

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: November 19, 2013

TO: Office of Commission Clerk (Cole)

FROM: Division of Economics (Rome) *EDD*
Office of the General Counsel (Klancke) *PK*

RE: Docket No. 130260-EU – Joint petition for approval of transfer of customers by Florida Power & Light Company and Peace River Electric Cooperative, Inc.

AGENDA: 12/03/13 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

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COMMISSION
CLERK

Case Background

On October 23, 2013, Florida Power & Light Company (FPL) and Peace River Electric Cooperative, Inc. (PRECO) filed a joint petition for approval of transfer of customers pursuant to Rule 25-6.0440, Florida Administrative Code (F.A.C.), and Commission Order No. 18332, which approved and adopted the FPL-PRECO Territorial Agreement dated July 17, 1987,¹ as amended by the Amendment to Territorial Agreement between FPL and PRECO dated January

¹ See Order No. 18332, issued October 22, 1987, in Docket No. 870816-EU, In re: Joint petition for approval of territorial agreement between Florida Power & Light Company and Peace River Electric Cooperative, Inc.

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28, 1991, approved by Order No. 24671 (Territorial Agreement).² The joint petition would not change any of the terms of the Territorial Agreement nor would it change any of the service area boundaries delineated therein. If approved, the petition would result in the transfer of four customer accounts from FPL to PRECO and one customer account from PRECO to FPL. The Commission has jurisdiction over the matter pursuant to Section 366.04, Florida Statutes (F.S.).

² See Order No. 24671, issued June 17, 1991, in Docket No. 910148-EU, In re: Joint application for approval of amendment for territorial agreement between Florida Power & Light Company and Peace River Electric Cooperative, Inc.

Discussion of Issues

Issue 1: Should the Commission approve the joint petition for approval of the transfer of customers between FPL and PRECO?

Recommendation: Yes. The transfer of customers between FPL and PRECO implements the provisions of the Territorial Agreement approved in Order No. 18332 and will not cause a detriment to the public interest; therefore, it should be approved. (Rome)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., 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), F.A.C., states 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. Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

Section 5 of the Territorial Agreement provides that at the time the Territorial Agreement became effective, both FPL and PRECO would continue to provide retail electric service at existing points of delivery located in the retail service areas of the other party. The utility in whose retail service area the customer is located is referred to as the "host utility" and the utility serving the customer in the other's retail service area is referred to as the "foreign utility."

Section 5.A. of the Territorial Agreement states that when new points of delivery arise near the facilities of a foreign utility providing service at an existing point of delivery, the host utility shall provide the service when the host utility determines that it is appropriate to extend its facilities. Customers to be transferred in accordance with Section 5.A. shall be notified at the time FPL and PRECO agree on the service arrangement that, at such time as it becomes economic and efficient for the host utility to provide service, thereafter their service shall be provided by the host utility.

Section 6 of the Territorial Agreement addresses the elimination of overlapping services, wherein FPL and PRECO agree to use reasonable efforts to eliminate electric services by either party in the other utility's retail service areas. This effort shall include potential customer and facilities transfers to eliminate duplication of facilities or avoid hazardous conditions. Any such transfers are subject to review and approval by the Commission.

The petitioners state that a new development, Serenity Creek, is being planned to the south of State Road 64 and to the east of Pope Road in Manatee County, within the territory of PRECO. Per Section 5 of the Territorial Agreement, FPL maintains a power line in that area serving four customer accounts (FPL affected customers). Pursuant to Section 5.A. of the Territorial Agreement, PRECO has determined that it is appropriate to extend its facilities to the area to serve Serenity Creek, as well as the FPL affected customers.

Separately, a single customer located 20 miles to the northwest of the Serenity Creek development has a barn on his property being served by FPL and a house on an adjacent property that is separately metered and served by PRECO (PRECO affected customer). The PRECO affected customer's properties are entirely within FPL's service territory. Petitioners state that this customer has requested that FPL take over the service of the house from PRECO. Pursuant to Section 5.A. of the Territorial Agreement, FPL has determined that it is appropriate to extend its facilities to serve this customer's house.

Subject to the Commission's approval of the joint petition, the transfer of the FPL affected customers (four accounts) to PRECO and the transfer of the PRECO affected customer (one account) to FPL will be conditioned on the following terms:

- FPL will be responsible for the removal of its facilities serving the FPL affected customers at FPL's sole cost.
- PRECO will be solely responsible for constructing any and all electric facilities necessary to serve the FPL affected customers and will be responsible for obtaining any necessary easements, franchise agreements, or other property rights to effectuate PRECO's service to the FPL affected customers.
- PRECO will be responsible for the removal of its facilities serving the PRECO affected customer at PRECO's sole cost.
- FPL will be solely responsible for constructing any and all electric facilities necessary to serve the PRECO affected customer and will be responsible for obtaining any necessary easements, franchise agreements, or other property rights to effectuate FPL's service to the PRECO affected customer.
- Any existing customer deposits held by FPL and PRECO for affected customers will be refunded to those customers. The new initial deposits to FPL and PRECO for affected customers will be no greater than the customer's previous deposit with FPL or PRECO, and can be paid over a three-month period.
- The transfers will be scheduled to be completed within one year of Commission approval of the joint petition.

The petitioners state that in accordance with Rule 25-6.0440(1)(d), F.A.C., each affected customer was notified by mail of the transfer and a description of the difference between FPL's and PRECO's rates was provided. Staff reviewed the utilities' customer notification packages and notes that the customer to be transferred from PRECO to FPL will experience a savings in electric costs; the customers to be transferred from FPL to PRECO will experience increases in electric costs based on current rates. With regard to the degree of acceptance by affected customers, the petitioners state that no customers have contacted FPL or PRECO to express any concerns.

In accordance with Section 5.A. and Section 6 of the Territorial Agreement, FPL and PRECO have agreed that FPL will remove 1.2 miles of overhead lateral lines, 19 poles, and two

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transformers to facilitate host utility PRECO's ability to serve the Serenity Creek development and the adjacent PRECO territory that includes the FPL affected customers. FPL and PRECO represent that the approval of the joint petition will not cause a decrease in the reliability of electrical service and that this agreement will eliminate uneconomic duplication of facilities. Thus, on balance, staff believes that the proposed transfer of customers implements the provisions of the Territorial Agreement approved in Order No. 18332 and will not cause a detriment to the public interest; therefore, it should be approved.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose interests are substantially affected timely files a protest to the Commission's Proposed Agency Action Order, this docket should be closed upon issuance of a Consummating Order. (Klancke)

Staff Analysis: If no person whose interests are substantially affected timely files a protest to the Commission's Proposed Agency Action Order, this docket should be closed upon issuance of a Consummating Order.