

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: February 18, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Rome) *CRK EID PAGE*
Office of the General Counsel (Janjic) *WJ JC*

RE: Docket No. 160025-EU – Joint petition for approval of amendment to territorial agreement in Orange County, by Orlando Utilities Commission and Duke Energy Florida, LLC.

AGENDA: 03/01/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On January 22, 2016, Orlando Utilities Commission (OUC) and Duke Energy Florida, LLC (Duke) filed a joint petition to extend the term of their current territorial agreement (current agreement) until August 1, 2017. In 2007, the Commission approved the current agreement for a nine year term expiring February 1, 2016.¹ The joint petitioners stated that they need additional time to negotiate a new territorial agreement. The proposed amendment to extend the term is shown in Attachment A. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

¹ Order No. PSC-07-0562-PAA-EU, issued July 5, 2007, in Docket No. 070137-EU, *In re: Joint petition for approval of territorial agreement in Orange County by Orlando Utilities Commission and Progress Energy Florida, Inc.*

Discussion of Issues

Issue 1: Should the Commission approve the amendment to the territorial agreement between OUC and Duke?

Recommendation: Yes, the Commission should approve the amendment to the territorial agreement between OUC and Duke. (Rome)

Staff Analysis: The proposed amendment to the territorial agreement, as shown in Attachment A, extends the term of the current agreement until August 1, 2017, to allow the joint petitioners additional time to negotiate a new territorial agreement. All other provisions of the current agreement remain in effect.²

In approving the current agreement, the Commission found that the agreement is "...in the public interest...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."³ Staff believes that the requested extension of time is reasonable and does not appear to be detrimental to the parties or the public interest. Any subsequent modification to the territorial agreement will be brought before the Commission for its consideration pursuant to Section 366.04, F.S. Therefore, staff recommends approval of the proposed amendment to the territorial agreement to provide OUC and Duke with additional time to negotiate a new territorial agreement.

² In response to a staff inquiry, the joint petitioners clarified that references to Osceola County in the joint petition and the proposed amendment to the territorial agreement were scrivener's errors.

³ Order No. PSC-07-0562-PAA-EU, issued July 5, 2007, in Docket No. 070137-EU, *In re: Joint petition for approval of territorial agreement in Orange County by Orlando Utilities Commission and Progress Energy Florida, Inc.*, page 3.

Issue 2: Should this docket be closed?

Recommendation: 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. (Janjic)

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.

AMENDMENT TO TERRITORIAL AGREEMENT

Orlando Utilities Commission (OUC) and Duke Energy Florida, LLC (DEF), enter into this Amendment to their Territorial Agreement for Orange County on this _____ day of January, 2016.

WITNESSETH:

WHEREAS, OUC and DEF are parties to a currently effective territorial agreement delineating their respective service territories in Orange and Osceola Counties (the "Current Agreement"), which has been approved by order of the Florida Public Service Commission (the "Commission") in Order No. PSC-07-0608-CO-EU, issued July 30, 2007, in Docket No. 070137-EU; and

WHEREAS, the term of the Current Agreement will expire February 1, 2016; and

WHEREAS, OUC and DEF have entered into negotiations for the purpose of reaching a new territorial agreement to replace the Current Agreement upon its expiration; and

WHEREAS, OUC and DEF recognize that they will be unable to successfully conclude their negotiations by the expiration date of the Current Agreement as it presently exists; and

WHEREAS, OUC and DEF desire to extend the expiration of the Current Agreement to August 1, 2017, in order to provide sufficient time to pursue the opportunity for a successful conclusion of their negotiations, and to seek Commission approval of the resulting new territorial agreement; and

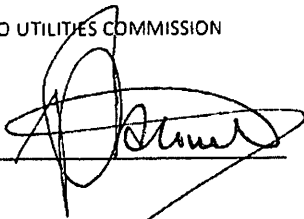
NOW, THEREFORE, OUC and DEF hereby agree as follows:

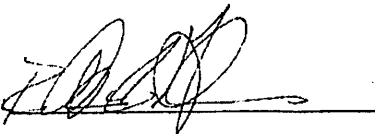
1. The term of the Current Agreement, shall be extended to and including August 1, 2017.
2. Except as modified herein, the terms and conditions of the Current Agreement shall remain in full force and effect.
3. This Amendment to the Current Agreement will become effective and enforceable only upon the issuance of an Order by the Commission approving the Amendment to the Current Agreement in its entirety.

IN WITNESS WHEREOF, OUC and DEF have caused this Amendment to be executed by their duly authorized representatives on the day and year first above stated.

ORLANDO UTILITIES COMMISSION

DUKE ENERGY FLORIDA

BY: 

BY: 

NAME: KENNETH P. KSIONEK

NAME: ALEX GLENN

TITLE: VICE PRESIDENT & CFO

TITLE: STATE PRESIDENT

Approved as to form and substance
OUC Legal Department
DATE: 1/21/16 BY: WJF

