

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Stipulation and Petition)	DOCKET NO. 881516-EU
For Approval Of Territorial)	ORDER NO. 22923
Agreement.)	ISSUED: 5-11-90
_____)	

The following Commissioners participated in the disposition of this matter:

JOHN T. HERNDON
GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING TERRITORIAL AGREEMENT AND
OPENING INVESTIGATION OF FACILITIES IN
COLUMBIA, HAMILTON, LAFAYETTE AND SUWANNEE COUNTIES

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

FPC, a Florida investor-owned electric utility and SVEC, a rural electric cooperative, have filed a joint stipulation and petition seeking our approval of their Territorial Agreement in Lafayette County, Florida (Attachment 1). The impetus for the Territorial Agreement came in part from three separate territorial disputes filed by SVEC against FPC in Lafayette County, which were consolidated into this docket.

Docket No. 881516-EU originally dealt with the Highway 51 area outside the town of Mayo, while Docket No. 881517-EU dealt with the Highway 27 area south of Mayo. Later, SVEC filed Docket No. 890735-EU, which dealt with the Northwood Acres subdivision, also located outside of Mayo. In these three dockets SVEC stated that FPC had duplicated its distribution facilities in constructing electric service lines to service a mobile home located approximately two (2) miles north of Mayo, a home approximately one-half miles south of

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Mayo and in Northwood Acres subdivision located approximately 1 mile north of Mayo. For purposes of efficiency and expediency, and upon agreement of the parties, we issued order No. 21556 consolidating these three dockets under Docket No. 881516-EU and closing the other dockets.

During the course of discovery we learned that not only did both utilities have facilities in the disputed areas, but FPC and SVEC distribution facilities paralleled or intersected in other areas of Columbia, Hamilton, Lafayette and Suwannee Counties (See attachment 2). The Territorial Agreement between FPC and SVEC addresses only the three areas in Lafayette County described in this docket.

In general, the Territorial Agreement defines the parties' retail electric service areas and service obligations in the three disputed areas near the city of Mayo. The territory along Highway 51, originally identified in Docket No. 881516-EU and along Highway 27, originally identified in Docket No. 881517-EU, will be served by FPC. The territory known as Northwood Acres subdivision, originally identified in Docket No. 890735-EU, will be served by SVEC. There will be no transfer of customers. Each utility retains the right and obligation to provide service at existing points of delivery, except with regard to one retail customer who is a cooperative member presently located in the Mayo Retirement Haven subdivision (See Attachment 1). When and if said customer either chooses to switch to FPC or alienates the property, the entire Mayo Retirement Haven subdivision shall be the exclusive territory of FPC.

We believe this agreement has the potential of resolving the future duplication of electric service and facilities between the two utilities defined in three petitions. However, we also believe that a docket should be opened to encourage the parties to reach a comprehensive territorial agreement for Columbia, Hamilton, Lafayette and Suwannee Counties.

In consideration of the foregoing it is

ORDERED by the Florida Public Service Commission that the territorial agreement entered into by Florida Power Corporation and Suwannee Valley Electric Cooperative, Inc. on March 3, 1990, is hereby approved. It is further

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ORDERED that a new docket be opened by staff to investigate the duplication of distribution facilities between Florida Power Corporation and Suwannee Valley Electric Cooperative, Inc., in Columbia, Hamilton, Lafayette and Suwannee Counties.

By Order of the Florida Public Service Commission
this 11th day of MAY, 1990.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

(6915L)MER:bmi

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 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 June 4, 1990.

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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.

TERRITORIAL AGREEMENT

LAFAYETTE COUNTY, FLORIDA

This Territorial Agreement (Agreement) is made and entered into this 3 day of March, 1990, by and between Suwannee Valley Electric Cooperative, Inc. (SVEC), a Florida rural electric cooperative, and Florida Power Corporation (FPC), a Florida investor-owned electric utility, referred to herein collectively as the parties.

WHEREAS, SVEC furnishes electric service to the public around and near the City of Mayo, Florida, in Lafayette County; and

WHEREAS, FPC furnishes electric service to the public within and near the City of Mayo, Florida, in Lafayette County; and

WHEREAS, the respective areas of service of the parties are contiguous and overlapping in certain areas with the result that duplications of service facilities will occur unless such duplication is precluded by a territorial agreement and

WHEREAS, The Florida Public Service Commission (FPSC) has determined that territorial agreements between utilities with contiguous and overlapping areas of service which preclude the duplication of facilities are in the public interest; and

WHEREAS, the FPSC is empowered by Section 366.04, Florida Statutes, to approve territorial agreements and to resolve territorial disputes; and

WHEREAS, the parties desire to avoid the duplication of facilities and to otherwise realize the benefits of defined retail service areas;

NOW, THEREFORE, in fulfillment of the premises and in consideration of the mutual obligations contained herein, the parties agree as follows;

Section 1 - Term. This Agreement shall become effective upon approval as a territorial agreement by the FPSC and shall continue in effect until December 31, 2009.

Section 2 - Scope. This Agreement shall be applicable to retail electric service by the parties in the areas in and near the City of Mayo, Florida, in Lafayette County, as depicted on the maps contained in Exhibit A hereto.

Section 3 - Service Areas. The areas identified as "FPC" areas on the maps contained in Exhibit A are hereby allocated to Florida Power Corporation as its retail service areas. The areas identified as "SVEC" areas on the maps contained in Exhibit A are hereby allocated to Suwannee Valley Electric Cooperative, Inc. as its retail service areas. The description of properties identified as FPC areas are contained on Exhibit B. The description of the properties identified as SVEC areas are contained on Exhibit C.

Section 4 - Service Obligations. Each party shall have the exclusive right and obligation to provide retail electric service to the public in its designated retail service areas with the exception noted below in Section 5.

Section 5 - Elimination of Overlapping Services. FPC and SVEC agree to eliminate, during the term of this Agreement, electric services by either party in the identified retail service areas of the other party, except with regard to the one

retail customer and cooperative member presently located in the Mayo Retirement Haven Subdivision. When and if said customer either chooses to switch to FPC or alienates the property, the entire Mayo Retirement Haven Subdivision shall be the exclusive territory of FPC.

Section 6 - Utility Facilities. Nothing in this Agreement shall be construed to prevent or restrict either party from locating, constructing, maintaining, repairing or replacing its transmission, substation or distribution facilities in the retail service areas of the other party. It is the intent of this Agreement only to prohibit each party from providing service to any customer in the retail service area of the other party.

Section 7 - Wholesale Electric Services. Nothing in this Agreement shall be construed to apply to the provision by either party of bulk power supply for resale, transmission, interchange or other similar wholesale electric services between electric utilities.

Section 8 - Regulatory Approval. This Agreement shall become effective only upon approval by, and shall be subject to the authority of, the FPSC. Neither party shall be bound hereunder in any way until that approval is obtained. The Agreement of the parties hereto is conditioned upon approval of this Agreement without modification.

Section 9 - Notices. Any notices given under this Agreement to SVEC shall be provided to General Manager, Suwannee Valley Electric Cooperative, Inc., Post Office Box 160, Live Oak, Florida 32060. Any notices given under this Agreement to FPC

shall be provided to President, Florida Power Corporation, Post Office Box 14042, St. Petersburg, Florida 33733.

Section 10 - Amendment. This Agreement may be amended only by mutual written agreement of the parties.

Section 11 - Headings. The section headings in this Agreement are for reference purposes only and shall not be considered in construing or interpreting this Agreement.

Section 12 - Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the establishment of defined retail electric service areas where the areas served by the parties are contiguous or overlapping. All prior agreements, understandings or practices with respect to retail electric service areas shall be deemed to have been merged herein and superseded by this Agreement.

SUWANNEE VALLEY ELECTRIC
COOPERATIVE, INC.

FLORIDA POWER CORPORATION

By *A. L. Ward*

By *W. J. Howell*

Name A. L. Ward

Name W. J. Howell

Title President

Title Vice President, Central and Northern Divisions

Attest _____

Attest _____

DESCRIPTION OF ASHLEY OAKS SUBDIVISION

A tract of land South of U.S. Highway 27 (State Road No. 20) in the NW $\frac{1}{4}$ of Section 18, Township 5 South, Range 12 East, Lafayette County, Florida, being more particularly described as follows:

Begin at the S.E. corner of the NW $\frac{1}{4}$ of Section 18, Township 5 South, Range 12 East, Lafayette County, Florida; thence S89°04'04"W, 40.40 feet to the Westerly line of a county graded road; thence N00°28'55"W along said Westerly right-of-way line, 840.00 feet; thence S89°57'55"W, 420.00 feet, thence S88°12'17"W, 415.29 feet to the P.C. of a curve concave to the Southeast, having a radius of 25.00 feet; thence along said curve through a central angle of 84°21'29" an arc distance of 36.81 feet to the P.T. of said curve; thence S03°50'48"W, 187.26 feet; thence N89°57'55"E, 453.68 feet; thence S00°28'55"E, 623.68 feet to the South line of the NW $\frac{1}{4}$ of said Section 18; thence S89°04'04"W along said South line of the NW $\frac{1}{4}$ a distance of 1127.32 feet; thence N03°50'48"E, 636.36 feet; thence N89°16'07"E, 2100.00 feet to the West line of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 18; thence N00°43'53"W along West line of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ a distance of 691.85 feet to the Southerly right-of-way line of U.S. Highway 27 (State Road No. 20); thence S89°32'44"E along said Southerly right-of-way line 1085.69 feet; thence S00°38'32"E, 205.56 feet; thence N89°48'55"E, 206.14 feet to the Westerly line of a county graded road; thence N00°28'55"W along said Westerly right-of-way line 203.25 feet to the Southerly right-of-way line of U.S. Highway 27 (State Road No. 20); thence S89°32'44"E, 36.30 feet to the East line of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 18, thence S00°39'52"E along said East line of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ a distance of 1293.12 feet to the S.E. corner of the NW $\frac{1}{4}$ and the Point of Beginning, all lying and being in the NW $\frac{1}{4}$ of Section 18, Township 5 South, Range 12 East, Lafayette County, Florida

DESCRIPTION

A replat of a portion of Lots 14, 15, 19, 20, 24 and 25 SUWANNEE ACRES SUBDIVISION as recorded in Plot Book Page 67 of the Public Records of Lafayette County Florida, together with a parcel of land being in Government Lot 6, Government Lot 7 and the Southwest Quarter of Section 36, Township 4 South, Range 11 East, Lafayette County, Florida lying South of County Road C-354, East of State Road No. 51 being more particularly described as follows:

COMMENCE at the Southeast corner of Section 36, Township 4 South, Range 11 East Lafayette County, Florida, thence $N87^{\circ}56'14''W$ along the south line of said Section 36, a distance of 329.00 feet to the Point of Beginning; thence $N00^{\circ}22'23''W$ 2240.14 feet; thence $S89^{\circ}09'57''W$ 272.30 feet; thence $N00^{\circ}22'23''W$ 265.60 feet to the point of curvature of a curve concave southeasterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $89^{\circ}32'20''$, a chord bearing and distance of $N44^{\circ}23'47''E$ 35.21 feet for 39.07 feet to the point of cusp along the south right of way line of C-354; thence along said right of way line $S89^{\circ}09'57''W$ 110.00 feet to the point of cusp of a curve concave southwesterly; thence along the arc of said curve having a radius of 25.00 feet; a central angle of $90^{\circ}27'40''$, a chord bearing and distance of $S45^{\circ}36'13''E$ 35.50 feet for 39.47 feet to the point of tangency; thence $S00^{\circ}22'23''E$ 265.20 feet; thence $S89^{\circ}09'57''W$ 690.50 feet; thence $N00^{\circ}22'23''W$ 265.60 feet to the point of curvature of a curve concave southeasterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $89^{\circ}32'20''$, a chord bearing and distance of $N44^{\circ}23'47''E$ 35.21 feet for 39.07 feet to the point of cusp along the south right of way line of C-35 thence along said right of way line $S89^{\circ}09'57''W$ 110.00 feet to the point of cusp of a curve concave southwesterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $90^{\circ}27'40''$, a chord bearing and distance of $S45^{\circ}36'13''E$ 35.50 feet for 39.47 feet to the point of tangency; thence $S00^{\circ}22'23''E$ 265.20 feet; thence $S89^{\circ}09'57''W$ 690.50 feet; thence $N00^{\circ}22'23''W$ 265.60 feet to the point of curvature of a curve concave southeasterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $89^{\circ}32'20''$, a chord bearing and distance of $N44^{\circ}23'47''E$ 35.21 feet for 39.07 feet to the point of cusp along the south right of way line of C-354; thence along said right of way line $S89^{\circ}09'57''W$ 110.00 feet to the point of cusp of a curve concave southwesterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $90^{\circ}27'40''$, a chord bearing and distance of $S45^{\circ}36'13''E$ 35.50 feet for 39.47 feet to the point of tangency; thence $S00^{\circ}22'23''E$ 265.20 feet; thence $S89^{\circ}09'57''W$ 275.13 feet; thence $S04^{\circ}25'32''W$ 1500.00 feet; thence $N87^{\circ}09'57''E$ 450.66 feet; thence $S00^{\circ}22'23''E$ 474.02 feet; thence $N83^{\circ}14'36''W$ 730.01 feet to the Easterly right of way line of State Road No. 51; thence along said right of way line $S04^{\circ}25'32''W$ 322.42 feet to the south line of said Section 36; thence along said section line $S89^{\circ}56'14''E$ 2605.24 feet

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NORTHWOOD ACRES SUBDIVISION

DESCRIPTION

A parcel of land lying in a portion of the North Half of Section 12, Township 5 South, Range 11 East, Lafayette County Florida, lying East of State Road No. 51 being more particularly described as follows:

For a point of reference COMMENCE at the Northeast corner of Section 12, Township 5 South, Range 11 East, Lafayette County, Florida; thence $N35^{\circ}26'47''W$ along the north line of Section 12 for 2138.55 feet to the Point of Beginning; thence $S00^{\circ}38'33''E$ 863.73 feet; thence $S77^{\circ}13'29''W$ 30.47 feet; thence $N33^{\circ}13'46''W$ 33.02 feet; thence $S00^{\circ}38'35''E$ 446.24 feet; thence $S00^{\circ}30'51''E$ 322.22 feet; thence $N33^{\circ}10'15''W$ 691.54 feet; thence $N01^{\circ}09'22''E$ 109.28 feet to a nontangential intersection with the arc of a curve concave northwesterly; thence along the arc of said curve having a radius of 372.00 feet, a central angle of $4^{\circ}16'23''$, a chord bearing and distance of $S39^{\circ}34'53''W$ 26.51 feet, for 26.52 feet to the point of reverse curvature of a curve concave southeasterly, thence along the arc of said curve having a radius of 125.00 feet, a central angle of $9^{\circ}05'08''$ a chord bearing and distance of $S45^{\circ}35'23''W$ 173.76 feet for 230.90 feet to the point of tangency; thence $S00^{\circ}21'06''E$ 123.00 feet; thence $S89^{\circ}32'54''W$ 493.16 feet to the point of curvature of a curve concave southeasterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $35^{\circ}09'08''$ a chord bearing and distance of $S46^{\circ}53'20''W$ 33.83 feet for 37.15 feet to the point of cusp along the easterly right-of-way line of State Road No. 51; thence along said right-of-way line $N04^{\circ}23'46''E$ 108.36 feet to the point of cusp of a curve concave northeasterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $93^{\circ}59'52''$, a chord bearing and distance of $S43^{\circ}11'49''E$ 36.82 feet for 42.75 feet to the point of tangency; thence $N07^{\circ}32'54''E$ 412.28 feet to the point of curvature of a curve concave northwesterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of $70^{\circ}00'30''$ a chord bearing and distance of $N44^{\circ}32'54''E$ 35.36 feet for 39.67 feet to the point of tangency; thence $N30^{\circ}27'06''W$ 43.00 feet to the point of curvature of a curve concave southeasterly thence along the arc of said curve having a radius of 175.00 feet, a central angle of $9^{\circ}05'08''$ a chord bearing and distance of $N45^{\circ}35'23''E$ 251.75 feet for 231.26 feet to the point of reverse curvature of a curve concave northwesterly, thence along the arc of said curve having a radius of 312.00 feet, a central angle of $4^{\circ}25'32''$ a chord bearing and distance of $N37^{\circ}26'16''E$ 24.52 feet for 24.53 feet to the West line of the Northeast Quarter of said Section 12; thence along the West line of the Northeast Quarter of said Section 12 $N00^{\circ}33'39''W$ 1473.76 feet to the north line of said Section 12; thence along the north line of said Section 12, $S85^{\circ}26'47''E$ 748.73 feet to the Point of Beginning.

DESCRIPTION

A parcel of land in the Northeast Quarter of Section 12, Township 5 South, Range 11 East, Lafayette County, Florida being more particularly described as follows: For a point of reference COMMENCE at the Northeast corner of Section 12, Township 5 South, Range 11 East thence along the North line of said Section 12, N83°24'47"W 1172.64 feet to the POINT OF BEGINNING, thence continue along said North line of Section 12, N83°24'47"W 365.71 feet; thence S90°38'33"E 843.73 feet, thence N77°19'21"E 165.87 feet to the point of curvature of a curve concave northwesterly; thence along the arc of said curve having a radius of 538.00 feet, a central angle of 15°17'52" a chord bearing and distance of N71°39'33"E 141.37 feet for 141.82 feet to the point of tangency; thence N61°57'37"E 84.24 feet; thence N33°33'31"W 226.65 feet S87°21'21"W 125.00 feet to the point of curvature of a curve concave southeasterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of 31°36'10", a chord bearing and distance of S44°21'21"W 35.36 feet for 39.21 feet to the point of cusp; thence N14°33'33"W 100.00 feet to the point of cusp of curve concave northeasterly; thence along the arc of said curve having a radius of 25.00 feet, a central angle of 30°00" a chord bearing and distance of S45°38'33"E 35.36 feet for 39.21 feet to the point of tangency; thence N21°21'21"E 125.00 feet, thence N00°38'33"W 317.57 feet to the Point of Beginning.

and all areas between said Northwood Acres Subdivision and Highway 51.

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