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 August 12, 2014

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Item 1

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (C. Beard) *CJB RC*
Office of the General Counsel (S. Hopkins) *smh AT 7/31/14*

RE: Application for certificate to provide local telecommunications service by Vodafone US Inc.

AGENDA: 8/12/2014 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Application for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
140095-TX	Vodafone US Inc.	8860

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

Item 2

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Cowdery) *K.S.M.*
Division of Economics (Rome) *CR* *AD* *EAD* *J.W.D.*
Office of Telecommunications (Bates, Casey, Salak) *B* *RS* *MS*

RE: Docket No. 140141-TP – Proposed Repeal of Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and Amendment of Rules 25-4.003, and 25-22.061, F.A.C.

AGENDA: 08/12/14 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Balbis

RULE STATUS: Proposal may be deferred

SPECIAL INSTRUCTIONS: None

Case Background

The Commission repealed and amended a significant number of telecommunications industry rules in Chapters 25-4 and 25-24, Florida Administrative Code (F.A.C.),¹ following

¹ *In re: Repeal of rules resulting from changes to Chapter 364, Florida Statutes*, Docket No. 110209-TP, Order No. PSC-11-0438-FOF-TP, issued September 29, 2011 (repealing sixty-six rules); *In re: Proposed repeal of Rule 25-24.585 and 25-24.835, and proposed adoption of Rule 25-4.0051*, Docket No. 120238-TP, Order No. PSC-13-0037-FOF-TP, issued January 22, 2013; *In re Initiation of rulemaking to amend Rules 25-4.004 and 25-4.005 and to repeal Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, etc.*, Docket No. 120241-TP, Order No. PSC-12-0637-FOF-TP, issued November 30, 2012 (repealing eighteen rules and amending two rules); *In re: Proposed revisions to pay telephone Rules 25-24.510, 25-24.511, 25-24.512, 25-24.514, and 25-24.515, F.A.C.*, Docket No. 120262-TC, Order No. PSC-13-0040-FOF-TC, issued January 22, 2013; *In re: Proposed amendment of Rule 25-4.034, 25-4.0341, and proposed repeal of Rule 25-24.825, F.A.C.*, Docket No. 120265-TP, Order No. PSC-13-0034-FOF-TP, issued January 18, 2013; and *In re: Proposed amendment of Rule 25-4.118 and proposed repeal*

enactment of changes to Chapter 364, Florida Statutes (F.S.), made by the 2011 Legislature.² As a result of these statutory and rule changes, staff believes that Rules 25-4.002, Application and Scope, 25-24.505, Scope, 25-24.514, Cancellation of a Certificate, 25-24.555, Scope and Waiver, and 25-24.560, Terms and Definitions, F.A.C., are obsolete and should be repealed. In addition, staff believes that Rule 25-4.003, Definitions, F.A.C., should be amended to delete obsolete language and to update the rule, and Rule 25-22.061, Stay Pending Judicial Review, F.A.C., should be amended to delete obsolete language.

Notices of rule development appeared in the May 13, 2014, edition of the Florida Administrative Register. There was no request for a workshop and no workshop was held.

This recommendation addresses whether the Commission should repeal Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and amend Rules 25-4.003 and 25-22.061, F.A.C. The Commission has jurisdiction pursuant to Section 120.54, F.S.

of Rules 25-4.083 and 25-24.845, F.A.C., Docket No. 120226-TP, Order No. PSC-13-0035-FOF-TP, issued January 18, 2013.

² Regulatory Reform Act of 2011, Chapter 2011-36, Laws of Florida.

Discussion of Issues

Issue 1: Should the Commission propose the repeal of Rules 25-4.002, Application and Scope; 25-24.505, Scope; 25-24.514, Cancellation of a Certificate; 25-24.555, Scope and Waiver; and 25-24.560, Terms and Definitions, and the amendment of Rules 25-4.003, Definitions, and 25-22.061, Stay Pending Judicial Review?

Recommendation: Yes, the Commission should propose the repeal of Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and the amendment of Rules 25-4.003 and 25-22.061, F.A.C., as set forth in Attachment A. (Cowdery, Salak, Bates, Casey, Rome)

Staff Analysis: In 2011, the Legislature enacted changes to Chapter 364, F.S., which resulted in the Commission repealing and amending a significant number of rules in Chapters 25-4, Telephone Companies, and 25-24, Telecommunications, F.A.C. As a result of these statutory and rule changes, staff is recommending the repeal of Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and the amendment of Rules 25-4.003 and 25-22.061, F.A.C.

Rule 25-4.002, F.A.C., addresses the application and scope of the rules in Parts I-XI of Chapter 25-4 and Parts X-XV of Chapter 25-24, F.A.C. The language concerning the scope of individual parts of Chapter 25-4 is now obsolete because the Commission does not regulate shared tenant service companies, operator service provider companies and call aggregators, and Alternative Access Vendor Service Providers. Further, Chapters 25-4 and 25-24, F.A.C., are no longer divided into Parts. The individual rules contained in Chapters 25-4 and 25-24, F.A.C., by their terms, identify the providers being addressed, and, as a result, there is no need to have a separate rule defining the scope of Chapter 25-4, F.A.C. Because Rule 25-4.002, F.A.C., contains obsolete language and is not necessary to implement any sections of Chapter 364, F.S., staff recommends that it be repealed.

Rule 25-4.003, F.A.C., defines terms addressed by Chapter 25-4, F.A.C. Staff recommends deleting all terms which are unnecessary or no longer addressed in Chapter 25-4, F.A.C., because rules addressing those terms having been repealed or amended in prior dockets. Staff recommends that a definition of “Certificate of Authority,” “Certificate of Necessity,”³ and “Number Portability” be added for clarity and consistency with statutory changes. Staff also recommends that the definition of “Exchange” be rewritten for accuracy and clarity.

Rule 25-22.061, F.A.C., addresses Commission procedures to be followed concerning stays of Commission orders pending judicial review in state court. Subsection 25-22.061(3) provides that when the Commission grants a stay conditioned upon posting of an appropriate form of surety, interest to be paid by the company shall be set for telecommunication companies pursuant to subsection 25-4.114(4), F.A.C. Reference to Rule 25-4.114 is obsolete because that rule has been repealed. For this reason, staff recommends that the rule language “subsection 25-4.114(4), F.A.C., for telecommunication companies” be deleted from Rule 25-22.061, F.A.C., as obsolete.

Rule 25-24.505, F.A.C., addresses the scope of the rules concerning pay telephone service companies. Rule 25-24.505, F.A.C., references Rules 25-4.019 and 25-4.043, F.A.C.

³ Section 364.33, F.S., Certificate of necessity or authority.

This language is obsolete because the Commission has repealed Rules 25-4.019⁴ and 25-4.043,⁵ F.A.C. In addition, the language of the rules in Chapters 25-4 and 25-24, F.A.C., makes clear what type provider is addressed by each rule, and, for this reason, there is no need to have a separate rule defining the scope of Chapter 25-24, F.A.C. For these reasons, staff recommends that this rule be repealed as obsolete and unnecessary to implementation of Chapter 364, F.S.

Subsection (1) of Rule 25-24.514, Cancellation of a Certificate, lists the bases for cancellation of a certificate. Paragraphs (a) – (c) of subsection (1) restate reasons for certificate revocation stated in Section 364.285, F.S. Paragraph (d) states that the Commission may cancel a certificate for the company's failure to provide service for six months. This reason for certificate cancellation is not required by statute, has not been applied for many years, and is not necessarily an appropriate reason for revocating a certificate. For these reasons, staff recommends that subsection (1) of Rule 25-24.514 be deleted.

Subsection (2) of Rule 25-24.514 requires a company to request certificate cancellation in writing and provide a statement of intent and date to pay regulatory assessment fees, and subsection (3) states that certificate cancellation shall be ordered subject to the company providing the information required by subsection (2). Staff believes that these subsections are not necessary to implement Chapter 364, F.S. Section 364.335(3), F.S., states that a company may terminate a certificate by submitting notice to the Commission. Section 364.336, F.S., and Rule 25-4.061, F.A.C., require all telecommunications companies to pay regulatory assessment fees. Staff does not believe that a "statement of intent" concerning intent and date to pay regulatory assessment fees is necessary to implement Section 364.335, F.S. For the reasons explained above, staff recommends that Rule 25-24.514, F.A.C., be repealed as obsolete, redundant of statutory language, and unnecessary to implement Chapter 364, F.S.

Rule 25-24.555, Scope and Waiver, applies to shared tenant service, and Rule 25-24.560, Terms and Definitions, applies to alternative access vendors. Because the Commission no longer regulates shared tenant services or alternative access vendors, staff recommends that these rules be repealed as obsolete and unnecessary to implement Chapter 364, F.S.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54, F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B. The SERC analysis includes whether the rule repeals and amendment are likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after implementation.⁶

The SERC concludes that the rule repeals and amendment are not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within 1 year after implementation. Further, the SERC concludes that the rule repeals and amendments

⁴ *In re: Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications*, Docket No. 080641- TP, Order No. PSC-08-0773-NOR-TP, issued November 24, 2008.

⁵ *In re: Proposed repeal of Rule 25-4.043, etc.*, Docket No. 120230-PU, Order No. PSC-12-0606-FOF-PU, issued November 3, 2012.

⁶ Section 120.54(2), F.S.

will not likely have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within 5 years of implementation. Thus, the rule repeals and amendment do not require legislative ratification, pursuant to Section 120.541(3), Florida Statutes. In addition, the SERC states that the rule repeals and amendments would not have an adverse impact on small businesses, and would have no impact on small cities or small counties. The SERC addresses additional statutory requirements.

Staff recommends that the Commission should propose the repeal of Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and the amendment of Rules 25-4.003 and 25-22.061, F.A.C., as set forth in Attachment A.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed. (Cowdery)

Staff Analysis: If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

1 **25-4.002 Application and Scope.**

2 ~~(1) These rules are intended to define reasonable service standards that will promote the~~
3 ~~furnishing of adequate and satisfactory local and long distance service to the public, and to~~
4 ~~establish the rights and responsibilities of both the company and the customer. The rules~~
5 ~~contained in Parts I XI of this chapter apply to local exchange companies. The rules contained~~
6 ~~in Part X of Chapter 25-24, F.A.C., apply to any Interexchange Company. The rules in Part XI~~
7 ~~of Chapter 25-24, F.A.C., apply to any pay telephone service. The rules in Part XII of Chapter~~
8 ~~25-24, F.A.C., apply to all Shared Tenant Service Companies. The rules in Part XIII of~~
9 ~~Chapter 25-24, F.A.C., apply to all Operator Service Provider Companies and call~~
10 ~~aggregators. The rules contained in Part XIV of Chapter 25-24, F.A.C., apply to all~~
11 ~~Alternative Access Vendor Service Providers. The rules contained in Part XV of Chapter 25-~~
12 ~~24, F.A.C., apply to all competitive local exchange telecommunications companies.~~

13 ~~(2) In addition to the rules contained in this part, any local exchange company that provides~~
14 ~~operator services in a call aggregator context shall also comply with the rules contained in Part~~
15 ~~XIII of Chapter 25-24, F.A.C.~~

16 *Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.335, 364.337, 364.3375,*
17 *364.3376 FS. History—Revised 12-1-68, Formerly 25-4.02, Amended 2-23-87, 1-8-95, 2-1-99,*
18 *4-3-05, 3-26-09, Repealed.*

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1 **25-4.003 Definitions.**

2 For the purpose of Chapter 25-4, F.A.C., the definitions of the following terms apply:

3 (1) ~~“Access Line” or “Subscriber Line” or “Subscriber Loop”.~~ The circuit or channel between
4 the demarcation point at the customer’s premises and the serving end or class 5 central office.

5 ~~(2) “Average Busy Season Busy Hour Traffic.” The average traffic volume for the busy~~
6 ~~season busy hours.~~

7 ~~(3) “Billing Party.” Any entity that bills an end user on its own behalf or on behalf of an~~
8 ~~originating party.~~

9 ~~(4) “Busy Hour.” The continuous one hour period of the day during which the greatest volume~~
10 ~~of traffic is handled in the office.~~

11 ~~(5) “Busy Season.” The calendar month or period of the year (preferably 30 days but not to~~
12 ~~exceed 60 days) during which the greatest volume of traffic is handled in the office.~~

13 ~~(2) (6) “Call.” An attempted telephone message.~~

14 ~~(3) (7) “Central Office.” A location where there is an assembly of equipment that establishes~~
15 ~~the connections between subscriber access lines, trunks, switched access circuits, private line~~
16 ~~facilities, and special access facilities with the rest of the telephone network.~~

17 ~~(4) “Certificate of Authority.” Certificates received by all companies providing~~
18 ~~telecommunications services after July 1, 2011.~~

19 ~~(5) “Certificate of Necessity.” Certificate received by all incumbent local exchange~~
20 ~~companies, shared tenant service providers, alternative access vendors, competitive local~~
21 ~~exchange companies, and pay telephone service providers to provide telecommunication~~
22 ~~services prior to July 1, 2011.~~

23 ~~(8) “Commission.” The Florida Public Service Commission.~~

24 ~~(6) (9) “Company,” “Telecommunications Company,” or “Telephone Company;” or~~
25 ~~“Utility.” These terms may be used interchangeably herein and shall mean~~

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1 “telecommunications company” as defined in Section 364.02(14), F.S.
2 ~~(10) “Competitive Local Exchange Telecommunications Company (CLEC).” Any company~~
3 ~~certificated by the commission to provide local exchange telecommunications services in~~
4 ~~Florida on or after July 1, 1995.~~
5 ~~(11) “Completed call.” A call which has been switched through an established path so that~~
6 ~~two-way conversation or data transmission is possible.~~
7 ~~(12) “Disconnect” or “Disconnection.” The dissociation or release of a circuit. In the case of a~~
8 ~~billable call, the end of the billable time for the call whether intentionally terminated or~~
9 ~~terminated due to a service interruption.~~
10 ~~(13) “Drop or Service Wire.” The connecting link that extends from the local distribution~~
11 ~~service terminal to the protector or telephone network interface device on the customer’s~~
12 ~~premises.~~
13 (7) (14) “Exchange.” The entire telephone plant and facilities used in providing telephone
14 service to subscribers located in an exchange area. An exchange may include more than one
15 central office unit. A central office or group of central offices with the subscriber’s stations
16 and lines connected, forming a local system which furnishes means of telephonic
17 intercommunication without toll charges between subscribers within a specified area.
18 ~~(15) “Exchange (Service) Area.” The territory of a local exchange company (LEC) within~~
19 ~~which local telephone service is furnished at the exchange rates applicable within that area.~~
20 ~~(16) “Extended Area Service.” A type of telephone service whereby subscribers of a given~~
21 ~~exchange or area may complete calls to, and receive messages from, one or more other~~
22 ~~exchanges or areas without toll charges, or complete calls to one or more other exchanges or~~
23 ~~areas without toll message charges.~~
24 ~~(17) “Foreign Exchange Service.” A classification of LEC exchange service furnished under~~
25 ~~tariff provisions whereby a subscriber may be provided telephone service from an exchange~~
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existing law.

- 1 ~~other than the one from which he would normally be served.~~
- 2 ~~(18) “Information Service.” Telephone calls made to 900 or 976 type services, but does not~~
3 ~~include Internet services.~~
- 4 ~~(19) “Intercept Service.” A service arrangement provided by the telecommunications company~~
5 ~~whereby calls placed to an unequipped non working, disconnected, or discontinued telephone~~
6 ~~number are intercepted by operator, recorder, or audio response computer and the calling party~~
7 ~~informed that the called telephone number is not in service, has been disconnected,~~
8 ~~discontinued, or changed to another number, or that calls are received by another telephone.~~
9 ~~This service is also provided in certain central offices and switching centers to inform the~~
10 ~~calling party of conditions such as system blockages, inability of the system to complete a call~~
11 ~~as dialed, no such office code, and all circuits busy.~~
- 12 ~~(20) “Inter office Call.” A telephone call originating in one central office but terminating in~~
13 ~~another central office, both of which are in the same designated exchange area.~~
- 14 ~~(21) “Interstate Toll Message.” Those toll messages that do not originate and terminate within~~
15 ~~the same state.~~
- 16 ~~(22) “Intertoll Trunk.” A line or circuit between two toll offices, two end offices, or between~~
17 ~~an end office and toll office, over which toll calls are passed.~~
- 18 ~~(23) “Intra office Call.” A telephone call originating and terminating within the same central~~
19 ~~office.~~
- 20 ~~(24) Intrastate Interexchange Company (IXC).” Any entity that provides intrastate~~
21 ~~interexchange telecommunications services.~~
- 22 ~~(25) “Intrastate Toll Message.” Those toll messages which originate and terminate within the~~
23 ~~same state.~~
- 24 ~~(26) “Invalid Number.” A number comprised of an unassigned area code number or a non-~~
25 ~~working central office code (NXX).~~

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1 ~~(27) “Large LEC.” A LEC certificated by the Commission prior to July 1, 1995, that had in~~
2 ~~excess of 100,000 access lines in service on July 1, 1995.~~

3 ~~(28) “Local Access and Transport Area (LATA)” or “Market Area.” A geographical area,~~
4 ~~which is loosely based on standard metropolitan statistical areas (SMSAs), within which a~~
5 ~~LEC may transport telecommunication signals.~~

6 ~~(29) “Local Exchange Telecommunications Company (LEC).” Any telecommunications~~
7 ~~company, certificated by the Commission prior to July 1, 1995, to provide local exchange~~
8 ~~telecommunications service.~~

9 (8)(30) “Local Provider (LP).” Any telecommunications company providing local
10 telecommunications service, excluding pay telephone providers and call aggregators.

11 (9)(31) “Local Service Area”, or “Local Calling Area.” The area within which
12 telecommunications telephone service is furnished subscribers under a specific schedule of
13 rates and without toll charges. A LEC’s local service area may include one or more exchange
14 areas or portions of exchange areas.

15 ~~(32) “Local Toll Provider (LTP).” Any entity providing intraLATA or intramarket area long~~
16 ~~distance telecommunications service.~~

17 ~~(33) “Main Station.” The principal telephone associated with each service to which a~~
18 ~~telephone number is assigned and which is connected to the central office equipment by a~~
19 ~~circuit or channel.~~

20 (10)(34) “Message.” A completed telephone call.

21 (11) “Number Portability.” Consumer’s ability to change providers and still keep the same
22 phone number.

23 ~~(35) “Mileage Charge.” A tariff charge for circuits and channels connecting other services that~~
24 ~~are auxiliary to local exchange service such as off premises extensions, foreign exchange and~~
25 ~~foreign central office services, private line services, and tie lines.~~

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1 ~~(36) New Construction.~~ New construction is the installation of facilities to serve unserved
2 areas; new construction is not the rearrangement or repair of defective facilities to serve an
3 existing area. Adding to or the rearrangement of existing facilities is not considered “new
4 construction” unless an engineer work order is issued.

5 ~~(37) “Normal Working Days.”~~ The normal working days for installation and construction shall
6 be all days except Saturdays, Sundays, and holidays. The normal working days for repair
7 service shall be all days except Sundays and holidays. Holidays shall be the days which are
8 observed by each individual telephone company.

9 ~~(38) “Optional Calling Plan.”~~ An optional service furnished under tariff provisions which
10 recognizes the need of some subscribers for extended area calling without imposing the cost
11 on the entire body of subscribers.

12 ~~(39) “Originating Party.”~~ Any person, firm, corporation, or other entity, including a
13 telecommunications company or a billing clearinghouse, that provides any
14 telecommunications service or information service to a customer or bills a customer through a
15 billing party, except the term “originating party” does not include any entity specifically
16 exempted from the definition of “telecommunications company” as provided in Section
17 364.02(14)(a) through (f), F.S.

18 ~~(40) “Out of Service.”~~ The inability, as reported by the customer, to complete either incoming
19 or outgoing calls over the subscriber’s line. “Out of Service” shall not include:

20 ~~(a) Service difficulties such as slow dial tone, circuits busy, or other network or switching~~
21 ~~capacity shortages;~~

22 ~~(b) Interruptions caused by a negligent or willful act of the subscriber; and~~

23 ~~(c) Situations in which a company suspends or terminates service because of nonpayment of~~
24 ~~bills, unlawful or improper use of facilities or service, or any other reason set forth in~~
25 ~~approved tariffs or Commission rules.~~

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1 ~~(41) “Outside Plant.” The telephone equipment and facilities installed on, along, or under~~
2 ~~streets, alleys, highways, or on private rights of way between the central office and~~
3 ~~subscribers’ locations or between central offices of the same or different exchanges.~~

4 ~~(12)~~(42) “Pay Telephone Service Provider Company.” Any telecommunications company that
5 provides pay telephone service as defined in Section 364.3375, F.S.

6 ~~(13)~~(43) “PC-Freeze.” (Preferred Carrier Freeze) A service offered that restricts the
7 customer’s carrier selection until further notice from the customer.

8 ~~(44) “Price regulated local exchange telecommunications company.” Any local exchange~~
9 ~~telecommunications company certificated by the Commission prior to July 1, 1995 that has~~
10 ~~elected to become subject to price regulation pursuant to Section 364.051, F.S.~~

11 ~~(14)~~(45) “Provider.” Any entity providing telecommunication service, excluding pay
12 telephone providers and call aggregators (i.e., local, local toll, and toll providers).

13 ~~(46) “Rate of return regulated local exchange telecommunications company.” Any local~~
14 ~~exchange telecommunications company certificated by the Commission prior to July 1, 1995~~
15 ~~that has not elected to become subject to price regulation pursuant to Section 364.051, F.S.~~

16 ~~(47) “Service Objective.” A quality of service which is desirable to be achieved under normal~~
17 ~~conditions.~~

18 ~~(48) “Service Standard.” A level of service that a telecommunications company, under normal~~
19 ~~conditions, is expected to meet in its certificated territory as representative of adequate~~
20 ~~services.~~

21 ~~(49) “Small LEC.” A LEC certificated by the Commission prior to July 1, 1995, which had~~
22 ~~fewer than 100,000 access lines in service on July 1, 1995.~~

23 ~~(15)~~(50) “Station.” A telephone instrument consisting of a transmitter, receiver, and associated
24 apparatus so connected as to permit sending or receiving telephone messages.

25 ~~(16)~~(51) “Subscriber” or “Customer.” These terms may be used interchangeably herein and
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existing law.

1 shall mean any person, firm, partnership, corporation, municipality, cooperative organization,
2 or governmental agency supplied with telecommunications ~~communication~~ service by a
3 telecommunications company.

4 ~~(52) “Subscriber Line.” or “Subscriber Loop.” See “Access Line.”~~

5 ~~(53) “Switching Center.” Location at which telephone traffic, either local or toll, is switched
6 or connected from one circuit or line to another. A local switching center may be comprised of
7 several central office units.~~

8 ~~(54) “Toll Connecting Trunk.” A trunk that connects a local central office with its toll
9 operating office.~~

10 ~~(55) “Toll Message.” A completed telephone call between stations in different exchanges for
11 which message toll charges are applicable.~~

12 ~~(56) “Toll Provider (TP).” Any entity providing interLATA long distance telecommunications
13 service.~~

14 ~~(57) “Traffic Study.” The process of recording usage measurements which can be translated
15 into required quantities of equipment.~~

16 ~~(58) “Trouble Report.” Any oral or written report from a subscriber or user of telephone
17 service to the telephone company indicating improper function or defective conditions with
18 respect to the operation of telephone facilities over which the telephone company has control.~~

19 ~~(59) “Trunk.” A communication channel between central office units or entities, or private
20 branch exchanges.~~

21 ~~(60) “Valid Number.” A number for a specific telephone terminal in an assigned area code and
22 working central office which is equipped to ring and connect a calling party to such terminal
23 number.~~

24 *Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.02, 364.16, 364.32,*
25 *364.335, ~~364.337~~, 364.3375, ~~364.3376~~, ~~364.602~~, ~~364.603~~, ~~364.604~~ FS. History—Revised 12-1-*
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 68, Amended 3-31-76, Formerly 25-4.03, Amended 2-23-87, 3-4-92, 12-21-93, 3-10-96, 12-
2 28-98, 7-5-00, 4-3-05, Repromulgated 5-8-05, Amended 11-20-08, _____.

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1 **25-22.061 Stay Pending Judicial Review.**

2 (1) When the order being appealed involves the refund of moneys to customers or a decrease
3 in rates charged to customers, the Commission shall, upon motion filed by the utility or
4 company affected, grant a stay pending judicial proceedings. The stay shall be conditioned
5 upon the posting of good and sufficient bond the posting of a corporate undertaking, or such
6 other conditions as the Commission finds appropriate to secure the revenues collected by the
7 utility subject to refund.

8 (2) Except as provided in subsection (1), a party seeking to stay a final or nonfinal order of the
9 Commission pending judicial review may file a motion with the Commission, which has
10 authority to grant, modify, or deny such relief. A stay pending review granted pursuant to this
11 subsection may be conditioned upon the posting of a good and sufficient bond or corporate
12 undertaking, other conditions relevant to the order being stayed, or both. In determining
13 whether to grant a stay, the Commission may, among other things, consider:

- 14 (a) Whether the petitioner has demonstrated a likelihood of success on the merits on appeal;
15 (b) Whether the petitioner has demonstrated a likelihood of sustaining irreparable harm if the
16 stay is not granted; and
17 (c) Whether the delay in implementing the order will likely cause substantial harm or be
18 contrary to the public interest if the stay is granted.

19 (3) When a stay is conditioned upon the posting of a bond, corporate undertaking, or other
20 appropriate form of surety, the Commission shall at the time it grants the stay set the rate of
21 interest to be paid by the utility or company pursuant to ~~subsection 25-4.114(4), F.A.C., for~~
22 ~~telecommunication companies~~, subsection 25-6.109(4), F.A.C., for electric public utilities,
23 subsection 25-7.091(4), F.A.C., for gas public utilities, and subsection 25-30.360(4), F.A.C.,
24 for water and wastewater utilities in the event that the Court's decision requires a refund to
25 customers.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 (4) Motions filed pursuant to this rule shall be heard by those Commissioners who were on the
2 deciding panel for the order being appealed.

3 *Rulemaking Authority 350.127(2), 366.05(1), 368.05(2) FS. Law Implemented 120.68(3),*
4 *350.01(5), ~~364.01(4), 366.04(1)~~, 366.05(1), 366.06(1), 367.011(2), 367.081(2), 367.0814,*
5 *367.121(1)(g), 368.05(2) FS. History—New 2-1-82, Formerly 25-22.61, Amended 6-27-10,*

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1 **25-24.505 Scope.**

2 ~~This part applies to any person providing pay telephone service. As provided by Rules 25-~~
3 ~~4.002, 25-9.001 and 25-14.001, F.A.C., no provision of Chapter 25-4, 25-9, or 25-14, F.A.C.,~~
4 ~~shall apply to pay telephone service companies, except the following: Rules 25-4.003~~
5 ~~(Definitions), 25-4.0161 (Regulatory Assessment Fees; Telecommunications Companies), 25-~~
6 ~~4.019 (Records and Reports in General), subsection 25-4.020(2) (Location and Preservation of~~
7 ~~Records), and 25-4.043, F.A.C. (Response to Commission Staff Inquiries).~~
8 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.115, 350.117, 364.01,*
9 *364.016, 364.02, 364.17, 364.18, 364.183, 364.185, 364.32, 364.337, 364.3375 FS. History-*
10 *New 1-5-87, Amended 11-13-95, 2-1-99, Repealed_____.*

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1 **25-24.514 Cancellation of a Certificate.**

2 ~~(1) The Commission's cancellation of a certificate shall be based on one or more of the~~
3 ~~following reasons:~~

4 ~~(a) Violation of the terms and conditions under which the authority was originally granted;~~

5 ~~(b) Violation of Commission rules or orders;~~

6 ~~(c) Violation of Florida Statutes; or~~

7 ~~(d) Failure to provide service for a period of six (6) months.~~

8 ~~(2) If a certificated company desires to cancel its certificate, it shall request cancellation from~~
9 ~~the Commission in writing and shall provide a statement of intent and date to pay Regulatory~~
10 ~~Assessment Fees with its request.~~

11 ~~(3) Cancellation of a certificate shall be ordered subject to the holder providing the~~
12 ~~information required by subsection (2).~~

13 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.127(1), 364.285 FS.*

14 *History—New 1-5-87, Amended 2-7-13, Repealed_____.*

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1 **25-24.555 Scope and Waiver.**

2 ~~(1) This part applies to persons or companies who provide for sharing or resale of local~~
3 ~~telecommunications service as defined in subsection 25-24.560(10), F.A.C.~~

4 ~~(2) To the extent these rules are inconsistent with provisions of Chapter 364, Florida Statutes,~~
5 ~~regarding shared tenant service, companies subject to this Part are exempted from such~~
6 ~~provisions or are subject to different requirements than otherwise prescribed for~~
7 ~~telecommunications companies under the authority of Section 364.339, Florida Statutes.~~

8 ~~(3) A shared tenant service company may petition for exemption from applicable portions of~~
9 ~~Chapter 364, Florida Statutes, or for application of different requirements than otherwise~~
10 ~~prescribed for telecommunications companies by Chapter 364, Florida Statutes, under the~~
11 ~~authority of Section 364.339, Florida Statutes.~~

12 *Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.339 FS. History—New 1-*
13 *28-91, Amended 7-29-97, 1-31-00, Repealed_____.*

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1 **25-24.560 Terms and Definitions.**

2 For purposes of this Part, the definitions for the following terms apply:

3 ~~(1) “Alternative Access Vendor” (AAV) means any telecommunications company, as defined~~
4 ~~in Section 364.337(6)(a), Florida Statutes.~~

5 ~~(2) “Agent” means one authorized to act on behalf of another.~~

6 ~~(3) “Competitive local exchange telecommunications company” (CLEC) means any company~~
7 ~~as defined in Section 364.02(1), Florida Statutes.~~

8 ~~(4) “Company” means a shared tenant service company.~~

9 ~~(5) “Interexchange Company” (IXC) means any telecommunications company, as defined in~~
10 ~~Section 364.02(6), Florida Statutes, which provides telecommunication service between~~
11 ~~exchange areas as those areas are described in the approved tariffs of individual local~~
12 ~~exchange companies.~~

13 ~~(6) “Local Exchange Telecommunications Company” (LEC) means any telecommunications~~
14 ~~company, as defined in Section 364.02(6), Florida Statutes.~~

15 ~~(7) “Local Service Area” or “Local Calling Area” means the area within which~~
16 ~~telecommunications service is furnished to subscribers under a specific schedule of exchange~~
17 ~~rates and within which calls may be completed without toll charges. A local service area may~~
18 ~~include one or more exchange areas or portions of exchange areas.~~

19 ~~(8) “Pay telephone service company” means any telecommunications company, as defined in~~
20 ~~Section 364.02(6), Florida Statutes, other than a Local Exchange Company, which provides~~
21 ~~pay telephone service as defined in Section 364.335(3), Florida Statutes.~~

22 ~~(9) “Private Branch Exchange” (PBX) means a system in which trunk lines connect a~~
23 ~~telephone company central office to a switching system which directs incoming calls to the~~
24 ~~appropriate user.~~

25 ~~(10) “Shared tenant service” (STS) as defined in Section 364.339(1), Florida Statutes, means~~

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~the provision of service which duplicates or competes with local service provided by an~~
2 ~~existing local exchange telecommunications company and is furnished through a common~~
3 ~~switching or billing arrangement to tenants by an entity other than an existing local exchange~~
4 ~~telecommunications company.~~

5 ~~(11) "Tenant" means any person entitled to occupy a premises under a rental or lease~~
6 ~~agreement.~~

7 ~~(12) "Unaffiliated Entities" means those corporations, partnerships, proprietorships, or other~~
8 ~~groups that control less than 50 percent of the stock of the entity which claims to be affiliated.~~

9 *Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339 FS.*

10 *History—New 1-28-91, Amended 7-29-97, Repealed_____.*

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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: July 15, 2014
TO: Kathryn G.W. Cowdery, Senior Attorney, Office of the General Counsel
FROM: C. Donald Rome, Jr., Public Utility Analyst II, Division of Economics *CDR*
RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rules 25-4.002, 25-4.003, 25-22.061, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, Florida Administrative Code (F.A.C.)

The recommended rule repeals and revisions are intended to streamline regulations in the telecommunications industry. Five rules are recommended for repeal in their entirety as being obsolete and unnecessary: Rule 25-4.002, F.A.C., Application and Scope [telecommunications companies], Rule 25-24.505, F.A.C., Scope [pay telephone providers], Rule 25-24.514, F.A.C., Cancellation of a Certificate, Rule 25-24.555, F.A.C., Scope and Waiver [shared tenant service], and Rule 25-24.560, F.A.C., Terms and Definitions. Amendments to Rules 25-22.061, F.A.C., Stay Pending Judicial Review, and 25-4.003, F.A.C., Definitions, are being recommended in order to delete obsolete language referencing telecommunications companies and to add and update certain definitions consistent with statutory changes. As noted in the attached Statement of Estimated Regulatory Costs (SERC), the recommended revisions would be applicable to 365 telecommunications companies.

It is anticipated that telecommunications companies may benefit from the recommended rule repeals and streamlining efforts. No workshop was requested in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to Paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in Paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: (Draper, Daniel, Dean, Beard, Casey, Salak, Cibula, SERC file)

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rules 25-4.002, 25-4.003, 25-22.061, 25-24.505, 25-24.514, 25-24.555, 25-24.560,
F.A.C.

1. Will the proposed rule have an adverse impact on small business?
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)1, F.S.]

Economic growth	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector job creation or employment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector investment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Productivity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Innovation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes No

Economic Analysis: Affected entities are likely to benefit from the recommended rule changes. A summary of the recommended rule revisions is included in the attached memorandum to Counsel.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.
365.

(2) A general description of the types of individuals likely to be affected by the rule.

The affected entities are telecommunications companies licensed to operate in Florida.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

- None. To be done with the current workload and existing staff.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- None. The rule will only affect the Commission
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

If the recommended rule revisions are adopted, the affected entities potentially may benefit from the rule repeals and streamlining efforts.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

- None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
 - Adopted in its entirety.
 - Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

Item 3

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Page) *PNP SMC*
Division of Engineering (Vickery) *PV TB*

RE: Docket No. 140115-WS – Petition for declaratory statement by Continental Utility, Inc. that in providing service only to other entities owned by Continental Country Club R.O., Inc., Continental Utility, Inc. would be exempt from Public Service Commission jurisdiction.

AGENDA: 08/12/14 – Regular Agenda – Decision on Declaratory Statement – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: Final Order must be issued by August 26, 2014, pursuant to Section 120.656(3), Florida Statutes

SPECIAL INSTRUCTIONS: None

Case Background

On May 28, 2014, pursuant to Section 120.565, Florida Statutes (F.S.), and Rule 28-105.002, Florida Administrative Code (F.A.C.), Continental Utility, Inc. (Continental) filed a Petition for Declaratory Statement (Petition) regarding the applicability of Section 367.022(7), F.S., to Continental. Continental states in its Petition that it requests the Commission issue an order declaring that “in providing service only to other entities owned by Continental Country Club R.O., Inc., it would be exempt from Public Service Commission jurisdiction” under the nonprofit exemption in Section 367.022(7), F.S.

Docket No. 140115-WS

Date: July 31, 2014

Pursuant to Rule 28-105.0024, F.A.C., a Notice of Declaratory Statement was published in the June 4, 2014, edition of the Florida Administrative Register. Pursuant to Rule 28-105.0027(1), F.A.C., and as stated in the notice, substantially affected persons were given 21 days to intervene in the proceeding. No petitions to intervene were filed.

Staff issued a data request to Continental on June 16, 2014, by which staff asked the utility for additional information to clarify the facts in the Petition. Continental responded to the data request on June 23, 2014.

This recommendation addresses Continental Utility Inc.'s Petition for Declaratory Statement. Pursuant to Section 120.565(3), F.S., and Rule 28-105.003, F.A.C., an agency must issue a declaratory statement or deny the petition within 90 days after the petition is filed. Thus, the Commission must issue an order on the Petition by August 26, 2014. The Commission has jurisdiction pursuant to Section 120.565 and Chapter 367, F.S.

Discussion of Issues

Issue 1: Should the Commission issue a declaratory statement in response to Continental Utility, Inc.'s Petition stating that in providing service only to other entities owned by Continental Country Club, R.O., Inc., Continental would be exempt from Commission jurisdiction under Section 366.022(7), F.S.?

Recommendation: No. The Commission should issue a declaratory statement that based on the facts set forth in its Petition for Declaratory Statement, Continental would not be exempt from Commission jurisdiction under Section 366.022(7), F.S., because it is a for-profit corporation. (Page, Daniel, Vickery)

Staff Analysis:

I. Governing Law

Declaratory statements are governed by Section 120.565, F.S., and by the Uniform Rules of Procedure in Chapter 28-105, F.A.C. Section 120.565, F.S., provides, in pertinent part, that:

- (1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
- (2) The petition seeking a declaratory statement shall state with particularity the petitioner's particular set of circumstances and shall specify the statutory provision, rule or order that the petitioner believes may apply to the set of circumstances.

Rule 28-105.001, F.A.C., Purpose and Use of Declaratory Statement, provides:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to a petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.

Rule 28-105.002, F.A.C., requires a petition for declaratory statement to include a description of how the statutes, rules, or orders on which the declaratory statement is sought may substantially affect the petitioner in the petitioner's particular set of circumstances. The Florida Supreme Court has noted that:

The purposes of the declaratory statement procedure are "to enable members of the public to definitively resolve ambiguities of law arising in the conduct of their

daily affairs” and “to enable the public to secure definitive binding advice as to the applicability of agency-enforced law to a particular set of facts.”¹

Moreover, the Courts and the Commission have repeatedly stated that one of the benefits of a declaratory statement is to enable the petitioner to select a proper course of action in advance, thus avoiding costly administrative litigation.²

Pursuant to Rule 28-105.003, F.A.C., an agency may rely on the statements of facts contained in a petition for declaratory statement without taking a position on the validity of the facts. Staff recommends that the Commission should rely solely on the statements of facts contained in Continental’s Petition and on the Responses to a Staff Data Request filed by Continental on June 23, 2014, in accordance with Rule 28-105.003, F.A.C.³ If the Commission issues a declaratory statement, the Order will be controlling as to those facts, and not as to other, different or additional facts.

II. Statute To Be Applied

Section 367.021(12) states that “‘Utility’ means a water or wastewater utility, and except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system . . . who is providing, or proposes to provide, water or wastewater service to the public for compensation.” Section 367.022, F.S., exempts certain entities from Commission regulation, even though they would otherwise meet the jurisdictional definition of a utility. Specifically, subsection (7) states that, “[n]onprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives . . .” are not subject to regulation by the Commission as a utility.

III. Continental Utility Inc.’s Statements of Facts

Continental states that it is a for-profit corporation owned by Continental Country Club R.O., Inc., a nonprofit corporation. Petition, p. 2. The officers and directors of both corporations are identical. Id.

Continental states that it currently provides water and wastewater service to the residents of Continental Country Club (Country Club), all of whom are members of Continental Country Club, R.O., Inc., and to the golf club and restaurant which are owned by Continental Country Club, R.O., Inc. Id. Continental further states that it provides water and wastewater service to an

¹ DBPR, Div. of Pari-Mutual Wagering v. Investment Corp. of Palm Beach, 747 So. 2d 374, 382 (Fla. 1999) (quoting Patricia A. Dore, Access to Florida Administrative Proceedings, 13 Fla. St. U. L. Rev. 965, 1052 (1986)).

² See, e.g., Adventist Health Sys./Sunbelt, Inc. v. Agency for Health Care Admin., 955 So. 2d 1173, 1176 (Fla. 1st DCA 2007); Order No. PSC-02-1459-DS-EC, issued October 23, in Docket No. 020829-EC, In re: Petition for declaratory statement concerning urgent need for electrical substation in North Key Largo by Florida Keys Electric Cooperative Association, Inc., pursuant to Section 366.04, Florida Statutes.

³ To the extent the agency does not have enough facts to make a decision on a petition for declaratory statement, it may request additional information from the petitioner. See Adventist Health Sys./Sunbelt, Inc., 955 So. 2d at 1176-77.

unrelated party, Sandalwood Condominium (Sandalwood). Id. With the exception of Sandalwood, all of the customers of Continental own and control Continental as a subsidiary of the Continental Country Club R.O., Inc. Id.

According to Continental, the agreement by which Sandalwood receives water and wastewater service from Continental terminates on December 16, 2015. Id. Continental states that it is in need of a declaratory statement to determine whether to enter into negotiations to renew its agreement with Sandalwood. Id.

IV. Discussion and Analysis

In order to qualify for the exemption under Section 367.022(7), F.S., a nonprofit corporation must provide service solely to its members who own and control it. According to the Petition, the customers of Continental include the Country Club, all of whom are members of Continental Country Club, R.O., Inc., and a golf club and restaurant which are owned by Country Club, R.O., Inc. Id. Although Continental provides service to Sandalwood, an unrelated party, Continental states that this agreement to provide service terminates on December 16, 2015. Id. Thus, the issue is whether Continental would be subject to the Commission's jurisdiction if it were to provide service to the residents of the Country Club, all of whom are members of Continental Country Club, R.O., Inc., and to the golf club and restaurant which are owned by Continental Country Club, R.O., Inc. Id.

Section 367.022(7), F.S., expressly states that a corporation must be a nonprofit corporation in order to qualify for the exemption to the Commission's jurisdiction as provided in Section 367.011, F.S. In Order No. 24125, issued February 18, 1991, Docket No. 900860-WU, In re: Request for exemption from Florida Public Service Commission regulation for a water system in Lake County by Bella Vista Community Association, Inc., the Commission stated that "for an entity to qualify under Section 367.022(7), Florida Statutes, it must first be a nonprofit corporation, association, or cooperative." Although Continental states that it is owned by Continental Country Club, R.O., Inc., there is no language in the statutory exemption stating that a for-profit corporation which is a subsidiary of a nonprofit corporation is a nonprofit corporation under Section 367.022(7), F.S. Continental states in its Petition that it "is a for-profit corporation."

Exemptions are to be strictly construed against the one claiming the exemption. See Coe v. Broward County, 327 So. 2d 69 (Fla. 4th DCA 1976), and State v. Nourse, 340 So. 2d 966 (Fla. 3d DCA 1976), (statutory exceptions to general laws should usually be strictly construed against the one claiming the exemption). Even if Continental did provide service solely to its members who own and control it, Continental is a for-profit corporation, and thus does not satisfy the criteria for an exemption pursuant to Section 367.022(7), F.S.

V. Conclusion

Staff recommends that the Commission should deny the request for declaratory statement as set forth by Continental, and should issue a declaratory statement that based on the facts set forth in its Petition for Declaratory Statement, Continental would not be exempt from Commission jurisdiction under Section 366.022(7), F.S., because it is a for-profit corporation.

Issue 2: Should this docket be closed?

Recommendation: Yes, the docket should be closed. (Page)

Staff Analysis: Whether the Commission grants or denies the Petition, a final order must be issued by August 26, 2014, no further action will be necessary, and the docket should be closed.

Item 4

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (M. Brown) *MCB JSC*
Division of Economics (Ollila) *S.O. ED PD J.W.D*

RE: Docket No. 140123-EU – Joint petition for approval of territorial agreement in Franklin and Liberty Counties by Talquin Electric Cooperative, Inc. and Duke Energy Florida, Inc.

AGENDA: 08/12/14 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On June 9, 2014, Talquin Electric Cooperative, Inc. (Talquin) and Duke Energy Florida, Inc., (DEF) filed a joint petition for approval of a territorial agreement (Proposed Agreement) in Franklin and Liberty Counties. Talquin and DEF were parties to a prior territorial agreement (Prior Agreement) that expired on October 3, 2010.¹ In their joint petition Talquin and DEF assert that they continued to abide by the terms of the Prior Agreement as they negotiated the terms of the Proposed Agreement. During its evaluation of the joint petition, staff issued two data requests to the parties. The majority of the questions posed by staff were intended to clarify various new and modified provisions of the Proposed Agreement.

¹ Order No. PSC-95-1215-FOF-EU, issued October 3, 1995, in Docket No. 950785-EU, In re: Joint petition for approval of territorial agreement between Florida Power Corporation and Talquin Electric Cooperative, Inc.

Docket No. 140123-EU

Date: July 31, 2014

This recommendation addresses the parties' joint petition for approval of the Proposed Agreement, which is attached to this recommendation (Attachment A). Attachments B and C to this recommendation provide, respectively, the maps of the territorial boundary and the legal descriptions of the territory served by each utility in Franklin and Liberty counties. Pursuant to Rule 25-6.0440(1)(f), Florida Administrative Code (F.A.C.), Attachment D contains official Florida Department of Transportation General Highway County maps for Franklin and Liberty Counties depicting boundary lines established by the territorial agreement. 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 Talquin and DEF's Proposed Agreement?

Recommendation: Yes, the Commission should approve the Proposed Agreement. (Ollila, M. Brown)

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 25-6.6044(2), F.A.C., states 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).

The parties' Proposed Agreement maintains the same territorial boundaries as the Prior Agreement, and has a term of 30 years, to be effective when the Commission's approval is final and no longer subject to appeal. No customers or facilities will be transferred when the Proposed Agreement is implemented. Therefore, no customers were notified pursuant to Rule 25-6.0440(1), F.A.C., and there is no purchase price to consider pursuant to Rule 25-6.0440(2), F.A.C.

Although no customers will be transferred at this time, the Proposed Agreement contains new provisions intended to clarify the parties' service obligations in circumstances involving future transfers of customers and facilities, the provision of temporary service outside the established boundary line, and the provision of service to customers whose property traverses the established boundary line. The parties explained that those provisions "are intended to provide a degree of flexibility where exceptional circumstances so require without infringing on the Commission's regulatory oversight of territorial boundaries and agreements." In those instances where the territorial boundary traverses a customer's property, the party in whose service area the preponderance of the customer's electric energy usage is expected to occur shall be entitled to serve all of the customer's usage. In their responses to staff's data request, the parties affirmed that they would provide notice to the Commission when they implemented this provision to provide service to a new customer on a long-term basis.

Talquin and DEF assert that the Commission has long recognized that properly constructed territorial agreements between adjacent utilities are in the public interest. They state that the Proposed Agreement will avoid duplication of services and wasteful expenditures, as well as protect the public health and safety from potentially hazardous conditions. Therefore, Talquin and DEF 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 parties' responses to its data requests, staff believes that the Proposed Agreement is in the public interest and will enable

Talquin and DEF to better serve their current and future customers. It appears that the 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 Talquin and DEF 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 person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (M. Brown)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

TERRITORIAL AGREEMENT

Section 0.1: TALQUIN ELECTRIC COOPERATIVE, INC., ("Talquin"), and Duke Energy Florida, Inc. ("DEF") (collectively, the "Parties") enter into this Territorial Agreement (the "Agreement") on this 3rd day of June, 2014.

WITNESSETH:

Section 0.2: WHEREAS, Talquin and DEF are each authorized, empowered and obligated by their corporate charters and laws of the State of Florida to furnish retail electric service to persons upon request within their respective service areas in Franklin and Liberty Counties; and

Section 0.3: WHEREAS, Talquin and DEF were parties to a territorial agreement ("Prior Agreement") delineating their respective service territories in Franklin and Liberty Counties which was approved by the Florida Public Service Commission ("Commission") in Order No. PSC-95-1215-FOF-EU, issued October 3, 1995 in Docket No. 950785-EU and expired on October 3, 2010.

Section 0.4: WHEREAS, the Parties desire to enter into a new agreement pertaining to Franklin and Liberty Counties in order to gain further operational efficiencies and customer service improvements in the aforesaid Counties, while continuing to eliminate circumstances giving rise to the uneconomic duplication of service facilities and hazardous situations that territorial agreements are intended to avoid.

Section 0.5: WHEREAS, the Commission is empowered by the Florida legislature, pursuant to F.S. 366.04(2)(d), Florida Statutes, to approve territorial agreements and the Commission, as a matter of long-standing regulatory policy, has encouraged retail territorial agreements between electric utilities subject to its jurisdiction based on its findings that such agreements, when properly established and administered by the parties and actively supervised by the Commission, avoid uneconomic duplication of facilities, promote safe and efficient operations by utilities in rendering electric service provided to their customers, and therefore serve the public interest.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1: Territorial Boundary Line. As used herein, the term "Territorial Boundary Line" shall mean the boundary line(s) depicted on the maps attached hereto as Exhibit A which delineate and differentiate the Parties' respective Territorial Areas in Franklin and Liberty Counties. Additionally, pursuant to Rule 25-6.0440 (1)(a), a written description of the areas served by each Party is attached hereto as Exhibit B.

Section 1.2: Talquin Territorial Area. As used herein, the term "Talquin Territorial Area" shall mean the geographic areas in Franklin and Liberty Counties

allocated to Talquin as its retail service territory and labeled as "Talquin Territorial Area" or "Talquin" on the maps contained in Exhibit A.

Section 1.3: DEF Territorial Area. As used herein, the term "DEF Territorial Area" shall mean the geographic areas in Franklin and Liberty Counties allocated to DEF as its retail service territory and labeled as "DEF Territorial Area" or "DEF" on the maps contained in Exhibit A.

Section 1.4: Point of Use. As used herein, the term "Point of Use" shall mean the location within the Territorial Area of a Party where a customer's end-use facilities consume electricity, wherein such Party shall be entitled to provide electric service under this Agreement, irrespective of where the customer's point of delivery or metering is located.

Section 1.5: New Customers. As used herein, the term "New Customers" shall mean those customers applying for electric service during the term of this Agreement at a Point of Use in the territorial area of either Party which has not previously been served by either utility.

Section 1.6: Commission. As used herein, the term "Commission" shall mean the Florida Public Service Commission.

Section 1.7: Effective Date. As used herein, the term "Effective Date" shall mean the date on which the final Order of the Commission granting approval of this Agreement in its entirety becomes no longer subject to judicial review.

Section 1.8: Temporary Service Customers. As used herein, the term “Temporary Service Customers” shall mean customers who are being temporarily served under the temporary service provisions of the Agreement.

ARTICLE II

RETAIL ELECTRIC SERVICE

Section 2.1: In General. Except as otherwise specifically provided herein, Talquin shall have the exclusive authority to furnish retail electric service within the Talquin Territorial Area and DEF shall have the exclusive authority to furnish retail electric service within the DEF Territorial Area. The Territorial Boundary Line shall not be altered or affected by any change that may occur in the corporate limits of any municipality or county lying within the Talquin Territorial Area or the DEF Territorial Area, through annexation or otherwise, unless such change is agreed to in writing by the Parties and approved by the Commission.

Section 2.2: Service to New Customers. The Parties agree that neither will knowingly serve nor attempt to serve any New Customer whose Point of Use is located within the Territorial Area of the other party, except as specifically provided in this Section 2.3 below. However, in those instances where the Territorial Boundary Line traverses the property of an individual New Customer or prospective New Customer, the Party in whose service area the preponderance of the customer’s electric energy usage is expected to occur shall be entitled to serve all of the customer’s usage. With respect to new residential customers, however, the Parties recognize that in some

instances the information needed to locate the various points of the New Customer's usage in relation to the Territorial Boundary Line with reasonable certainty may be unavailable or difficult to determine, and agree that in such event the Party with the greater portion of the New Customer's property in its service area shall be entitled to serve all of the New Customer's usage.

Section 2.3: Temporary Service. The Parties recognize that in exceptional circumstances, economic constraints or good engineering practices may indicate that a New Customer's Point of Use either cannot or should not be immediately served by the Party in whose Territorial Area such Point of Use is located. In such instances, upon written request by the Party in whose Territorial Area the New Customer's Point of Use is located, the other Party may, in its sole discretion, agree in writing to temporarily provide service to such New Customer until such time as the requesting Party provides written notice of its intent to serve the Point of Use. Prior to the commencement of Temporary Service, the Party providing such service shall inform the New Customer of the temporary nature of its service and that the other Party will ultimately serve the New Customer. Any such agreement for Temporary Service which lasts, or is anticipated to last, for more than one year shall be submitted to the Commission for approval in accordance with Section 5.1 hereof. Such Temporary Service shall be discontinued upon written notice from the requesting Party of its intent to provide service, which the Parties shall coordinate to minimize any inconvenience to the customer. The Party providing Temporary Service hereunder shall not be required to pay the other Party for any loss of revenue associated with the provision of such

Temporary Service, nor shall the Party providing Temporary Service be required to pay the other party any going concern value.

Section 2.4: Referral of Service Request. In the event that a prospective New Customer requests or applies for service from either party to be provided to a Point of Use located in the Territorial Area of the other Party, the Party receiving the request or application shall advise the prospective New Customer that such service is not permitted under this Agreement as approved by the Commission, and shall refer the prospective New Customer to the other Party.

Section 2.5: Correction of Inadvertent Service Errors. If any situation is discovered during the term of this Agreement in which either Party has begun to inadvertently provide retail electric service to a customer's Point of Use located within the Territorial Area of the other Party, after the date of this Agreement, service to such customer will be transferred to such other Party at the earliest practical time, but in any event within 12 months of the date the inadvertent service error was discovered. Until service by the other Party can be reasonably established, the inadvertent service will be deemed to be Temporary Service provided and governed in accordance with Section 2.3 above.

Section 2.6: REA and CFC Approval. Any property transfer from Talquin to DEF is subject to approval by the United States of America Department of Agriculture, Rural Utilities Services and the Cooperative Financing Corporation.

Section 2.7: Preservation of Tax Exempt Status. Notwithstanding the previous sections of Article II, it is understood that Talquin must furnish its service mainly to its

members in order to preserve its tax exempt status. Therefore, unless the proposed recipient of electric service will join Talquin, Talquin may decline to provide electric service, when in the judgment of Talquin, the income produced thereby would cause non-member income to exceed the percentage of gross income which Talquin may accept from non-members and maintain its tax exempt status.

ARTICLE III

TRANSFER OF CUSTOMERS AND FACILITIES

Section 3.1: In General. There are no known customers or facilities to be transferred pursuant to this Agreement.

In the event circumstances arise during the term of this Agreement in which the Parties agree that, based on sound economic considerations or good engineering practices, an area located in the Territorial Area of one Party would be better served if reallocated to the service territory of the other Party, the Parties shall jointly petition the Commission for approval of a modification of the Territorial Boundary line that places the area in question (the "Reallocated Area") within the Territorial Area of the other Party and transfer of the customers located in the Reallocated Area to the other Party.

ARTICLE IV

OPERATION AND MAINTENANCE

Section 4.1: Facilities to Remain. Other than as expressly provided for herein, no generating plant, transmission line, substation, distribution line or related equipment shall be subject to transfer or removal hereunder; provided, however, that each Party

shall operate and maintain its lines and facilities in a manner that minimizes any interference with the operations of the other Party.

Section 4.2: Talquin Facilities to be Served. Nothing herein shall be construed to prevent or in any way inhibit the right and authority of Talquin to serve any facility of Talquin located in the DEF Territorial Area which is used exclusively in connection with Talquin business as an electric utility; provided, however, that Talquin shall construct, operate, and maintain said lines and facilities in such manner as to minimize any interference with the operation of DEF in the DEF Territorial Area.

Section 4.3: DEF Facilities to be Served. Nothing herein shall be construed to prevent or in any way inhibit the right and authority of DEF to serve any DEF facility located in the Talquin Territorial Area which is used exclusively in connection with DEF business as an electric utility; provided, however, that DEF shall construct, operate, and maintain said lines and facilities in such manner as to minimize any interference with the operation of Talquin in the Talquin Territorial Area.

ARTICLE V

PREREQUISITE APPROVAL

Section 5.1: Commission Approval. The provisions and the Parties' performance of this Agreement are subject to the regulatory authority of the Commission, and appropriate approval by the Commission of this Agreement in its entirety shall be an absolute condition precedent to the validity, enforceability, and applicability hereof. This Agreement shall have no effect whatsoever until Commission approval has been

obtained. Any proposed modification to this Agreement shall be submitted to the Commission for approval. In addition, the Parties agree to jointly petition the Commission to resolve any dispute concerning the provisions of this Agreement or the Parties' performance hereunder.

Upon approval of the Commission, this Agreement shall be deemed to specifically supersede the Prior Agreement between Parties regarding their respective retail service areas in Franklin and Liberty Counties.

ARTICLE VI

DURATION

Section 6.1: Term. This Agreement shall continue and remain in effect for a period of 30 years from the Effective Date.

ARTICLE VII

CONSTRUCTION OF AGREEMENT

Section 7.1: Other Electric Utilities. Nothing in this Agreement is intended to define, establish, or affect in any manner, the rights of either Party hereto relative to any other electric utility not a party to this Agreement with respect to the furnishing of retail electric service, but not limited to, the service territory of either Party. The Parties understand that Talquin or DEF may, from time to time and subject to Commission approval, enter into territorial agreements with other electric utilities that have adjacent or overlapping service areas and that, in such event, nothing herein shall be construed to prevent Talquin or DEF from designating any portion of its Territorial Area under this Agreement as the retail service area of such other electric utility.

Section 7.2: Bulk Power for Resale. Nothing herein shall be construed to prevent either Party from providing a bulk power supply for resale purposes, regardless of where the purchaser for resale may be located. Further, no other section or provision of this Agreement shall be construed as applying to a bulk power supply for resale purposes. Bulk Power for Resale shall be construed as defined in the Final Judgment dated August 19, 1971 in United States of America v. Florida Power Corporation and Tampa Electric Company, United States for the Middle District of Florida, Case No. 68-297 Civ T (“the Final Judgment”).

Section 7.3: Intent and Interpretation. It is hereby declared to be the purpose and intent of the Parties that this Agreement shall be interpreted and construed, among other things, to further this State's policy of actively regulating and supervising the service territories of electric utilities; supervising the planning, development, and maintenance of a coordinated electric power grid throughout Florida; avoiding uneconomic duplication of generation, transmission, and distribution facilities; and encouraging the installation and maintenance of facilities necessary to fulfill the Parties respective obligations to serve.

ARTICLE VIII

MISCELLANEOUS

Section 8.1: Negotiations. Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only terms and conditions agreed upon are those set forth herein, and no alteration, modification, enlargement, or supplement to this Agreement shall be binding upon

either or the Parties hereto unless agreed to in writing by both Parties, and approved by the Commission.

Section 8.2: Successors and Assigns. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give to any person or corporation, other than the Parties, any right, remedy, or claim under or by reason of this Agreement or any provision or conditions hereof; and all of the provisions, representations, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding only upon the Parties and their respective representatives, successors, and assigns.

Section 8.3: Notices. Notices and other written communications contemplated by this Agreement shall be deemed to have been given if sent by certified mail, postage prepaid, by prepaid private courier, or by confirmed facsimile transmittal, as follows:

To TALQUIN:	To DEF:
Mal Greene, President	Alex Glenn, State President
Talquin Electric Cooperative, Inc.	Duke Energy Florida, Inc.
Post Office Box 1679	Post Office Box 14042
Quincy, Florida 32353	St. Petersburg, Florida 33733
Facsimile: 850-627-2553	Facsimile: 727-820-5044

Either Party may change its designated representative or address to which such notices or communications shall be sent by giving written notice thereof to the other Party in the manner herein provided.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective corporate names and their corporate seals affixed by their duly authorized officers on the day and year first above written.

TALQUIN ELECTRIC COOPERATIVE, INC.

By Mal Green
President

ATTEST:

[Signature]
Secretary

(SEAL)

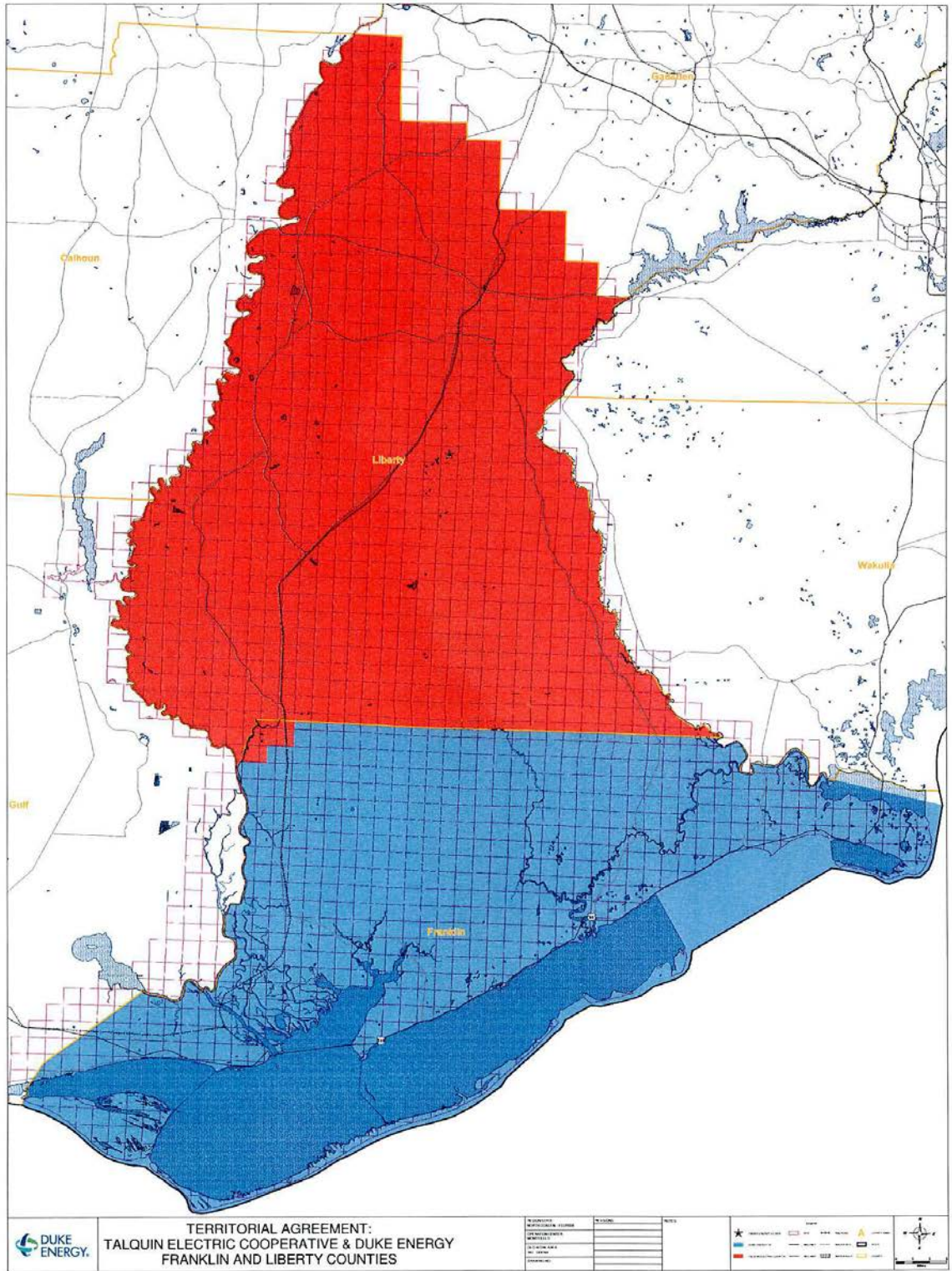
DUKE ENERGY FLORIDA, INC.

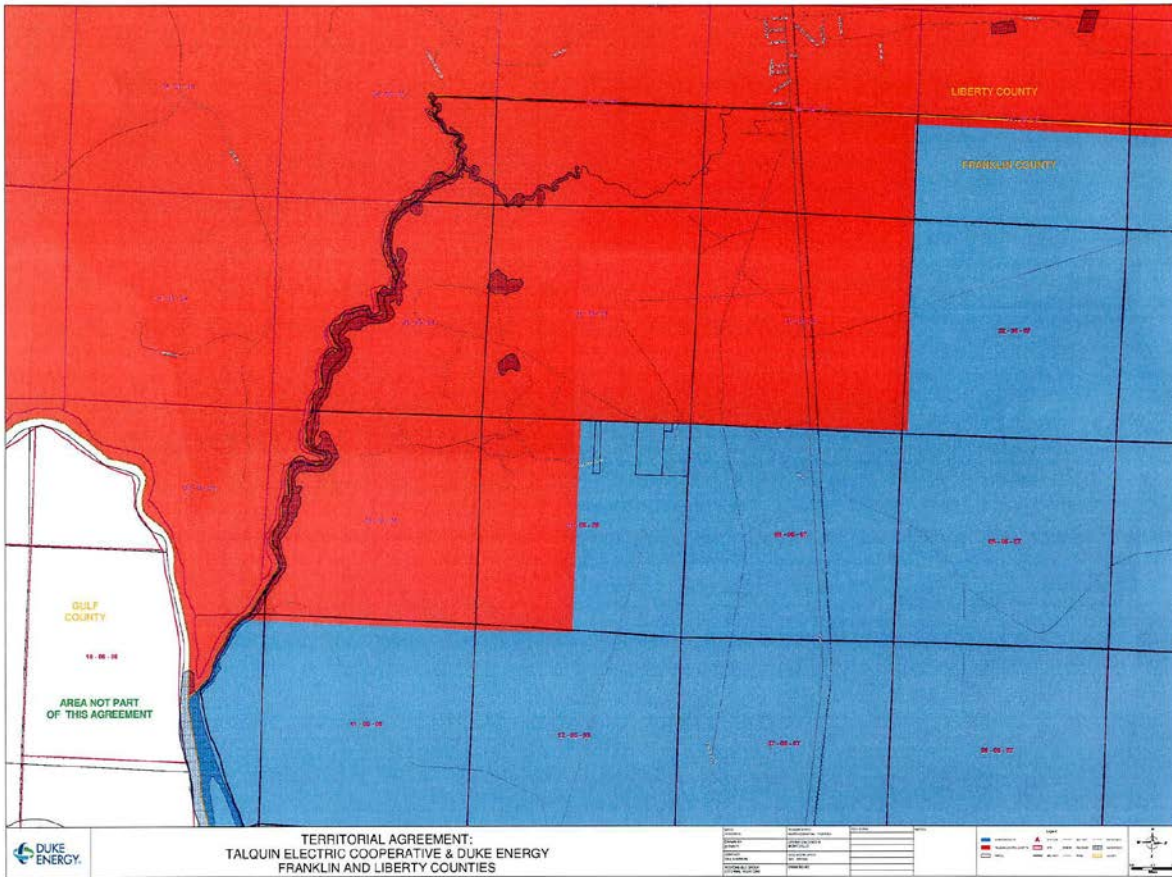
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State President

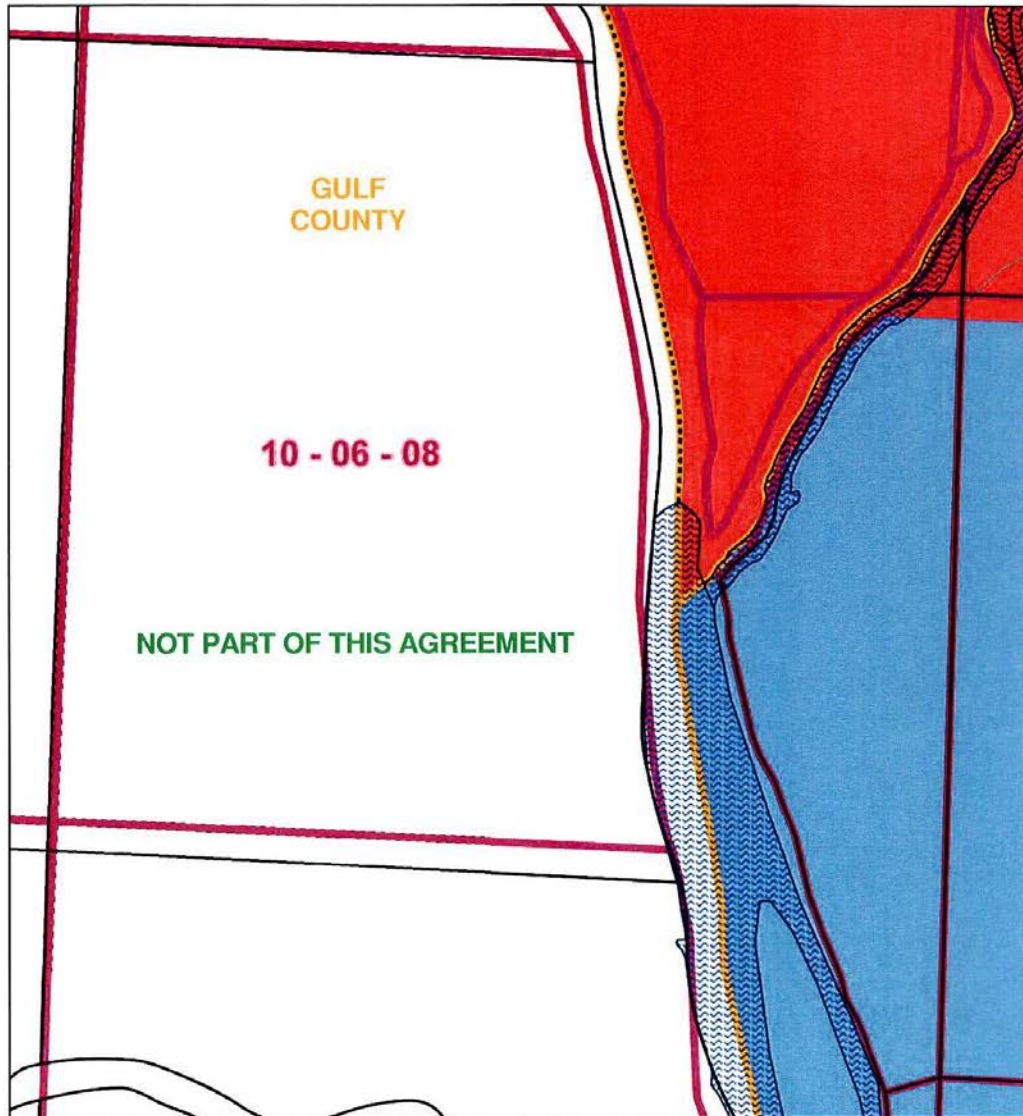
ATTEST:













[Signature]
Associate General Counsel

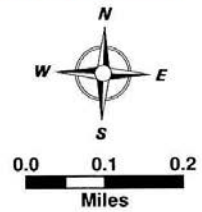
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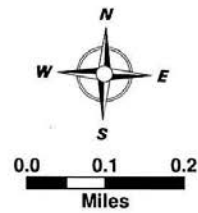
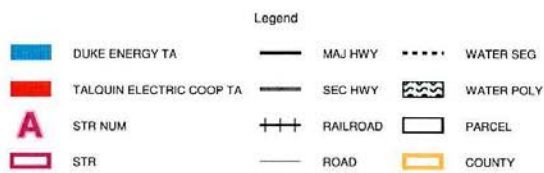
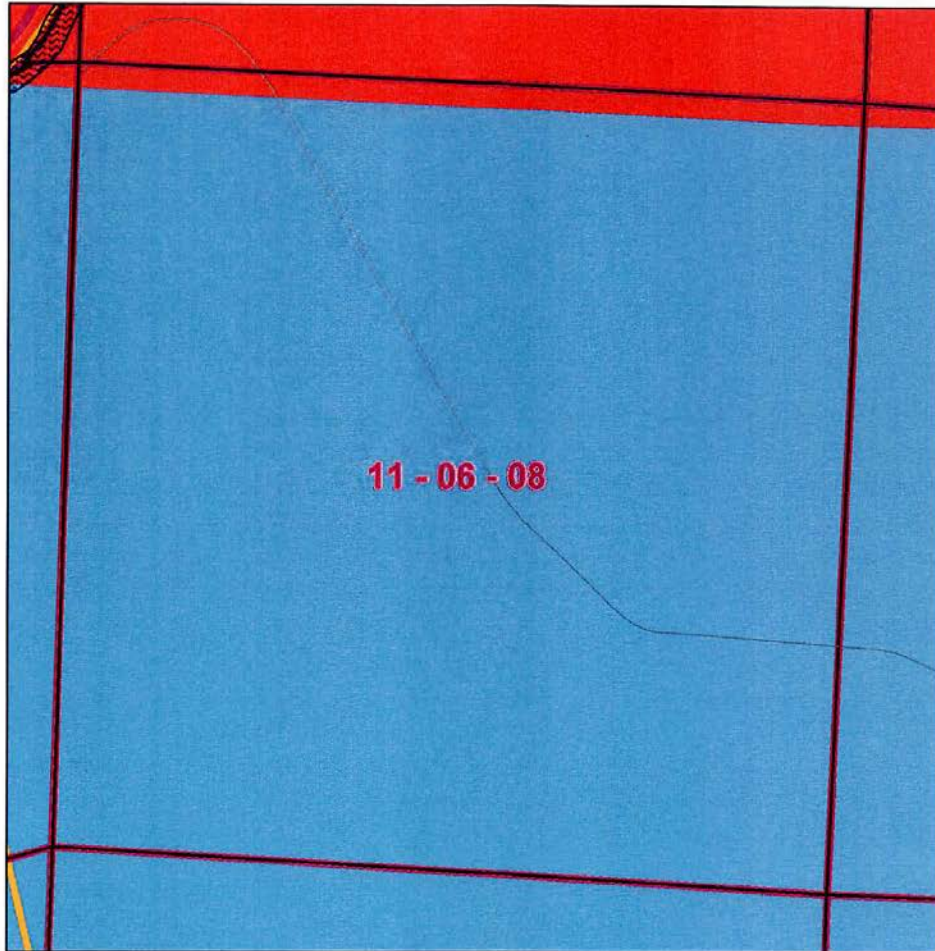


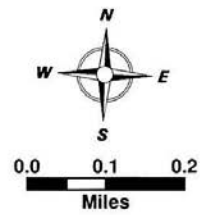
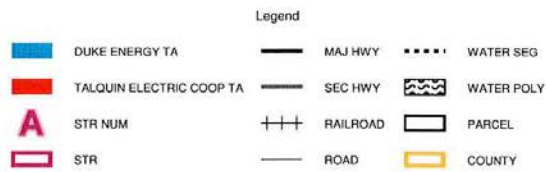
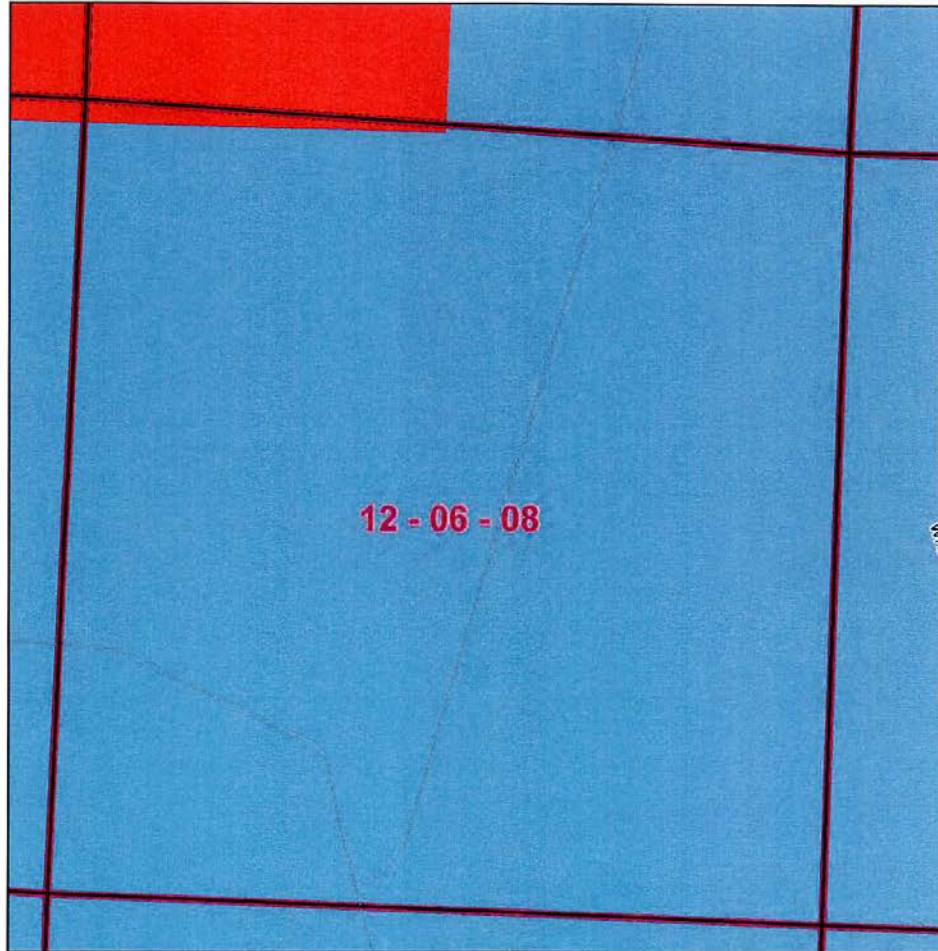


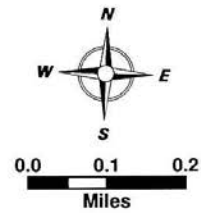
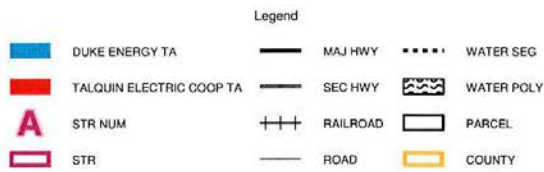
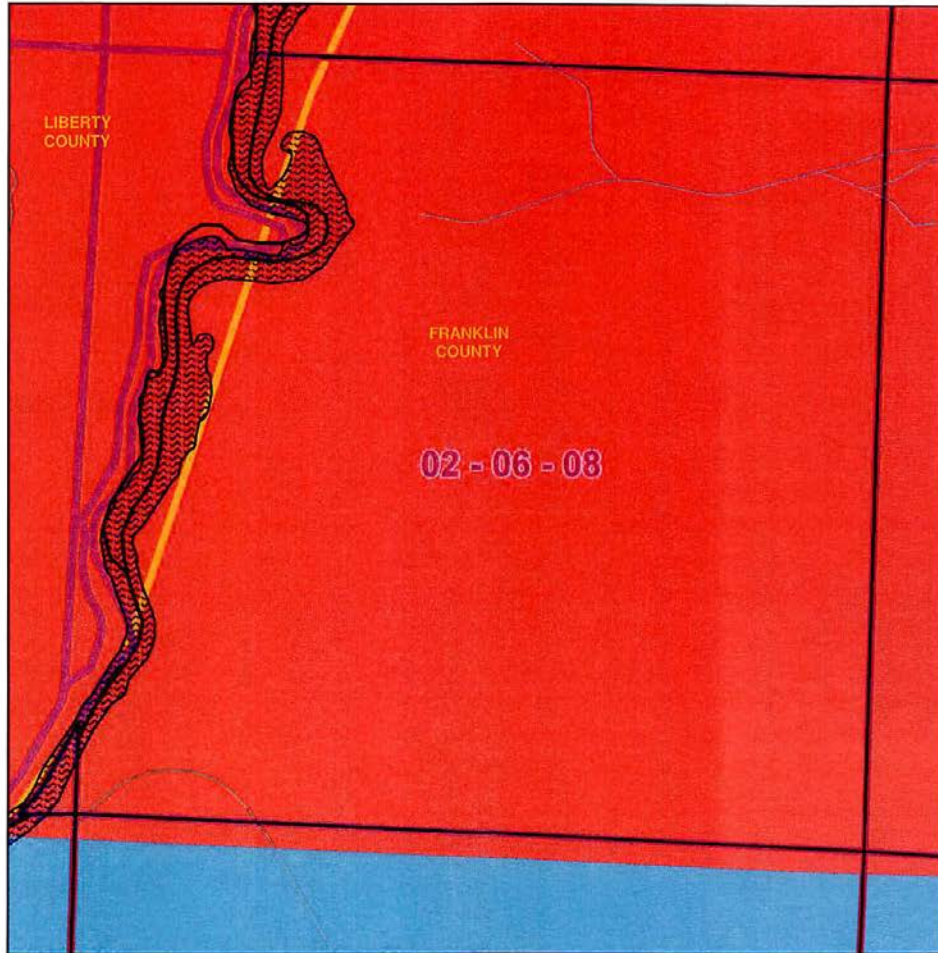


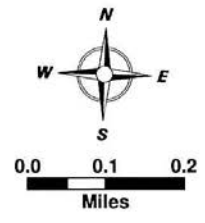
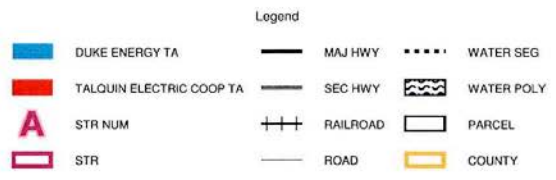
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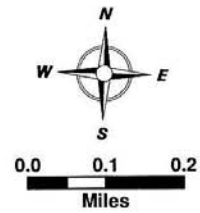
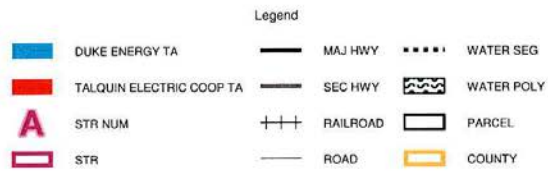
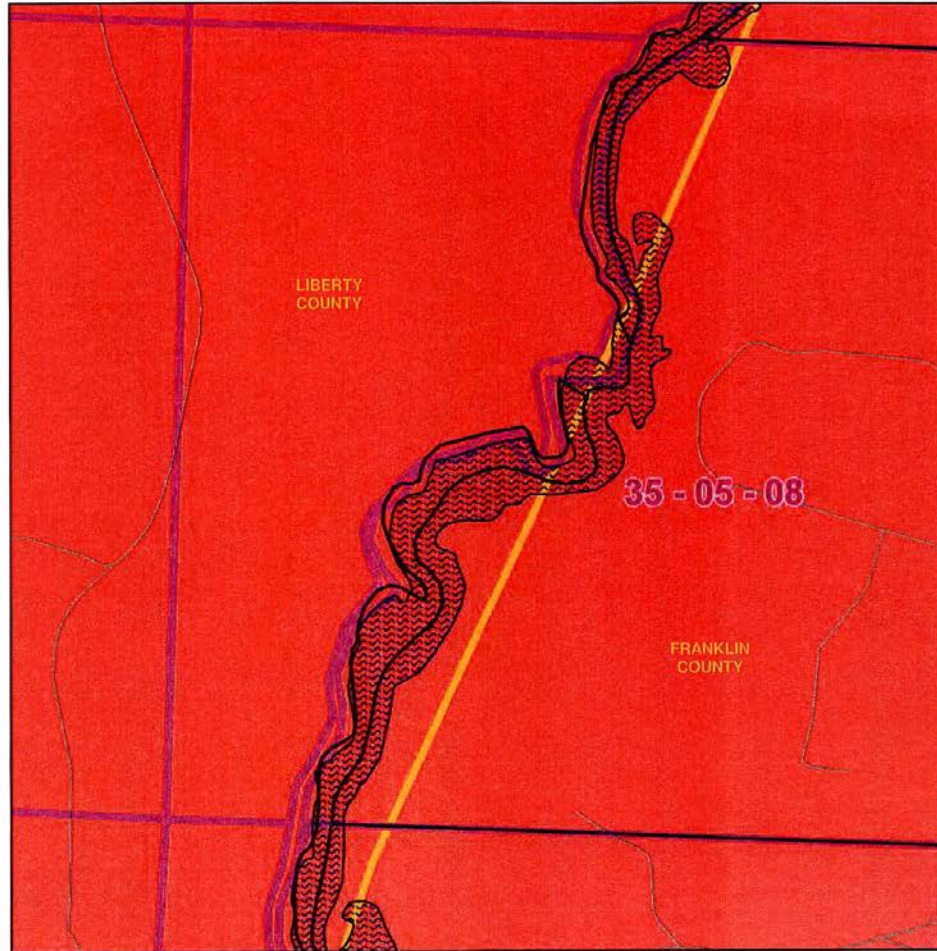


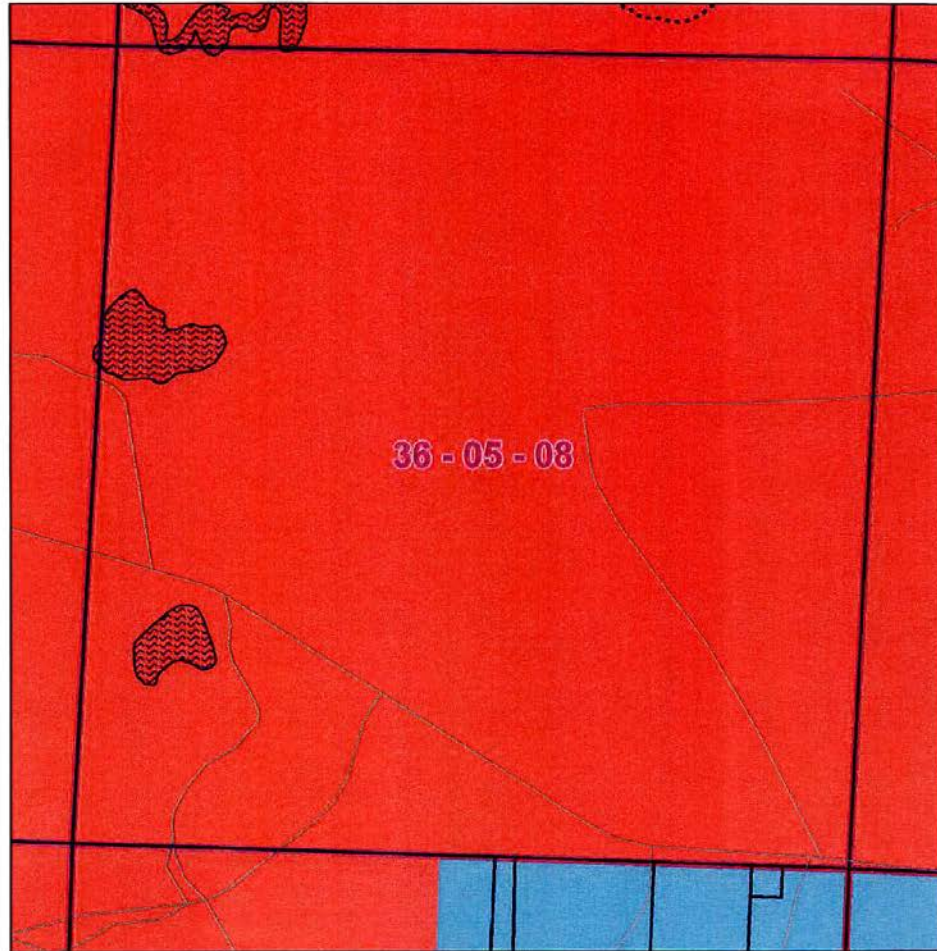




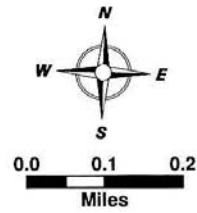


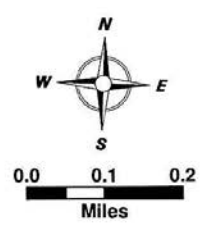
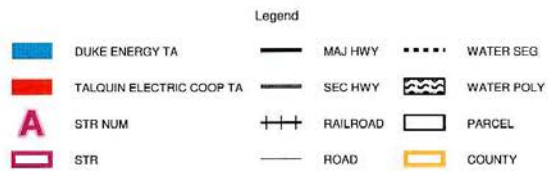


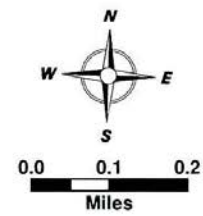
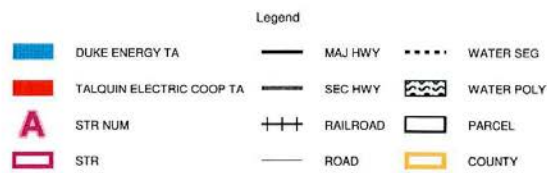
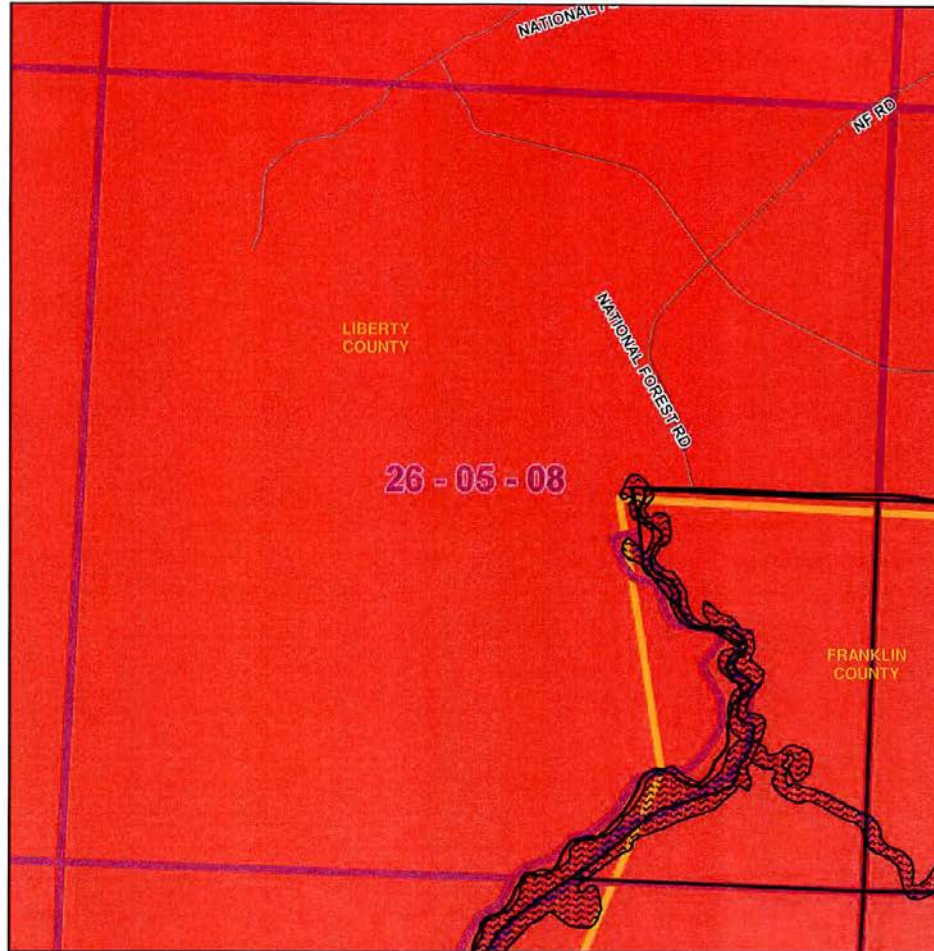


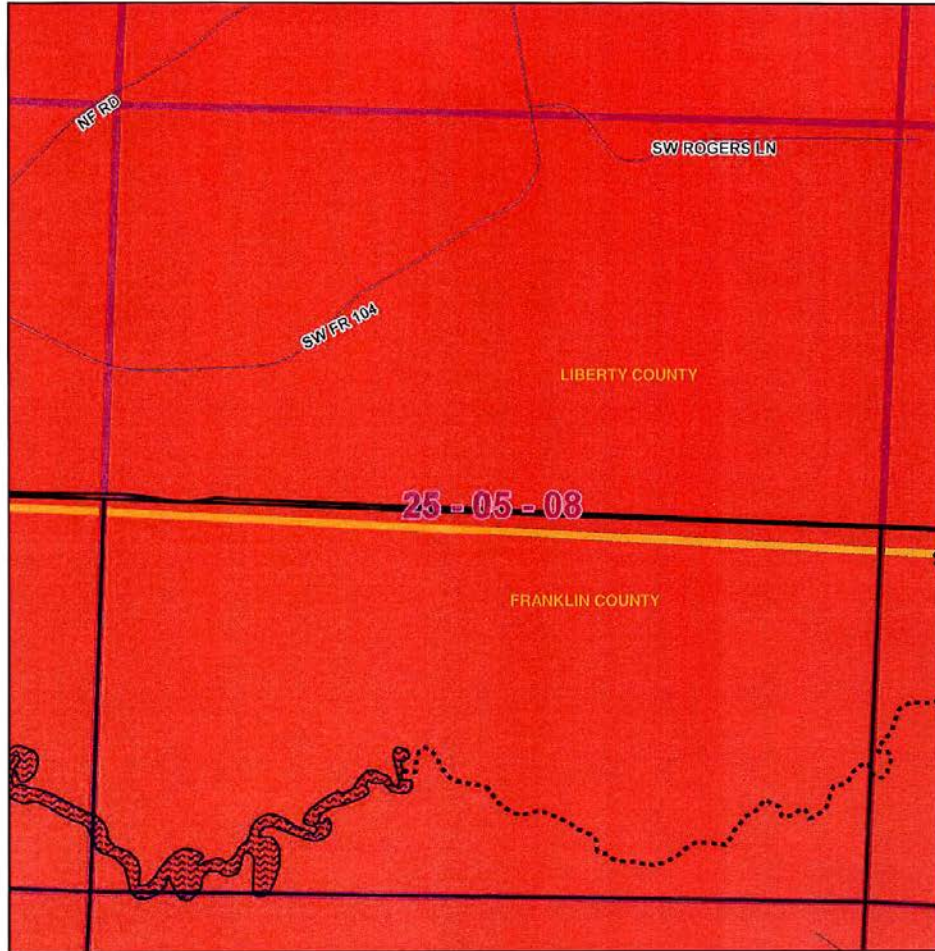














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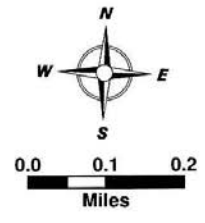


















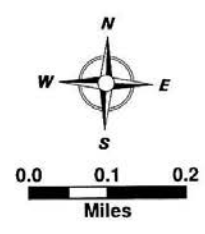


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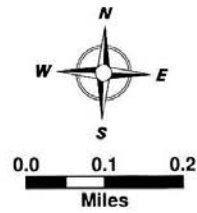
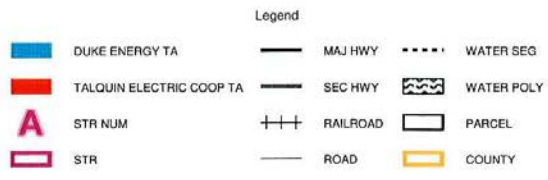
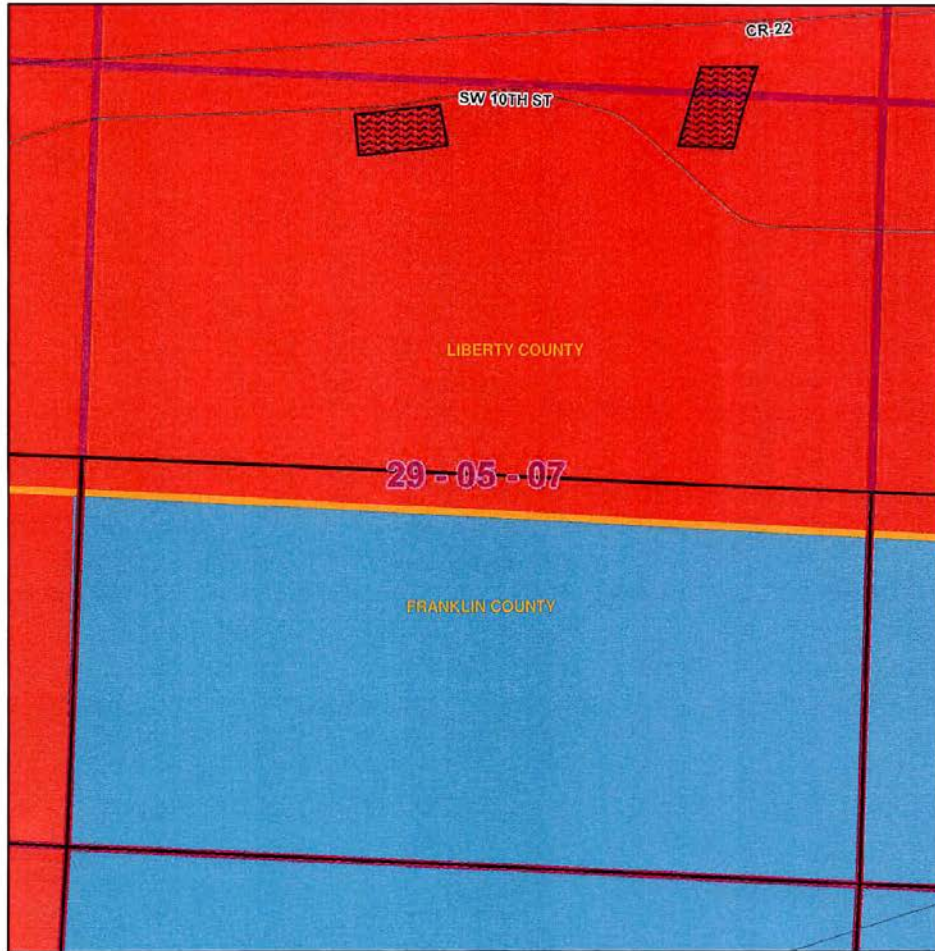
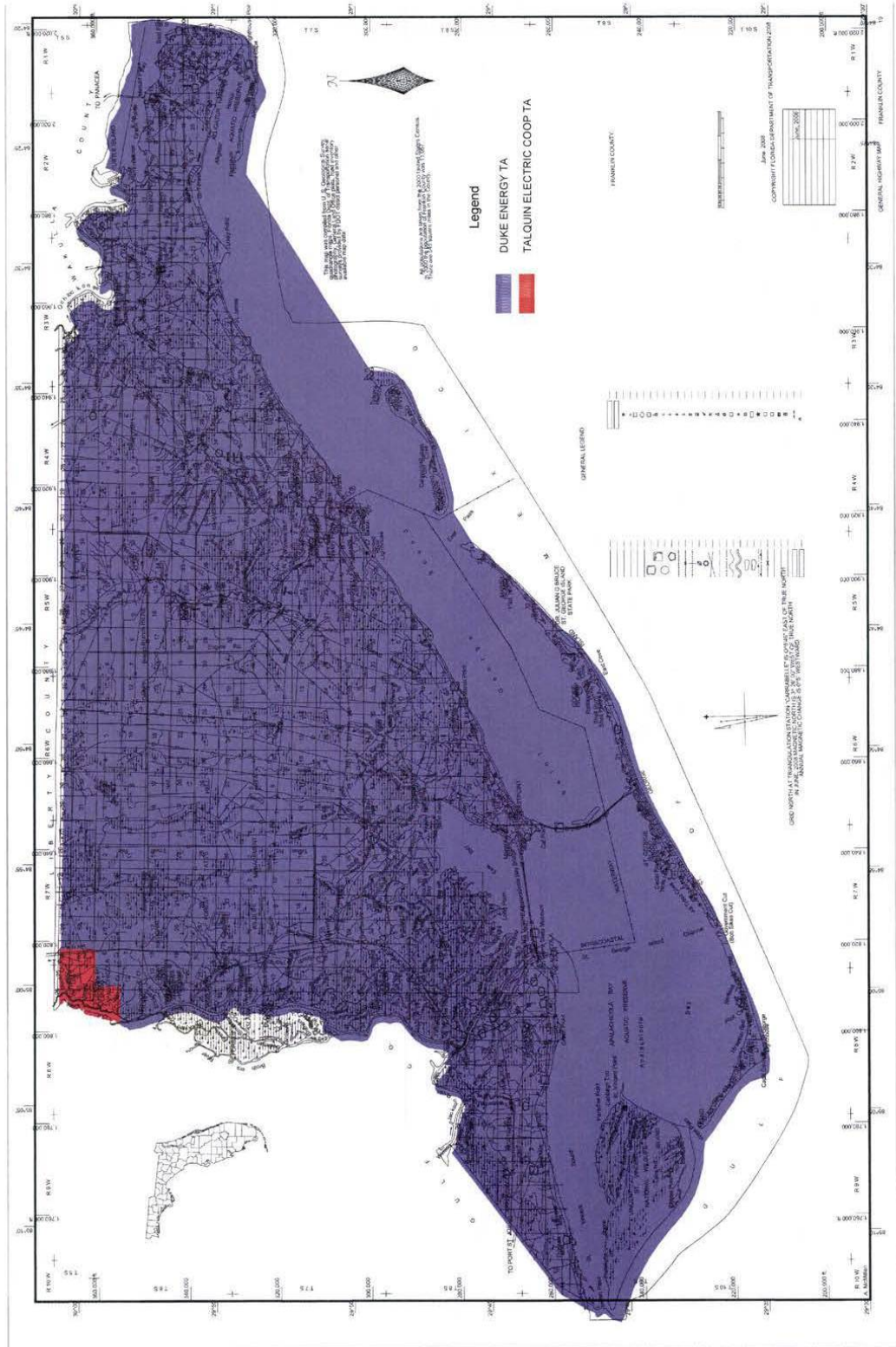
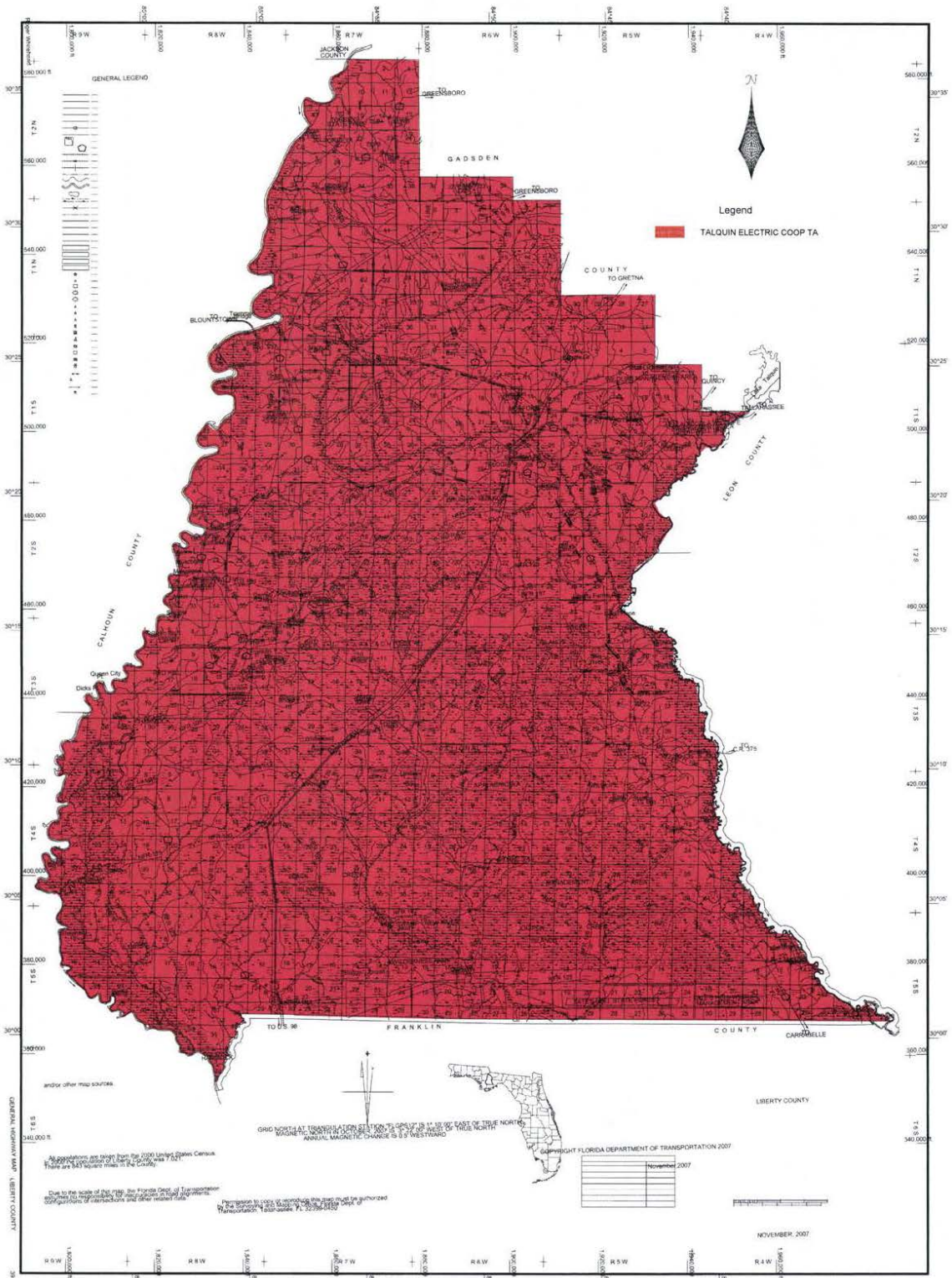


EXHIBIT B – Written Description of the Territorial Areas Served – Franklin and Liberty Counties*

Map Page	County	Township/Range	Section(s)	Description/Notes
1	Franklin	T06S, R08W	10	The entire part of the section north of the Apalachicola River is served by Talquin. The entire part of the section south of the Apalachicola River is served by Duke.
2	Franklin	T06S, R08W	11	The entire section is served by DEF except for the areas directly adjacent to the northern section line which are served by Talquin.
3	Franklin	T06S, R08W	12	The entire section is served by DEF except for the areas directly adjacent to the northern section line in the northwestern corner which are served by Talquin.
4	Franklin	T06S, R08W	02	The entire section is served by Talquin. No areas are served by DEF.
5	Franklin	T06S, R08W	01	Talquin serves the western half of the section. DEF serves the eastern half of the section, which includes Hickory Lane Road.
6	Franklin Liberty	T05S, R08W	35	The entire section is served by Talquin. No areas are served by DEF. This section is located in both Franklin and Liberty counties.
7	Franklin	T05S, R08W	36	The entire section is served by Talquin. No areas are served by DEF.
8	Franklin	T05S, R07W	31	The entire section is served by Talquin. No areas are served by DEF.
9	Franklin Liberty	T05S, R08W	26	The entire section is served by Talquin. No areas are served by DEF. This section is located in both Franklin and Liberty counties.
10	Franklin Liberty	T05S, R08W	25	The entire section is served by Talquin. No areas are served by DEF. This section is located in both Franklin and Liberty counties.
11	Franklin Liberty	T05S, R07W	30	The entire section is served by Talquin. No areas are served by DEF. This section is located in both Franklin and Liberty counties.
12	Franklin Liberty	T05S, R07W	29	Talquin serves the northern half of the section which includes SW 10 th Street. DEF serves the southern half of the section.
*The written descriptions explain the shared boundaries lines within a S-T-R between Talquin and DEF.				





Item 5

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (M. Brown) *MCB JSC*
Division of Economics (Ollila) *S.O. ED J.W.D. pd*

RE: Docket No. 140130-EU – Joint petition for approval of amendment to territorial agreement between Florida Power & Light Company and JEA.

AGENDA: 08/12/14 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On June 17, 2014, Florida Power & Light Company (FPL) and JEA filed a joint petition for approval of an amendment (2014 Amendment) to the existing Territorial Agreement between FPL and JEA. The territorial boundary between the two utilities was first approved by the Commission in 1965. The territorial boundary was re-affirmed by the Commission in 1980.¹ In 1996, as the result of a territorial dispute, FPL and JEA entered into a new territorial agreement (1996 Agreement) which replaced the prior agreement.² After the discovery of an inconsistency between the 1996 Agreement and a territorial agreement between JEA and Clay Electric

¹ Order No. 9363, issued May 9, 1980, in Docket No. 790886-EU, In re: Petition of Jacksonville Electric Authority for approval of a territorial agreement between JEA and Florida Power and Light Company.

² Order No. PSC-96-0212-FOF-EU, issued February 14, 1996 and finalized by Order No. PSC-96-0755-FOF-EU, issued June 10, 1996, in Docket No. 950307-EU, In re: Petition of Jacksonville Electric Authority to Resolve a Territorial Dispute With Florida Power & Light Company in St. Johns County.

Cooperative, a new territorial agreement between FPL and JEA was approved by the Commission in 1998.³ In 2012 FPL and JEA agreed to an amendment that altered a segment of the territorial boundaries between the parties so that a single utility could serve the electric needs of a new private development planned for an undeveloped area.⁴

The 2014 Amendment provides for the swap of two land parcels. Attachment A is a copy of the 2014 Amendment. Attachments B and C provide a legal description and map of the two parcels. Pursuant to Rule 25-6.0440(1)(f), Florida Administrative Code (F.A.C.), Attachment D is an official Florida Department of Transportation General Highway County map for St. Johns County depicting boundary lines established by the territorial agreement.

This recommendation addresses the parties' joint petition for approval of the 2014 Amendment. The Commission has jurisdiction over the matter pursuant to Section 366.04, Florida Statutes (F.S.).

³ Order No. PSC-98-1687-FOF-EU, issued December 14, 1998, in Docket No. 980755-EU, In re: Joint petition for approval of new territorial agreement between Florida Power & Light Company and Jacksonville Electric Authority.

⁴ Order No. PSC-12-0561-PAA-EU, issued October 22, 2012, in Docket No. 120171-EU, In re: Joint petition for approval of amendment to territorial agreement in St. Johns County between Florida Power & Light Company, a Florida corporation, and JEA, a Florida municipal corporation.

Discussion of Issues

Issue 1: Should the Commission approve the 2014 Amendment?

Recommendation: Yes, the Commission should approve the 2014 Amendment. (Ollila, M. Brown)

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), F.A.C., states 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).

As noted in the case background, FPL and JEA are parties to a Territorial Agreement, mostly recently amended in 2012. The 2014 Amendment, if approved, would:

- Move Swap Parcel 1, currently in FPL's territory, and place it in JEA's territory; and
- Move Swap Parcel 2, currently in JEA's territory, and place it in FPL's territory.

The current territorial boundary between FPL and JEA traverses an undeveloped area for which a new private development is planned. At present there is no electric infrastructure in place to serve electric needs; however, JEA has existing infrastructure nearby. The 2014 Amendment alters the territory between FPL and JEA so that the new territorial boundary will be more closely aligned with planned road ways and will facilitate the provision of electric service for the new development by one utility. Although there are no current development plans for the area within Swap Parcel 2, FPL and JEA agree that FPL will be in a better position to provide electric service to any future development in this area.

No customers will be transferred when the 2014 Amendment is implemented; therefore, no customers were notified pursuant to Rule 25-6.0440(1), F.A.C. Nor are there any facilities to be transferred and no purchase price will be involved. FPL and JEA state that they entered the 2014 Amendment after consideration of the best interest of electric consumers and the residents of the areas served by both parties. The 2014 Amendment is intended to avoid unnecessary duplication of services in the area. FPL and JEA state that it is their position that the 2014 Amendment is in the best interest of the public.

Staff believes that the 2014 Amendment is in the public interest and will enable FPL and JEA to better serve potential customers. It appears that the proposed amendment 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 2014 Amendment between FPL and JEA will not cause a detriment to the public interest and should be approved.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (M. Brown)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

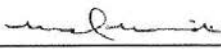
**SECOND AMENDMENT TO TERRITORIAL AGREEMENT
BETWEEN
FLORIDA POWER AND LIGHT COMPANY
AND
JEA**

1. **WHEREAS**, Florida Power and Light Company (FPL) and JEA have an existing Territorial Agreement entered into in 1998, as amended by that certain Amendment to Territorial Agreement Between Florida Power and Light Company and JEA dated May 25, 2012 (Territorial Agreement); and,
2. **WHEREAS**, this Second Amendment to the Territorial Agreement (Second Amendment) entered into by the parties on this 13th day of MARCH, 2014, alters the territory between the parties. In an effort to accommodate new development and align territorial boundaries more closely with planned road ways, the parties have agreed to swap two parcels of property within their respective territories. The first parcel is currently within the territorial boundary of FPL and is located on the south side of Palm Valley Road – County Road 210 bordered on the east by Palm Breeze Drive in St. Johns County and is approximately 2.82 acres (Swap Parcel 1). The second parcel is currently within the territorial boundary of JEA and is located on the north side of Palm Valley Road – County Road 210 at the intersection of the proposed Centervale Drive and proposed Nocatee Village Drive in St. Johns County and is approximately 0.62 acres (Swap Parcel 2); and,
3. **WHEREAS**, the current territorial boundary between FPL and JEA traverses an undeveloped area where new private development is planned but for which there is currently no infrastructure in place to serve electric needs. The new development straddles both the FPL and JEA territory. Swap Parcel 1 lies just south of, and is contiguous with the current territorial boundary between FPL and JEA, within FPL's territory. Due to the current boundary configuration, the proximity of existing JEA infrastructure to this site, and the desire to have the electric needs of the new development served by one utility, FPL and JEA have agreed to modify the territorial boundary to place Swap Parcel 1 within the bounded area to be served by JEA; and,
4. **WHEREAS**, although there is no current development plan for the area within Swap Parcel 2, the parties agree that future development within this area will be better served by FPL in the future and have agreed to modify the territorial boundary to place Swap Parcel 2 within the bounded area to be served by FPL; and,

5. **WHEREAS**, there are currently no existing customers or electric facilities within Swap Parcel 1 or Swap Parcel 2; and,
6. **WHEREAS**, amending the Territorial Agreement to allow JEA and FPL to provide service to the region subject to this Second Amendment will avoid unnecessary duplication of services and will facilitate the provision of electric services by a single utility to all customers within the new development.
7. **NOW THEREFORE**, FPL and JEA agree to amend the territorial boundary between the utilities as provided in Exhibits A, B, and C to this Second Amendment. Exhibit A is a general highway map of St. Johns County, Florida, showing the existing territorial boundaries and area to be transferred. Exhibit B is a more detailed map identifying the existing and new territorial boundary lines. Exhibit C provides the legal descriptions for Swap parcel 1 and Swap parcel 2 and a written description of the new territorial boundary lines pursuant to this Amendment.
8. All other parts of the Territorial Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by FPL in its name by its Vice President, and by JEA in its name by its Chief Executive Officer, on the day and year first written above.

FLORIDA POWER & LIGHT COMPANY

By: 
Name: Manuel A. Miranda
Title: Vice President, Power Delivery

Date: 3/13/14

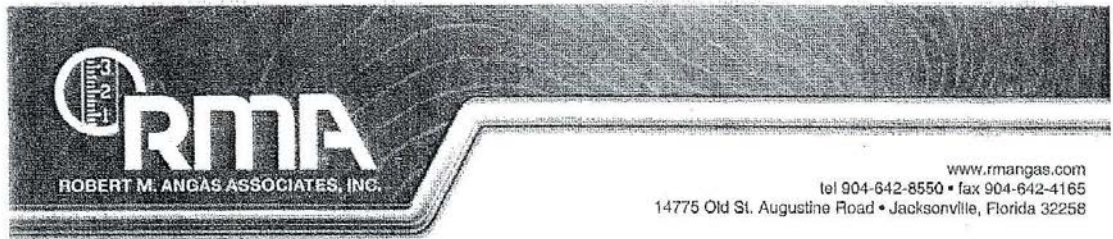
JEA

By: 
Name: Paul E. McElroy
Title: Chief Executive Officer

Date: March 6, 2014

Form Approved:


Office of General Counsel



January 9, 2014
Town Center Central
Page 1 of 2

Work Order No. 14-004.00
File No. 123B-23.00A

Swap Parcel 1

A portion of Section 31, Township 4 South, Range 29 East, St. Johns County, Florida, also being a portion of those lands described and recorded in Official Records Book 3422, page 1351, of the Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of Town Center Roads Phase II, a plat recorded in Map Book 69, pages 44 through 48, of said Public Records; thence Northerly along the Westerly right of way line of Palm Breeze Drive, a variable width right of way as presently established, the following 10 courses: Course 1, thence Northerly along the arc of a curve concave Easterly having a radius of 1204.00 feet; through a central angle of 06°10'30", an arc length of 129.76 feet to a point on said curve, said arc being subtended by a chord bearing and distance of North 06°14'29" East, 129.70 feet; Course 2, thence North 23°35'20" East, 53.46 feet to a point on a curve concave Easterly having a radius of 1092.00 feet; Course 3, thence Northerly along the arc of said curve, through a central angle of 05°23'22", an arc length of 102.72 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North 14°15'55" East, 102.68 feet; Course 4, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1180.00 feet, through a central angle of 09°03'51", an arc length of 186.68 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North 26°09'51" East, 186.48 feet; Course 5, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1176.00 feet, through a central angle of 03°12'37", an arc length of 65.89 feet to point of reverse curvature, said arc being subtended by a chord bearing and distance of North 27°21'46" East, 65.88 feet; Course 6, thence Northerly along the arc of a curve concave Westerly having a radius of 1720.00 feet, through a central angle of 13°06'43", an arc length of 393.62 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 22°24'42" East, 392.76 feet; Course 7, thence North 15°51'21" East, 404.68 feet to the point of curvature of a curve concave Southwesterly having a radius of 30.00 feet; Course 8, thence Northwesterly along the arc of said curve, through a central angle of 90°00'00", an arc length of 47.12 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 29°08'39" West, 42.43 feet; Course 9, thence North 74°08'39" West, 15.35 feet; Course 10, thence North 15°51'21" East, 60.00 feet to the Point of Beginning.

From said Point of Beginning, thence North 74°08'39" West, departing said Westerly right of way line, 405.15 feet to a point lying on the former centerline of Palm Valley Road (County Road No. 210) a former 100 foot right of way vacated by Resolution No. 2008-13, recorded in Official Records Book 3101, page 739 of said Public Records; thence North 55°19'25" East, along said former centerline, 708.73 feet to its intersection with said Westerly right of way line of Palm



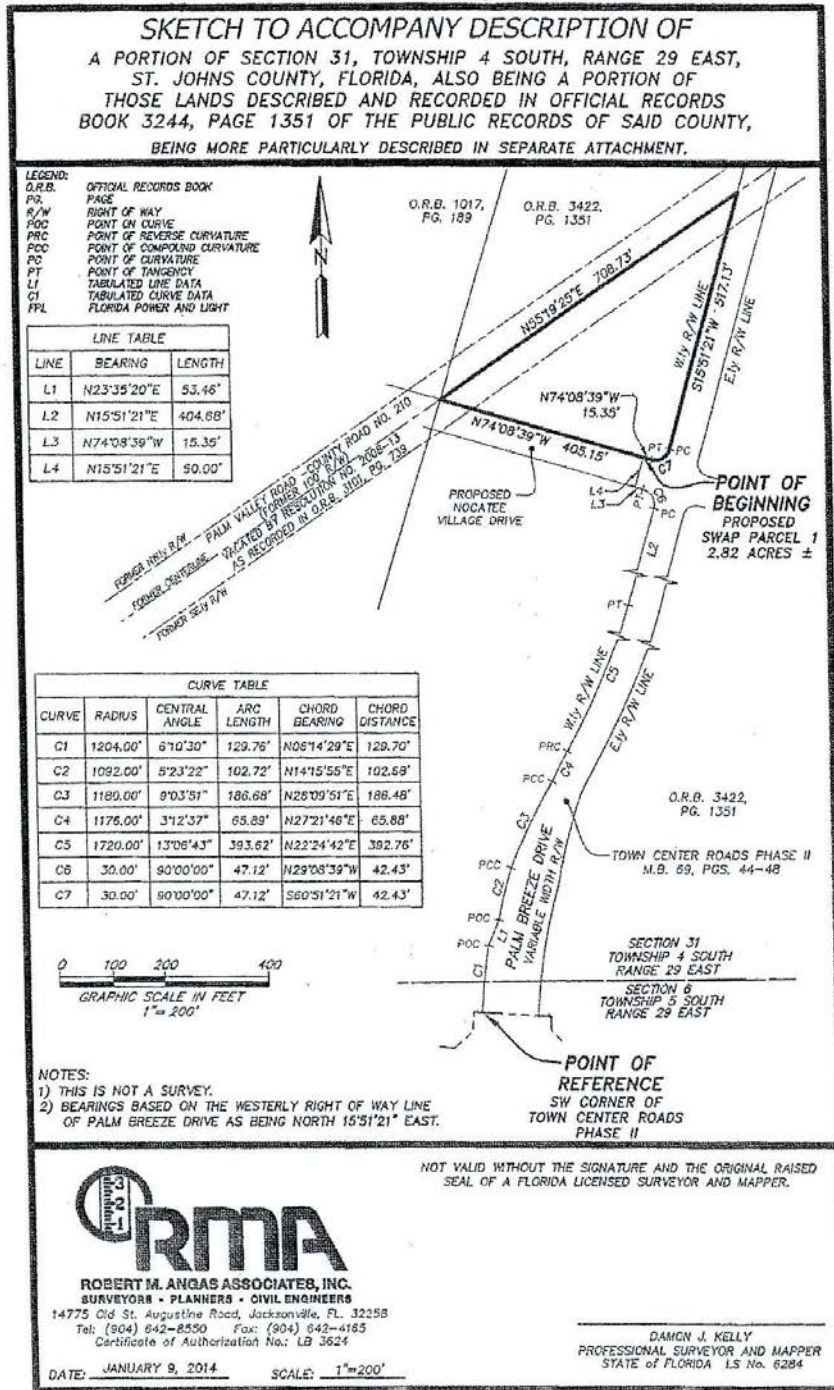
January 9, 2014
Town Center Central
Page 2 of 2

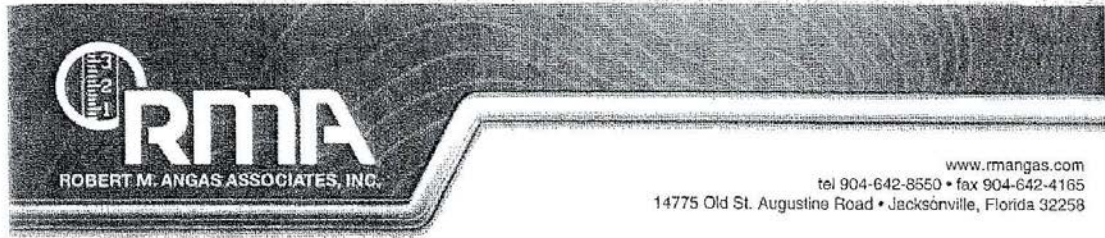
Work Order No. 14-004.00
File No. 123B-23.00A

Swap Parcel 1

Breeze Drive; thence Southerly and Westerly along said Westerly right of way line the following 3 courses: Course 1, thence South 15°51'21" West, departing said former centerline, 517.13 feet to the point of curvature of a curve concave Northerly having a radius of 30.00 feet; Course 2, thence Westerly along the arc of said curve through a central angle of 90°00'00", an arc length of 47.12 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 60°51'21" West, 42.43 feet; Course 3, thence North 74°08'39" West, 15.35 feet to the Point of Beginning.

Containing 2.82 acres, more or less.





January 9, 2014
Towncenter Central
Page 1 of 2

Work Order No. 14-004.00
File No. 123B-23.00B

Swap Parcel 2

A portion of Section 31, Township 4 South, Range 29 East, St. Johns County, Florida, also being a portion of those lands described and recorded in Official Records Book 1462, page 677, of the Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of Town Center Roads Phase II, a plat recorded in Map Book 69, pages 44 through 48, of said Public Records; thence Northerly along the Westerly right of way line of Palm Breeze Drive, a variable width right of way as presently established, the following 10 courses: Course 1, thence Northerly along the arc of a curve concave Easterly having a radius of 1204.00 feet; through a central angle of 06°10'30", an arc length of 129.76 feet to a point on said curve, said arc being subtended by a chord bearing and distance of North 06°14'29" East, 129.70 feet; Course 2, thence North 23°35'20" East, 53.46 feet to a point on a curve concave Easterly having a radius of 1092.00 feet; Course 3, thence Northerly along the arc of said curve, through a central angle of 05°23'22", an arc length of 102.72 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North 14°15'55" East, 102.68 feet; Course 4, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1180.00 feet, through a central angle of 09°03'51", an arc length of 186.68 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North 26°09'51" East, 186.48 feet; Course 5, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1176.00 feet, through a central angle of 03°12'37", an arc length of 65.89 feet to point of reverse curvature, said arc being subtended by a chord bearing and distance of North 27°21'46" East, 65.88 feet; Course 6, thence Northerly along the arc of a curve concave Westerly having a radius of 1720.00 feet, through a central angle of 13°06'43", an arc length of 393.62 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 22°24'42" East, 392.76 feet; Course 7, thence North 15°51'21" East, 404.68 feet to the point of curvature of a curve concave Southwesterly having a radius of 30.00 feet; Course 8, thence Northwesterly along the arc of said curve, through a central angle of 90°00'00", an arc length of 47.12 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 29°08'39" West, 42.43 feet; Course 9, thence North 74°08'39" West, 15.35 feet; Course 10, thence North 15°51'21" East, 60.00 feet; thence North 74°08'39" West, departing said Westerly right of way line, 189.15 feet to the point of curvature of a curve concave Northeasterly having a radius of 25.00 feet; thence Northwesterly along the arc of said curve, through a central angle of 89°57'17", an arc length of 39.25 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 29°10'01" West, 35.34 feet; thence North 15°48'38" East, 10.00 feet; thence North 74°11'22" West, 50.00 feet; thence South 15°48'38" West, 9.92 feet to the point of curvature of a curve concave Northwesterly having a radius of 25.00 feet; thence Southwesterly along the arc of said



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Towncenter Central
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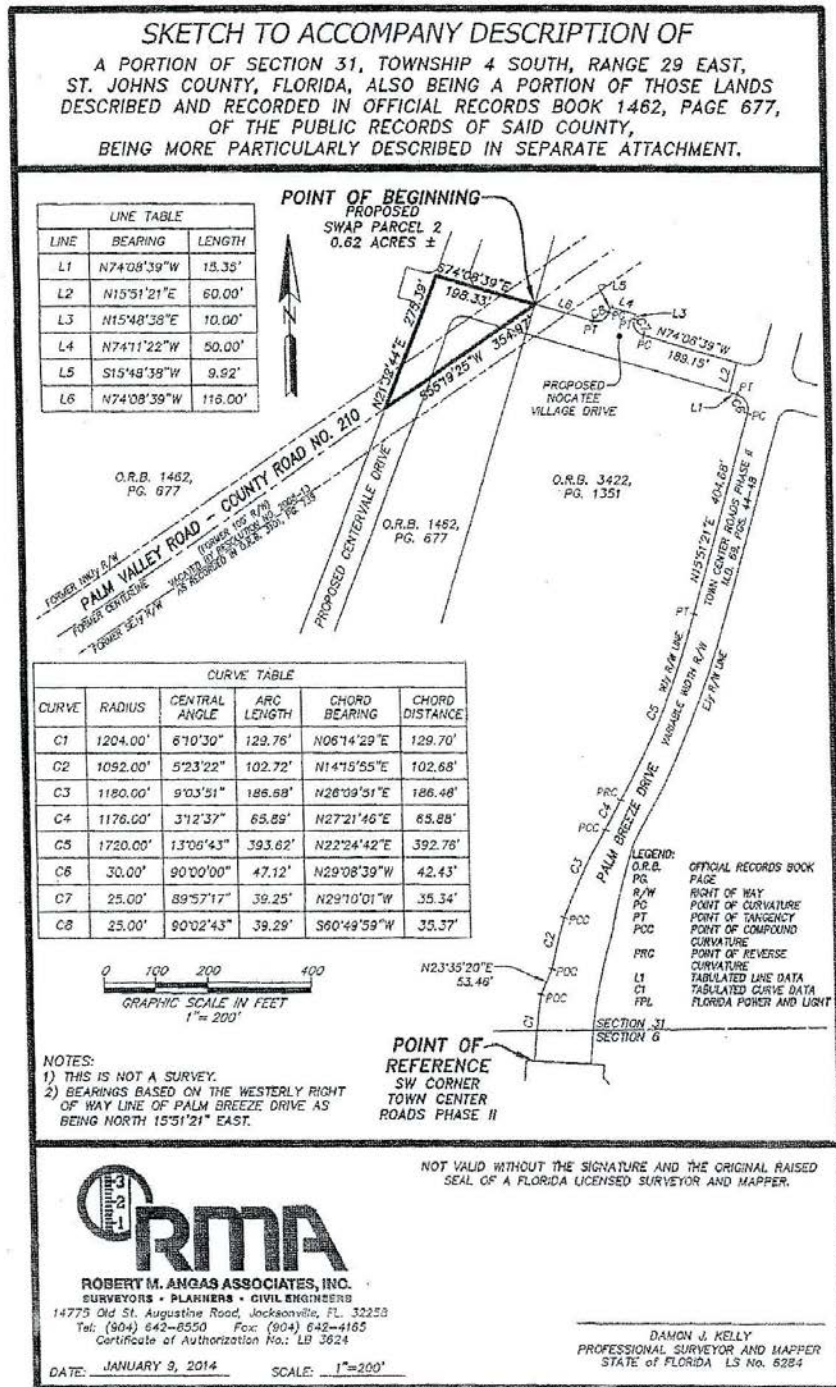
Work Order No. 14-004.00
File No. 123B-23.00B

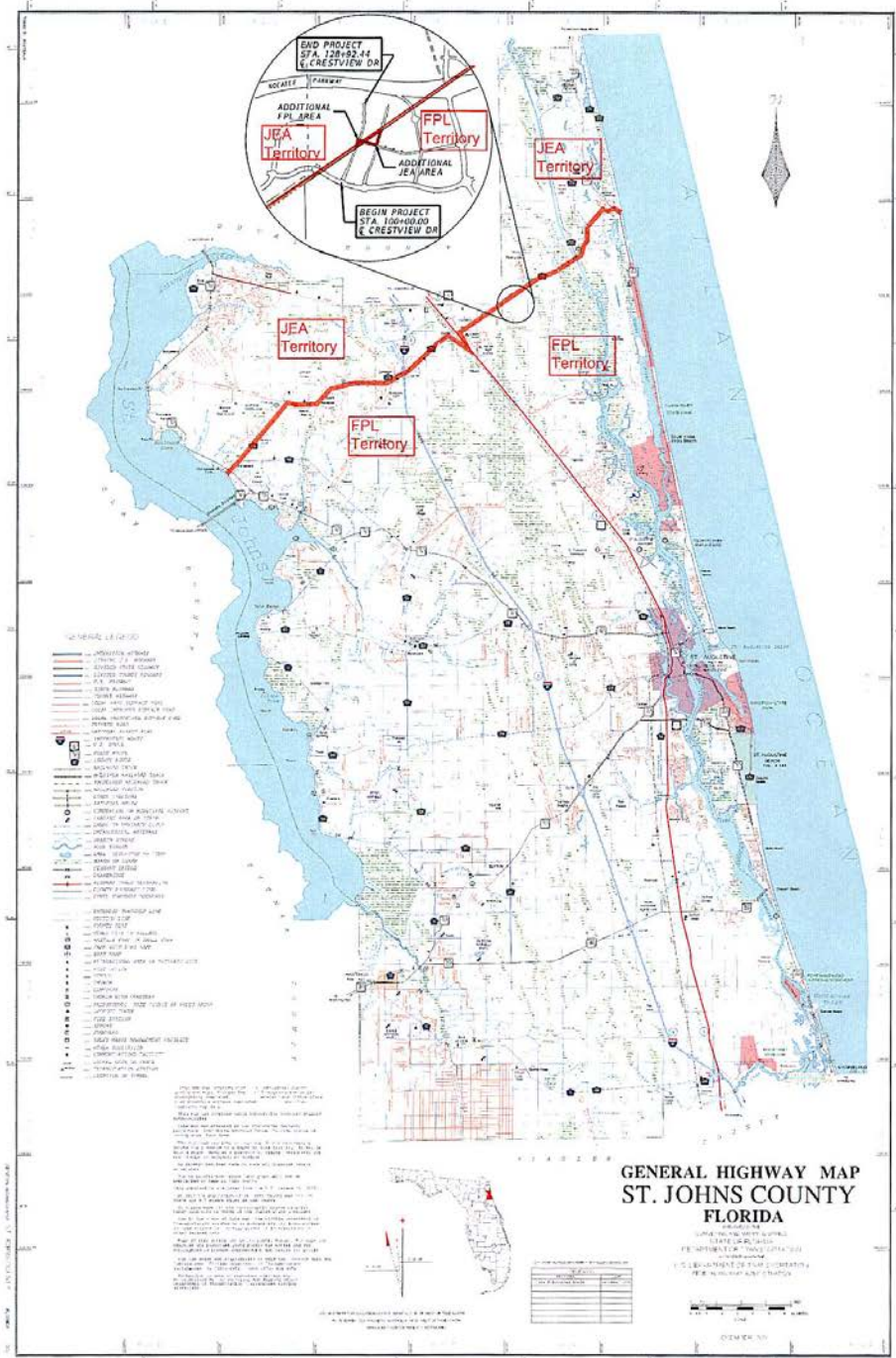
Swap Parcel 2

curve, through a central angle of $90^{\circ}02'43''$, an arc length of 39.29 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $60^{\circ}49'59''$ West, 35.37 feet; thence North $74^{\circ}08'39''$ West, 116.00 feet to a point lying on the former centerline of Palm Valley Road (County Road No. 210) a former 100 foot right of way vacated by Resolution No. 2008-13, recorded in Official Records Book 3101, page 739 of said Public Records, said point also being the Point of Beginning.

From said Point of Beginning, thence South $55^{\circ}19'25''$ West, along said former centerline, 354.97 feet; thence North $21^{\circ}32'44''$ East, departing said former centerline, 275.39 feet; thence South $74^{\circ}08'39''$ East, 198.33 feet to the Point of Beginning.

Containing 0.62 acres, more or less.





Item 6

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (Casey) *PC*
Office of the General Counsel (Teitzman) *AT*

RE: Docket No. 120052-TP – Florida Link-Up and Lifeline Program Modernization.

AGENDA: 08/12/14 – Regular Agenda –Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On February 6, 2012, the Federal Communications Commission (FCC) released a Report and Order (Order FCC 12-11) and Further Notice of Proposed Rulemaking addressing Lifeline and Link Up Reform and Modernization.¹ The stated purposes of the FCC's Order 12-11 were to strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program to include broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Federal Universal Service Fund. Many of the modifications contained in Order FCC 12-11 affected Florida's Lifeline program.

¹ In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Lifeline and Link Up (WC Docket No. 03-109), Federal-State Joint Board on Universal Service (CC Docket No. 96-45), Advancing Broadband Availability Through Digital Literacy Training (WC Docket No. 12-23), Report and Order and Further Notice of Proposed Rulemaking. Order No. FCC 12-11. Adopted: January 31, 2012, Released: February 6, 2012.

Docket No. 120052-TP
Date: July 31, 2014

To fulfill the requirements of Order FCC 12-11, this Commission, by Order No. PSC-12-0205-PAA-TP, issued April 17, 2012, ordered that non-Tribal Link Up be removed from the Florida Lifeline program, the monthly amount of Lifeline credit provided to Florida Lifeline customers be changed from \$13.50 to \$12.75, and the Florida Lifeline Simplified Certification process be eliminated as of June 1, 2012. This docket was kept open to address any additional changes that needed to be made to Florida's Lifeline program due to the FCC Lifeline Reform and Modernization. The Commission has authority under Section 364.10, Florida Statutes, to administer the Florida Lifeline and Link Up program.

Discussion of Issues

Issue 1: Should this docket be closed?

Recommendation: Yes. Staff recommends this docket should be closed. (Casey, Teitzman)

Staff Analysis: This docket was opened to address modifications that needed to be made to the Florida Lifeline program as a result of the issuance of the FCC Lifeline Reform Order. The only outstanding issue that needed to be resolved once the Commission issued Order No. PSC-12-0205-PAA-TP was to address a permanent waiver of 47 C.F.R. §54.407(d), 47 C.F.R. §54.410(b)(2)(ii), 47 C.F.R. §54.410(c)(2)(ii), and 47 C.F.R. §54.410(e). These FCC rules stated that eligible telecommunications carriers must not seek reimbursement from the Federal universal service fund unless the eligible telecommunications carrier has received from the state Lifeline administrator or other state agency, a copy of the Lifeline subscriber's certification form.² The Order also required state Lifeline administrators or other state agencies that are responsible for the initial determination of a subscriber's eligibility for Lifeline to provide each eligible telecommunications carrier with a hard-copy of each of the Lifeline certification forms beginning June 1, 2012.

The Florida Lifeline Electronic Coordinated Enrollment process does not have the capability of printing out a hard-copy Lifeline application as required by the new FCC Rules. However, the Florida Lifeline Electronic Coordinated Enrollment process allows eligible telecommunications carriers to adhere to the requirements of the Lifeline Reform Order without the need to require or maintain hard-copy Lifeline certification applications. Therefore, on October 25, 2013, the Commission filed a petition with the FCC for permanent waiver of the hard-copy Lifeline application obligation required by Rules 47 C.F.R. §54.407(d), 47 C.F.R. §54.410(b)(2)(ii), 47 C.F.R. §54.410(c)(2)(ii), and 47 C.F.R. §54.410(e).

On June 6, 2014, the FCC released Order DA 14-785, granting Florida a permanent waiver of the FCC requirements to provide hard-copy Lifeline applications to eligible telecommunications carriers. In the Order, the FCC stated a permanent waiver is appropriate because Florida's screening system fulfills the underlying purpose of the rules to limit Lifeline benefits to eligible consumers.

Staff believes there are no further issues to be addressed regarding the FCC Lifeline Reform Order. Therefore, staff recommends that this docket should be closed.

² 47 C.F.R. §54.407(d), 47 C.F.R. §54.410(b)(2)(ii), and 47 C.F.R. §54.410(c)(2)(ii).

Item 7

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (Fogleman, Williams, Hawkins, Long, Casey)
Office of the General Counsel (Teitzman) *AT*

RE: Docket No. 140119-TP – 2015 State certification §54.313 and §54.314, annual reporting requirements for high-cost recipients, and certification of support for eligible telecommunications carriers.

AGENDA: 08/12/14 – Regular Agenda – Proposed Agency Action – Except Issue No. 1 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: October 1, 2014 filing deadline with the Federal Communications Commission and Universal Service Administrative Company.

SPECIAL INSTRUCTIONS: None

Case Background

Section 254(e) of the Telecommunications Act of 1996 provides that a carrier that receives universal service support "...shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended..." States seeking federal high-cost support for carriers within their jurisdiction are required to file a certification annually with the Federal Communications Commission (FCC) and with the Universal Service Administrative Company (USAC).

The carrier annual reporting data collection form known as Form 481 is an FCC form that all eligible telecommunications carriers (ETCs) in the High Cost and Lifeline programs file

annually with the FCC and state commissions. For carriers in the High Cost Program, the form collects a carrier's five-year improvement or upgrade plan (only required for four Florida interstate rate-of-return ETCs in 2014),¹ detailed information on any outages, the number of unfulfilled requests for service, number of complaints per 1,000 connections, branding information of the holding company and its affiliates, documentation demonstrating whether the carrier is engaged with Tribal governments, certification of service quality compliance, certification of emergency operation capability, certification that frozen support received in 2013 was used consistently with the goal of achieving universal availability of voice and broadband, and certification that high-cost support designated for the use of offsetting reductions in access charges was used in the prior calendar year to build and operate broadband-capable networks used to offer provider's own retail service in areas substantially unserved by an unsubsidized competitor.²

New this year for carriers in the High Cost Program are requirements to provide the company's price offerings, and incumbent carriers receiving high-cost loop support or high-cost model support with rates below the benchmark must report rates and lines on the Rate Floor Data Collection Report and Certification. For carriers in the Lifeline Program, the form collects branding information of the holding company and its affiliates and terms and conditions on service plans offered to subscribers.

Florida ETCs filed copies of their Form 481 filings concurrently with the Florida Public Service Commission (FPSC or Commission) and the FCC. Staff reviewed each of the Form 481 filings to ensure all necessary information required for high-cost certification was provided by the ETCs. The staff recommended certification affirms that the federal high-cost funds flowing to carriers in the state, or to any competitive eligible telecommunications carriers seeking support for serving customers within a carrier's service area, will be used in a manner that comports with Section 254(e). Certification is defined by 47 C.F.R. 54.314(a) as follows:

Certification of support for eligible telecommunications carriers.

- (a) *Certification.* States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

¹ ITS Telecommunications Systems, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone, and Smart City Telecommunications, LLC d/b/a Smart City Telecom.

² 47 C.F.R. §54.313(d)

Unless the Commission submits certifications to the FCC and to the USAC by October 1, 2014, Florida's carriers will not receive high-cost universal service funds during the first quarter of 2015, and would forego all federal support for that quarter. Certifications filed after October 1, 2014, would cause carriers to be eligible for high-cost funds for only partial quarters of 2015. For example, certifications filed by January 1, 2015, would allow carriers to be eligible for high-cost funds in the second, third, and fourth quarters of 2015. Certifications filed by April 1, 2015, would only allow carriers to be eligible for high-cost funds in the third and fourth quarters of 2015.

In order for a carrier to be eligible for high-cost universal service support for all of calendar year 2015, certification must be submitted by October 1, 2014.³ Based on prior support received by carriers in Florida, staff estimates that the amount of funding carriers will receive for 2015 will likely be between \$60 and \$65 million in high-cost support.⁴

Certification from the FPSC may be filed with the FCC and USAC in the form of a letter from the FPSC.⁵ The USAC has developed a letter template for use with annual high-cost certifications of state ETCs. Attachment A is a draft letter under the Chairman's signature using the USAC template to certify high-cost for Florida ETCs.

³ FCC Public Notice, DA 13-1707, WC Docket Nos. 10-90 and 11-42, released August 6, 2013

⁴ This estimate does not include wireless carriers.

⁵ 47 C.F.R. §54.314(c)

Discussion of Issues

Issue 1: Should the FPSC certify to the FCC and to the USAC, by letter from the Chairman, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; Verizon Florida LLC; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended?

Recommendation: Yes. Staff recommends that the FPSC should certify to the FCC and to the USAC, by letter from the Chairman, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; Verizon Florida LLC; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. (Fogleman, Williams, Hawkins, Teitzman)

Staff Analysis: By Order DA 14-591, issued May 1, 2014,⁶ the FCC waived the requirement that interstate price cap ETCs receiving frozen or incremental support file new five-year build-out plans by July 1, 2014. The grant of a waiver of this requirement for interstate price cap ETCs for an additional year was because the FCC just finalized the Connect America Cost Model, and interstate price cap carriers have not yet had the opportunity to make a state-level commitment for Connect America Phase II. The FCC found that it is not in the public interest to require interstate price cap ETCs to file new five-year plans in 2014 for the same reason as last year: they do not yet know which areas they will be serving in the future.

Staff reviewed each of the carrier annual reporting data collection forms (Form 481) to ensure all necessary information required for high-cost certification was provided by the ETCs. Within Form 481, each of the Florida ETCs has certified that all federal high-cost support provided to them within Florida was used in the preceding calendar year (**2013**) and will be used in the coming calendar year (**2015**) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Given these ETCs' certifications, staff recommends that the Commission certify to the FCC and to the USAC, by letter from the Chairman, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; Verizon Florida LLC; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding

⁶ In the Matter of Connect America Fund, WC Docket No. 10-90.

calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Issue 2: Should the FPSC certify to the FCC and to the USAC, by letter from the Chairman, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended?

Recommendation: Yes. Staff recommends that the FPSC should certify to the FCC and to the USAC, by letter from the Chairman, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. (Fogleman, Williams, Hawkins, Teitzman)

Staff Analysis: This Issue addresses annual federal high-cost certification for Florida's four interstate rate-of-return carriers. For 2014, FCC Form 481 requires interstate rate-of-return carriers receiving support for voice telephony service and offering broadband as a condition of such support to file a five-year build-out plan that accounts for the new broadband obligations adopted in the USF/ICC Transformation Order.⁷ For the July 1, 2014 filing, carriers making an initial five-year plan filing must forecast network improvements for calendar years 2015 through 2019. The initial five-year build-out plan, consistent with 47 C.F.R. §54.202 (a)(1), must include the specific proposed improvements or upgrades to the network, and an estimate of the area and population that will be served as a result of the improvements.

Staff reviewed each of the interstate rate-of-return carrier's annual reporting data collection forms (Form 481) to ensure all necessary information required for high-cost certification was provided by the ETCs. Within Form 481, each of the Florida ETCs has certified that all federal high-cost support provided to them within Florida was used in the preceding calendar year (**2013**) and will be used in the coming calendar year (**2015**) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Given these ETCs' certifications, staff recommends that the Commission certify to the FCC and to the USAC, by letter from the Chairman, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

⁷ In the Matter of Connect America Fund, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, released November 18, 2011.

Issue 3: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Fogleman, Williams, Hawkins, Teitzman)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

STATE OF FLORIDA

ART GRAHAM
CHAIRMAN



Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
(850) 413-6040

Public Service Commission

August 12, 2014

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

USAC
Vice President, High Cost and Low Income Division
2000 L Street NW, Suite 200
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 10-90, Annual State-Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314

Dear Ms. Dortch:

Pursuant to the requirements of 47 C.F.R. § 54.314, the Florida Public Service Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that the telecommunications carriers included in this letter are eligible to receive federal high-cost support for the program years cited.

Per the attached Order, the Florida Public Service Commission certifies for the carriers listed below that all federal high-cost support provided to such carriers within Florida was used in the preceding calendar year (**2013**) and will be used in the coming calendar year (**2015**) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.⁸

⁸ 47 C.F.R. §54.314(a) (“Certification. States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.”)

Company Name	Study Area Code
BellSouth Telecommunications, LLC d/b/a AT&T Florida	215191
Embarq Florida, Inc. d/b/a CenturyLink	210341
Frontier Communications of the South, LLC	210318
GTC, Inc. d/b/a FairPoint Communications	210291, 210329, 210339
ITS Telecommunications Systems, Inc.	210331
Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone	219904
Northeast Florida Telephone Company d/b/a NEFCOM	210335
Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone	210338
Smart City Telecommunications, LLC d/b/a Smart City Telecom	210330
Verizon Florida LLC	210328
Windstream Florida, Inc.	210336

If you have any questions regarding this certification, please contact Greg Fogleman at (850) 413-6574, or Curtis Williams at (850) 413-6924.

Sincerely,

Art Graham
Chairman

Item 8

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Hill) *[Handwritten initials]*
Division of Accounting and Finance (Frank, Springer) *[Handwritten initials]*
Division of Economics (Thompson) *[Handwritten initials]*
Office of the General Counsel (Lawson) *[Handwritten initials]*

RE: Docket No. 130269-WU – Joint application for authority to transfer the assets of Venture Associates Utilities Corp. and Certificate No. 488-W in Marion County, Florida to Ocala Palms Utilities, LLC.

AGENDA: 08/12/14 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Balbis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On November 8, 2013, Venture Associates Utilities Corp. (Venture) filed an application for the transfer of Certificate No. 488-W to Ocala Palms Utilities, LLC (Ocala Palms) in Marion County. The service area is located in the Southwest Florida Water Management District and is in a water use caution area. According to Venture's 2013 Annual Report, it serves 1,059 water customers with operating revenue of \$612,143, which designates it as a Class B utility.

Certificate No. 488-W was originally granted in 1987.¹ In 1993, the Commission approved an allowance for funds used during construction.² In 1994, there was an amendment to

¹ See Order No. 18121, issued September 8, 1987, in Docket No. 860872-WU, In re: Application of Venture Associates Utilities Corporation for water certificate in Marion County.

include additional territory.³ In 1995, there was a new class of service added to Venture's tariff.⁴ In 1996, main extension and meter installation charges were approved as Contributions-in Aid-of-Construction (CIAC).⁵ In 1997, there was a transfer in part to Palm Cay Utilities, Inc.⁶ In 2001 and 2002, Venture's tariffs were revised to reflect revised service availability charges due to City of Ocala impact fees^{7,8} In 2006, there was an application for a staff assisted rate case which was denied due to Venture's revenue exceeding the maximum allowed for staff assistance.⁹

This recommendation addresses the transfer of the water system and the net book value of the water system at the time of transfer. The Commission has jurisdiction pursuant to Section 367.071, Florida Statutes (F.S.).

² See Order No. PSC-93-1170-FOF-WU, issued August 10, 1993, in Docket No. 930406-WU, In re: Application for approval of allowance-for-funds-used-during-construction (AFUDC) rates in Marion County by Venture Associates Utilities Corp.

³ See Order No. PSC-94-1621-FOF-WU, issued December 30, 1994, in Docket No. 930892-WU, In re: Application for amendment of Certificate No. 488-W in Marion County by Venture Associates Utilities Corp.

⁴ See Order No. PSC-96-0120-FOF-WU, issued January 23, 1996, in Docket No. 951365-WU, In re: Application for a new class of service in Marion County by Venture Associates Utilities Corp.

⁵ See Order No. PSC-96-0790-FOF-WU, issued June 18, 1996, in Docket No. 930892-WU, In re: Application for amendment of Certificate No. 488-W in Marion County by Venture Associates Utilities Corp.

⁶ See Order No. PSC-98-1231-FOF-WU, issued September 21, 1998, in Docket No. 971670-WU, In re: Application for transfer of part of Certificate No. 488-W in Marion County from Venture Associates Utilities Corp. to Palm Cay Utilities, Inc.

⁷ See Order No. PSC-01-1436-CO-WU, issued July 3, 2001, in Docket No. 010444-WU, In re: Request for approval of tariff filing by Venture Associates Utilities Corp. in Marion County.

⁸ See Order No. PSC-02-0766-CO-WU, issued June 6, 2002, in Docket No. 020247-WU, In re: Request for approval of tariff increase for portion of tariff that applies to City of Ocala Impact Fees in Marion County by Venture Associates Utilities Corp.

⁹ See Docket No. 060349-WU, In re: Application for staff-assisted rate case in Marion County by Venture Associates Utilities Corp.

Discussion of Issues

Issue 1: Should the transfer of Venture's water system and Certificate No. 488-W to Ocala Palms be approved?

Recommendation: Yes. The transfer of Venture's water system and Certificate No. 488-W is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as Ocala Palms' certificate and should be retained by Ocala Palms. Venture's existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). Ocala Palms should be responsible for filing the 2014 Annual Report and paying 2014 Regulatory Assessment Fees (RAFs) and should be responsible for filing all future annual reports and RAFs. (Hill, Frank)

Staff Analysis: On November 8, 2013, Venture and Ocala Palms filed a joint application for approval to transfer the Venture water system and Certificate No. 488-W to Ocala Palms. The application is in compliance with Section 367.071, F.S., and the Florida Administrative Rules concerning applications for transfer of certificates. The closing occurred on September 6, 2013, contingent upon Commission approval, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

The application contains proof of compliance with the noticing provisions set forth in Section 367.071, F.S., and Rule 25-30.030, F.A.C. From a pool of 1,059 customers, the Commission has received correspondence from six customers concerning the proposed transfer.¹⁰ Specifically, one customer raised concerns that Venture owed the City of Ocala anywhere from \$20,000 to \$50,000 for purchased water and implied that these debts had been outstanding for weeks if not months. Commission staff, after investigation, believes that Venture is current on all debts due to the City of Ocala.¹¹ Four of the six objecting customers asserted that the system should be annexed or otherwise transferred to the City of Ocala and implied that the City was intent on acquiring the system. Commission staff believes that these issues are not germane to this transfer. While there is a possible referendum effort underway, current documents provided by the City of Ocala indicate that the earliest date such a referendum would be held is March 2015 and if the referendum for annexation is approved, then any transfer of the system resulting from this referendum may well take several additional months. Staff believes that this potential referendum should not have any impact on the Commission's decision to transfer this certificate for two reasons. First, until such time as a utility is acquired by a municipality, the owners and operators of the utility must comply with the laws and regulations of the State of Florida which include maintaining the certificate that is the subject of this proceeding. Second, consideration of the referendum in this docket is not ripe since it is not

¹⁰ Additionally, staff received one correspondence on July 30, 2014 objecting to the transfer. This objection, which was filed outside of the protest period, contained similar concerns to those addressed in this recommendation.

¹¹ Commission staff does note that in the past year Venture has been overdue in paying its bills for purchased water once by a period of three days and once by a period of seven days. It is staff's opinion that these delinquencies are relatively minor and do not affect staff's recommendation regarding the proposed transfer.

certain that the referendum will be held; and if it is held, its outcome would have no weight until the results of the referendum are certified by the County Supervisor of Elections or the Florida Secretary of State. The Commission also received correspondence from one customer requesting information, which staff provided. The customer did not express objection to the transfer.

The application contains a description of Venture's water service territory, which is appended to this recommendation as Attachment A. Venture serves as a water reseller with no treatment facilities, and there is no land purchase associated with the transfer.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(h) and (i), F.A.C., the application contains a copy of the Purchase Agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. The customer deposits on Venture's books will be maintained by Ocala Palms and will be refunded at the appropriate time, in accordance with Rule 25-30.311, F.A.C. There are no guaranteed revenue contracts, developer agreements, customer advances, leases, or debt of Venture that must be disposed of with regard to the transfer. According to the Purchase Agreement, the total purchase price is \$500,000 for the portion of the assets attributable to water service, with 100 percent of the purchase price paid in cash at the closing. As noted, the closing took place on September 6, 2013, subject to Commission approval, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

Venture serves as a water reseller with no treatment facilities. Staff contacted the Florida Department of Environmental Protection (DEP) concerning the compliance status relative to any Notices of Violation or any DEP consent orders. DEP stated that the system is not subject to any outstanding violations or consent orders.

Technical and Financial Ability

Pursuant to Rule 25-30.037(1)(j), F.A.C., the application contains statements describing the technical and financial ability of the applicant to provide service to the proposed service area. According to the application, in addition to the water system, Ocala Palms also acquired all development assets served by Venture, as part of a larger commercial transaction. As such, there is an inherent interest by Ocala Palms to maintain and operate the system properly and efficiently. In addition, Ocala Palms has retained key Venture personnel with knowledge, training, and expertise to assist in the operation and maintenance of the utility system.

At this time, the service territory is at 100 percent build out. As such, there is no anticipated need for additional capital funds, other than for normal replacement of current assets. Staff has reviewed the financial statement of Ocala Palms and determined that the assertion made in an affidavit filed with the transfer application that Ocala Palms will supply the necessary funds if there is need for improvements above the level of internal funding, is reasonable.¹²

¹² See Document 06853-13, "Joint application for authority to transfer the assets of Venture and Certificate No. 488-W in Marion County to Ocala Palms. Exhibit C," p. 11.

Based on the above, it appears that Ocala Palms has demonstrated the technical and financial ability to provide service to the existing service territory.

Rates and Charges

Venture's rates were last approved in an application for amendment in 1996.¹³ Venture has also consistently filed index rate adjustments from 2001 through 2014. Venture's miscellaneous service charges, customer deposits, and service availability charges have been approved by the Commission in various other dockets.¹⁴ The Utility's existing rates and charges are shown on Schedule No. 1. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, staff recommends that Venture's existing rates and charges remain in effect until a change is authorized by this Commission in a subsequent proceeding.

Regulatory Assessment Fees and Annual Reports

Staff has verified that the Venture is current on the filing of annual reports and RAFs through the closing date of September 6, 2013. Ocala Palms will be responsible for filing annual reports and paying RAFs from the closing date through the end of 2013 and all future years. Staff has verified that the 2013 Annual Report has been filed and that Ocala Palms is current on the payment of RAFs through December 2013.

Conclusion:

Based on the foregoing, staff recommends that the transfer of the water system and Certificate No. 488-W is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as Ocala Palms' certificate and should be retained by Ocala Palms. Ocala Palms' existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. Ocala Palms should be responsible for filing the 2014 Annual Report and paying 2014 RAFs and should be responsible for filing all future annual reports and RAFs.

¹³ See Order No. PSC-96-0790-FOF-WU, issued June 18, 1996, in Docket No. 930892-WU, In re: Application for amendment of Certificate Number 488-W in Marion County by Venture Associates Utilities Corporation.

¹⁴ See Order No. PSC-98-1231-FOF-WU, issued September 21, 1998, in Docket No. 971670-WU, In re: Application for transfer of part of Certificate No. 448-W in Marion County from Venture Associates Utilities Corp. to Palm Cay Utilities, Inc.; Order No. PSC-02-0648-TRF-WU, issued May 13, 2002, in Docket No. 020247-WU, In re: Request for approval of tariff increase for portion of tariff that applies to City of Ocala Impact Fees in Marion County by Venture Associates Utilities Corp.

Issue 2: What is the appropriate net book value for the water system for transfer purposes and should an acquisition adjustment be approved?

Recommendation: The net book value (NBV) of the water system for transfer purposes is \$528,760. This amount is based on an Original Cost Study which resulted in plant balances as of the closing date, September 6, 2013. No acquisition adjustment should be recorded. Within 30 days of the date of the final order, Ocala Palms should be required to provide general ledgers which show its books have been updated to reflect the Commission-approved balances as of September 6, 2013, along with a statement that the adjustments will be reflected in the 2014 Annual Report when filed. (Springer, Frank)

Staff Analysis: The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment is necessary to reflect the difference between the purchase price and the value of the system based on, in this case, an Original Cost Study. The NBV does not include normal ratemaking adjustments such as used and useful plant or working capital. Staff's recommended NBV of \$528,760, as described below, is shown on Schedule No. 2.

Utility Plant in Service (UPIS)

Venture's 2012 Annual Report reflected a water UPIS balance of \$1,422,751 as of December 31, 2012. Due to the lack of original documentation, Venture engaged Milian, Swain, & Associates, Inc., an independent third party, to conduct an Original Cost Study. This study identified water UPIS at \$1,662,082 based on historical record and estimation of supplies used.¹⁵ Staff believes the Original Cost Study is the best assessment of the Utility's assets and therefore recommends that the water UPIS balance as of September 6, 2013, is \$1,662,082 as shown on Schedule No. 2.

Land and Land Rights

Venture purchases water from the City of Ocala and they have no pumping or treatment facility in use. Additionally all distribution mains and lines are in right-of-ways or easements. Therefore, there is no balance for land and land rights in Account 303.

Accumulated Depreciation

Venture's general ledger reflected an accumulated depreciation balance of \$455,625 as of December 31, 2012. The accumulated depreciation per the Original Cost Study is \$591,982 based on appropriate life spans and depreciation schedules. These balances are reflective of all necessary accruals through the date of the study. Therefore, staff recommends an accumulated depreciation balance of \$591,982.

Contributions-in-Aid-of-Construction (CIAC) and Accumulated Amortization of CIAC

As of December 31, 2012, Venture's general ledger reflected a CIAC balance of

¹⁵ See Document No. 07612-13, Exhibit J "Original Cost Study" performed by Milian, Swain, & Associates, Inc., p. 6.

\$810,417 and an accumulated amortization of CIAC balance of \$332,327. According to the Original Cost Study, the CIAC balance is \$830,627 and the accumulated amortization of CIAC balance is \$289,287 as of September 6, 2013. Staff recommends that the CIAC balance as of September 6, 2013, is \$830,627 and accumulated amortization of CIAC balance is \$289,287, as shown on Schedule No. 2.

Net Book Value (NBV)

Venture's general ledger reflects NBV of \$489,036 as of December 31, 2012. Based on the Original Cost Study described above and as shown on Schedule No. 2, staff recommends that the NBV for the system as of September 6, 2013 is \$528,760.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of the acquisition. Pursuant to Rule 25-30.3071(2), F.A.C., a positive acquisition adjustment results when the purchase price is greater than the NBV and a negative acquisition adjustment results when the purchase price is less than the NBV. Rule 25-30.371(2), F.A.C., further states that a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Positive acquisition adjustments, if approved, increase rate base. With respect to negative acquisition adjustments, Rule 25-30.371(3), F.A.C., states that no negative acquisition adjustment shall be included in rate base if the purchase price is greater than 80 percent of the NBV. If the purchase price is equal to or less than 80 percent of the NBV, a negative acquisition adjustment shall be included in rate base equal to 80 percent of the NBV, less the purchase price. Negative acquisition adjustments reduce rate base. The purchase price for the system and all assets was \$500,000. As stated above, staff recommends the appropriate NBV to be \$528,760. Given that purchase price is greater than 80 percent of the recommended NBV, staff recommends that no acquisition adjustment be made in this case.

Conclusion:

Based on the above, staff recommends that the NBV of the water system for transfer purposes is \$528,760. This amount is based on an Original Cost Study which resulted in plant balances as of the closing date, September 6, 2013. No acquisition adjustment should be recorded. Within 30 days of the date of the final order, Ocala Palms should be required to provide general ledgers which show its books have been updated to reflect the Commission-approved balances as of September 6, 2013, along with a statement that these adjustments will also be reflected in Ocala Palms' 2014 Annual Report when filed.

Issue 3: Should this docket be closed?

Recommendation: Yes. If staff's recommendation in Issues 1 and 2 are approved, no further action is required and the docket should be closed. (Lawson)

Staff Analysis: If Issues 1 and 2 are approved, no further action is required and the docket should be closed.

Description of Ocala Palms Water Territory
Marion County

A Parcel of land lying in section 3, 4 and 9, Township 15 South, Range 21 East, Marion County, Florida, Tallahassee Meridian
Being more particularly described as follows:

Beginning at the Southeast corner of said Section 4; thence S 4°48'07" W, along the East boundary of the Northeast 1/4 of said Section 9, 1322.45 feet to the Southeast corner of the N.E. 1/4 of the N.E. 1/4 of said Section 9; thence N 85°41'55" W, along the South boundary of the said N.E. 1/4 of the N.E. 1/4, 1297.34 feet to the S.W. corner of the N.E. 1/4 of the N.E. 1/4 of said Section 9; thence continue N 85°41'55" W, along the South boundary of the N.W. 1/4 of the N.E. 1/4, 1297.33 feet to the S.W. corner of the said N.W. 1/4 of the N.E. 1/4 of said Section 9; Thence N 84°56'00" W, along the South boundary of the N.E. 1/4 of the N.W. 1/4 1348.41 feet, to the Southwest corner of the said N.E. 1/4 of the N.W. 1/4 of said Section 9; thence continue N 84°56'00" W, along the South boundary of the East 1/2 of the N.W. 1/4 of the N.W. 1/4 of said Section 9, 674.20 feet to the Southwest corner of the said East 1/2 of the N.W. 1/4 of the N.W. 1/4; thence N 5°01'04" E, along the west line of the said East 1/2 of the N.W. 1/4 of the N.W. 1/4, 230.63 feet; thence N 85°09'24" W, 649.90 feet to the east right of way lien of N.W. 60th Avenue (50' right of way); thence N 4°50'36" E, along the said East right of way line, 264.00 feet; thence S 85°09'24" E, departing said East right of way line, 650.70 feet to the West line of the said East 1/2 of the N.W. 1/4 of the N.W. 1/4; thence N 5°01'04" E, along said West line, 824.90 feet to the Northwest corner of the said East 1/2 of the N.W. 1/4 of the N.W. 1/4; thence N 84°30'04" W, along the South boundary of the S.W. 1/4 of the said Section 4, 648.13 feet to the East right of way line of said N.W. 60th Avenue; thence N 4°52'39" E, along said east right of way line, 2643.25 feet to the North boundary of the S.W. 1/4 of said Section 4; thence S 85°17'29" E, along said North Boundary, 2649.01 feet to the Northeast corner of the said S.W. 1/4; thence S 4°09'21" W, along the East Boundary of the said S.W. 1/4, 315.00 feet (105 yards); thence S 85°17'29" E, parallel to the North boundary of the S.E. 1/4 of said Section 4, along the South boundary of the North 105 yards, 882.23 feet; thence N 4°28'23" E, along the West boundary of the East 6.36 chains of the N.W. 1/4 of the S.E. 1/4 of said Section 4, 44.39 feet to the South line of the North 4.10 chains of the said N.W. 1/4 of the S.E. 1/4; thence S 85°17'29" E, along the South boundary of the said North 4.10 chains, 352.15 feet; thence N 4°28'23" E, parallel to the East boundary of the N.W. 1/4 of the S.E. 1/4, 270.60 feet to the North boundary of the S.E. 1/4 of said Section 4; thence S 85°17'29" E, along the North boundary of the S.E. 1/4, 414.98 feet to the Southerly right of way line of U.S. Highway No. 27 (State Road No. 500); thence S 57°36'40" E, along said Southerly right of way line, 2827.20 feet to the South boundary of the N.E. 1/4 of the S.W. 1/4 of said Section 3; thence N 85°36'04" W, along said South boundary, 224.48 feet to the Southwest corner of the said N.E. 1/4 of the S.W. 1/4; thence continue N 85°36'04" W, along the South boundary of the N.W. 1/4 of the S.W. 1/4 of said Section 3, 1324.81 feet to the Southwest corner of the said N.W. 1/4 of the S.W. 1/4; thence S 4°47'44" W, along the East boundary of the S.E. 1/4 of said Section 4, 1321.71 feet to the Point of Beginning.

FLORIDA PUBLIC SERVICE COMMISSION
Authorizes
Ocala Palms Utilities, LLC
Pursuant to
Certificate Number 488-W

To provide water service in Marion County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled, or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
18121	09/08/87	860872-WU	Original Certificate
PSC-96-0120-FOF-WU	01/23/96	951365-WU	New Class of Service
PSC-98-1231-FOF-WU	09/21/98	971670-WU	Partial Transfer
*	*	130269-WU	Transfer

***Order Numbers and dates to be provided at time of issuance**

**Ocala Palms Utilities, LLC
Monthly Water Rates**

Residential and General Service

Base Facility Charge by Meter Size

5/8" x 3/4"	\$13.30
3/4"	\$19.97
1"	\$33.30
1 1/2"	\$66.48
2"	\$106.42
3"	\$212.76
4"	\$332.46
6"	\$664.92
8"	\$1,063.86

Charges per 100 cubic feet – Residential and General Service \$2.49

Initial Customer Deposits

Residential Service

5/8" x 3/4"	\$20.00
1"	\$20.00
1 1/2"	\$30.00
2"	\$35.00

Miscellaneous Service Charges

Schedule of Miscellaneous Service Charges

	<u>During Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$15.00	\$15.00
Normal Reconnection Charge	\$15.00	\$15.00
Violation Reconnection Charge	\$15.00	\$15.00
Premises Visit Charge (in lieu of disconnection)	\$10.00	N/A

Service Availability Charges

Meter Installation Charge

5/8" x 3/4" \$100.00

Customer Connection (Tap-In) Charge

Actual Cost

Main Extension Charge

Residential - Per ERC (ERC = 350 gpd) \$715.00

All Others – Per gallon \$2.0429

City of Ocala Impact Fee

Residential – Per ERU 0 – 1,499 sq. ft. \$503.00

Residential – Per ERU 1,500 – 2,499 sq. ft. \$629.00

Residential – Per ERU 2,500 – 3,499 sq. ft. \$838.00

Residential – Per ERU 3,500 sq. ft. \$1,048.00

Ocala Palms Utilities, LLC			
Schedule of Net Book Value as of September 6, 2013			
Description	Utility		Staff
	Proposed	Adjustment	Recommended
Utility Plant In Service	\$1,662,082	0	\$1,662,082
Land & Land Rights	0	0	0
Accumulated Depreciation	(591,982)	0	(591,982)
CIAC	(830,627)	0	(830,627)
Amortization of CIAC	<u>289,287</u>	<u>0</u>	<u>289,287</u>
Net Book Value	<u>\$582,760</u>	<u>0</u>	<u>\$528,760</u>

Ocala Palms Utilities, LLC			
Schedule of Staff Recommended Account Balances as of September 6, 2013			
Account			Accumulated
No.	Description	UPIS	Depreciation
331	Transmission & Dist. Mains	\$1,262,482	(\$414,545)
333	Services	103,496	(36,338)
334	Meter and Meter installation	126,279	(89,199)
335	Hydrants	<u>169,825</u>	<u>(51,900)</u>
	Total	<u>1,662,082</u>	<u>(\$591,982)</u>

Item 9

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Garl) *H ED PA J.W.D*
Office of the General Counsel (Brown) *MB JC*

RE: Docket No. 140066-EI – Petition for approval of amendment to underground residential and commercial differential tariffs, by Florida Power & Light Company.

AGENDA: 08/12/14 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 12/01/14 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

RECEIVED - FPSC
14 JUL 31 AM 9:20
COMMISSION
CLERK

Case Background

On April 1, 2014, Florida Power & Light Company (FPL) filed a petition for Commission approval of revisions to its Underground Residential Distribution (URD) Tariff and its Underground Commercial/Industrial Distribution (UCD) Tariff and associated charges. The URD and UCD tariffs apply to new residential and commercial developments and represent the additional costs FPL incurs to provide underground distribution service in place of overhead service.

The Commission suspended FPL's proposed tariffs in Order No. PSC-14-0254-PCO-EI.¹ During its evaluation of the petition, staff issued two data requests to FPL. The Commission has

¹ Issued May 22, 2014, in Docket No. 140067-EI, In re: Petition for approval of amendment to underground residential and commercial differential tariffs, by Florida Power & Light Company.

Docket No. 140066-EI

Date: July 31, 2014

jurisdiction in this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve FPL's proposed URD tariffs and associated charges?

Recommendation: Yes. The Commission should approve FPL's proposed URD charges and associated tariffs. (Garl)

Staff Analysis: Rule 25-6.078, Florida Administrative Code (F.A.C.), defines investor-owned utilities' (IOU) responsibilities for filing updated URD tariffs. The URD tariffs provide standard charges for underground service in new residential subdivisions and represent the additional costs the utility incurs to provide underground service in place of overhead service. The cost of standard overhead construction is recovered through base rates from all ratepayers. In lieu of overhead construction, customers have the option of requesting underground facilities. Costs for underground construction historically have been higher than for overhead construction, and the additional cost is paid by the customer as a contribution-in-aid-of-construction (CIAC). The URD customer typically is the developer of the subdivision.

Three standard model subdivision designs traditionally have been the basis upon which each IOU submits URD tariff changes for Commission approval: (1) a 210-lot low density subdivision with a density of one or more, but less than six, dwelling units per acre; (2) a 176-lot high density subdivision with a density of six or more dwelling units per acre; and (3) a 176-lot high density subdivision with a density of six or more dwelling units per acre taking service at ganged meter pedestals. Examples of this last subdivision type include mobile home and recreational vehicle parks. While actual construction may differ from the model subdivisions, the model subdivisions are designed to reflect average overhead and underground subdivisions.

Table 1-1 below shows the current and proposed per service lateral URD differential charges for the low and high density subdivisions. The current and proposed URD differential for a ganged meter installation (groups of meters at the same physical location) is \$0.

Table 1-1

Comparison of Differential Per Service Lateral			
Types of Subdivision	Number of Service Laterals in Subdivision	Current URD Differential	Proposed URD Differential²
Low Density	1 – 200 or more	\$82.55	\$165.99
	2 – 85 – 199	\$312.55	\$415.99
	3 – less than 85	\$389.55	\$498.99
High Density	1 – 300 or more	\$0	\$0
	2 – 100 – 299	\$0	\$105.71
	3 – less than 100	\$71.88	\$188.71

² The calculation of the proposed URD differentials per service lateral for each subdivision is shown in Table 1-4.

In comparison with FPL's 2011 URD filing, the proposed URD differentials show an increase for both the low and high density subdivisions. The calculation of FPL's proposed URD charges includes two components: (1) updated labor and material costs and the associated loading factors expressed as a percentage of labor and materials, and (2) calculation of operational costs. As discussed further below, the differential for total material and labor costs decreased. However, a 2010 settlement agreement resolving a protest of FPL's non-storm operational cost differential expired January 1, 2013. That agreement set the undergrounding non-storm operational cost differential at zero.³ Since the stipulated timeframe expired, FPL has now incorporated the non-storm operational cost differential in its URD charges, as required by Rule 25-6.078, F.A.C. The inclusion of the non-storm operational cost differential is the primary factor driving the increase in the differential.

Labor and Material Costs and Associated Loading Factors

The installation costs of both overhead and underground facilities include the labor and material costs to provide primary, secondary, and service distribution lines, and transformers. The cost to provide overhead service also includes poles. The cost to provide underground service includes the cost of trenching and backfilling. The utilities are required to use current cost data. The current URD charges are based on 2011 labor and material costs, and the proposed charges are based on 2014 costs. Table 1-2 compares 2011 and 2014 per service lateral overhead and underground labor and material costs for the three subdivisions. The total labor and material costs are also referred to as pre-operational costs.

As indicated in Table 1-2 below, the total labor and material cost differentials decreased for all three model subdivisions. The primary reasons for the decrease in the labor and material cost differential are a decrease in underground labor costs and a decrease in the engineering overhead (EO) loading factor. Changes in material costs only had a minor impact on the differential. Changes in labor and material costs and the associated loading factors are discussed below.

³ See Order No. PSC-10-0247-FOF-EI, issued April 22, 2010, in Docket No. 070231-EI, In re: Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company, and Docket No. 080244-EI, In re: Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company, and Docket No. 080522-EI, In re: Petition and Complaint of the Municipal Underground Utilities Consortium, the Town of Palm Beach, the Town of Jupiter Inlet Colony, and the City of Coconut Creek for relief from unfair charges and practices of Florida Power & Light Company.

Table 1-2

Labor and Material Costs per Service Lateral (Pre-operational costs)			
Low Density	2011 Costs	2014 Costs	Difference
Underground labor/material costs	\$2,491.20	\$2,325.60	-\$165.60
Overhead labor/material costs	\$2,024.65	\$1,951.61	-\$73.04
Per service lateral differential	\$466.55	\$373.99	-\$92.56
High Density			
Underground labor/material costs	\$1,684.91	\$1,590.63	-\$94.28
Overhead labor/material costs	\$1,536.03	\$1,510.92	-\$25.11
Per lot differential	\$148.88	\$79.71	-\$69.17
Ganged Meter			
Underground labor/material costs	\$1,075.30	\$1,052.50	-\$22.80
Overhead labor/material costs	\$1,223.46	\$1,213.77	-\$9.69
Per lot differential*	-\$148.16	-\$161.27	-\$13.11

*Since the differential calculation is negative, the differential is set at \$0.

Labor

FPL's labor costs for overhead and underground construction are comprised of costs associated with work performed by FPL employees and by contract labor. Rates for overhead labor increased slightly (0.54 percent) while rates for underground labor decreased by 6.24 percent. In addition, FPL states that a greater percentage of underground work is being done by contract labor. Since the reduced underground labor rate is applied to more underground construction hours, the result is a decrease in the differential. Specifically, of the \$92.56 differential reduction for the low density subdivision, the labor rate reduction contributed \$67.02 (72.39 percent) to the total reduction. For the high density subdivision the labor rate reduction was \$38.45 (55.58 percent) of the total \$69.17 reduction.

Materials

Changes in material costs resulted in an \$11 increase in the differential. The main factor driving the increase in the material cost is an increase in the price of underground conduit due to an increase in construction and resulting higher demand for conduit. Other changes in material costs include a decrease in the cost of underground transformers and an increase in the price of poles as a result of new vendor contracts.

Loading Factors

FPL has made adjustments to its loading factors that are applied to material and labor costs. The actual 2011 and 2014 loading factors are shown in Table 1-3 below:

Table 1-3

Comparison of Loading Factors		
	2011 Loading Factors	2014 Loading Factors
Engineering Overhead (EO) (labor & material)	26.94%	19.46%
Stores – 12-mo. average (material only)	8.34%	9.30%
Corporate Overhead (labor & material)	9.10%	6.98%

The reduction in the EO loading factor from 26.94 percent to 19.46 percent reduced the cost differentials since the factor is applied to a higher underground base. The EO factor is calculated by dividing engineering support costs by total capital construction costs. Total capital costs increased more than engineering costs due an increase in new construction and an acceleration of storm hardening activities, resulting in a decrease in the EO factor. Of the total reduction of \$92.56 for the low density subdivision, the EO reduction is \$38.10, or 41.16 percent of the total reduction. For the high density lot reduction of \$69.17, the EO reduction is \$18.62 (26.92 percent).

The stores loading factor represents the cost of managing inventory (e.g., the cost of supervision, labor, and operation of storerooms) and is applied to material costs. The corporate overhead loading factor represents indirect non-engineering costs.

Operational Costs

Rule 25-6.078, F.A.C., requires that the differences in Net Present Value (NPV) of operational costs between overhead and underground systems, including average historical storm restoration costs over the life of the facilities, be included in the URD charge. Operational costs include operations and maintenance (O&M) costs and capital costs. The inclusion of the operational cost is intended to capture longer term costs and benefits of undergrounding.

Pursuant to Order No. PSC-10-0247-FOF-EI, FPL’s non-storm operational component of the URD calculation was set at \$0 for the three subdivisions until January 1, 2013. The non-storm operational costs represent the cost differential between maintaining and operating an underground versus an overhead system over the life of the facilities. FPL has now calculated the NPV of the operational cost differentials to be \$208 for the low density subdivision and \$192 for the high and ganged meter subdivisions. The storm cost component of the URD charge represents avoided storm restoration costs when an area is undergrounded, thereby reducing cost to restore an overhead system. The avoided storm cost is subtracted from the pre-operational costs and the non-storm operational cost, thus reducing the URD differential charge.

Table 1-4 below presents the pre-operational, operational, and storm restoration cost differentials between overhead and underground systems.

Table 1-4

Components of the URD Charges					
Type of Subdivision	Number of Service Laterals in Subdivision	Pre-Operational Costs (A)	Non-storm Operational Costs (B)	Avoided Storm Costs (C)	Proposed URD Differentials (A)+(B)+(C)
Low Density	Tier 1 – over 199	\$373.99	\$208	(\$416)	\$165.99
	Tier 2 – 85 - 199			(\$166)	\$415.99
	Tier 3 – under 85			(\$83)	\$498.99
High Density	Tier 1 – over 299	\$79.71	\$192	(\$416)	\$0
	Tier 2 – 100 - 299			(\$166)	\$105.71
	Tier 3 – under 100			(\$83)	\$188.71
Ganged Meter	Tier 1 – over 299	\$0	\$192	(\$416)	\$0
	Tier 2 – 100 - 299			(\$166)	\$0
	Tier 3 – under 100			(\$83)	\$0

FPL’s methodology to calculate the non-storm and storm operational costs was approved in Order No. PSC-08-0774-TRF-EI.⁴ As shown in Table 1-4 above, FPL’s URD tariff provides for a tiered approach to reflect greater avoided storm restoration costs the larger the area undergrounded.

Additional Charges and Credits

FPL’s proposed URD tariff also provides for updated charges to reflect current labor and material costs for additional customer-requested equipment such as feeder mains or switch packages. Finally, FPL’s tariff provides for a credit if the customer installs certain equipment, such as a splice box, handhole, or concrete pad for a transformer.

The charges shown in Table 1-1 apply if FPL supplies and installs all the equipment and materials. FPL’s URD tariff provides for reduced URD charges if the customer provides the trench and installs the conduit. Staff notes that Rule 25-6.078(7), F.A.C., provides that any credit shall be no more in amount than the total charges applicable.

Conclusion

Staff has reviewed FPL’s proposed URD charges and associated tariffs, their accompanying work papers, and data request responses. Staff believes the proposed URD charges are reasonable and recommends approval.

⁴ Order No. PSC-08-0774-TRF-EI, issued November 24, 2008, Docket No. 070231-EI, In re: Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

Issue 2: Should the Commission approve FPL's revised Underground Commercial Distribution (UCD) tariffs and their associated charges?

Recommendation: Yes. FPL's proposed UCD charges and associated tariffs, and their accompanying work papers are reasonable and should be approved. (Garl)

Staff Analysis: The UCD charges represent the additional costs FPL incurs to provide commercial and industrial customers underground distribution service in place of overhead service. Generally, the UCD charges are tailored to specific equipment and materials that are utilized to provide underground service to a single or limited number of commercial buildings in distinct and widely varying circumstances. The UCD tariffs are not governed by Rule 25-6.078, F.A.C.; however, FPL has incorporated the cost effects of hardening its overhead system in the calculations of its UCD charges.

The UCD tariff contains charges for commercial underground distribution facilities such as laterals, risers, pad-mounted transformers, and hand-holes. In addition, the UCD tariff provides for credits that apply if the applicant provides trenching and backfilling. The UCD charges are derived from cost estimates of underground commercial facilities and their equivalent overhead designs. These cost estimates are based on FPL's standard design, estimating practices, and the system costs that were in use at the end of 2013.

Unlike the URD tariffs, the UCD tariffs are not governed by Rule 25-6.078, F.A.C, and utilities are not required to file them; however, staff believes the filing of the standard charges promotes transparency, efficiency, and reduces controversy regarding the UCD charges. Staff believes FPL's proposed URD charges and associated tariffs, and their accompanying work papers are reasonable and recommends approval.

Issue 3: Should this docket be closed?

Recommendation: Yes. If issues 1 and 2 are approved, the tariffs should become effective on August 12, 2014. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (M. Brown)

Staff Analysis: If issues 1 and 2 are approved, the tariffs should become effective on August 12, 2014. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

Item 10

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: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Garl) *H B D P D J.W.D*
Office of the General Counsel (M. Brown) *MCB JC*
Office of Industry Development and Market Analysis (B. Crawford) *BC M7*

RE: Docket No. 140070-EI – Petition for approval of voluntary solar partnership pilot program and tariff, by Florida Power & Light Company.

AGENDA: 08/12/14 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: 12/02/14 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
14 JUL 31 AM 9:20
COMMISSION
CLERK

Case Background

On April 2, 2014, Florida Power & Light Company (FPL) filed a petition requesting Commission approval of a three-year Voluntary Solar Partnership (VSP) Pilot Program. The new program would offer all FPL customers an opportunity to participate voluntarily in a program designed to contribute to the construction and operation of solar photovoltaic generation facilities located in communities throughout FPL's service territory. The renewable energy generated from these solar facilities would provide power to all FPL customers and displace energy that would otherwise be produced from fossil fuels.

On May 22, 2014, the Commission suspended FPL's proposed tariff in Order No. PSC-14-0253-PCO-EI.¹ During its evaluation of the petition, staff issued two data requests to FPL.

¹ Order No. PSC-14-0253-PCO-EI, issued May 22, 2014, in Docket No. 140070-EI, In re: Petition for approval of voluntary solar partnership pilot program and tariff, by Florida Power & Light Company.

Docket No. 140070-EI
Date: July 31, 2014

The questions posed by staff were to clarify financial matters of the proposed program. The Commission has jurisdiction in this matter pursuant to Sections 366.05, 366.06, and 366.075, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve the proposed VSP Pilot Program and tariff?

Recommendation: Yes. The Commission should approve FPL's VSP Pilot Program and associated tariff. The tariff should be effective May 1, 2015, with enrollments beginning in January 2015. (Garl, B. Crawford)

Staff Analysis: FPL's proposed VSP Pilot Program offers customers an opportunity, for \$9.00 per month, to voluntarily contribute towards the construction and operation of supply-side solar generation facilities owned by FPL in its service territory. The program would be available to all residential, commercial, and industrial customers. FPL would use the voluntary contributions to support the net revenue requirement (revenue requirements minus avoided fuel and emissions costs) of constructing and operating relatively small solar generating facilities. The revenue requirement includes a return, depreciation, operations and maintenance (O&M) expenses, and other costs such as property taxes and insurance. O&M expenses include site monitoring and repairs, vegetation management, and maintenance. The electricity generated by the solar generation facilities would displace fuel that otherwise would have been used for generation, resulting in avoided fuel and emissions costs. The size of the solar projects would be determined by the contributions received. The VSP Pilot Program period will be three years to allow FPL to gather information on participation, revenue generation, and costs to operate the program to determine the appropriate direction for the program thereafter.

In analyzing the VSP Pilot Program, staff focused on ensuring both participants and non-participants are protected from unintended consequences of the program. Participants must have some assurance that their \$9.00 per month contributions are used as intended. Nonparticipants must be shielded from subsidizing the program.

Participant protection

FPL has incorporated numerous features in the VSP Pilot Program that will provide a level of comfort to participants that the program will function as designed. These features include:

- Participation in the VSP Pilot Program will be voluntary.
- The VSP Pilot Program will be offered on a month-to-month basis.
- Customers may enroll or cancel their enrollment at any time.
- Participation could be continued to a new service address, at the customer's request, if the customer moves within FPL's service territory.
- Participation will not change the participants' monthly electric bill, other than the voluntary contributions.
- Marketing and administrative expenses are capped at 20 percent of participant contributions. Any marketing and administrative expenses above the 20 percent cap will be borne by FPL shareholders.

- Each quarter, FPL will provide participants a report on the amount of energy the program produced.
- Participants may go to the program website to see how much electricity is produced from the solar facilities and the corresponding fuel and environmental benefits.

With respect to the marketing and administrative expenses, FPL states that it intends to actively encourage enrollment in the VSP Pilot Program through various means. Marketing expenses include internal labor that is not recovered in base rates, email, newsletters, and digital channels. Administrative costs include a project manager, financial reporting, and customer service. FPL expects initial marketing and administrative expenses to exceed 20 percent of the revenues; however, FPL committed to recording below-the-line any such expenses above the 20 percent threshold. FPL will manage the program with FPL employees and use Florida-based contractors to build the solar facilities.

Non-participant protection

FPL structured the VSP Pilot Program to preclude non-participating customers from being affected. First, the VSP Pilot Program is unrelated to FPL's existing Demand Side Management (DSM) solar pilot program and will not be funded from the general body of ratepayers through the Energy Conservation Cost Recovery Clause. The program is designed to be a supply-side resource that will be owned and operated by FPL.

Second, FPL will size the solar projects based on the level of participation, so that participant contributions will approximate the project revenue requirement net of estimated avoided fuel and emissions costs. The estimated fuel and emission savings are \$0.05 per kilowatt-hour.² FPL states that its objective is for there to be no remaining costs of the solar facilities to be borne by non-participating customers at the end of the three-year pilot period. In response to a staff data request, FPL explained that should the VSP Pilot Program be terminated after the three-year trial period, and in the event that the participant contributions and avoided fuel/emission benefits did not cover the remaining revenue requirements, FPL and its shareholders will absorb the difference below-the-line.

Other program features

FPL states that it will begin construction of solar projects in January 2015, in advance of receiving contributions. The first 300 kW will be comprised of 2 to 5 individual projects ranging from 50 kW to 100 kW in size. For these initial projects, FPL will construct, operate, and own ground mounted systems or rooftop installations on structures such as commercial parking canopies in several metropolitan areas throughout FPL's service territory. FPL states that to the extent possible the solar projects will be located in high visibility areas to further educate customers about and promote solar energy in Florida.

² FPL determined the \$0.05 per kWh fuel savings by calculating the difference between the fuel and emissions costs with and without a 100 MW solar facility.

Since there is no active market for Renewable Energy Credits (RECs) in Florida, FPL has not included REC value in the VSP Pilot Program economics. If FPL is able to monetize RECs produced by the program, any revenue generated from REC sales will benefit participants by reducing the net revenue requirements that are to be covered by participant contributions.

At the end of three years, FPL will report to the Commission on the data gathered. The Commission will then determine if the program will be terminated or continued. If terminated at the end of the pilot period, FPL would cease active enrollment of customers, and would not invest in new solar projects after termination, but would leave the tariff open for existing participants to remain in the program. Continuing participant contributions will likely cover the declining revenue requirements even with a modest attrition rate. Eventually, the avoided fuel and emission benefits of the solar energy production will be greater than the revenue requirements of the project, and there would be no additional net costs thereafter.

In its petition, FPL describes an additional incentive to encourage enrollment during the three-year pilot period. Shareholders of FPL's parent company, NextEra Energy, Inc. (NEE), through its NEE Foundation, will contribute \$200,000 annually for the duration of the pilot program to non-profit organizations dedicated to environmental protection or community development. VSP Pilot Program participants will vote from a list of Florida-based non-profit organizations or local chapters of national non-profit organizations that are located in or near the communities where the projects are constructed.

If approved, the VSP Pilot Program will be open for enrollment in January 2015, with billing for the monthly contributions to start in May 2015. FPL requests that the tariff be effective May 1, 2015, with enrollments beginning in January 2015. The proposed tariff is included as Attachment 1.

Conclusions

The program appears to provide participants assurance that their voluntary contributions will be used as intended, as well as ensuring that non-participants will not be subsidizing the program. Staff, therefore, recommends approval of the VSP Pilot Program and tariff.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved, and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. As noted in Issue 1, the tariff will become effective on May 1, 2015. (M. Brown)

Staff Analysis: If Issue 1 is approved, and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. As noted in Issue 1, the tariff will become effective on May 1, 2015.

Date: July 31, 2014

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.930

VOLUNTARY SOLAR PARTNERSHIP RIDER
(OPTIONAL PILOT PROGRAM)

RATE SCHEDULE: VSP

AVAILABLE:

In all territory served by FPL ("the Company") to customers receiving service under any FPL metered rate schedule. This voluntary solar partnership pilot program ("VSP Program", "the Pilot") provides customers an opportunity to participate in a program designed to construct and operate commercial-scale, distributed solar photovoltaic facilities located in communities throughout FPL's service territory. Service under this rider shall terminate December 31, 2017, unless extended by order of the Florida Public Service Commission ("FPSC"), or terminated earlier by the Company upon notice to the FPSC.

APPLICATION:

Available upon request to all customers in conjunction with the otherwise applicable metered rate schedule.

LIMITATION OF SERVICE:

Any customer under a metered rate schedule who has no delinquent balances with the Company is eligible to elect the VSP Program. A customer may terminate participation in the VSP Program at any time and may be terminated from the Pilot by the Company if the customer becomes subject to collection action on the customer's service account.

CHARGES:

Each voluntary participant shall agree to make a monthly contribution of \$9.00, in addition to charges applied under the otherwise applicable metered rate schedule. Customer billing will start on the next scheduled billing date upon notification of service request. The VSP Program contribution will not be prorated if the billing period is for less than a full month.

Upon participant's notice of termination, no VSP Program contribution will be assessed in the billing period in which participation is terminated.

TERM OF SERVICE:

Not less than one (1) billing period.

SPECIAL PROVISIONS:

Upon customer request, program participation may continue at a new service address if the customer moves within FPL's service territory.

RULES AND REGULATIONS:

Service under this rider is subject to orders of governmental bodies having jurisdiction and to the currently effective "General Rules and Regulations for Electric Service" on file with the Florida Public Service Commission. In case of conflict between any provisions of this schedule and said "General Rules and Regulations for Electric Service" the provisions of this rider shall apply.