

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: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) *S.O. EST/SPD*
Office of the General Counsel (Brownless) *[Signature]*

RE: Docket No. 160242-EU – Joint petition for approval of territorial agreement in Alachua County by Clay Electric Cooperative, Inc. and the City of Newberry.

AGENDA: 02/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

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Case Background

On December 7, 2016, Clay Electric Cooperative, Inc. (Clay) and the City of Newberry (Newberry) filed a joint petition for approval of a territorial agreement (proposed agreement) in Alachua County. The proposed agreement is Attachment A 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 C, respectively (due to the voluminous nature of the exhibits, they have not been attached to this recommendation). The joint petitioners' territorial agreement was approved by the Commission in 1991 and amended in 2001 (current agreement).¹ The current agreement expired on September 18, 2009. The joint petitioners stated that they continued to

¹ Order No. 25080, issued September 18, 1991, in Docket No. 910678-EU, *In re: Joint Petition of Clay Electric Cooperative, Inc. and City of Newberry, Florida for approval of territorial agreement*; Order No. PSC-01-0566-PAA-EU, issued March 12, 2001, in Docket No. 001834-EU, *In re: Joint petition for approval of amendment to territorial agreement between Clay Electric Cooperative, Inc. and City of Newberry*.

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abide by the current agreement after its expiration. The joint petitioners responded to staff's data request on January 5, 2017. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve the proposed territorial agreement between Clay and Newberry?

Recommendation: Yes, the Commission should approve the proposed territorial agreement between Clay and Newberry. (Ollila)

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 other electric utilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.²

The petitioners stated that the proposed agreement was entered into primarily to replace the expired agreement. The proposed agreement includes the exchange of service areas where each petitioner believes it can provide better service. These service areas are, for the most part, undeveloped and on the edge of each petitioner's respective territory. Two customers will be transferred from Clay to Newberry under the proposed agreement. All facilities to be transferred under the proposed agreement are secondary service facilities (i.e., the connection of service drops from the transformer to the meter). The joint petitioners stated that due to the age and condition of the facilities, there will not be a purchase price for the facilities. The duration of the proposed agreement is an initial term of 30 years. Five-year automatic renewals will follow the initial term, unless Clay or Newberry notifies the other in writing one year in advance of the expiration of the initial term or any subsequent five-year renewal.

The proposed transfer of two customers results from combining a section of land currently served by Clay and Newberry. A development with residential and retail commercial use is planned for this land and the joint petitioners agree that the development is best served by one utility and that Newberry should serve the development. As a result of this proposed transfer, two Clay customers will be transferred to Newberry. One customer receives residential service on a farm and the other customer, the construction company for the development, is a general service commercial customer. Pursuant to Rule 25-6.0440(1)(d), F.A.C., letters were sent to the customers on November 14, 2016, advising them of the proposed transfer and the rate change; no responses have been received. The rate comparison for the residential customer is \$111.90 for Clay and \$113.50 for Newberry (1,000 kWh per month). The rate comparison for the general service customer is \$171.05 for Clay and \$181.80 for Newberry (1,500 kWh per month). Clay will refund any deposits either as a credit on the customer's final bill or send a check refunding the deposit. The joint petitioners anticipate the transfers will be completed within 12 months of the effective date of the order and will notify the Commission in writing if more time is needed. According to the joint petitioners, there will be no compensation for the transfer of customers.

The joint petitioners assert that the proposed agreement will avoid duplication of services and wasteful expenditures and will protect the health and safety of the public from potentially

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

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 staff's data request, staff believes that the proposed agreement is in the public interest and will enable Clay and Newberry 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 Newberry creates no detriment and is in 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. (Brownless)

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.