

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial agreement in Polk County by City of Bartow and DEF Florida, LLC.

DOCKET NO. 160148-EU
ORDER NO. PSC-16-0366-PAA-EU
ISSUED: August 31, 2016

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING PROPOSED TERRITORIAL AGREEMENT IN POLK COUNTY
BETWEEN CITY OF BARTOW AND DUKE ENERGY FLORIDA, LLC

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 June 9, 2016, the City of Bartow (Bartow) and Duke Energy Florida, LLC (DEF) filed a joint petition for approval of an amended territorial agreement (agreement) in Polk County. The proposed agreement is Attachment A to the petition, while the maps and written descriptions delineating the area to be served by the proposed agreement are provided in the petition as Exhibits A and D respectively (due to the volume of the exhibits, they have not been attached to this Order).

The existing territorial agreement between Bartow and DEF was approved in 1986.¹ At the conclusion of the 30 year term, the joint petitioners desire to amend and continue the existing agreement. The joint petitioners negotiated the proposed agreement delineating their respective service boundaries in Polk County for another term of 30 years. The agreement would result in the transfer of two commercial customers from DEF to Bartow. There will be no customer

¹ Order No. 16231, issued June 12, 1986, in Docket No. 851006-EU, In re: Joint stipulation and petition of Florida Power Corporation for approval of territorial agreement with City of Bartow.

transfers from Bartow to DEF. The transfer will be implemented when it is operationally feasible for Bartow to serve the two customers, but no later than 12 months after the approval of the proposed agreement by the Commission.

During the evaluation of this joint petition, the Commission staff issued one data request to the joint petitioners for which responses were received on June 28, 2016.

Decision

We the Commission have jurisdiction pursuant to Section 366.04(2)(d), Florida Statutes, (F.S.), to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Therefore, unless we find that the agreement will cause a detriment to the public interest, the agreement should be approved.²

Through the proposed agreement, the joint petitioners desire to continue the existing agreement and clearly delineate the territorial boundaries within Polk County in order to serve customers reliably and economically. The proposed agreement does not change the territorial boundaries; however, two commercial customers will be transferred from DEF to Bartow. In response to staff's data request, DEF stated that during the in-field due diligence process to determine if there were any encroachments by one utility into the service area territory of the other utility, one of the two customers that will be transferred was discovered within Bartow's service territory but was being served by DEF. The second customer to be transferred is currently being served by DEF because it was not operationally and economically feasible for Bartow to serve the customer previously. DEF and Bartow have agreed that Bartow will serve the two customers if the proposed agreement is approved.

In addition to transferring the two customers, the joint petitioners updated the territorial boundary maps using Geographic Information System (GIS) software to demonstrate the boundary lines in greater detail. The petitioners negotiated the proposed agreement for a 30-year term and after the expiration of that term the agreement will remain in effect until and unless either party provides a written notice of termination. Pursuant to Section 1.8 of the proposed agreement, the effective date of the agreement would be the date on which a Consummating Order is issued by the Commission, provided no timely protests are filed.

The petitioners state that in accordance with Rule 25-6.0440(1)(d), F.A.C., the two commercial customers that would be transferred between utilities pursuant to the proposed agreement were notified by mail of the transfer and a description of the differences between DEF's and Bartow's rates was provided.³ As of March 2016, the rate comparison for these customers, using 1,500 kilowatt hours, was \$175.95 for DEF and \$204.50 for Bartow. DEF will apply the customers' deposits to their last electric bill and will directly refund any surplus. With regard to the degree of acceptance by the affected customers, the petitioners state that DEF has

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

³ Petition Exhibit C

not received any feedback, questions, or concerns from the customers. The joint petitioners expect that the customer transfers will be completed within 12 months of the effective date of the proposed agreement and will notify the Commission in writing if additional time is needed.

Pursuant to Section 3.3 (Compensation of Related Service Facilities) and Section 3.4 (Transfer Segment Closings) of the proposed agreement, Bartow may elect to purchase the electric facilities used exclusively for providing electric service to the transferred customers by using a common engineering cost estimation methodology such as the Handy-Whitman index to determine the value. In response to staff's data request, the petitioners stated that at this time the parties do not plan to exchange or purchase the required facilities. Upon further inquiry, the petitioners stated that Bartow will not be using DEF's facilities to serve the two customers. DEF will remove its facilities after the transfer and either retire or re-use the facilities if possible.

We the Commission find the proposed agreement is in the public interest and will enable Bartow and DEF to better serve their current and future customers. It appears that the proposed agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. Therefore, we find that the proposed territorial agreement between Bartow and DEF shall be approved as it is consistent with this Commission's policy of encouraging agreements, promoting reliable energy, and has no immediate impact upon Bartow's or DEF's general body of ratepayers.

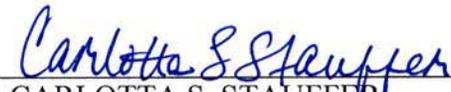
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed territorial agreement between City of Bartow and Duke Energy Florida, LLC shall be 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 in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 31st day of August, 2016.



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.

WLT

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 September 21, 2016.

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.