

State of Florida



Public Service Commission

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COMMISSION CLERK

DATE: December 22, 2015

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) *J.O. EDO P 20 OS*
Office of the General Counsel (Villafrate) *JSC*

RE: Docket No. 150234-EU – Joint petition for approval of amendment to territorial agreement in Manatee County, by Florida Power & Light Company and Peace River Electric Cooperative, Inc.

AGENDA: 01/05/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 30, 2015, Florida Power and Light Company (FPL) and Peace River Electric Cooperative, Inc. (Peace River) filed a joint petition for approval of an amendment to their existing territorial agreement in Manatee County.¹ The proposed amendment would alter the territory so that a new housing development would lie entirely within Peace River's territory rather than be divided between FPL and Peace River's service territories, as it is now. The proposed amendment is Exhibit A to the petition, while the maps and written description are provided in Attachments A-C to the petition. The petitioners responded to Staff's First Data Request on November 25, 2015. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

¹ Order No. 18322, issued October 22, 1987, in Docket No. 870816-EU, *In re: Joint petition for approval of territorial agreement between Florida Power & Light Company and Peace River Electric Cooperative, Inc.*

Discussion of Issues

Issue 1: Should the Commission approve the proposed amendment?

Recommendation: Yes, the Commission should approve the proposed amendment. (Ollila)

Staff Analysis: 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. Rule 25-6.0440(2), Florida Administrative Code, states that in approving territorial agreements, the 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 the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.²

Under the current agreement, a new private development is divided between the petitioners' service territories, with the larger portion located in Peace River's existing territory. FPL and Peace River jointly request that the Commission approve a realignment of their existing territorial boundary so that the new development will lie entirely within Peace River's service territory. The petitioners state that the area is currently under development. There are no facilities providing service and no customer accounts to be transferred.

FPL and Peace River represent that approval of their petition is in the public interest. According to the petitioners, the proposed amendment will not cause a decrease in the reliability of electrical service to existing or future members of either utility, it will likely eliminate or prevent uneconomic duplication of facilities, and it will promote the Commission's stated policy of encouraging territorial agreements between and among Florida's electric utilities.

After review of the petition and the petitioners' response to its data request, staff believes that the proposed amendment will enable FPL and Peace River to better serve their current and future customers. It appears that the proposed amendment will serve to eliminate any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. As such, staff believes that the proposed amendment between FPL and Peace River will not cause a detriment to the public interest and recommends that the Commission approve it.

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

Issue 2: Should this docket be closed?

Recommendation: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Villafrate)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.