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Public Service Commission

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COMMISSION
CLERK

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

DATE: August 5, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Rieger, J. Williams)
Office of the General Counsel (A. Williams)

SDX *CR* *LD* *CR#13*
AKW *JSC* *CR*

RE: Docket No. 100282-EU – Joint petition for approval of amended territorial agreement in Citrus County by Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc.

AGENDA: 08/17/10 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\100282.RCM.DOC

Case Background

On May 12, 2010, Progress Energy Florida, Inc. (PEF) and Withlacoochee River Electric Cooperative, Inc. (WREC) filed a joint petition for approval to amend the territorial agreement approved by the Commission in Order No. PSC-06-0202-PAA-EU.¹ The order dealt with the consolidation and amendment of several territorial agreements between PEF and WREC in Citrus, Pasco, and Hernando Counties, as well as an agreement that resolved a territorial dispute involving a parcel of land owned by Majestic Oaks Partners, LLC in Hernando County. This

¹ See Order No. PSC-06-0202-PAA-EU, issued March 14, 2006, in Docket No. 040133-EU, In re: Petition of Withlacoochee River Electric Cooperative, Inc. to modify territorial agreement or, in the alternative, to resolve territorial dispute with Progress Energy Florida, Inc. in Hernando County.

DOCUMENT PREPARED DATE

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FPSC-COMMISSION CLERK

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joint petition requests a modification to the territory boundary in Citrus County at Crystal Paradise Estates Units 3 & 4, in order to comply with a requirement by Citrus County to vacate a right-of-way within the Crystal River Airport as part of a taxiway relocation and widening project. This amendment will require the transfer of approximately 31 customers and related distribution facilities currently served by PEF, to WREC.

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

Discussion of Issues

Issue 1: Should the Commission grant the joint petition of PEF and WREC to amend the territorial agreement and modify the territory boundary in Citrus County?

Recommendation: Yes. The proposed territorial amendment is in the public interest and should be approved by the Commission. (Rieger, J. Williams, A. Williams)

Staff Analysis: On May 12, 2010, PEF and WREC filed a joint petition for approval to amend the territorial agreement approved by the Commission in Order No. PSC-06-0202-PAA-EU. The need for the amendment arose because of a Citrus County construction project to relocate and widen the Crystal River Airport Taxiway. As stated in an April 28, 2010 letter from the Southwest Florida Water Management District to the County, the project has not been completed to specification. The County must complete the removal of a berm in an on-site retention pond. PEF currently has distribution facilities that are located within the berm, and in order for the County to comply with the project specifications, the facilities must be disconnected and removed. In order to continue to serve the approximately 31 customers currently served by those facilities, PEF would have to construct new facilities and re-route distribution lines. The affected customers are located near the PEF/WREC territory boundary and are directly adjacent to customers currently being served by WREC. Therefore, in order to avoid duplication of services and wasteful expenditures, the parties have agreed to modify the service territory boundary and transfer the 31 customers from PEF to WREC.

The transfer of customers, if approved by the Commission, will be initiated as soon as possible to allow the County to comply with the construction project specifications. The current PEF lines will be disconnected from a terminal pole on the south side of the Crystal River Airport, and the underground distribution facilities that currently run south to north under the airport property will be removed. The underground facilities will also be disconnected from the terminal pole on the north side of the airport. This terminal pole will be transferred to WREC, and WREC will make a connection to the pole to serve the affected customers. PEF will refund all applicable deposits to the transferred customers, and in order to lessen the impact on the customers, WREC does not plan to require a deposit initially. Each of the customers that will be affected by the transfer was sent a letter explaining the provisions of the proposed amendment and the necessity of Commission approval, and informing them of their opportunity to be heard regarding the petition. To date, the parties have received no customer responses to the proposed amendment.

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. Pursuant to Rule 25-6.0440(2), Florida Administrative Code, in approving territorial agreements, the Commission may consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved. Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

In this instance, the territorial amendment proposed by PEF and WREC eliminates existing or potential uneconomic duplication of facilities, does not cause a decrease in the reliability of electric service to existing or future ratepayers, will not occur at any significant cost, and prevents wasteful expenditures by the parties. It would also allow Citrus County to complete its airport construction project to specification. Based on all of the above, staff recommends that the proposed amendment to the current territorial agreement is in the public interest and should be approved.

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Issue 2: Should this docket be closed?

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

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