

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial agreement in Lake and Sumter counties by the City of Leesburg and Duke Energy Florida, Inc.

DOCKET NO. 150077-EU  
ORDER NO. PSC-15-0278-PAA-EU  
ISSUED: July 7, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
JULIE I. BROWN  
JIMMY PATRONIS

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING TERRITORIAL AGREEMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

On March 9, 2015, Duke Energy, Florida, Inc. (Duke), and the City of Leesburg (Leesburg) filed a joint petition for approval of a territorial agreement (Agreement) in Lake and Sumter counties. The Agreement is Attachment A to the petition while the maps are Exhibit A to the petition. Duke and Leesburg were parties to a prior territorial agreement (prior Agreement) that expired on July 22, 2013.<sup>1</sup> Duke and Leesburg assert that they are abiding by the terms of the prior Agreement until the Commission approves a new agreement. During its evaluation of the joint petition, Commission staff issued one data request to the parties. We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Decision

Pursuant to Section 366.04(2)(d), F.S., we have the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other

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<sup>1</sup> Order No. 12289, issued July 22, 1983, in Docket No. 820492-EU, In re: Application of Florida Power Corporation and the City of Leesburg for approval of a territorial agreement relating to service areas.

electric utilities. Rule 25-6.60440(2), F.A.C., states that in approving territorial agreements, this Commission may consider:

- (a) The reasonableness of the purchase price of any facilities being transferred;
- (b) The reasonable likelihood that the agreement, in and of itself, will not cause a decrease in the reliability of electrical service to the existing or future ratepayers of any utility party to the agreement; and
- (c) The reasonable likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities.

Unless this Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.<sup>2</sup>

According to the joint petitioners, there are three differences between the prior and this Agreement. First, the boundary maps have been updated to a geographic information system (GIS) format to show the boundary lines in greater detail. Second, although the terms of the prior and this Agreement are 30 years, this Agreement will remain in effect past the expiration date until and unless either party provides written notice of termination. Third, the boundary has been modified such that there will be 18 customer transfers from Leesburg to Duke.

All of the customers that are subject to transfer to Duke are general service non-demand commercial customers. Exhibit B to the petition provides a list of the customers, which includes cell towers, pump stations, and highway ramps. As of January 2015, the rate comparison for these customers, using 1,500 kwh, was \$214.82 for Leesburg and \$186.34 for Duke. In accordance with Rule 25-6.0440(1)(d), F.A.C., notification letters were sent to these customers on February 9, 2015; as of the recommendation's filing date, June 4, 2015, neither party had received a negative response to the letter. The joint petitioners expect that all customer transfers will be completed no later than 24 months after the effective date of the Agreement and will notify this Commission in writing if additional time is needed.

According to the Agreement, no compensation will be paid for the transfer of customers; however the receiving party, Duke, may elect to purchase the distribution facilities used exclusively to serve the customers. In response to Commission staff's data request, the joint petitioners explained that they have tentatively agreed to exchange and purchase the required facilities. The joint petitioners have not valued the facilities but plan to as soon as is practical.

The Agreement specifies that the purchase amount will be based on the replacement cost less depreciation and the cost to the transferring party, Leesburg, for reintegration of its remaining system where such costs are reasonably required by sound business practices. To calculate replacement costs, the Agreement specifies that both parties must apply the same cost escalator (such as the Handy Whitman Index) to original cost.

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

The joint petitioners assert that the Agreement will avoid duplication of services and wasteful expenditures and will protect the public health and safety from potentially hazardous conditions. The joint petitioners believe and represent that this Commission's approval of the Agreement is in the public interest.

After review of the petition, the Agreement, and the parties' response to its data request, we find that the Agreement is in the public interest and will enable Duke and Leesburg to better serve their current and future customers. We find that the Agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. As such, we find that the Agreement between Duke and Leesburg will not cause a detriment to the public interest and hereby approve it.

Based on the foregoing, it is

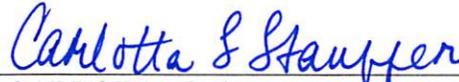
ORDERED by the Florida Public Service Commission that the Joint Petition for approval of a territorial agreement in Lake and Sumter Counties by the City of Leesburg and Duke Energy Florida, Inc. is approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that 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 shall be closed upon the issuance of a consummating order. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th day of July, 2015.



CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

JEV

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 28, 2015.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.