

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: December 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Whitchurch, Guffey, Coston) *SKG*
Office of the General Counsel (Trierweiler) *WKT JCO WRE WPH GS*

RE: Docket No. 160211-EU – Joint petition to approve territorial agreement in Columbia, Lafayette, Suwannee, and Hamilton Counties by Suwannee Valley Electric Cooperative and Duke Energy Florida, LLC.

AGENDA: 01/05/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

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Case Background

On September 14, 2016, Suwannee Valley Electric Cooperative (SVEC) and Duke Energy Florida, LLC (DEF) filed a joint petition for approval of an amended territorial agreement (proposed agreement) in Columbia, Lafayette, Suwannee, and Hamilton Counties. The proposed agreement is Attachment 1 to the petition, while the maps and written descriptions delineating the area to be served by the proposed agreement are provided in the petition as Exhibits A and D, respectively. Due to the volume of the exhibits, they have not been attached to this recommendation.

The Commission approved the existing territorial agreement between SVEC and DEF in 1995.¹ The existing agreement was for a term of 20 years and ended March 14, 2015. Since then there have been two Commission-approved extensions to allow the joint petitioners time to finalize negotiations. The first extension expired March 14, 2016,² and the second extended the agreement until September 14, 2016.³ The joint petitioners have negotiated the proposed agreement, which delineates their respective service boundaries in Columbia, Lafayette, Suwannee, and Hamilton Counties, for a 20-year term. The proposed agreement also consolidates an expired territorial agreement in Hamilton County which was issued August 1990 and expired in August 2010.⁴ If approved, the agreement will result in the transfer of 29 commercial customers and 102 residential customers from DEF to SVEC. Additionally, the agreement will result in the transfer of 11 commercial customers and 57 residential customers from SVEC to DEF. The transfers will be implemented when it is operationally feasible for both parties to serve the total 199 impacted customers. The transfers will be implemented no later than 36 months after the Commission's approval. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

¹ Order No. PSC-95-0351-FOF-EU, issued March 14, 1995, in Docket No. 940331-EU, *In re: Petition to resolve territorial dispute with Florida Power Corporation.*

² Order No. PSC-15-0128-PAA-EU, issued March 20, 2015, in Docket No. 150039-EU, *In re: Joint petition to reopen and extend the term of existing territorial agreement in Columbia, Lafayette, Madison, and Suwannee Counties.*

³ Order No. PSC-16-0193-PAA-EU, issued May 17, 2016, in Docket No. 160056-EU, *In re: Joint petition to reopen and extend the term of existing territorial agreement in Columbia, Lafayette, Madison, and Suwannee Counties.*

⁴ Order No. 23310, issued August 6, 1990, in Docket No. 890780-EU, *In re: Petition of Suwannee Valley Electric Cooperative, Inc. to resolve territorial disputes with Florida Power Corporation in Hamilton County.*

Discussion of Issues

Issue 1: Should the Commission approve the proposed territorial agreement between SVEC and DEF?

Recommendation: Yes. The proposed agreement is an extension of the existing agreement set to expire in 2016, and consolidates the previously expired agreement for Hamilton County. It is in the public interest and will enable SVEC and DEF to better serve their current and future customers. (Whitchurch, Guffey, Coston)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S. and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), the Commission has jurisdiction to approve territorial agreements between, and among, rural electric cooperatives, municipal electric utilities, and investor-owned utilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.⁵

Through the proposed agreement, the joint petitioners desire to continue and consolidate two existing agreements and clarify the territorial boundaries within Columbia, Lafayette, Suwannee, and Hamilton Counties. This will allow the petitioners to more reliably and economically serve customers. The proposed agreement modifies the territorial boundaries to eliminate split parcels, which results in the transfer of 199 customers between the utilities. Madison County has been removed from this proposed agreement due to the fact that DEF does not share any territorial boundaries with SVEC in the county.

The petitioners negotiated the proposed agreement for a 20-year term with the condition that after the expiration date, the agreement will remain in effect until and unless either party provides a written notice at least 12 months prior to termination. Pursuant to Section 1.9 of the proposed agreement, the effective date of the agreement will be the date on which a final Order is issued by the Commission, provided no timely protests are filed.

In accordance with Rule 25-6.0440(1)(d), F.A.C., the petitioners state that the 199 impacted customers pursuant to the proposed agreement were notified by mail of the transfer and provided a description of the difference in rates between DEF and SVEC.⁶ As of August 2016, the rate comparison for a non-demand commercial customer, using 1,500 kilowatt-hours, was \$171.22 for DEF and \$180.00 for SVEC. As of August 2016, the rate comparison for a residential customer, using 1,000 kilowatt-hours, was \$108.48 for DEF and \$121.00 for SVEC. Both parties will apply any deposits of the impacted customers to their last electric bill and will directly refund any surplus. The joint petitioners expect that the customer transfers will be completed within 36 months of the agreement's effective date and will notify the Commission in writing if additional time is needed.

⁵ Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

⁶ Petition Exhibit E.

After the notification of transfer and rate changes are sent, customer feedback is encouraged and expected. With regard to this proposed agreement, the petitioners state that SVEC has not received any feedback, questions, or concerns from the customers and DEF has received feedback from three customers. All three customers desired to remain with DEF and raised concerns about reliability of service, higher rates, vegetation management, and comparative restoration times with SVEC during Hurricane Hermine. DEF has personally contacted all three customers and provided information on how to submit comments to the Public Service Commission. The Commission has received feedback from one customer on November 8, 2016.⁷ This customer also cited reliability of service and higher rates as concerns with the proposed agreement.

Section 3.4 (Compensation for Transferred Customers) of the proposed agreement allows for the compensation of lost revenue due to the transfer of customers. Compensation only applies to the number of customers affected by modifications to the territorial boundaries, and the party losing the customers will be compensated for the loss of revenue by the receiving party. In total SVEC is estimated to pay DEF approximately \$260,412 in lost revenue and DEF is estimated to pay SVEC approximately \$111,535. These estimates are reasonable in light of current rates. However, the final compensation amounts will depend on the approval date of this agreement. Compensation is intended to be provided within 60 days of the provided invoice.

In accordance with section 3.5 (Compensation for Transferred Facilities) of the proposed agreement, SVEC may elect to purchase electric distribution facilities used exclusively for providing electric service to the transferred customers. To determine the facilities' value, DEF will use a common engineering cost estimation methodology such as the Handy-Whitman index. In response to staff's data request, joint petitioners believe that the net purchase of facilities to be transferred will not exceed \$100,000. The actual amount will depend on approval of this 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.

Conclusion: After review of the petition, the proposed agreement, and responses to staff's data request, staff believes that the proposed agreement is in the public interest and will enable SVEC and DEF to better serve their current and future customers. Merging the two prior agreements, clarifying boundary lines, and removing Madison County from the language, allows the proposed agreement to be used more efficiently and to better serve customers' interests. The proposed agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. Despite concerns of cost and service issues raised by individual customers, customers as a whole will benefit overall by these transfers. The transfer of 199 customers helps avoid the duplication of services, maintain lower rates, enhance safety and reliability, and reduce restoration times. As such, staff recommends that the Commission should approve the proposed territorial agreement between SVEC and DEF.

⁷ Document No. 08730-16, filed November 8, 2016, in Docket 160211-EU, *In re: Joint petition to approve territorial agreement in Columbia, Lafayette, Suwannee, and Hamilton Counties.*

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. (Trierweiler)

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.