

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) *CAR EJD PN*
Office of the General Counsel (Villafrate) *JSC*

RE: Docket No. 150252-EU – Joint petition for approval of territorial agreement in Alachua, Marion, Columbia, Levy and Volusia Counties by Clay Electric Cooperative, Inc. and Duke Energy Florida, LLC.

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

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On November 24, 2015, Clay Electric Cooperative, Inc. (Clay) and Duke Energy Florida, LLC (Duke) filed a joint petition for approval of a territorial agreement (agreement) in Alachua, Marion, Columbia, Levy, and Volusia Counties. The proposed agreement is Attachment A to the petition, while the maps and written description delineating the area to be covered by the proposed agreement are provided in petition Exhibits A and D, respectively.¹ The proposed

¹ Due to the volume of the proposed agreement and associated exhibits, staff did not attach the agreement to this recommendation.

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agreement would consolidate the three current territorial agreements between Duke and Clay for the provision of electric service in the five counties.²

The territorial boundaries have been modified in each county that is covered by the proposed agreement. If approved, the agreement would result in the transfer of 441 customers from Clay to Duke (52 commercial and 389 residential) and the transfer of 83 customers from Duke to Clay (16 commercial and 67 residential).

During its evaluation of the joint petition, staff issued a data request to the joint petitioners for which responses were received on December 18 and 21, 2015. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

² Order No. 13023, issued February 23, 1984, in Docket No. 840022-EU, *In re: Joint Stipulation between Florida Power Corporation and Clay Electric Cooperative for a territorial agreement* [Volusia County], Order No. 24312, issued April 2, 1991, in Docket No. 900064-EU, *In re: Petition to resolve territorial dispute between Clay Electric Cooperative, Inc. and Florida Power Corporation* [Alachua County], and Order No. PSC-95-1434-FOF-EU, issued November 27, 1995, in Docket No. 950851-EU, *In re: Joint Petition for approval of territorial agreement in Marion, Levy, and Columbia Counties between Florida Power Corporation and Clay Electric Cooperative, Inc.*

Discussion of Issues

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

Recommendation: Yes, the Commission should approve the proposed agreement. (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), 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.³

Through the proposed agreement, the joint petitioners desire to clearly delineate the territorial boundaries within the five-county area in order to serve customers more reliably and economically. Pursuant to Section 1.9 of the proposed agreement, the effective date of the agreement would be the date on which a Consummating Order is issued by the Commission, provided no timely protests are filed. The duration of the agreement would be 20 years from the effective date.

The petitioners state that in accordance with Rule 25-6.0440(1)(d), F.A.C., the customers that would be transferred between utilities pursuant to the proposed agreement were notified by mail of the transfer and a description of the differences between Duke's and Clay's rates was provided.⁴ In January 2016, staff's calculated rate comparison for residential customers, using 1,000 kilowatt-hours (kWh), was \$111.30 for Duke and \$117.90 for Clay; the rate comparison for commercial customers, using 1,500 kWh, was \$171 for Duke and \$179 for Clay.⁵ With regard to the degree of acceptance by affected customers, the petitioners represent that Duke has not received any feedback, questions or concerns from customers; Clay has received two inquiries from customers seeking additional information, but those customers expressed no opinion, either for or against, the proposed agreement. The joint petitioners expect that all transfers of customers will be completed within 36 months of the effective date of the proposed agreement and will notify the Commission in writing if additional time is needed. Duke will apply customers' deposits to their last electric bill and will directly refund any surplus.

³ Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

⁴ Petition Exhibit E and petitioners' responses to staff's data request

⁵ All commercial customers that would be transferred are general services non-demand customers.

Pursuant to Sections 3.3 and 3.5 of the proposed agreement, Clay and Duke may elect to purchase the electric facilities used exclusively for providing electric service to the transferred customers by using a common engineering cost estimation methodology such as the Handy-Whitman index to determine the value. In response to staff's data request, the petitioners stated that they plan to make decisions regarding the exchange and purchase of facilities as soon as practical should the Commission approve the proposed agreement.

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 joint petitioners' responses to its data request, staff believes that the proposed agreement is in the public interest and will enable Clay and Duke 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 Clay and Duke will not cause a detriment to the public interest and recommends that the Commission approve it.

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. (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.