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January 2, 2009

VIA FIRST CLASS U.S. MAIL

Director, Division of the Commission
Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-FPSC
09 JAN -5 AM 9:53
COMMISSION
CLERK

090011-EU

Re: **Mark Williams**
Our File No.: 780-2
Public Service Commission Docket No. 040133-EU


Dear Sir or Madam:

Enclosed please find an original Complaint, seven (7) copies and a CD containing a copy of the Complaint in .pdf format (385 KB), for filing in the above-captioned matter.

Please contact this office with any questions you may have.

Thank you for your attention to this matter.

Sincerely,


Linda Bennett
Paralegal

/lcb

COM Enclosures

ECR 5 cc: Mr. Mark Williams

GCL 1

OPC 1

RCP

SSC

SGA

ADM

CLK

CLK note: New docket
opened per GCH/Brawn.

also/09 kmf

CD Forwarded to
ECR

DOCUMENT NUMBER-DATE

00015 JAN-5 8

FPSC-COMMISSION CLERK

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

MARK WILLIAMS, as Trustee of the S.A. Williams Trust,
And the S.A. WILLIAMS CORPORATION,
Petitioners

COMPLAINT

Petitioners, MARK WILLIAMS, as Trustee of the S.A. Williams Trust, and the S.A. WILLIAMS CORPORATION, (hereinafter collectively "Williams"), hereby lodges this complaint against Progress Energy Florida, Inc. and Withlacoochee River Electric Cooperative, Inc. and petitions the Public Service Commission to rescind its approval of the Territorial Agreement between Withlacoochee River Electric Cooperative, Inc. and Progress Energy Florida, Inc. In support of the Complaint and Petition, Williams states:

1. The name and address of the affected agency is the Public Service Commission (hereinafter "PSC"), 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399 and the PSC's Docket Number for this Agreement is 040133-EU.
2. Petitioner, Mark Williams, is the Trustee of the S.A. Williams Trusts and as Trustee is the Owner of real property in Hernando County Florida identified by the Hernando County Property Appraiser as Parcel Numbers: R24 422 19 0000 0020 0000, R24 422 19 000 0020 0010, R19 422 20 0000 0120 000, R19 422 20 0000 0120 0010, R30 422 20 0000 0020 0010, R29 422 20 0000 0030 0000 and R30 422 20 0000 0020 0000. Mr. Williams' address is 701 North Florida Ave, Lakeland Florida 33801 and his phone number is (863) 687 4696. For the purposes of this petition, Mr. Williams address and telephone number is the address and number of his undersigned attorneys.

3. Petitioner, S.A. Williams Corporation is the Owner of real property in Hernando County Florida identified by the Hernando County Property Appraiser as Parcel Numbers: R30 422 20 0000 0020 0000, R19 422 20 0000 0130 0010, R29 422 20 0000 0130 000 and R29 422 20 0000 0040 0000. (The Parcels identified in Paragraphs 2 and 3 are collectively referred to as the "Property"). S. A. Williams Corporation's address is 701 North Florida Ave, Lakeland Florida 33801 and its phone number is (863) 687 4696. For the purposes of this petition, S. A. Williams Corporation's address and telephone number is the address and number of its undersigned attorneys.
4. Progress Energy Florida, Inc. currently provides electrical service to Williams and its address is P.O. Box 14042, St. Petersburg, FL 33733.
5. Withlacoochee River Electric Cooperative, Inc. is slated to provide electrical service to a portion of the Williams Property and its address is PO Box 278, Dade City, Florida 33526-0278 and its phone number is (352) 657 5133.
6. On or about February 12, 2004, Withlacoochee filed its Petition to Modify Territorial Agreement, Or, In the Alternative to Resolve a Territorial Dispute with Progress Energy, Florida Inc. In Hernando County Florida with the Public Service Commission related to one development in Hernando County, Majestic Oaks which is located adjacent to and Northwest of the Williams Property.
7. This petition was assigned Docket No. 040133-EC.
8. This petition was initially filed in order to avoid the Majestic Oaks parcel from being served by both Withlacoochee and Progress. The result of this petition is Williams' Property being served by both Withlacoochee and Progress.
9. Withlacoochee and Progress reached a settlement regarding the petition and other territorial boundaries including the Williams land and petitioned the Public Service Commission for approval of that settlement on April 29, 2005. The Petition indicates that all customers affected by the transfer will be notified by Progress Energy. Exhibit 1 indicates the new territories in

relation to the Williams Parcels. The Williams parcels are enclosed in Yellow. The current Progress Energy Transmission Line is indicated in Green and the service line to the Williams land on the North side of Mondon Hill Road is indicated in orange.

10. Williams maintains substantial industrial machinery on the Property including the machinery to service 19 inch inside diameter and 22 inch inside diameter wells that could pump 6500 gallons per minute, welding shops, welding equipment and other agricultural and industrial machinery. The machinery on site was set up on a 3 phase electrical system and is served by its own substation by Progress Energy however this Progress Energy substation is located in the Withlacoochee service area. The site was historically used as limerock mining, brick plant, asphalt plant, and sawmill. Williams possesses permits to pump 300,000 gallons per day from the aquifer for agricultural irrigation.
11. Williams was never provided notice and an opportunity to be heard regarding the implementation of the new territorial agreement that splits the Property into two service areas.
12. Williams was finally provided notice of the modification to the territorial agreement that divides the Property in the early part of 2008 following the hearing of this matter before the Public Service Commission. Upon notification, Williams attempted negotiations with both Progress and Withlacoochee. Williams negotiations with Withlacoochee were fruitful however the negotiations with Progress regarding the level of service that Williams could expect in the land that would be remaining in Progress's territory have not resulted in a workable solution.
13. Florida Administrative Code Rule 25-6.0440 requires that submissions of Territorial Agreements to the Public Service Commission include "assurance that the affected customers have been contacted and the difference in rates explained" and "information with respect to the degree of acceptance by affected customers, i.e., the number in favor of and those opposed to the transfer." Although such assurances were made, Williams was never provided notice and an opportunity to

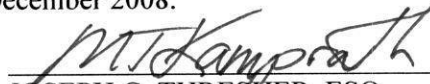
- be heard regarding the implementation of the new territorial agreement that splits the Property into two service areas. As a result, Rule 25-6.0440 was violated by Progress and Withlacoochee.
14. Mr. Williams has been denied his due process rights of a clear point of entry into the Territorial Agreement proceedings. Mr. Williams was never given his opportunity to present oral or written communications in commission proceedings or an opportunity to intervene as a substantially affected customer as required by Fla. Stat. 366.04(4) and Fla. Admin. Code R. 25-6.0442. The failure to give Williams an opportunity to present oral or written communications is a violation of the foregoing provisions.
 15. When resolving a territorial dispute, the Public Service Commission should consider “the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.” Fla. Stat. § 366.04(2)(e) (2008). Florida Administrative Code Rule 25-6.0441(2) includes addition factors to be considered including the capability of the utilities, the nature of the disputed area, the cost of each utility to provide distribution and subtransmission facilities and customer preference.
 16. The Territorial Agreement will cause Williams a decrease in the reliability of electrical service since the dedicated substation currently on the Property operated by Progress will be removed and not replaced since it falls in the Withlacoochee territory and Withlacoochee plans on serving the Property through line transmission. Further, the Territorial Agreement will cause the uneconomic duplication of facilities since the Property will be served by two utilities. The Territorial Agreement will not allow for the efficient service of consolidated power to the Williams Property since the Property is centered around Mondon Hill Road but the dividing line between the service areas will be Mondon Hill Road.

17. This territorial agreement will subject Williams to two fees from two utilities. Williams will be subjected to the costs and imposition and additional burden on the land of arranging for two sets of easements to serve the Property. Williams will be subject to any loss of economies of scale that he would realize from having the whole Property served by one utility.
18. The historical industrial uses of the Property and the continued maintenance of a significant well system make the Williams Property's electrical service needs unique and justified the location of a substation on the Property. The reasonably foreseeable future requirements include the operation of the existing wells as well as other agricultural, commercial and light industrial uses.
19. Progress has demonstrated its capability to serve the Property and to provide distribution to the Property. The split of the Property under the territorial agreement would be uneconomic since it would prohibit the service of the Property south of Mondon Hill Road from the existing electric service north of Mondon Hill Road.
20. Williams prefers that the entire Property be served by one utility from the existing substation.
21. Williams is entitled to attorneys fees and costs.

WHEREFORE, Petitioner Williams respectfully requests that:

- a. The Public Service Commission consider this complaint;
- b. Find that Progress and Withlacoochee failed to provide Williams notice of the proposed Territorial Agreement;
- c. Reconsider its approval of the Territorial Agreement approved at Order No. PSC 05-0965-PAA-EU as it relates to Mr. Williams Property;
- d. Find that the territorial Agreement previously approved does not comply with Fla. Stat. 366.04 and Rule 25-6.0441 for the above stated reasons;
- e. Rescind its approval of the Territorial Agreement;
- f. An award of Attorneys fees and costs; and
- g. Provide Williams any such other relief as may be deemed appropriate.

Respectfully submitted this 31st day of December 2008.

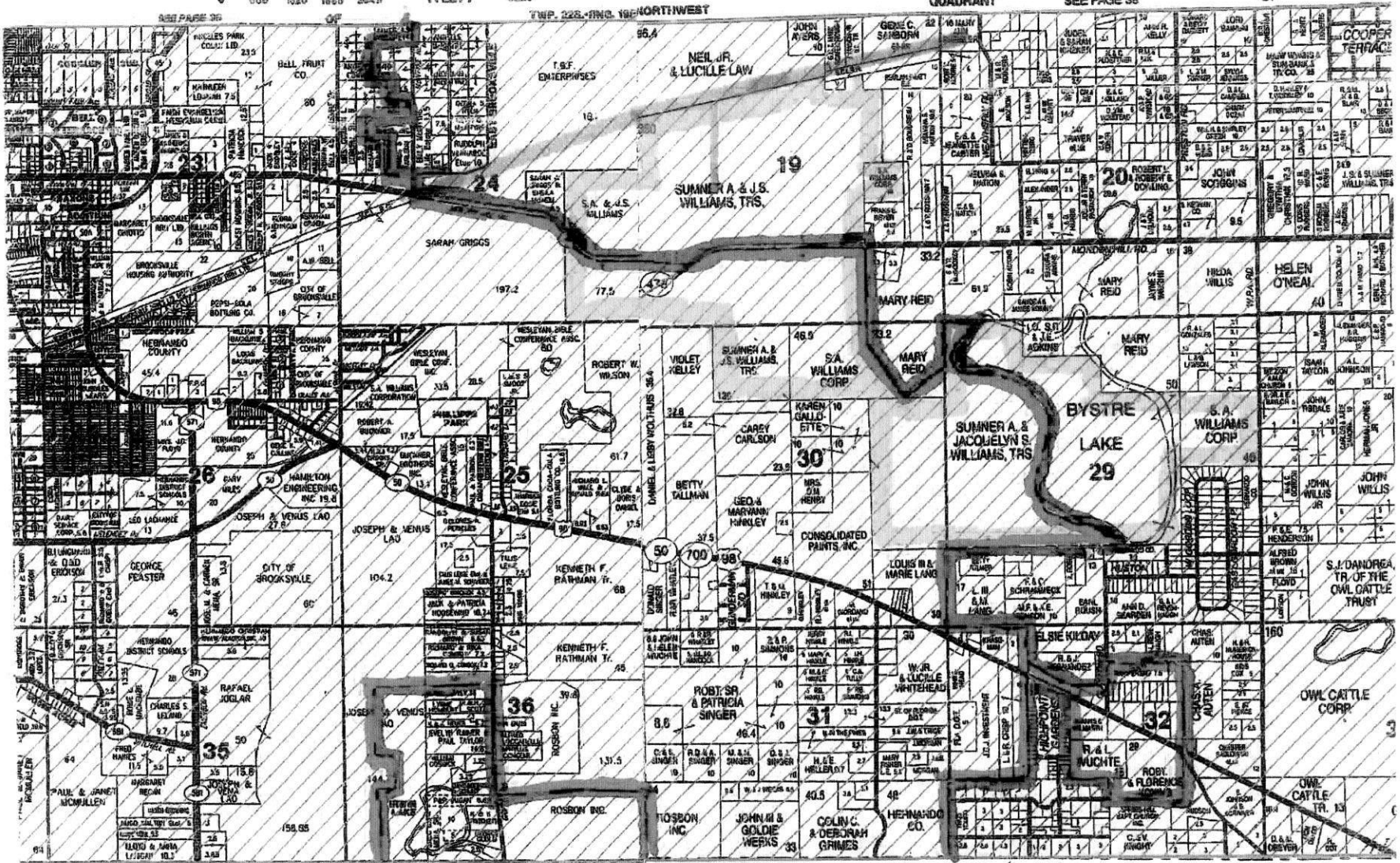


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SOUTHWEST QUADRANT
HERNANDO COUNTY, FLORIDA

SEE PAGE 38 OF



TWP. 22S.-RNG. 19E.
SOUTHEAST QUADRANT
HERNANDO COUNTY, FLORIDA

*withlacoochee
PROJECT*

- WITHLACOOCHEE RIVER ELECTRIC
- PROGRESS ENERGY

PROGRESS ENERGY TRANSMISSION LINE