

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition for approval to amend territorial agreement by Progress Energy Florida, Inc. and Reedy Creek Improvement District.	DOCKET NO. 090530-EU ORDER NO. PSC-10-0206-PAA-EU ISSUED: April 5, 2010
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The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING JOINT PETITION
FOR TERRITORIAL AGREEMENT AMENDMENT

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 September 11, 1987, Florida Power Corporation, now Progress Energy Florida, Inc. (PEF), and the Reedy Creek Improvement District (RCID) filed a joint petition for approval of a territorial agreement. The purpose of the territorial agreement was to eliminate and avoid needless and wasteful expenditures which result from unrestrained competition between utilities operating in overlapping service areas. The agreement, which was approved by Order No. 18225,¹ delineated the utilities' respective service territories in Orange and Osceola Counties.

PEF and RCID filed a joint petition to amend the territorial agreement approved by Order No. 18225² on January 18, 1994. PEF and RCID determined it was necessary to modify the previous territorial boundary to reflect de-annexation of certain areas of the RCID. The parties

¹ Order No. 18225, issued September 30, 1987, in Docket No. 870963-EU, In re: Joint Stipulation and Petition for approval of territorial agreement between Florida Power Corporation and Reedy Creek Improvement District.

² Id.

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believed that amending the territorial boundary would more accurately define their respective service areas in Orange and Osceola County and avoid any potential for uneconomic duplication of electric facilities. We approved the amended territorial agreement by Order No. PSC-94-0580-FOF-EU.³ In that order, we required that PEF and RCID seek our approval prior to making any permanent boundary changes.

On December 7, 2009, PEF and RCID filed a joint petition to amend the current territorial agreement between the parties approved by Order No. PSC-94-0580-FOF-EU.⁴ PEF and RCID have agreed to amend the current territorial agreement for the purposes of boundary modification in one area of Orange County to resolve outstanding issues.

We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes.

ANALYSIS AND RULING

PEF and RCID filed a joint petition to amend the territorial agreement approved by Order No. PSC-94-0580-FOF-EU⁵ to modify the service boundary in the Northeast Resort Parcel/Golden Oak Estates Planned Development (PD) area. This area, which is currently located within the service territory of RCID in Orange County, will soon be developed. However, the area was de-annexed from the RCID political boundary in June 2008. There are presently no existing customers affected by the proposed territory amendment. Once built out, it is estimated that there will be 634 residential and 15 commercial connections.

RCID is a special taxing district created by the Florida Legislature. This means that RCID operates like a municipality in that it is authorized to furnish electricity to areas within its defined legal boundary. Pursuant to its charter, RCID cannot furnish retail electric power outside of its boundary. Accordingly, RCID provided a letter to PEF requesting that PEF provide temporary service to the Northeast Resort Parcel/Golden Oak Estates PD area until RCID and PEF can effect a permanent change in service territory. In accordance with Section 2.2 of the current agreement, the parties request that PEF provide electric service to the customer's end-use facilities in the Northeast Resort Parcel/Golden Oak Estates PD area and that the territorial boundary be permanently modified to reflect this change by placing the Northeast Resort Parcel/Golden Oak Estates PD within PEF's service territory.

Pursuant to Section 366.04(2)(d), Florida Statutes, we have 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, we 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 we

³ Order No. PSC-94-0580-FOF-EU, issued May 17, 1994, in Docket No. 940071-EU, In re: Joint petition for approval of territorial agreement between Florida Power Corporation and Reedy Creek Improvement District.

⁴ Id.

⁵ Id.

determine 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 addition, Order No. PSC-94-0580-FOF-EU⁶ requires that PEF and RCID seek our approval prior to making a permanent boundary change, which the parties requested here.

It appears that the amended territorial agreement proposed by PEF and RCID eliminates existing or potential uneconomic duplication of facilities and does not cause a decrease in the reliability of electric service to existing or future ratepayers. Accordingly, the joint petition for approval of the amended territorial agreement between PEF and RCID is in the public interest and is hereby approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the joint petition for approval of the amended territorial agreement between Progress Energy Florida, Inc. and the Reedy Creek Improvement District is approved as set forth herein. 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 Commission Clerk, 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 in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of April, 2010.



ANN COLE
Commission Clerk

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ARW

⁶ Id.

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 26, 2010.

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.