

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Mosaic Fertilizer LLC
Against Peace River Electric Cooperative
And Tampa Electric Company For Single
Source Electric Supplier.

Docket No. 120225-EU

Filed: August 22, 2012

COMMISSION
CLERK

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COMPLAINT AND REQUEST FOR EXPEDITED RELIEF

Mosaic Fertilizer LLC (Mosaic), pursuant to section 366.04, Florida Statutes, and rules 25-22.036 and 28-106.201, Florida Administrative Code, files the following Complaint against Peace River Electric Cooperative (PRECO) and Tampa Electric Company (TECO). This Complaint relates to the failure of the two utilities to come to agreement regarding the provision of single supplier electric service to Mosaic's mobile mining operations which cross the territorial boundaries of the two utilities and which require a safe and reliable single source provider. Such electric service will be required as soon as November 2012; thus Mosaic requests expedited relief as to its Complaint.

Introduction

1. The name and address of the affected agency is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

2. The name and address of Complainant is:

Mosaic Fertilizer LLC
13830 Circa Crossing Drive
Lithia, FL 33547

3. The name, address and telephone number of Complainant's representatives for purposes of legal service during this proceeding are:

Jon Moyle
jmoyle@moylelaw.com
Vicki Gordon Kaufman
Vkaufman@moylelaw.com
Moyle Law Firm
118 North Gadsden Street
Tallahassee, Florida
(850) 681-3828 (voice)
(850) 681-8788 (facsimile)

4. This Complaint is filed against:

Peace River Electric Cooperative
210 Metheny Road
Wauchula, Florida 33873

Tampa Electric Company
702 N. Franklin Street
Tampa, Florida 33602

Jurisdiction

5. PRECO is a rural electric cooperative subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes, for purposes of the resolution of territorial issues. *See*, section 366.04(2)(d), (e), Florida Statutes.

6. TECO is an investor-owned utility subject to this Commission's jurisdiction under Chapter 366, Florida Statutes.

7. Specifically, the Commission has authority to resolve territorial disputes among utilities. *See*, Section 366.04(2)(d), (e), Florida Statutes.

Statement of Substantial Interests

8. Mosaic is a limited liability company with mining operations in several Florida counties. Mosaic has mining operations located in Hillsborough and Manatee Counties. These operations involve the use of mobile draglines and related equipment, and require the provision of transmission level (69 KV) service. Such draglines are mobile mining facilities which

traverse the mining area. In this instance, due to Mosaic's planned mining operations, these electric consuming mobile facilities will traverse the territorial boundary between the TECO and PRECO service territories.¹

9. Due to the mobile nature of Mosaic's mining operations, is it not only impractical, but unsafe and inefficient for Mosaic to take power from two different utilities for the same operations. To ensure the safety of its operation and the delivery of reliable power, Mosaic requires that power be delivered from a single source supplier. In other dockets, this Commission has recognized the unique nature of Mosaic's mobile operations and approved arrangements that ensure it will receive safe and reliable service from a single provider. *See, i.e.,* Order No. PSC-10-0580-PAA-EU (recognizing the "unique reliability requirements of mobile facilities...").

10. In this case, Mosaic, the customer, is caught between two utilities that are unable to resolve how to provide service to a retail customer. This disagreement between the utilities puts the customer, Mosaic, in the middle and jeopardizes its mining operations. The inability of the utilities to reach agreement is an act or omission by the utilities that affects Mosaic's substantial interests. Rule 25-22.036(2), Florida Administrative Code. Even if both utilities could provide service to Mosaic (and it is not clear that this is the case in the time frame required), such dual service is unsafe and inefficient. Furthermore, it would result in the duplication of facilities.

11. Mosaic will begin mining areas which traverse the territorial boundary between PRECO and TECO as soon as November 2012. The utilities' inability to resolve the issue of electric service to Mosaic's mining operations puts the ability of Mosaic to receive safe and

¹ This service will be provided to Four Corners mining sites, so named because they are located at the intersection of four counties, including Hillsborough and Manatee Counties.

reliable electric service in jeopardy and threatens Mosaic's ability to continue its mining operations. Thus, its substantial interests are affected, and the Commission must resolve this issue.

Background

12. Mosaic is a retail customer and is entitled to receive safe and reliable electric service from its utility providers to enable it to efficiently and safely conduct its mining operations.

13. When Mosaic became aware of the situation which is the subject of this Complaint, it immediately began discussions with representatives of TECO and PRECO regarding an appropriate resolution to the situation which would ensure that Mosaic received safe and reliable service from a single source provider within the needed time frame. Both TECO and PRECO have been aware of this situation for several months.

14. Various discussions have ensued for several months. However, as time began to grow short regarding the imminent start of its mining operations, Mosaic became very concerned that no resolution would be reached (and presented to the Commission for approval) prior to Mosaic's need to begin mining the areas in question.

15. On July 24, 2012, Mosaic sent a letter to PRECO and TECO, attached hereto as Exhibit A. Mosaic requested service and stated that:

Mosaic mining operations at each of these sites will cross the traditional PRECO/TECO service boundary for service to transmission level phosphate mining loads. Mosaic is therefore requesting that a single point of electric service be utilized to provide service at each site in order to enhance safety and efficiency of mining operations, and to reduce the amount of assets required to provide the service. Further, it is noted that Tampa Electric has existing metering points located in the vicinity of each of these sites that could be utilized to provide the electric service

without the need for either utility company to extend existing transmission lines.

16. Informal discussions continued without resolution and Mosaic still requires single source provider service. Mosaic is concerned that appropriate service will not be available during the time frame for which it needs service. Unless this Commission promptly takes action to resolve the issues raised herein, Mosaic's operations and its ability to continue mining will be jeopardized.

17. On August 20, 2012, PRECO sent a letter to TECO regarding resolution of the Mosaic situation. This letter is attached hereto as Exhibit B. In its letter, PRECO states: "PRECO is willing and capable of providing the service to Mosaic." It is unclear how or if PRECO can provide timely service to Mosaic's load as it has no facilities in close proximity to the area in order to do so. Specifically, PRECO has no 69KV transmission lines which are necessary for service to Mosaic nor does it have any generating facilities. Mosaic is very concerned that it will not receive electric service in a timely manner as required.

18. Though PRECO's August 20th proposal is not entirely clear, it appears to suggest two different resolutions of the issues raised in this Complaint. First, PRECO suggests that TECO serve the entire area which is the subject of this Complaint and that TECO pay PRECO 50% of the base revenues TECO collects for service in the PRECO area. Mosaic has no objection to this arrangement, which will result in a single source supplier and safe and reliable electric service. However, it is Mosaic's understanding that TECO has rejected this resolution.

19. PRECO's second alternative is that PRECO serve the entire F1 Clay Settling Area (including areas in TECO's territory) and that TECO serve the Mining Unit 20 Area (including areas in PRECO's territory). Even though this alternative seems to satisfy Mosaic's need for a single utility service provider at each of the two sites, it is unclear that PRECO can provide such

electric service at the F1 Clay Settling Area in the time frame required. It is Mosaic's understanding that TECO has also rejected this alternative.

20. PRECO's last comment in its August 20th letter to TECO – that each utility serve its own area if agreement is not reached – is totally unacceptable. Again, putting aside for the moment PRECO's ability to provide timely service, this duplication of service and service from multiple suppliers in each of Mosaic's mining areas is simply unacceptable, unreasonable and unsafe.

21. If this situation remains unresolved, Mosaic's operations will be jeopardized. Thus, Mosaic seeks the Commission's assistance in promptly resolving this situation.

Statutes and Rules Entitling Mosaic to Relief

22. The statutes and rules entitling Mosaic to relief include, but are not limited to:
- a. Section 366.04, Florida Statutes;
 - b. Rules 25-22.036 and 28-106.201, Florida Administrative Code.

Request for Expedited Relief

23. Mosaic's need for designation of a single source provider for its mobile mining operations is imminent. Given the Commission's calendar, it is unlikely that this matter could be fully litigated between the utilities (if that is the alternative chosen) before Mosaic will need electric service.

24. Therefore, Mosaic seeks, at least, an interim or temporary resolution of this matter so that it may safely commence mining operations without delay.

Relief Requested


25. The Commission should immediately require the utility who can most efficiently and cost-effectively serve Mosaic to provide electric service to Mosaic's mobile mining

operations described in this Complaint. Furthermore, the utility best suited to promptly, efficiently and cost effectively serve Mosaic's mobile mining operations as described above should be directed to provide such electric service, at least on an interim basis, until any issues between the utilities are resolved.

26. The Commission should require the utilities to enter into either a temporary or permanent agreement to allow a single provider to provide electric service to Mosaic's mobile facilities as described in this Complaint.

WHEREFORE, Mosaic requests that the Commission:

1. Resolve this Complaint on an expedited basis;
2. Require a single utility provider to provide electric service to Mosaic's mobile mining equipment that traverses the territorial boundaries between Manatee and Hillsborough Counties;
3. Grant such other relief as necessary.



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(850) 681-8788 (Facsimile)

Attorneys for Mosaic Fertilizer LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Complaint has been furnished by Electronic Mail and U.S. Mail to the following, this 22nd day of August 2012:

Adam Teitzman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Mr. Randall W. Shaw
General Manager
Peace River Electric Cooperative
210 Metheny Road
Wauchula, FL 33873

James D. Beasley
Ausley & McMullen
123 South Calhoun Street
Tallahassee, FL 32301

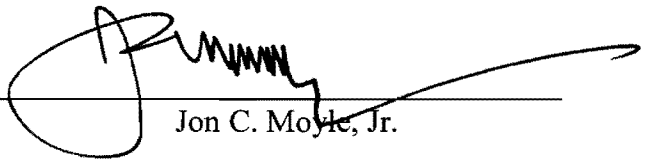

Jon C. Moyle, Jr.

EXHIBIT A



Mosaic Fertilizer LLC
13830 Circa Crossing Drive
Lithia, FL 33547
www.mosaicco.com

Tel 813-500-8937
Fax 813-571-6903

July 24, 2012

Mr. Randy Shaw
Chief Executive Officer
Peace River Electric Cooperative
210 Metheny Road
Wauchula, FL 33873

Mr. Robert Roman
Senior Account Manager
Tampa Electric Company
702 North Franklin Street
Tampa, FL 33601

Re: Request for Electric Utility Service by Mosaic Fertilizer, LLC

Dear Mr. Shaw and Mr. Roman:

This letter is to provide notice that Mosaic Fertilizer, LLC (Mosaic) requests transmission level (69KV) electricity service to two Four Corners mining sites located at the junction of Manatee and Hillsborough Counties. These sites are the F1 Clay Settling Area (located immediately south and west of Mosaic's Four Corners plant), and Mining Unit 20 East (located west of Highway 39). I have previously provided PRECO and TECO maps of these areas.

Due to the mobile character of Mosaic's mining operations, Mosaic's activities at each of these sites will cross the traditional PRECO/TECO service territory boundary for service to transmission level phosphate mining loads. Because it is imperative that Mosaic receive safe and reliable service from a single provider, Mosaic requests that a single point of electric service be utilized to provide service at each site. This will result in enhanced safety and efficiency of mining operations and will reduce the amount of transmission assets required to provide the service, thus avoiding unnecessary expenditures. Further, TECO has existing metering points located in the vicinity of each of these sites that could be utilized to provide the electric service without the need for either utility company to extend existing transmission lines.

Service to the F1 Clay Settling Area site is expected to be needed by December 2012. Service to the Mining Unit 20 East site may be needed as early as November 2012, depending on mining progress in this area. It is imperative that utility service be provided/authorized to these two sites from a single provider without introducing any delay in mining operations that would have negative impacts on Mosaic's ability to meet our customer needs.

Please do not hesitate to contact me if you have questions concerning this request for service.

Sincerely,


Steven F. Davis
Energy Manager
Mosaic Fertilizer, LLC

EXHIBIT B



Peace River Electric Cooperative, Inc.

P.O. Box 1310 • Wauchula, Fl. 33873 • (800) 282-3824 • Fax (863) 773-3737 • www.precocoop

Your Touchstone Energy® Cooperative 

August 20, 2012

Mr. Robert Roman
Senior Account Manager
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111

Dear Mr. Roman:

Please consider this correspondence a formal offer for acceptable terms for a temporary territorial variance between Peace River Electric Cooperative, Inc. ("PRECO") and Tampa Electric Company ("Tampa Electric") for service to Mosaic Fertilizer, LLC ("Mosaic"). As you know, Mosaic has requested transmission level (69 kv) electric service to Four Corners mining sites located at the junction of Manatee and Hillsborough Counties. Mosaic's activities at the sites will cross the traditional PRECO/Tampa Electric service territory boundary and therefore, in the absence of an agreement, Mosaic requires both PRECO and Tampa Electric to provide service to the phosphate mining loads. PRECO is willing and capable of providing the service to Mosaic. In appreciation, however, of Mosaic's letter dated July 24, 2012 requesting a single point of electric service from a single provider, PRECO is prepared to attempt to accommodate that request so long as an agreement is reached that is fair to all parties and does not negatively impact PRECO's other electric customers. Of course any such agreement must be subject to Florida Public Service Commission ("FPSC") approval.

I offer the following alternative proposals:

1. PRECO, Tampa Electric and Mosaic enter into an agreement wherein Tampa Electric provides electric service to both proposed Mosaic mines. Tampa Electric retains 100% of the revenues it earns from the service to Mosaic in Tampa Electric's service territory. Additionally, the parties agree that Tampa Electric will pay to PRECO 50% of the base revenues collected by Tampa Electric for service provided to Mosaic within PRECO's service territory.

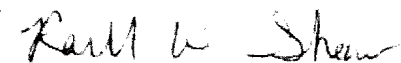
This agreement will benefit all parties. First, both Tampa Electric and Mosaic entered into a virtually identical settlement agreement in 2002. That agreement was reached by Tampa Electric, Mosaic and Progress Energy Florida, Inc. In fact, Tampa Electric and Mosaic formally agreed to extend that agreement in 2003, 2005 and 2010. Those agreements have each been filed with the FPSC, and each time the FPSC has approved the agreements. See, FPSC Docket Nos. 02015-EI, 030526-EU, 0505000-EU and 100336. PRECO is confident the FPSC would again approve such an agreement which of course removes any regulatory uncertainty.

2. As you know, a vast majority of Mosaic's F1 Clay Settling Area (located immediately south and west of Mosaic's Four Corners plant) is within PRECO's service territory, with a small portion of it in Tampa Electric's service territory. A vast majority of Mosaic's Mining Unit 20 East (located west of Highway 39) lies in Tampa Electric's territory, with the remaining section in PRECO's service territory. PRECO proposes that PRECO serve the entire F1 Clay Settling Area and Tampa Electric serve the entire Mining Unit 20 East area. That arrangement certainly simplifies service to Mosaic from a service and billing standpoint and would only slightly alter the currently approved territories.

As you know, if we enter into no agreement, all parties are to respect the current service territories of each utility as approved by the FPSC. If that is the case, PRECO will serve a vast majority (but not all) of the F1 Clay Settling Area and a relatively small percentage of Mining Unit 20 East. Tampa Electric would then of course serve a vast majority of the Mining Unit 20 East area and a small portion of the F1 Clay Settling Area. Such service would be compliant with Florida statutes, the Florida Administrative Code, and FPSC rules regarding electric service to Mosaic.

As time is of the essence, if PRECO and Tampa Electric are unable to resolve the service issues to Mosaic and come to an agreement on or before August 24, 2012, PRECO will provide service pursuant to the current service territories of the companies as stated above.

Sincerely,



Randall W. Shaw
General Manager/CEO

cc: Mr. Steve Davis
Mosaic Fertilizer, LLC