

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: April 7, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Rodan)
Division of Economic Regulation (Breman, Windham)

RE: Docket No. 041413-EU – Joint petition for approval of amended territorial agreement in Levy and Marion Counties by Central Florida Electric Cooperative, Inc. and Progress Energy Florida, Inc.

AGENDA: 04/19/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Attachment A is not included in the Word version of this document.

FILE NAME AND LOCATION: S:\PSC\GCL\WP\041413.RCM.DOC

Case Background

On December 20, 2004, Progress Energy Florida, Inc. (PEF) and Central Florida Electric Cooperative, Inc. (CFEC) filed a Joint Petition for approval of an amendment and restatement of an existing territorial agreement between the parties in Levy and Marion Counties, Florida, which was approved by Order No. PSC-94-0799-AS-EU, issued June 28, 1994, Docket No. 920659-EU, In Re: Petition to resolve a territorial dispute between Central Florida Electric Cooperative, Inc. and Florida Power Corporation in Levy County. The new agreement would expire on June 28, 2014. The proposed territorial agreement, attached hereto as Attachment A, amends the retail electric territorial boundary previously set by the Commission for the currently effective agreement.

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The proposed agreement provides that its effectiveness is contingent upon approval of the Commission. Pursuant to Section 366.04(2), Florida Statutes, the Commission has jurisdiction over territorial agreements between electric utilities.

Discussion of Issues

Issue 1: Should the Commission approve the joint petition for approval of the amended territorial agreement between Progress Energy Florida, Inc. and Central Florida Electric Cooperative, Inc.?

Recommendation: Yes. The proposed agreement is in the public interest and should be approved, effective upon the issuance of a Consummating Order finalizing the Commission's decision. (Rodan, Windham, Breman)

Staff Analysis: The proposed agreement involves minor boundary changes to provide the parties further operational efficiencies and customer service improvements in their respective territories. The proposed agreement eliminates the need for each utility to serve extra-territorial customers currently located in the territory of the other utility, through either modifying the territorial boundary lines to place these customers in the territorial area of the utility currently providing service, or transferring the remaining extra-territorial customers to the utility in whose territorial area they are located. Thus, both utilities will be able to plan and operate more efficiently and better serve their customers by concentrating their efforts and attention exclusively on their own respective service areas. Maps of relevant areas in Levy and Marion counties showing the new agreement boundary lines are contained in Exhibit A to the Amended Agreement. Under the agreement CFEC will serve no customers in Citrus County, so there is no territorial boundary between these utilities in Citrus County.

The proposed agreement provides for the transfer of all extra-territorial customers to the utility in whose service territory such customers are located. The parties expect that all such transfers and related service facilities will be completed within 36 months of the Commission's order approving the amended agreement. The parties are agreeable to submitting annual reports on the status of these customer and related facility transfers, and will provide the Commission advance notification if extenuating circumstances require additional time to complete the transfers. The names and service addresses of the extra-territorial customers subject to transfer are listed in Exhibit B to the Amended Agreement, which includes seven customers to be transferred from PEF to CFEC and 190 customers to be transferred from CFEC to PEF.

The utilities have agreed that current deposits of customers being transferred will be credited against the customer's final bill. Any remaining deposit will be refunded to customers. Any remaining account balance will be billed to customers. Deposits will be required only if determined to be necessary under each utility's standard, uniformly applied deposit criteria. In addition, a membership fee will be required of customers transferred to CFEC who are not already a member of the Cooperative. For customers being transferred to PEF, the customer/member's capital credit of record with CFEC will be refunded at an appropriate time determined by CFEC's Board of Trustees. This is consistent with Commission practice¹.

¹ See Order No PSC-95-0440-FOF-EU, issued April 5, 1995, Docket No 940656-EU, In Re: Petition for Approval of a Territorial Agreement between Orlando Utilities Commission and Florida Power Corporation in Orange County; Order No. PSC-95-1434-FOF-EU, issued November 27, 1995, Docket No 950851-EU, In Re: Joint Petition for Approval of a Territorial Agreement in Marion, Levy, and Columbia Counties between Florida Power Corporation and Clay Electric Cooperative, Inc.; and Order No PSC-95-0668-FOF-EU, issued May 31, 1995,

The utilities sent a letter to all customers proposed to be transferred advising the customers of the proposed transfers. To date, CFEC has received three responses to the notification letters sent to the 190 customers to be transferred to PEF. Two customers objected to the transfer and raised general reasons rather than specific service or rate-related issues. The remaining customer objected to the transfer based on concerns regarding his past experience with PEF's delayed outage response time. PEF has not received any responses to its customer notification letters.

Staff has reviewed the proposed Agreement and believes that the Joint Petition and the Agreement are in compliance with Rule 25-6.0440, Florida Administrative Code, and Section 366.04(2), Florida Statutes, the laws governing territorial agreements. Moreover, staff believes that the Agreement is a reasonable resolution that will reduce the likelihood of future uneconomic and unnecessary duplication of facilities along the boundary lines, in accordance with Commission policy and the public interest. Therefore, staff recommends that the Commission approve the Joint Petition for approval of Territorial Agreement in Levy and Marion counties by PEF and CFEC, and the associated maps. Because this action is being taken as proposed agency action, staff believes that the action approving this Agreement cannot be effective until the issuance of a Consummating Order, and that the term of the agreement will be from that date to the expiration date of the currently effective agreement. This Agreement comports with the law and the public interest, and it furthers the Commission policy of avoiding unnecessary and uneconomic duplication of facilities.

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Issue 2: Should this docket be closed?

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

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