

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

SELECT A TYPE: amendment

RULE NO: RULE TITLE:

25-6.0440: Territorial Agreements for Electric Utilities

25-6.0441: Territorial Disputes for Electric Utilities

PURPOSE AND EFFECT: The purpose and effect of the rule amends is to identify the specific factors to be considered by the Commission in approving territorial agreements and resolving territorial disputes. The rule amendments also update and clarify the rules.

Docket No.20200094-EU

SUMMARY: These rules list factors the Commission may consider in ruling on territorial agreements and territorial disputes. Rule language in both rules that allowed the Commission to consider factors "not limited to" the listed factors has been deleted and replaced with language allowing the Commission to consider any other factor relevant in reaching a determination that the resolution of the territorial dispute or the approval of the territorial agreement is in the public interest. Amendments were also made to update and clarify the rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), FS, and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be minimal transactional costs to the individual and entities, including government entities, required to comply with the rule.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 350.127(2), 366.05(1) FS

LAW IMPLEMENTED: 366.04(2), (4), (5), 366.05(7) FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn G.W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6216, [kcowdery@psc.state.fl.us](mailto:kcowdery@psc.state.fl.us).

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

**25-6.0440 Territorial Agreements for Electric Utilities.**

(1) All territorial agreements between electric utilities must shall be submitted to the Commission for approval. Each territorial agreement must shall clearly identify the geographical area to be served by each utility. The submission must shall include:

(a) through (f) No change.

(2) Standards for Approval. In approving territorial agreements, the Commission may consider, ~~but not be limited to consideration of:~~

(a) No change.

(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; ~~and-~~

(d) Any other factor the Commission finds relevant in reaching a determination that the territorial agreement is in the public interest.

(3) No change.

*Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5), 366.05(7) FS.*

History—New 3-4-90, Amended 2-13-96,\_\_\_\_\_.

**25-6.0441 Territorial Disputes for Electric Utilities.**

(1) A territorial dispute proceeding may be initiated by a petition from an electric utility requesting the Commission to resolve the dispute. Additionally the Commission may, on its own motion, identify the existence of a dispute and order the affected parties to participate in a proceeding to resolve it. Each utility ~~that which~~ is a party to a territorial dispute ~~must shall~~ provide a map and a written description of the disputed area along with the conditions that caused the dispute. Each utility party ~~must shall~~ also provide a description of the existing and planned load to be served in the area of dispute and a description of the type, additional cost, and reliability of electrical facilities and other utility services to be provided within the disputed area.

(2) In resolving territorial disputes, the Commission may consider, in addition to the factors listed in section 366.04(2)(e), F.S.: ~~but not be limited to consideration of:~~

(a) No change.

(b) The nature of the disputed area, including population and the type of utilities seeking to serve it, the ~~and~~ degree of urbanization of the area and its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services;

(c) The cost of each utility to provide distribution and subtransmission facilities to the disputed area presently and in the future; ~~and~~

(d) Any other factor the Commission finds relevant in reaching a determination that the resolution of the territorial dispute is in the public interest; and

~~(e) If all other factors are substantially equal, customer~~ Customer preference ~~if all other factors are substantially equal.~~

(3) No change.

(4) Upon resolution of each territorial dispute, the parties to the dispute ~~must shall~~ submit to the Commission an official Florida Department of Transportation (DOT) General Highway County map for each affected county depicting boundary lines established by the resolution of the territorial dispute. *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5), 366.05(7) FS. History—New 3-4-90, Amended 2-13-96,\_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn G. W. Cowdery

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 224, November 18, 2019.

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**Notices Submitted to/Confirmed by Administrative Code & Register Staff**

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**Notices Submitted to ACR**

| ID                       | Rule No./ Organization | Rule Title   | Section  | Issue                 | Date     |
|--------------------------|------------------------|--|----------|-----------------------|----------|
| <a href="#">23332300</a> | 25-6.0440,...          | Territorial Agreements for Electric Utilities, Territorial Disputes for Electric Utilities | Proposed | 6/10/2020 Vol. 46/113 | 6/9/2020 |
| <a href="#">23330457</a> | 25-30.116              | Allowance for Funds Used During Construction   | Rule     | 6/10/2020 Vol. 46/113 | 6/9/2020 |
| <a href="#">23330263</a> | 25-7.0141              | Allowance for Funds Used During Construction   | Rule     | 6/10/2020 Vol. 46/113 | 6/9/2020 |
| <a href="#">23330069</a> | 25-6.0141              | Allowance for Funds Used During Construction   | Rule     | 6/10/2020 Vol. 46/113 | 6/9/2020 |

**Notices Confirmed by ACR**

| ID                       | Rule No./ Organization | Rule Title  | Section | Issue                 | Date     |
|--------------------------|------------------------|---|---------|-----------------------|----------|
| <a href="#">23329972</a> | 25-7.0143              | Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4 | Rule    | 6/10/2020 Vol. 46/113 | 6/9/2020 |
| <a href="#">23329875</a> | 6/9/2020               | Public Service Commission                                     | Meeting | 6/10/2020 Vol. 46/113 | 6/9/2020 |

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