

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation to determine	)	DOCKET NO. 891034-EU
whether the ultimate goals of	)	ORDER NO. 22626
resolving overlap, eliminating	)	ISSUED: 3-1-90
duplication of service and providing	)	
the best electrical service to	)	
customers in the Sebring area are	)	
being met by SEBRING UTILITIES	)	
COMMISSION and FLORIDA POWER	)	
CORPORATION.	)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION  
ORDER IMPLEMENTING "COLSON PLAN"

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

On September 16, 1988, Sebring Utilities Commission (Sebring) filed a motion for enforcement with the Florida Public Service Commission, alleging that Florida Power Corporation (FPC) had failed to comply with a previously-ordered Joint Plan to Resolve Overlapping Services (Joint Plan) in the Sebring area. The Joint Plan arose from a Commission Staff investigation in Docket No. 850605-EU.

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As a result of the investigation, Staff believed that there was a potential for uneconomic duplication wherever these two utilities service common areas. Staff subsequently requested that the parties agree to a moratorium which would apply to all of the respective service boundaries of the two utilities. The parties agreed, and on September 16, 1986, in Order No. 16602, the Commission imposed a moratorium which provided specific procedures for determining which utility should provide new service in the Sebring area.

Once the moratorium was in place, Sebring and FPC renewed discussions with respect to a territorial agreement to prevent future overlapping services and duplication of facilities. Thereafter, Florida Power Corporation and Sebring reached a territorial agreement and filed it along with a petition for Commission approval, on December 16, 1986. By Order No. 17215, issued on February 23, 1987, the Commission proposed to approve the territorial agreement. Although that proposed agency action was protested by a third party, the protest was ultimately dismissed, and the Commission approved the territorial agreement in Order No. 18018, issued on August 20, 1987, in Docket No. 861596-EU.

Thereafter, in Order No. 17215, the Commission directed FPC and Sebring to report on their proposals for resolving problems of overlapping services, duplication of facilities, and potential safety hazards. FPC and Sebring attempted to jointly address resolution of those problems but could not reach agreement. Each utility, therefore, submitted a separate report, neither of which adequately addressed the problems of overlapping services, duplication of facilities, and safety hazards. Accordingly, by recommendation dated October 19, 1987, Staff recommended that both FPC and Sebring be ordered to remove all of their facilities from the other party's service areas. This recommendation came to be known as the "Colson Plan".

Both Sebring and FPC were reluctant to implement the Colson Plan, and requested the opportunity to resolve the problem of overlapping services between themselves. In Order No. 18472, dated November 24, 1987, the Commission granted the parties ninety days in which to reach a joint resolution, but

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warned that Staff's recommended solution would be implemented if no joint resolution was forthcoming. Thereafter, Sebring and FPC negotiated and executed the Joint Plan, which was approved by the Commission in Order No. 19432, on June 6, 1988.

The purpose of the Joint Plan was to implement the approved territorial agreement and to resolve overlapping services in the greater Sebring area. As a result of the agreement, FPC retained 912 customers in Sebring's service area and Sebring retained 656 customers in FPC's service area. The plan identified certain overlapping facilities to be eliminated before December 31, 1988 in Lake Haven Estates, Orange Blossom Estates, Sebring Hills South, Sebring Hills, Sebring Country Estates, Randal Road, Lake Shore Park, Lake Sebring Estates, Longwood Acres, Sebring Oaks, Van House Trailer Park and Sebring Hills North Mobile Home Park. In these areas, the parties agreed to remove their facilities in the other party's territory, while retaining their existing customers. The "foreign", or non-territorial utility, would serve its existing customers from the distribution line of the "host", or territorial utility. Meters would be retained by the foreign utility and accounts would remain the foreign utility's accounts.

Sebring and FPC identified approximately 82 foreign utility customers who would be served from the distribution line of a host utility. The parties also identified nine areas which they classified as "pure" areas, consisting of discrete pockets of facilities and customers located outside of a utility's territorial boundary, but confined to a single development served exclusively by one utility. The parties agreed that such pure areas would continue to be served exclusively by the utility already providing service. FPC identified 330 of its customers as located in its pure areas, while Sebring identified 547 customers in its pure areas. The Joint Plan did not address 497 customers which FPC continued to serve in Sebring's territory, nor did it address 26 customers Sebring retained in FPC's territory.

In its September 16, 1989 motion for enforcement, Sebring alleged that FPC had failed to comply with the Joint Plan in that it refused to transfer to Sebring some of the 497

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customers which FPC retained in Sebring's service territory. A hearing on the motion was held on March 27, 1989, after which the Commission denied Sebring's motion on the grounds that the Joint Plan did not require FPC to transfer the customers in question. However, in Order No. 21478, the Commission directed Staff to "open a new docket to determine whether the ultimate goals of resolving overlap, eliminating duplication of service and providing the best service to customers in the Sebring area are being met." Thereafter, this docket was opened.

When members of Commission Staff visited the Sebring area in November, 1989 and inspected electrical distribution facilities, they found that while the Joint Plan had been effective in eliminating duplication of lines in some subdivisions, both utilities continued to have dual lines along the same streets in other areas. We find this to be unacceptable, especially in light of the history of this matter. We therefore order the parties to resolve the overlap and duplication of service in the Sebring area by implementing the Colson Plan on March 23, 1990, unless the parties have received Commission approval for an alternate plan on or before March 8, 1990.

Under the Colson Plan, both Sebring and FPC must remove their facilities from the other utility's service area, as defined in the parties' territorial agreement approved in Order 18018, with the exception of the agreed pure areas in the Joint Plan approved in Order 19432. However, the host utility will be required to purchase those facilities belonging to the foreign utility which are usable by the host utility, which do not directly constitute a duplication and which are not used to provide service in the foreign utility service area. Further, each utility shall continue to serve its existing customers in the host utility's service area until a customer requests in writing to transfer to the host utility or until the present customer (existing at the time this order is issued) moves. At that time, the customer who requested transfer or the new customer will become the customer of the host utility. The foreign utility shall serve its existing customers in the host utility's territory by placing its customers' meters on the host utility's

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distribution line and paying the host utility for the kwh used by such customers.

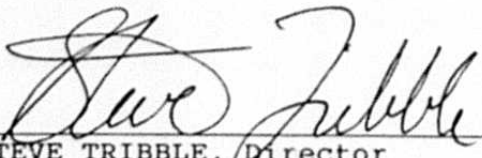
The parties are instructed that any alternate plan which they propose in lieu of the Colson Plan should resolve overlap, eliminate duplication of service, and provide the best service to customers in the Sebring area.

It is therefore

ORDERED by the Florida Public Service Commission that Florida Power Corporation and Sebring Utilities Commission resolve the overlap and duplication of service in the Sebring area by implementing the Colson Plan as described herein on March 23, 1990, unless the parties have received Commission approval for an alternate plan on or before March 8, 1990. It is further

ORDERED that this docket be closed after the time has expired in which to protest this order, if such action is not taken.

By ORDER of the Florida Public Service Commission, this 1st day of MARCH, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any

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administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 22, 1990.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.