

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 23, 2006

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

FROM: Office of the General Counsel (Brown)
Division of Economic Regulation (Windham)

RE: Docket No. 060034-EU – Joint petition for approval of territorial agreement in Gadsden County by Talquin Electric Cooperative, Inc. and Town of Havana.

AGENDA: 04/04/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Deason

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\060034.RCM.DOC

Case Background

On January 12, 2006, Talquin Electric Cooperative, Inc. (Talquin) and the Town of Havana, Florida (Havana) filed a joint petition for approval of a territorial agreement to delineate their service territories in and around Havana in Gadsden County. Executed in October, 2005, the agreement has a term of 20 years and contemplates approval by the Commission before it becomes effective.

This recommendation addresses Talquin's and Havana's joint petition. The Commission has jurisdiction over the subject matter of this proceeding pursuant to section 366.04(2), Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the territorial agreement between Talquin and Havana?

Recommendation: Yes. (Windham, Brown)

Staff Analysis: This is the first territorial agreement between Talquin and Havana. In 1992, the Commission resolved a territorial dispute over service to a new middle school in Gadsden County, and in the order resolving the dispute encouraged Talquin and Havana to discuss territorial issues with the goal of establishing a territorial agreement.¹ While no agreement was forthcoming, there have not been any other disputes in the last 14 years. Now, however, the parties assert that their electric facilities are contiguous in Gadsden County, and an agreement is necessary to prevent duplication of facilities and the safety and economic problems that duplication creates.

In their joint petition the parties assert that there is no reasonable likelihood that the territorial agreement will cause a decrease in reliable electric service to existing or future customers of Talquin or Havana. They also assert that the agreement will ensure there is no uneconomic duplication of facilities and will prevent future disputes and uncertainties. Further, no transfer of customers or facilities will occur under the terms of the agreement. The agreement will not be effective until approved by the Commission. It will have a term of twenty years beginning the date the Commission approves it.

Pursuant to section 366.04(2)(d), Florida Statutes, 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, provides that in approving territorial agreements, the Commission may consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the 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. Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985). In this instance, the territorial agreement proposed by Talquin and Havana does not propose the transfer of any customers or facilities. It eliminates existing or potential uneconomic duplication of facilities, and does not cause a decrease in the reliability of electric service to existing or future ratepayers.

Based on the above, staff recommends that the territorial agreement, contained in Attachment A to this recommendation, is in the public interest and should be approved.

¹ Order No. PSC-92-1474-FOF-EU, issued December 21, 1993, in Docket No. 920214-EU, In re: Petition to resolve territorial dispute between Talquin Electric Cooperative, Inc. and Town of Havana.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose interests are substantially affected timely files a protest to the Commission's proposed agency action order, this docket should be closed upon issuance of a consummating order.

Staff Analysis: If no person whose interests are substantially affected timely files a protest to the Commission's proposed agency action order, this docket should be closed upon issuance of a consummating order.