

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition to approve territorial agreement in Sumter, Lake, Marion, Levy, and Citrus Counties, by Sumter Electric Cooperative, Inc. and Duke Energy Florida, LLC.

DOCKET NO. 20200106-EU
ORDER NO. PSC-2020-0252-PAA-EU
ISSUED: July 23, 2020

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
JULIE I. BROWN
DONALD J. POLMANN
ANDREW GILES FAY

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.).

I. Background

On March 27, 2020, Sumter Electric Cooperative, Inc. (SECO) and Duke Energy Florida, LLC (DEF), collectively the joint petitioners, filed a petition seeking our approval of a Territorial Agreement (Agreement) delineating their respective service boundaries in Sumter, Lake, Marion, Levy, and Citrus counties. The proposed Agreement, approved herein, is shown in Attachment A, and composite maps depicting the proposed service territories in Sumter, Lake, Marion, Levy, and Citrus counties are shown in Attachment B. The detailed, complete set of maps delineating the service territories and the written descriptions are contained in the joint petition as Exhibits A and B, respectively. Due to their voluminous nature, the detailed maps and written descriptions are not attached.

In April 2009, we approved the current territorial agreement by Order No. PSC-09-0276-PAA-EU.¹ In the instant docket, the joint petitioners seek to gain further operational efficiencies and customer improvements in their respective retail service territories by requesting to replace the current territorial agreement with an amended Agreement dated March 27, 2020. The proposed Agreement includes the transfer of 546 DEF customers to SECO and 49 SECO customers to DEF.

We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

II. Decision

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

Proposed 2020 Territorial Agreement

The joint petitioners stated they have agreed to replace the current territorial agreement with the proposed Agreement executed on March 27, 2020. The intent of the proposed Agreement is to further prevent duplication of facilities, correct encroachments, and to reduce the number of service providers in a residential development to a single provider when feasible. The joint petitioners stated that avoiding duplication of services enhances aesthetics, safety and reliability, and reduces restoration times and safety concerns during storm events. As such, the joint petitioners assert that these changes will allow for further operational efficiencies and customer service improvements in their respective retail service territories in Sumter, Lake, Marion, Levy, and Citrus counties.

Pursuant to Section 6.1 of the proposed Agreement, the term of the Agreement is 20 years from the effective date. After the expiration of the first 20-year term, the Agreement will remain in effect unless either party provides written notice of termination at least 12 months prior to the termination of the agreement. The effective date of the Agreement will be the date on which we issue a final order granting approval of this proposed Agreement in its entirety and it is no longer subject to judicial review. In addition, any modification to the proposed Agreement will be submitted for our approval.

Customer and Asset Transfer

Paragraph 5 of the petition states that 546 DEF customers (443 residential and 103 commercial) will be transferred to SECO; and 49 SECO customers (20 residential, 28

¹ Order No. PSC-09-0276-PAA-EU, issued April 29, 2009, in Docket No. 20080632-EU, *In re: Joint petition for approval of amended territorial agreement in Sumter, Lake, Marion, Citrus, and Levy Counties by Sumter Electric Cooperative, Inc. and Progress Energy Florida, Inc.*

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

commercial, and 1 industrial) will be transferred to DEF. There are 379 residential accounts to be transferred from DEF to SECO within a single apartment complex and are expected to be transferred in the first year after the Agreement is approved. SECO intends to transfer all other remaining customers within three years and DEF will transfer the 49 customers in six phases within 36 months. Pursuant to Sections 3.1 and 3.5 of the proposed Agreement, the joint petitioners will file, annually in March, a written report with us on the status of the transfer of customers.

The joint petitioners agree that no lost revenue or going concern value shall be paid for the transfer of customers. Upon the transfer of customers between the utilities, the receiving utility may elect to purchase the facilities of the transferring utility that relate to providing electric service to the impacted customers. If service facilities are transferred, the proposed Territorial Agreement contains provisions for the value of the facilities based upon the replacement cost (new), less depreciation. The joint petitioners intend to undertake a valuation process of facilities using a common engineering cost estimation methodology such as the Handy-Whitman Index. The joint petitioners stated that valuing the facilities is time-consuming and often takes at least one year to complete. If there are facilities of one utility located in the service area of the other utility which are not subject to transfer or removal as a result of the proposed agreement, those facilities shall be operated and maintained in such a manner as to minimize any interference with the operations of the other utility.

Customer Notification

Pursuant to Rule 25-6.0440(1)(d), F.A.C., both SECO and DEF provided written notification to customers that will be transferred pursuant to the proposed Territorial Agreement. These letters included sample rate comparisons between SECO and DEF, as well as information regarding refunds of deposits. As of February 2020, the rate comparison for customers using 1,000 kilowatt-hours was \$123.99 for DEF and \$119.89 for SECO. The customer notifications are included as Exhibit E to the joint petition.

The joint petition stated that two SECO customers objected to being transferred to DEF and that these customers communicated to the joint petitioners that they would contact us directly after the petition was filed. We received correspondence from one SECO customer objecting to the transfer to DEF.³ Based on information provided by neighbors, the SECO customer expressed concerns about DEF's vegetation management practices and alleged poor maintenance of overhead facilities. The customer included pictures of DEF power lines in trees. The customer also stated that they currently have an underground service drop, that they paid for, and do not wish additional overhead poles to receive power. The joint petitioners stated that the overhead facilities identified by the customer are owned by DEF and that the facilities are scheduled for trimming in the second quarter of 2020. In addition, DEF confirmed the customer, when transferred, would continue to be served through their current underground service drop. A

³ Consumer Correspondence (Document No. 01969-2020).

written response containing this information was sent to the customer and a copy was filed in the instant docket.⁴

Conclusion

The joint petitioners state that they have worked collaboratively to structure the proposed amendments to their territorial agreement and that it furthers the goals of avoiding duplication of service and enables each to achieve operational efficiency. After review of the joint petition, the proposed Territorial Agreement, and the entire record of this docket, we find that the amended Territorial Agreement will not cause a detriment to the public interest, will eliminate any potential uneconomic duplication of facilities and will not cause a decrease in reliability of electric service to the customer. Therefore, we hereby approve the proposed Territorial Agreement between SECO and DEF in Sumter, Lake, Marion, Levy, and Citrus counties.

Based on the foregoing, it is

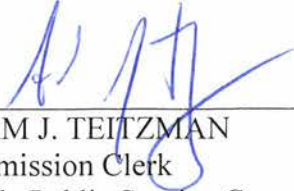
ORDERED by the Florida Public Service Commission that the proposed Territorial Agreement between Sumter Electric Cooperative, Inc. and Duke Energy Florida, LLC in Sumter, Lake, Marion, Levy, and Citrus counties is hereby approved. It is further

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.

⁴ Consumer Correspondence (Document No. 03194-2020).

By ORDER of the Florida Public Service Commission this 23rd day of July, 2020.



ADAM J. TEITZMAN
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 August 13, 2020.

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.

TERRITORIAL AGREEMENT

Section 0.1: Sumter Electric Cooperative, Inc. ("SECO"), and Duke Energy Florida, LLC ("DEF") (collectively, the "Parties" and individually, a "Party") enter into this Territorial Agreement (the "Agreement") on this 27th day of March, 2020.

WITNESSETH:

Section 0.2: WHEREAS, SECO and DEF, by virtue of Chapter 425, Florida Statutes, are each authorized, empowered and obligated by their corporate charter and laws of the State of Florida to furnish retail electric service to persons upon request within their respective service areas in the areas of Sumter, Lake, Marion, Citrus, and Levy counties; and

Section 0.3: WHEREAS, SECO and DEF were parties to a territorial agreement dated October 1, 2008, and approved by the Florida Public Service Commission (the "Commission") in Order No. PSC-09-0276-PAA-EU, issued April 29, 2009, and Order No. PSC-09-0343-CO-EU, issued May 21, 2009 in Docket No. 080632-EU, (the "Expired Agreement"), which delineated the Parties' respective service territories in Sumter, Lake, Marion, Citrus, and Levy counties, Florida; and

Section 0.4: WHEREAS, the Parties desire to enter into a new Agreement in order to gain further operational efficiencies and customer service improvements in their respective retail service territories in the

aforesaid counties, while continuing to eliminate circumstances giving rise to the uneconomic duplication of service facilities and hazardous situations; and;

Section 0.5: WHEREAS, the respective areas of service of the Parties are contiguous in many places, and the Parties seek to minimize costs to their respective rate payers by avoiding duplication of generation, transmission, and distribution facilities; and

Section 0.6: WHEREAS, the Commission has previously recognized that any such duplication of facilities results in needless and wasteful expenditures and may create hazardous conditions, both being detrimental to the public interest; and

Section 0.7: WHEREAS, the Parties desire to continue to avoid and eliminate the circumstances giving rise to potential duplications of facilities and hazardous conditions, and in furtherance of such desire, have established Territorial Boundary Lines to delineate their respective retail Territorial Areas, subject to the approval of the Commission; and

Section 0.8: WHEREAS, the Commission is empowered by Section 366.04(2)(d), Florida Statutes, to approve territorial agreements and resolve territorial disputes between electric cooperatives and other electric utilities under its jurisdiction, and has recognized the value of such territorial agreements, and held such agreements, when properly prepared are beneficial and in the public interest.

Section 0.9: NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the Parties hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.1: Territorial Boundary Line(s). As used herein, the term "Territorial Boundary Line(s)" shall mean the boundary line(s) and service areas depicted on the maps attached hereto as Exhibit A which delineate and differentiate the Parties' respective Territorial Areas in Sumter, Lake, Marion, Citrus and Levy counties. The portions of the counties which are not subject to this Agreement are marked on the maps and/or written descriptions as "Not Part Of This Agreement." Additionally, as required pursuant to Rule 25-6.0440(1)(a), F.A.C., a written description of the territorial areas served is attached as Exhibit B. If there are any discrepancies between Exhibit A and Exhibit B, then the territorial boundary maps in Exhibit A shall prevail.

Section 1.2: SECO Territorial Area. As used herein, the term "SECO Territorial Area" shall mean the geographic areas in Sumter, Lake, Marion, Citrus and Levy counties allocated to SECO by this Agreement as its retail service territory and labeled as "SECO Territorial Area" or "SECO" on the maps contained in Exhibit A.

Section 1.3: DEF Territorial Area. As used herein, the term "DEF Territorial Area" shall mean the geographic areas in Sumter, Lake, Marion, Citrus and Levy counties allocated to DEF by this Agreement as its retail service

Section 0.9: NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the Parties hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.1: Territorial Boundary Line(s). As used herein, the term "Territorial Boundary Line(s)" shall mean the boundary line(s) and service areas depicted on the maps attached hereto as Exhibit A which delineate and differentiate the Parties' respective Territorial Areas in Sumter, Lake, Marion, Citrus and Levy counties. The portions of the counties which are not subject to this Agreement are marked on the maps and/or written descriptions as "Not Part Of This Agreement." Additionally, as required pursuant to Rule 25-6.0440(1)(a), F.A.C., a written description of the territorial areas served is attached as Exhibit B. If there are any discrepancies between Exhibit A and Exhibit B, then the territorial boundary maps in Exhibit A shall prevail.

Section 1.2: SECO Territorial Area. As used herein, the term "SECO Territorial Area" shall mean the geographic areas in Sumter, Lake, Marion, Citrus and Levy counties allocated to SECO by this Agreement as its retail service territory and labeled as "SECO Territorial Area" or "SECO" on the maps contained in Exhibit A.

Section 1.3: DEF Territorial Area. As used herein, the term "DEF Territorial Area" shall mean the geographic areas in Sumter, Lake, Marion, Citrus and Levy counties allocated to DEF by this Agreement as its retail service

Section 0.9: NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the Parties hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.1: Territorial Boundary Line(s). As used herein, the term "Territorial Boundary Line(s)" shall mean the boundary line(s) and service areas depicted on the maps attached hereto as Exhibit A which delineate and differentiate the Parties' respective Territorial Areas in Sumter, Lake, Marion, Citrus and Levy counties. The portions of the counties which are not subject to this Agreement are marked on the maps and/or written descriptions as "Not Part Of This Agreement." Additionally, as required pursuant to Rule 25-6.0440(1)(a), F.A.C., a written description of the territorial areas served is attached as Exhibit B. If there are any discrepancies between Exhibit A and Exhibit B, then the territorial boundary maps in Exhibit A shall prevail.

Section 1.2: SECO Territorial Area. As used herein, the term "SECO Territorial Area" shall mean the geographic areas in Sumter, Lake, Marion, Citrus and Levy counties allocated to SECO by this Agreement as its retail service territory and labeled as "SECO Territorial Area" or "SECO" on the maps contained in Exhibit A.

Section 1.3: DEF Territorial Area. As used herein, the term "DEF Territorial Area" shall mean the geographic areas in Sumter, Lake, Marion, Citrus and Levy counties allocated to DEF by this Agreement as its retail service

territory and labeled as "DEF Territorial Area" or "DEF" on the maps contained in Exhibit A.

Section 1.4: Point of Use. As used herein, the term "Point of Use" shall mean the location within the Territorial Area of a Party where a customer's end-use facilities consume electricity, which such Party shall be entitled to provide retail electric service under this Agreement, irrespective of where the customer's point of connection or metering is located.

Section 1.5: New Customers. As used herein, the term "New Customers" shall mean all end use customers applying for retail electric service after the Effective Date of this Agreement at a Point of Use in the Territorial Area of either Party.

Section 1.6: Commission. As used herein, the term "Commission" shall mean the Florida Public Service Commission.

Section 1.7: Effective Date. As used herein, the term "Effective Date" shall mean the date on which the Commission's final order granting approval of this Agreement in its entirety becomes no longer subject to judicial review.

Section 1.8: Temporary Service Customers. As used herein, the term "Temporary Service Customers" shall mean customers who are being temporarily served under Section 2.3, the Temporary Service provision of the Agreement.

ARTICLE II RETAIL ELECTRIC SERVICE

Section 2.1: Territorial Allocations. Except as otherwise specifically provided herein, SECO shall have the exclusive authority to furnish retail

electric service within SECO's Territorial Area and DEF shall have the exclusive authority to furnish retail electric service in DEF's Territorial Area. The Territorial Boundary Line shall not be affected by any change, through annexation or otherwise, that may occur in the corporate limits of any municipality lying within SECO's Territorial Area or DEF's Territorial Area, unless agreed to in writing by the Parties and approved by the Commission.

Section 2.2: Service to New Customers. Each Party agrees that it will not knowingly serve or attempt to serve any New Customer whose Point of Use is located within the Territorial Area of the other Party, except as specifically provided in Section 2.3 of this Agreement. However, in those instances where the Territorial Boundary Line traverses the property of a New Customer, the Party in whose service area the preponderance of the Customer's electric energy usage is expected to occur shall be entitled to serve all of the Customer's usage. With respect to new residential customers, however, the Parties recognize that in some such instances, the information needed to locate the various points of the New Customer's usage in relation to the Territorial Boundary Line with reasonable certainty may be unavailable or difficult to determine, and agree that in such event the Party with the greater portion of the New Customer's property in its service area shall be entitled to serve all of such New Customer's usage.

Section 2.3: Temporary Service. The Parties recognize that in exceptional circumstances, economic constraints, good engineering practices, or other circumstances may indicate that a customer's Point of Use either

cannot or should not be immediately served by the Party in whose Territorial Area such Point of Use is located. Such service shall be referred to as "Temporary Service" which may occur in the following circumstances:

Section 2.3.1: Future New Customers. Upon written request by the Party ("Requesting Party") in whose Territorial Area the New Customer's Point of Use is located, the other Party ("Responding Party") may, in its sole discretion, agree in writing to temporarily provide service to such New Customer until such time as the Requesting Party provides written notice of its intent to serve the Point of Use. The Responding Party shall inform the customer of the temporary nature of such service.

Section 2.3.2: Inadvertent Service. After the Effective Date of this Agreement, if any situation is discovered during the term of this Agreement in which one Party is inadvertently providing retail electric service to a customer's Point of Use located within the service area of the other Party, service to such customer will be transferred to such other Party as soon as practical. Until the transfer of service can be completed, the Party providing inadvertent service to the customer's Point of Use will be deemed to be Temporary Service. When an inadvertent service is discovered, the Party discovering the inadvertent service shall notify the other Party in writing per section 8.3; the Party providing the inadvertent service shall then provide documentation showing when the service began.

Section 2.3.3: Present Temporary Service Customers. All Temporary Service Customers identified by the Parties as of the Effective Date of this

Agreement currently served by SECO and subject to transfer to DEF are listed by service address and account number in Exhibit C hereto. The Temporary Service Customers currently served by DEF and subject to transfer to SECO pursuant to this Agreement are listed by service address and premise number in Exhibit D hereto.

Section 2.4: Discontinuation of Temporary Service. Any Temporary Service Customers shall be discontinued upon written notice from the Party in whose territory the customer is located of its intent to provide service, which the Parties shall coordinate to minimize any inconvenience to the customer. In conjunction with such discontinuance, the Party providing Temporary Service hereunder may be compensated for its facilities by the other Party in accordance with Section 3.3.2.

Section 2.5: Referral of Service Request. In the event that a prospective New Customer requests or applies for service from either Party to be provided to a Point of Use located in the Territorial Area of the other Party, the Party receiving the request or application shall advise the prospective New Customer that such service is not permitted under this Agreement as approved by the Commission, and shall refer the prospective New Customer to the other Party.

Section 2.5: Reallocation of Areas. In the event that circumstances arise during the term of this Agreement in which the Parties agree that, based on sound economic considerations or good engineering practices, an area located in the Territorial Area of one Party would be better served if reallocated

to the service territory of the other Party, the Parties shall jointly petition the Commission for approval of a modification of the Territorial Boundary Line that places the area in question (the "Reallocated Area") within the Territorial Area of the Party and transfer of the customers located in the Reallocated Area to the other Party.

**ARTICLE III
TRANSFER OF CUSTOMERS**

Section 3.1: In General. In order to achieve the operational efficiencies and other benefits contemplated by this Agreement in a timely manner, all Temporary Service Customers shall be transferred to the Party in whose Territorial Area such customers are located at the earliest practical time, consistent with sound utility practices, including cost effectiveness and system design engineering, and reasonable customer notice. The status of all Temporary Service Customers shall be reported annually pursuant to Section 3.5 below.

Section 3.2: Transfer Notice. In accordance with Rule 25-6.0440(1)(d), F.A.C., the affected Temporary Service customers subject to transfer upon the Effective Date of this Agreement have been sent written notification of this Agreement and the transfer provisions described above. Sample copies of the letters providing such notification are attached as Exhibit E. After the Effective Date of this Agreement, any Temporary Service customers to be transferred shall be provided similar notice as the Commission's rules require.

Section 3.3: Compensation for Transferred Customers and Facilities.

Section 3.3.1: Going Concern Value. The Parties agree that no lost revenue or going concern value shall be paid for the transfer of customers pursuant to this Agreement.

Section 3.3.2: Compensation for Transferred Facilities. Upon the transfer of Temporary Service Customers pursuant to Section 3.1 above, the Receiving Party may elect to purchase the facilities of the transferring Party related exclusively to serving the Temporary Service Customers based upon the replacement cost (new), less depreciation calculated on a 30 year straight line basis over the life of the asset (facility) as determined from the transferring Party's books and records, and the cost to the transferring Party for reintegration of its remaining system to the extent such reintegration costs are reasonably required by sound utility practices. The replacement cost shall be determined by applying a cost escalator such as the Handy Whitman Index or a common engineering cost estimation methodology to the original cost, as long as both parties apply the same escalation method.

Section 3.3.3: Time of Payment. All payments from the Receiving Party to the transferring Party determined in accordance with this section shall be made in cash within 60 days of the presentation of an invoice from the transferring Party.

Section 3.3.4: Transfer Instruments. For each transfer made under this Agreement, the transferring Party will make, execute, and deliver to the receiving Party a conveyance, deed or other instrument of transfer, as is appropriate, in order to convey all rights, titles and interests of the transferring

Party in any facilities, rights-of-way, easements, road permits, or other rights to the receiving Party.

Section 3.3.4.1: RUS Approval. Property transfer from SECO to DEF may be subject to approval and release from security documents by the United States of America Department of Agriculture and Rural Utilities Service ("RUS") or other lenders. All assets are subject to USDA-RUS approval if the aggregate value of assets sold, leased, or transferred in any 12-month period are more than 10 percent of the borrower's net utility plant prior to the transaction for distribution borrowers.

Section 3.3.5: Transfer Segment Closings. The Parties acknowledge that it may be more efficient to accomplish a particular transfer in segments or phases. The Parties shall mutually agree on a closing date for each transfer segment, allowing sufficient time for the Parties to identify the customers and facilities to be transferred; to determine the compensation for transferred facilities; and to prepare the appropriate closing statements, assignments, and other instruments to transfer and convey the transferring Party's interest in the electric distribution facilities to the receiving Party pursuant to Section 3.3.4 above. At the closing, the receiving Party shall pay the transferring Party the compensation due.

Section 3.4: Service Obligations. Except as otherwise provided herein, each party retains the right and obligation to continue to provide retail electric service at existing points of delivery, which are in the retail service areas of the other party, at the time this Agreement becomes effective. Existing points

of delivery shall mean service drops and underground service laterals which are physically connected to the customer's property, whether energized or not. Each party may maintain, repair and replace its facilities used to service such existing points of delivery.

Section 3.5: Florida PSC Reporting. The Parties shall annually in March jointly report in writing to the PSC the status and, as appropriate, progress in transferring Temporary Customers to the appropriate Party and any other relevant information. The Parties acknowledge that sound engineering, customer growth and development within the respective Duke or SECO Territorial Areas, and other economic considerations may delay the transfer of some Temporary Service Customers.

ARTICLE IV OPERATION AND MAINTENANCE

Section 4.1: Facilities to Remain. Other than expressly provided herein, no generating plant, transmission line, substation, distribution line or related equipment shall be subject to transfer or removal hereunder; provided, however, that each Party shall operate and maintain its lines and facilities in a manner that minimizes any interference with the operations of the other Party.

Section 4.2: SECO Facilities to be Served. Nothing herein shall be construed to prevent or in any way inhibit the right and authority of SECO to serve any SECO facility located in DEF's Territorial Area which facility is used exclusively in connection with SECO's business as an electric utility; provided,

however, that SECO shall construct, operate, and maintain said lines and facilities in such manner as to minimize any interference with the operation of DEF in the DEF Territorial Area.

Section 4.3: DEF Facilities to be Served. Nothing herein shall be construed to prevent or in any way inhibit the right and authority of DEF to serve any DEF facility located in SECO's Territorial Area which facility is used exclusively in connection with DEF's business as an electric utility; provided, however, that DEF shall construct, operate, and maintain said lines and facilities in such manner as to minimize any interference with the operation of SECO in the SECO Territorial Area.

Section 4.4: Retail Service at Facility Sites. Where either Party serves any of its facilities located in the Territorial Area of the other Party pursuant to Sections 4.2 or 4.3 above, such Party may provide limited retail service on the site of the facility to prevent potential safety hazards or unsound operating conditions that would result from the construction and maintenance of lines and related facilities by the other Party to provide retail service at the site. As used in this section, limited retail service shall mean no more than three separate retail accounts with a combined load of 25 kW or less at any such site.

ARTICLE V PREREQUISITE APPROVAL

Section 5.1: Commission Approval. The provisions and the Parties' performance of this Agreement are subject to the regulatory authority of the

Commission, and appropriate approval by that body of this Agreement in its entirety shall be an absolute condition precedent to the validity, enforceability and applicability hereof. This Agreement shall have no effect whatsoever until such approval has been obtained. Any proposed modification to this Agreement shall be submitted to the Commission for approval. In addition, the Parties agree to jointly petition the Commission to resolve any dispute concerning the provisions of this Agreement or the Parties' performance hereunder.

Section 5.2: Liability in the Event of Disapproval. In the event approval pursuant to Section 5.1 is not obtained, neither Party will have any claim against the other arising under this Agreement.

Section 5.3: Supersedes Prior Agreements. Upon approval by the Commission, this Agreement shall be deemed to specifically supersede all other prior agreements between the Parties defining the boundaries of their respective Territorial Areas in Sumter, Lake, Marion, Citrus, and Levy counties.

ARTICLE VI DURATION

Section 6.1: Term. This Agreement shall continue and remain in effect for a period of twenty (20) years from the Effective Date. After expiration of the twenty (20) year term provided herein, this Agreement shall remain in effect thereafter unless either Party provides written notice of Termination at least 12 months prior to the termination of the Agreement as contemplated by Section 8.3.

**ARTICLE VII
CONSTRUCTION OF AGREEMENT**

Section 7.1: Other Electric Utilities. Nothing in this Agreement is intended to define, establish or affect in any manner the rights of either Party hereto relative to any other electric utility not a party to this Agreement. The Parties understand that SECO or DEF may, from time to time and subject to Commission approval, enter into territorial agreements with other electric utilities providing retail service in Sumter, Lake, Marion, Citrus, and Levy counties and that, in such event, nothing herein shall be construed to prevent SECO or DEF from designating any portion of its Territorial Area under this Agreement as the retail service area of some other electric utility.

Section 7.2: Bulk Power for Resale. Nothing herein shall be construed to prevent either Party from providing a bulk power supply for resale purposes, regardless of where the purchaser for resale may be located. Further, no other section or provision of this Agreement shall be construed as applying to a bulk power supply for resale purposes.

Section 7.3: Intent and Interpretation. It is hereby declared to be the purpose and intent of the Parties that this Agreement shall be interpreted and construed, among other things, to further this State's policy of actively regulating and supervising the service territories of electric utilities; supervising the planning, development, and maintenance of a coordinated electric power grid throughout Florida; avoiding uneconomic duplication of generation, transmission and distribution facilities; and encouraging the

installation and maintenance of facilities necessary to fulfill the Parties' respective obligations to serve.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.1: Negotiations. Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only terms and conditions agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement shall be binding upon either of the Parties unless made in writing, signed by both Parties, and approved by the Commission.

Section 8.2: Successors and Assigns. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give to any person or corporation, other than the Parties, any right, remedy or claim under or by reason of this Agreement or any provision or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding only upon the Parties and their respective representatives, successors and assigns.

Section 8.3: Notices. Notices and other written communications contemplated by this Agreement shall be deemed to have been given if sent by certified mail, postage prepaid, by prepaid private courier, or by email, as follows:

