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: June 4, 2015

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) S.O. EJD PD J.W.D
Office of the General Counsel (Villafrate)

RE: Docket No. 150077-EU – Joint petition for approval of territorial agreement in Lake and Sumter counties by the City of Leesburg and Duke Energy Florida, Inc.

AGENDA: 06/18/15 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On March 9, 2015, Duke Energy, Florida, Inc. (Duke), and the City of Leesburg (Leesburg) filed a joint petition for approval of a territorial agreement (proposed Agreement) in Lake and Sumter counties. The proposed Agreement is Attachment A to the petition while the maps are Exhibit A to the petition. Duke and Leesburg were parties to a prior territorial agreement (prior Agreement) that expired on July 22, 2013.[1] Duke and Leesburg assert that they are abiding by the terms of the prior Agreement until the Commission approves a new agreement. During its evaluation of the joint petition, staff issued one data request to the parties. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

[1] Order No. 12289, issued July 22, 1983, in Docket No. 820492-EU, In re: Application of Florida Power Corporation and the City of Leesburg for approval of a territorial agreement relating to service areas.

Discussion of Issues

Issue 1: Should the Commission approve the joint petitioners' proposed Agreement?

Recommendation: Yes, the Commission should approve the proposed Agreement. (Ollila)

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 25-6.60440(2), Florida Administrative Code (F.A.C.), states that in approving territorial agreements, the Commission may consider:

(a) The reasonableness of the purchase price of any facilities being transferred;

(b) The reasonable likelihood that the agreement, in and of itself, will not cause a decrease in the reliability of electrical service to the existing or future ratepayers of any utility party to the agreement; and

(c) The reasonable 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.[2]

According to the joint petitioners, there are three differences between the prior and proposed Agreements. First, the boundary maps have been updated to a geographical information system (GIS) format to show the boundary lines in greater detail. Second, although the terms of the prior and proposed agreements are 30 years, the proposed Agreement will remain in effect past the expiration date until and unless either party provides written notice of termination. Third, the boundary has been modified such that there will be 18 customer transfers from Leesburg to Duke.

All of the customers that are subject to transfer to Duke are general service non-demand commercial customers. Exhibit B to the petition provides a list of the customers, which includes cell towers, pump stations, and highway ramps. As of January 2015, the rate comparison for these customers, using 1,500 kwh, was $214.82 for Leesburg and $186.34 for Duke. In accordance with Rule 25-6.0440(1)(d), F.A.C., notification letters were sent to these customers on February 9, 2015; as of the recommendation's filing date neither party had received a negative response to the letter. The joint petitioners expect that all customer transfers will be completed no later than 24 months after the effective date of the proposed Agreement and will notify the Commission in writing if additional time is needed.

According to the proposed Agreement, no compensation will be paid for the transfer of customers; however the receiving party, Duke, may elect to purchase the distribution facilities used exclusively to serve the customers. In response to staff's data request, the joint petitioners explained that they have tentatively agreed to exchange and purchase the required facilities. The

[2] Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

joint petitioners have not valued the facilities but plan to as soon as practical should the Commission approve the proposed Agreement.

The proposed Agreement specifies that the purchase amount will be based on the replacement cost less depreciation and the cost to the transferring party, Leesburg, for reintegration of its remaining system where such costs are reasonably required by sound business practices. To calculate replacement costs, the proposed Agreement specifies that both parties must apply the same cost escalator (such as the Handy Whitman Index) to original cost.

The joint petitioners assert that the proposed Agreement will avoid duplication of services and wasteful expenditures and will protect the public health and safety from potentially hazardous conditions. The joint petitioners believe and represent that the Commission's approval of the proposed Agreement is in the public interest.

After review of the petition, the proposed Agreement, and the parties' response to its data request, staff believes that the proposed Agreement is in the public interest and will enable Duke and Leesburg to better serve their current and future customers. It appears that the proposed Agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. As such, staff believes that the proposed Agreement between Duke and Leesburg will not cause a detriment to the public interest and recommends that the Commission approve it.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Villafrate)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.