1,000 KWH for January 2009 was \$122.85, and the current rate is \$122.85. The rates of both utilities are subject to change and may be raised or lowered in the future.

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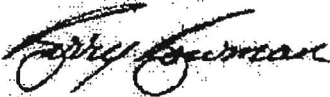
A "Rural Electric" Cooperative

PO Box 301 330 South US Highway 901 Sumnerville, FL 33583-0301 (352) 795-3901	15729 US Highway 441 Buckley, FL 32728-6561 (352) 357-5600	850 North Honey Road Groundland, FL 34736-2354 (352) 428-2195	510 US Highway 91 South Inverness, FL 34450-6050 (352) 726-8944	4802 SW 60th Avenue Ocala, FL 34474-4316 (352) 257-4107
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SECO Member  
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Please contact Customer Service if you have any questions or concerns about the proposed transfer of your service to Progress Energy Florida, or if you would like information about contacting the FPSC. You can reach us by phone at 1-352-793-3801 or in writing to Customer Service, Sumter Electric Cooperative, Inc., PO Box 301, Sumterville, FL 33585.

Sincerely,



Barry Bowman  
Director of Corporate Communications &  
Energy Services





March 3, 2009

[REDACTED]

RE: Account No. [REDACTED]

Dear Customer:

To ensure that electric utilities in Florida, such as Progress Energy Florida, Inc. (PEF), are able to provide reliable and economical electric service to their customers, utilities enter into agreements with one another establishing the geographical areas in which each utility is the exclusive provider of electric service. These agreements help avoid the unnecessary and uneconomic construction of duplicate electrical distribution lines and other facilities to serve their customers. Approval of the Florida Public Service Commission (FPSC) is required to ensure these objectives are met.

Over the past many years, we at PEF have had the pleasure of serving customers in your area under territorial agreements approved by the FPSC in the 1990's between our company and our neighboring utility, Sevier Electric Cooperative, Inc. (SECO). We have entered into an amended territorial agreement with SECO that was filed with the FPSC on October 9, 2008, which will revise some of the service area boundaries between the utilities and enable each utility to serve its customers more reliably and economically. The new agreement must be approved by the FPSC before it can become effective and customers have the opportunity prior to that approval to provide their comments to the Commission.

If approved by the FPSC, the terms of the amended territorial agreement call on SECO to provide electric service in your area. Your account would be transferred to SECO at some point within the next three years. While we regret losing the opportunity to serve you in the future, SECO is an excellent utility and I am confident you will find their service to be satisfactory. You will not need to do anything to initiate this transfer since PEF and SECO will handle all of the arrangements on your behalf. You will be contacted and provided additional information closer to the date of the actual transfer.

You may recall receiving a similar letter last year. Due to recent rate changes by Progress Energy, we are mailing a second letter to provide you an update on current rates. In January, 2009, the residential rate of PEF for 1,000 Kilowatt-Hours (KWH) for PEF was \$137.47. The projected rate expected to be implemented in April 2009 will be \$132.70 contingent on Commission approval. Comparatively, the residential rate for SECO for 1,000 KWH for January 2008 was \$123.85, which remains SECO's current rate. The rates of both utilities are subject to change and may be raised or lowered in the future.

Please let us know if you have any questions or concerns about the proposed transfer of your service to Sevier Electric Cooperative, Inc., or if you would like information about contacting the FPSC. You can reach us by telephone at 1-800-510-0140 or in writing at the mailing address below.

Sincerely,

Customer Service  
Progress Energy Florida

Progress Energy Florida, Inc.  
P.O. Box 14042  
St Petersburg, FL 33733

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