

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of amendment to territorial agreement in Alachua County by the City of Alachua and Duke Energy Florida, LLC.

DOCKET NO. 160194-EU
ORDER NO. PSC-16-0516-PAA-EU
ISSUED: November 21, 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 AMENDMENT TO 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 August 25, 2016, the City of Alachua (Alachua) and Duke Energy Florida, LLC (DEF) filed a joint petition for approval of an amended territorial agreement (proposed agreement) in Alachua County. The proposed agreement is Attachment 1 to the petition, while the maps, written descriptions and notice are provided in Exhibits A – D attached to the petition.

We approved the existing territorial agreement between Alachua and DEF in 1996.¹ The existing agreement was for a term of 20 years, and the joint petitioners desire to amend and continue the agreement. The joint petitioners negotiated the proposed agreement delineating their respective service boundaries in Alachua County for a term of an additional 20 years. The proposed agreement will result in the transfer of one commercial customer, and one residential customer from DEF to Alachua. There will be no customer transfers from Alachua to DEF. The transfer will be implemented when it is operationally feasible for Alachua to serve the two customers, but no later than 24 months after the approval and written notice of the proposed agreement by this Commission. We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

¹ Order No. PSC-96-1102-FOF-EU, issued August 29, 1996, in Docket No. 960542-EU, In re: Joint Petition for approval of territorial agreement between Florida Power corporation and City of Alachua.

Decision

Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), we have jurisdiction to approve territorial agreements between, and among, rural electric cooperatives, municipal electric utilities, and investor-owned utilities. Unless we determine that the agreement will cause a detriment to the public interest, the agreement shall be approved.²

Through the proposed agreement, the joint petitioners desire to continue the existing agreement and verify the territorial boundaries within Alachua County in order to serve customers reliably and economically. The proposed agreement modifies the territorial boundaries to eliminate split parcels. In response to our staff's data request, DEF stated that during the in-field due diligence process, it found the extra-territorial customers were being inadvertently served by the company. As a result, one commercial customer and one residential customer will be transferred from DEF to Alachua. 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 20-year term with the condition that after the expiration date, the agreement will remain in effect until and unless either party provides a written notice of termination at least 12 months prior to termination. Pursuant to Section 1.8 of the proposed agreement, the effective date of the agreement will be the date on which a final Order is issued by this Commission, provided no timely protests are filed.

In accordance with Rule 25-6.0440(1)(d), F.A.C., the petitioners state that the impacted customers pursuant to the proposed agreement were notified by mail of the transfer and provided a description of the differences in rates between DEF and Alachua.³ As of June 2016, the rate comparison for the non-demand commercial customer, using 1,500 kilowatt-hours, was \$171.22 for DEF and \$186.43 for Alachua. As of June 2016, the rate comparison for the residential customer, using 1,000 kilowatt-hours, was \$111.95 for DEF and \$120.40 for Alachua. DEF will apply any deposits of the two customers that will be transferred 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 not received any feedback, questions, or concerns from the customers. The joint petitioners expect that the customer transfers will be completed within 24 months of the effective date of the proposed agreement and will notify the Commission in writing if additional time is needed.

Pursuant to section 3.4 (compensation of related service facilities) of the proposed agreement, Alachua may elect to purchase electric distribution facilities used exclusively for providing electric service to the transferred customers. To determine the facilities' value, DEF will use a common engineering cost elimination methodology such as the Handy-Whitman index. In response to our staff's data request, the joint petitioners stated that Alachua does not intend to purchase any facilities from DEF in order to provide service to the two transferred customers. Alachua states it has existing facilities that can serve these two customers.

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

³ Exhibit C of the petition.

The joint petitioners assert that the proposed 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 proposed agreement is in the public interest.

After review of the petition, the proposed agreement, and the joint petitioners' responses to our staff's data request, we find that the proposed agreement is in the public interest and will enable Alachua and DEF to better serve their current and future customers. We agree that the proposed agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. As such, we hereby approve the proposed territorial agreement between Alachua and DEF.

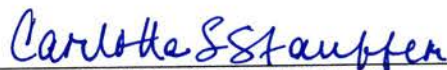
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the amendment to the existing territorial agreement in Alachua County between Duke Energy Florida, LLC and City of Alachua 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 21st day of November, 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.

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 December 12, 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.