

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial
agreement in Marion County, by Clay Electric
Cooperative, Inc. and City of Ocala.

DOCKET NO. 20190137-EU
ORDER NO. PSC-2019-0444-PAA-EU
ISSUED: October 23, 2019

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING TERRITORIAL AGREEMENT IN MARION COUNTY,
BY CLAY ELECTRIC COOPERATIVE, INC. AND CITY OF OCALA

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.).

Background

On July 2, 2019, Clay Electric Cooperative, Inc. (Clay) and the City of Ocala Electric Utility (Ocala), collectively the joint petitioners, filed a petition seeking Commission approval of a territorial agreement (agreement) delineating their respective modified service boundaries in Marion County. The proposed agreement, map depicting the current service territories and proposed changes, and written descriptions of the territorial boundaries are provided in Attachment A, attached to this order.

In 1986, we approved a territorial agreement that established the boundaries for Clay and Ocala's service territories in Marion County.¹ The 1986 agreement was a 25-year agreement which was effective from January 7, 1987 to January 7, 2012. Since 2012, the parties state that they have continued to honor and operate pursuant to the terms of the 1986 agreement. Pursuant to Section 6.1, the proposed agreement will be in effect for a term of 25 years from the date of the issuance of our order.

¹ Order No. 16967, issued December 17, 1986, in Docket No. 860658-EU, *In re: Joint Petition for Approval of Territorial Agreement Between the City of Ocala and Clay Electric Cooperative, Inc.*

During the review of this joint petition, Commission staff issued a data request to Clay and Ocala on July 19, 2019, for which responses were received on August 8, 2019. The responses have been placed in the docket file. We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Decision

The Agreement

Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440, F.A.C., we have the 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

Prior to the 1986 agreement, parts of Marion County and areas east of City of Ocala were being served by both utilities. The 1986 agreement delineated and established specific service territories in Marion County for Clay and Ocala.³ In the instant docket, the parties state that they have made modest modifications to their service boundaries in order to accurately reflect land development that has occurred since 1986 and to provide reliable and efficient service to the impacted customers.

Through the proposed agreement, the joint petitioners will transfer 30 (25 residential and 5 general service commercial) customers from Clay to Ocala. In addition, three residential and two general service commercial Ocala customers will be transferred to Clay. The joint petitioners explained that customer transfers would be completed within 36 months of the order approving the agreement; however, to make the process easy and simple for customers, the utilities have agreed not to immediately transfer any customers. Customer transfers will occur when a customer applies for service at a new location or when a customer changes the type of account (i.e., residential to commercial).⁴ The joint petitioners further stated that any customers not transferred as a result of a change in service or type of account will be transferred prior to the expiration of the 36 months. In response to Commission staff's data request, the joint petitioners stated that when the 30 CEC customers are transferred to Ocala, they will be billed pursuant to Ocala's approved tariffs and when five Ocala customers are transferred to CEC, they will be billed pursuant to CEC's approved tariffs. No special or temporary tariff rates are anticipated for the transferred customers of both utilities.⁵

The amended territorial agreement also contemplates the transfer of certain secondary service distribution facilities between the parties. In response to Commission staff's data request, the petitioners stated these facilities have been fully depreciated due to age and condition and therefore no purchase price is assessed. Rather, the parties will exchange the facilities on a like-

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

³ Order No. 16967, issued December 17, 1986, in Docket No. 860658-EU, *In re: Joint Petition for Approval of Territorial Agreement Between the City of Ocala and Clay Electric Cooperative, Inc.*

⁴ Response #4 in Commission staff's first Data Request.

⁵ Joint response to questions 16 and 17 in Commission staff's First Data Request.

kind basis. The joint petitioners assert that the proposed amended territorial agreement will prevent uneconomic duplication of facilities and, if approved, would continue and remain in effect for a period of 25 years from the date of our order.

Customer Notification

In accordance with Rule 25-6.0440(1)(d), F.A.C., the petitioners state that prior to the filing of this petition, the impacted customers were notified by mail of the transfer and provided a description of the differences in rates between Clay and Ocala.⁶ In response to Commission staff's data request, the utilities stated that they have not received any negative responses from impacted customers. We have not received any objections from impacted customers. In response to Commission staff's data request, the petitioners provided updated customer notification letters.⁷ As of June 2018, the bill for a Clay residential customer using 1,000 kilowatt-hours (kWh) per month was \$112.90 and the bill for an Ocala residential customer using 1,000 kWh per month was \$114.64.

Conclusion

After review of the petition and the petitioners' joint responses to Commission staff's data request, we find that the proposed agreement is in the public interest and will enable Clay and Ocala to serve their current and future customers efficiently. It appears that the proposed agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in reliability of electric service. As such, we find the proposed agreement between Clay and Ocala will not cause a detriment to the public interest and approve the agreement.

Based on the foregoing, it is

ORDERED by the Florida Service Commission that the amended territorial agreement between Clay Electric Cooperative, Inc. and the City of Ocala is 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.

⁶ Exhibit D of the petition.

⁷ Response #13 and Exhibits 2 and 3 in response #14 to Commission staff's First Data Request.

By ORDER of the Florida Public Service Commission this 23rd day of October, 2019.



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 November 13, 2019.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

ATTACHMENT A

Territorial Agreement

Clay Electric Cooperative, Inc.

And

The City of Ocala Florida

Marion County

**TERRITORIAL AGREEMENT
BETWEEN
CLAY ELECTRIC COOPERATIVE, INCORPORATED
AND THE
CITY OF OCALA**

THIS AGREEMENT, made and entered into this 26th day of July, 2018 (the "Effective Date"), by and between the following (each a "party"):

- Clay Electric Cooperative, Inc., an electric cooperative organized and existing under the laws of the State of Florida ("Clay").
- City of Ocala, a Florida municipal corporation ("City").

WHEREAS:

- A. Clay, by virtue of Florida Statutes, Chapter 425, and the Charter issued to it thereunder, is authorized and empowered to furnish electricity and power to its members, private individuals, corporations and others, as defined by the laws of Florida, and pursuant to such authority, presently furnishes electricity and power members and customers in areas of Marion County, Florida, and elsewhere;
- B. City, by virtue of the laws of Florida, is authorized and empowered to furnish electricity and power to persons, firms and corporations in Marion County, Florida, and pursuant to such authority presently furnishes electricity and power to customers in areas of Marion County;
- C. The respective areas of service of the parties hereto are contiguous within Marion County, and therefore, future duplication of service facilities may occur unless such duplication is precluded by a territorial agreement;
- D. The Florida Public Service Commission has previously recognized that any such duplication of service facilities may result in needless and wasteful expenditures detrimental to the public interest;
- E. The Florida Public Service Commission is empowered by Section 366.04, Florida Statutes, to approve territorial agreements and resolve territorial disputes;
- F. The parties hereto desire to avoid and eliminate the circumstances giving rise to the aforesaid duplications and to that end desire to operate within delineated retail service areas;
- G. Clay and City previously entered into a Territorial Agreement dated May 22, 1986 (the "Prior Agreement"); and
- H. In order to accomplish the current area allocation as to existing and future customers, the parties have delineated boundary lines in portions of Marion County, and such boundary lines define and delineate the retail service areas of the portions of Marion County to be served by the parties.

NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the parties hereto, subject to and upon the terms and conditions herein set forth, do hereby agree as follows:

ARTICLE I. DEFINITIONS

- Section 1.1. Territorial Boundary Lines. As used herein, the term “Territorial Boundary Lines” shall mean boundary lines which delineate the shaded areas on the maps attached hereto as Exhibits A and B which differentiate and divide Clay Territorial Area from City Territorial Area, and as more particularly described in the description attached hereto and marked Exhibit C. In the event of any discrepancy between Exhibits A or Exhibit B, on the one hand, and Exhibit C on the other hand, Exhibit C shall prevail.
- Section 1.2. Clay Territorial Areas. As used herein, the term “Clay Territorial Areas” shall mean the geographic areas shown on Exhibit A as lying outside of the shaded areas.
- Section 1.3. City Territorial Areas. As used herein, the term “City Territorial Areas” shall mean the geographic areas shown on Exhibit A as lying within the shaded areas.
- Section 1.4. Distribution Lines. As used herein, the term “Distribution Lines” shall mean all lines and related facilities for the flow of electric energy of either party having a rating of less than 69 kV.
- Section 1.5. Express Distribution Feeders. As used herein, the term “Express Distribution Feeders” shall mean a three phase line and related facilities, at distribution voltage, that transports power through the other party’s territory but services no load within such territory.
- Section 1.6. Transmission Lines. As used herein the term “Transmission Lines” shall mean all lines and related facilities for the flow of electric energy of either party having a rating of 69 kV or above.
- Section 1.7. New Customers. As used herein, the term “New Customer” shall mean all retail electric consumers applying for service, whether or not at a new or existing location, to either City or Clay after the Effective Date of this Agreement, and located within the Territorial Area of either party at the time such application is made.
- Section 1.8. Annexed Area. As used herein, the term “Annexed Area” shall mean any area presently located in Clay’s Territorial Area and subsequently annexed by City.
- Section 1.9. Existing Customers. As used herein, the term “Existing Customer” shall mean all retail electric consumers that have service, from either City or Clay, on the Effective Date of this Agreement.

ARTICLE II. AREA DESIGNATION AND NEW CUSTOMERS

- Section 2.1. Service Areas. The Clay Territorial Areas are hereby set aside to Clay as its exclusive retail service areas for the term hereof; and the City Territorial Areas are hereby set aside to City as its exclusive retail service areas for the term of this Agreement. Except as otherwise expressly provided herein (included pursuant to Section 2.3 and Section 3.4), neither party shall deliver any electric energy for retail use by a customer within the Territorial Area of the other party.
- Section 2.2. New Customers. The parties shall each have the right and the responsibility to provide retail electric service to all New Customers within their respective Territorial Areas. Neither party shall hereafter serve or offer to serve a New Customer located in the

Territorial Area of the other party except expressly provided herein (included pursuant to Section 2.3 and Section 3.4).

Section 2.3. Interim Service; Existing Customers.

2.3.1. Interim Service to New Customers. Where a party entitled to serve a New Customer pursuant to Section 2.2 believes that the extension of its facilities to such New Customer would be more appropriate or compatible with its operational requirements and plans at a future time, such party may, in its discretion, request the other party to provide service to the New Customer on an interim basis. Such request shall be made in writing and the other party shall promptly (and in any event within twenty-one (21) days of the request) notify the requesting party if it will accept or decline the request. If such request is accepted, the party providing interim service shall be deemed to provide such service only on behalf of the requesting party, who shall remain entitled to serve the New Customer to the same extent as if it had provided service in the first instance. If required by applicable laws or regulations, the parties shall notify the Public Service Commission of any such agreement for interim service which is anticipated to last more than one year. The party providing interim service shall not be required to pay the other party for any loss of revenue associated with the provision of interim service. At such time as the requesting party elects to begin providing service directly to the New Customer, after reasonable written notice to the party providing interim service (which shall be no less than twenty-one (21) days), the party providing interim service shall cease providing interim service and, thereafter, service shall be furnished to the New Customer in accordance with Section 2.1 and Section 2.2 above.

2.3.2. Existing Customers.

- a. City and Clay have determined that each of them has Existing Customers, listed on the attached Exhibit D, that are located within the Territorial Area of the other party.
- b. In order to minimize inconvenience to their Existing Customers, each party may continue to serve their respective Existing Customers listed on Exhibit D, even though the location at which they are using electric service shall be located in the Territorial Area of the other party as of the date of approval of this Agreement by the Commission. This Section shall also apply to additional requirements for electric service (such as adding load or voltage) by the Existing Customers listed on Exhibit D at their existing locations.
- c. Existing Customers listed on Exhibit D may become Existing Customers of the other party, at any time after approval of this Agreement by the Commission, in which event the parties agree that such Existing Customers shall be then transferred as soon as reasonably practicable, taking into account economics, good engineering practices, and the efficient operation of the affected utility. Either party may, from time to time, advise the Existing Customers on Exhibit D of their option to request a transfer to the appropriate utility and request their current preference in that regard. Neither party shall impose undue burden on an Existing

Customer listed on Exhibit D requesting to become an Existing Customer of the other party under this Section 2.3.2.c.

- d. Further, either party may elect to provide electric service to the Existing Customers listed on Exhibit D by providing written notice of such election to the other party to this Agreement at least 90 days in advance of the date the party providing the notice will be able to provide such service; the party providing notice shall be obligated to construct any additional lines and facilities necessary to provide such electric service. Neither party shall impose undue burden on an Existing Customer listed on Exhibit D that becomes a customer of the other party under this Section 2.3.2.d.

Section 2.4. Transferred Areas.

- 2.4.1. The map attached hereto as Exhibit B depicts in green areas that were to be served by Clay under the Prior Agreement, and in pink areas that were to be served by City under the Prior Agreement.
- 2.4.2. Under this Agreement, the green areas are included within the City Territorial Area, and the pink areas are included within the Clay Territorial Area. City is currently providing service to some customers within one or more of the green areas, and Clay may currently be providing service to some customers within one or more of the pink areas.
- 2.4.3. The provisions of this Section 2.4 shall prevail over any existing provision in the Prior Agreement (including Section 2.4 of the Prior Agreement). Without limiting the foregoing, the parties acknowledge that no compensation is owed to either party under the Prior Agreement or by virtue of the transfer of the pink or green areas as depicted on the attached Exhibit B.

- Section 2.5. Bulk Power Supply for Resale. Nothing herein shall be construed to prevent either party from providing bulk power supply to wholesale customers (including other utilities) for resale purposes wheresoever they may be located. Further, no other provision of this Agreement shall be construed as applying to bulk power supply for resale.

ARTICLE III. OPERATION AND MAINTENANCE

- Section 3.1. Facilities to Remain. All generating plants, transmission lines, substations, distribution lines and related facilities now used by either party in conjunction with its respective electric utility system, and which are used directly or indirectly and are useful in serving customers in its respective Territorial Area, shall be allowed to remain where situated, can be maintained, replaced and upgraded, and shall not be subject to removal hereunder; provided, however, that each party shall operate and maintain such lines and facilities in such manner as to minimize any interference with operations of the other party.
- Section 3.2. Joint Use. The parties hereto realize that it may be necessary, under certain circumstances and in order to carry out this Agreement, to make arrangements for the joint use of their respective service facilities; in such event arrangement shall be made by separate instruments incorporating standard engineering practices and providing proper clearances with respect thereto.

Section 3.3. New Facilities in Territory of Other Party. Neither party shall construct Distribution Facilities in the Territorial Area of the other party without the express written consent of the other party. Express Distribution Feeders are exempt from this Section 3.3; provided, however, that each party shall construct, operate and maintain its Express Distribution Feeders in a safe manner so as to minimize any interference with the operation of the other party's facilities.

Section 3.4. Facilities to be served. Nothing herein shall be construed to prevent or in way inhibit the right and authority of City or Clay to serve any of their own facilities or equipment which are used to further either party's core or other business purposes as an electric, water, waste water, natural gas or telecommunication utility, regardless of where those facilities may be located, and for such purposes, to construct all necessary lines and facilities; provided, however, that such party shall construct, operate and maintain such lines and facilities in such manner as to minimize any interference with the operation of the other party's facilities.

ARTICLE IV. ANNEXATION

Section 4.1. Annexed Areas. In the event any portion of the area outside the City Territorial Area and within Clay's Territorial Area is subsequently annexed by and into the city limits of City; (a) City may require a mutually agreeable franchise agreement with Clay in return for City's permission to occupy rights-of-way within the City's municipal limits; or (b) if mutually agreed by both parties, City will purchase the Clay facilities and customers.

ARTICLE V. PREREQUISITE APPROVAL

Section 5.1. Florida Public Service Commission. The provisions of this Agreement, are subject to the regulatory authority of the Florida Public Service Commission, and appropriate approval by that body of the provisions of this Agreement shall be a prerequisite to the validity and applicability hereof and neither party shall be bound hereunder until that approval has been obtained. The parties shall cooperate in good faith in an effort to obtain such approval, and shall provide all information as requested by the Florida Public Service Commission in connection therewith.

Section 5.2. Liability in the Event of Disapproval. In the event approval pursuant to Section 6.1 is not obtained, neither party will have a cause of action against the other arising under this Agreement.

ARTICLE VI. DURATION

Section 6.1. This Agreement shall continue and remain in effect for a period of twenty-five (25) years from the date of the rendering of the Florida Public Service Commission's Order approving this Agreement pursuant to Section 5.1.

ARTICLE VII. CONSTRUCTION OF AGREEMENT

Section 7.1. Intent and Interpretation. It is hereby declared to be the purpose and intent of this Agreement, in accordance with which all provisions of this Agreement shall be interpreted and construed, to eliminate and avoid the needless and wasteful expenditures, duplication of facilities and potentially hazardous situations, which might otherwise result from unrestrained competition between the parties operating in overlapping service areas, if any.

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 ones 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 hereto unless the same shall be in writing and hereto attached and signed by both parties.
- 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 hereto any right, remedy or claim under or by reason of this Agreement or any provisions 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 hereto and their respective representatives, successors and assigns.
- Section 8.3. Notice.
- 8.3.1. All notices, requests, consents and other communications (each a "Communication") required or permitted under this Agreement shall be in writing (including emailed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, emailed or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as follows or to such other addresses as any party may designate by Communication complying with the terms of this Section:
- a. For Clay: CEO/General Manager, Clay Electric Cooperative, INC., Post Office Box 308, Keystone Heights, Florida 32656; email: _____.
 - b. For City: City Manager of City of Ocala, 201 SE 3rd Street, 2nd Floor, Ocala, Florida 34471; email: jzobler@ocalafl.org.
 - a). With a copy to: Director of City of Ocala Electric Department, 201 SE 3rd Street, Ocala, FL 34471; email: mpoucher@ocalafl.org.
- 8.3.2. Each such Communication shall be deemed delivered:
- a. On the date of delivery if by personal delivery;
 - b. On the date of email transmission if by email (subject to Section 8.3.5); and
 - c. If the Communication is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; or (b) the date upon which delivery is refused.
 - d. Notwithstanding the foregoing, service by personal delivery delivered, or by email sent, after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday or legal holiday.

- 8.3.3. If a Communication is delivered by multiple means, the Communication shall be deemed delivered upon the earliest date determined in accordance with the preceding subsection.
- 8.3.4. If the above provisions require Communication to be delivered to more than one person (including a copy), the Communication shall be deemed delivered to all such persons on the earliest date it is delivered to any of such persons.
- 8.3.5. Concerning Communications sent by email:
- a. The Communication shall not be deemed to have been delivered if the sender receives a message from the sender's or the recipient's internet service provider or otherwise that the email was not delivered or received;
 - b. If the sender receives an automatic reply message indicating that the recipient is not present to receive the email (commonly referred to as an "out of the office message"), the email shall not be deemed delivered until the recipient returns;
 - c. Any email that the recipient replies to, or forwards to any person, shall be deemed delivered to the recipient.
 - d. The sender must print the email to establish that it was sent (though it need not do so at the time the email was sent); and
 - e. The sender shall maintain the digital copy of the email in its email system for a period of no less than one year after it was sent.

Section 8.4. Severability. The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceability provision were omitted.

Section 8.5. Cost and Attorney Fees. If any legal action or other proceeding (including, without limitation, appeals or bankruptcy proceedings) whether at law or in equity, which: arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby; or is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses taxable as court costs, incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

Section 8.6. JURY TRIAL. EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN

ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

IN WITNESS WHEREOF, this Agreement has been caused to be executed in triplicate by Clay in its name by its President, and its Corporate Seal hereto affixed, by the City Council President and attested by the City Clerk, on the day and year first above written; and one of such triplicate copies has been delivered to each of the parties hereto.

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SIGNATURES START ON NEXT PAGE**

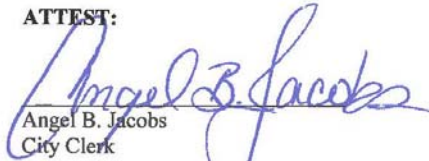
ATTEST:

Clay Electric Cooperative, Inc., an electric cooperative organized and existing under the laws of the State of Florida

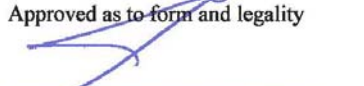
By: Susan S. Reeves
Susan S. Reeves as Secretary

By: John H. Whitehead
John H. Whitehead as
President
(SEAL)

ATTEST:


Angel B. Jacobs
City Clerk


Approved as to form and legality


Patrick G. Gilligan
City Attorney

City of Ocala, a Florida municipal corporation


~~Matthew J. Wardell~~ Mary S. Rich
President, Ocala City Council
Pro-Tem



ACCEPTED BY CITY COUNCIL

DATE
OFFICE OF THE CITY CLERK

**EXHIBIT A
TERRITORIAL AREA MAP**

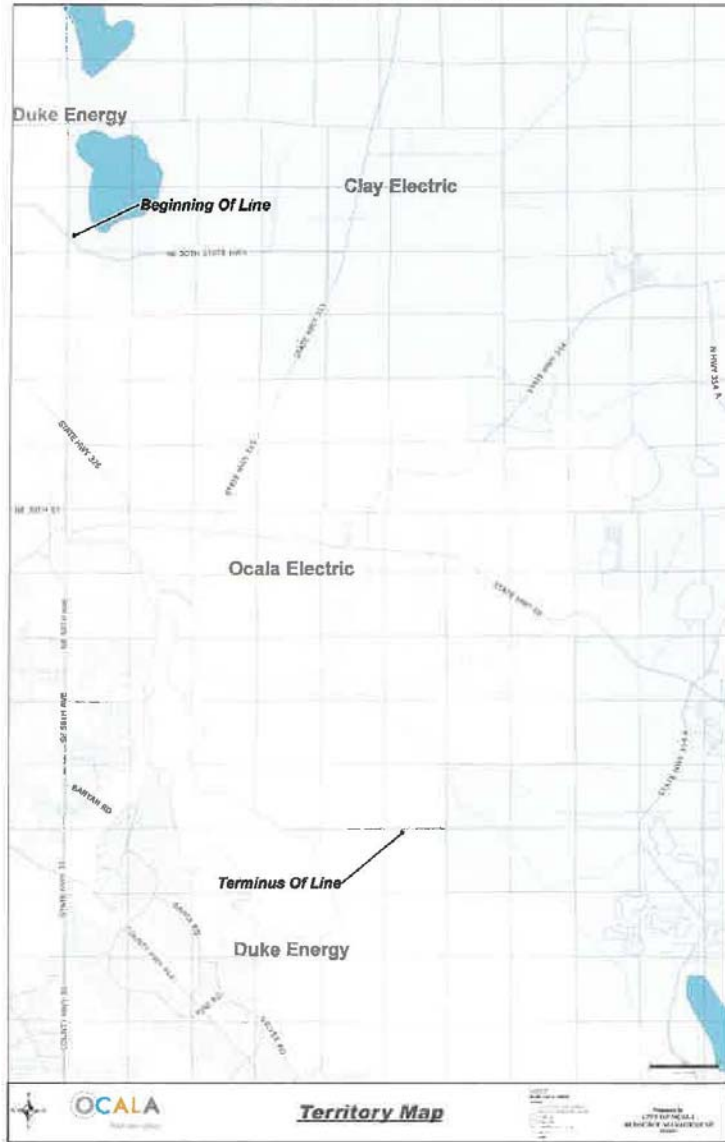
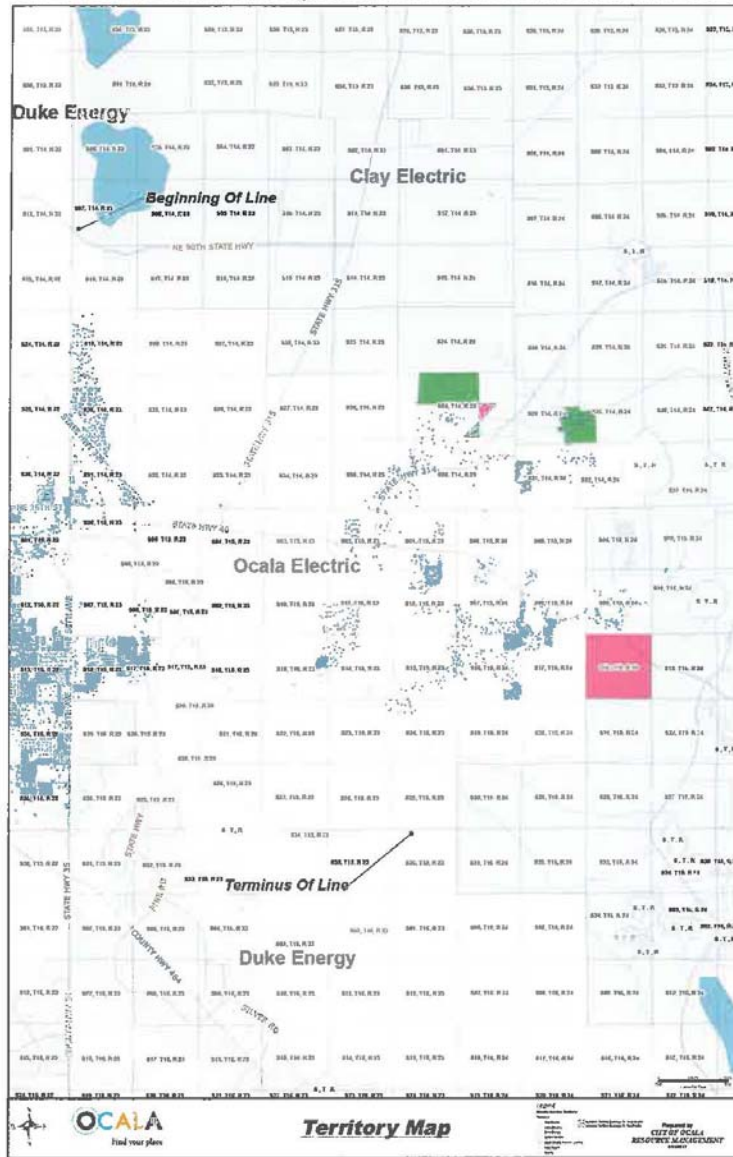


EXHIBIT B
TERRITORIAL AREA MAP (SHOWING AREAS BEING TRANSFERRED)



**EXHIBIT C
BOUNDARY**

TERRITORIAL AGREEMENT
BETWEEN
CLAY ELECTRIC COOPERATIVE, INC.
AND
CITY OF OCALA
TERRITORIAL BOUNDARY

A line in Townships 14 and 15 South, Range 23 East and Townships 14 and 15 South, Range 24 East, Marion County, Florida described as follows:

Begin at the intersection of the West line of Section 7, Township 14 South, Range 23 East, with the centerline of the Anthony-Burbank County Road as now established; thence southeasterly along said road's centerline, 3100 feet, more or less, to the East line of the West one-half of Section 18, said Township and Range; thence south along said East line, 2400 feet, more or less, to the North line of the South one-half of said Section 18; thence east along said North line, 2640 feet, more or less, to the West line of Section 17, said Township and Range; thence south along said West line, 2640 feet, more or less, to the South line of said Section 17; thence east along said South line and continuing along the South line of Section 16, said township and Range, 10,560 feet, more or less, to the West line of Section 22, said Township and Range; thence south along said West line, 5280 feet, more or less, to the Southwest corner of said Section; thence east along the South line of said Section 22, and continuing along the South line of Section 23 and 24, said Township and Range, 17,250 feet, more or less, to the Northwest corner of Government Lot 2, of Section 25, said Township and Range; thence south along the West line of Government lots 2 and 13, 5280 feet to the North line of Section 36, said Township and Range; thence east along said North line of Section 36, a distance of 2960 feet, more or less, to the East line of said Section 36; thence south along said East line, 600 feet, more or less, to the South line of Section 30, Township 14 South, Range 24 East; thence east along the last-described South line 3990 feet, to the East line of the SW 1/4 of the SE 1/4 of said section 30; thence north along said East line, 900 feet to the South line of the North 420 feet of said SW 1/4 of the SE 1/4; thence west along said South line, 521.66 feet to the West line of the East 521.66 feet of said SW 1/4 of the SE 1/4; thence north along said West line, 400 feet to the south R/W line of NE 52nd Place Road, thence east along said R/W line, 470 feet to the east R/W line of NE 138th Avenue Road, thence northerly along said east R/W line, 1400 feet to an intersection with the North line of the SE 1/4 of said section 30, thence east, along said North line, 395 feet to the West line of the South 1/4 of the SE 1/4 of the NE 1/4 of said Section 30; thence north along said West line 331 feet to the North line of said South 1/4; thence east along said North line, 1328 feet to the East line of said South 1/4; thence south along said East line 331 feet to the North line of the SW 1/4 of Section 29, Township 14 South, Range 24 East; thence east 1320 feet to the East line of the West 1/2 of said SW 1/4; thence south along said East line, 2640 feet to the North line of Section 32, Township 14 South, Range 24 East; thence east along the said North line of said Section 32, 4,110 feet,

more or less, to the Northeast corner of said Section 32 located in the waters of Lake Charles; thence south along the East line of said Section 32, a distance of 5,280 feet, more or less, to the division line between Township 14 South and Township 15 South; thence west along the last-described Township line, 4,800 feet, more or less, to the Northeast corner of Section 5, Township 15 South, Range 24 East; thence south along the East line of said Section 5 and continuing along the East line Section 8, said Township and Range, 7,600 feet, more or less, to the North line of the South three-quarters of Section 9, said Township and Range; thence east along the last described North line, 5,280 feet, more or less, to the East line Section 9, thence south along the East line of Section 9 said Township and Range 3,960 feet, more or less, to the Northeast corner of Section 16, said Township and Range, thence west along the North line of Section 16, 5,280 feet, more or less, to the East line of Section 17. thence south along the East line of Section 17, and Section 20, said Township and Range, 10,560 feet, more or less, to the North line of Section 29, said Township and Range; thence west along said North line and continuing along the North line of Section 30, said township and Range, 10,560 feet, more or less, to the division line between Range 23 East and Range 24 East; thence south along said Range line, 5,280 feet, more or less, to the Southeast corner of Section 25, Township 15 South, Range 23 East; thence west along the South line of said Section 25, said Township and Range, 4,460 feet, more or less, to the centerline of the Ocklawaha River and the terminus of the above-described line.

EXHIBIT "D"

City serving in Clay territory

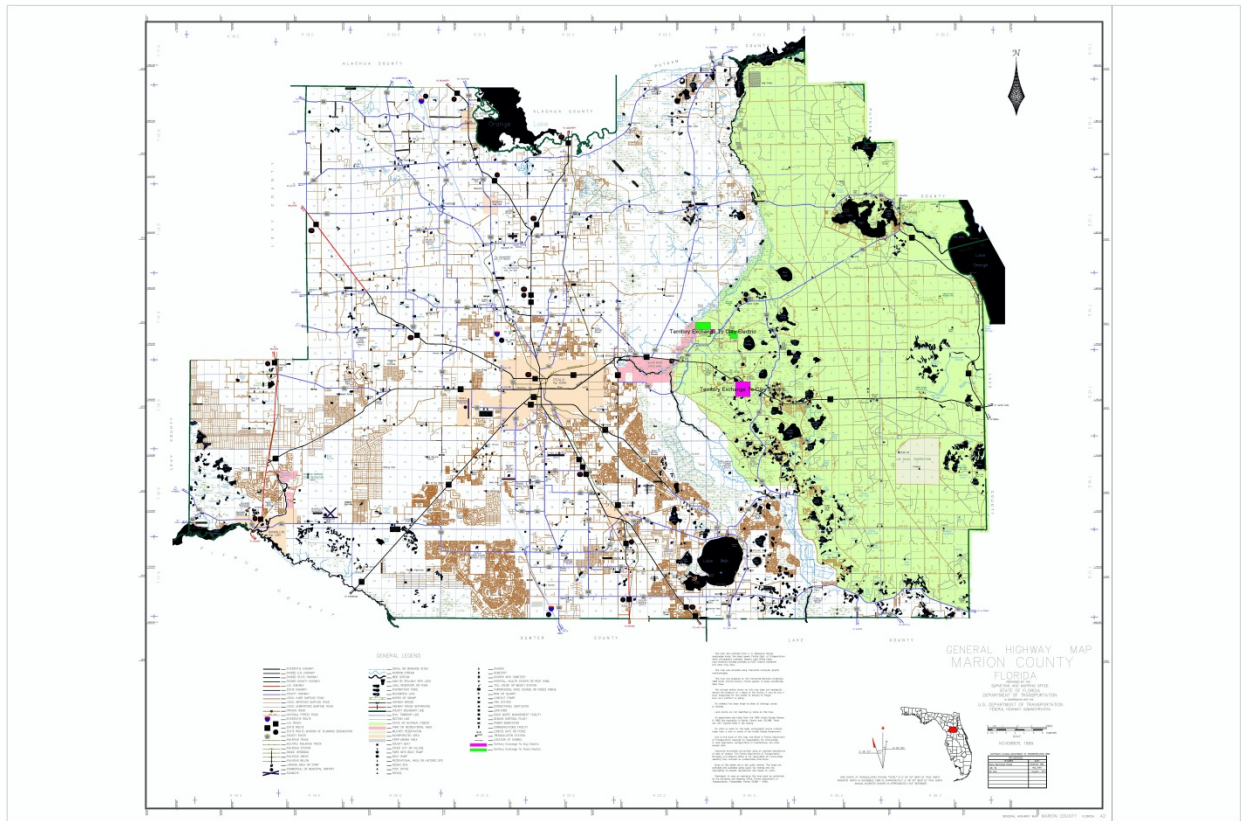
1. John L Smoot - 2080 NE 152ND CT
2. McCioure Douglas Inc. - 15231 NE 14TH STREET RD
3. Edgar Minerals Inc - 15450 NE 14TH STREET RD
4. Ihosvany Perez - 2030 NE 152ND CT
5. Edgar Minerals Inc - 2651 NE 147TH TER

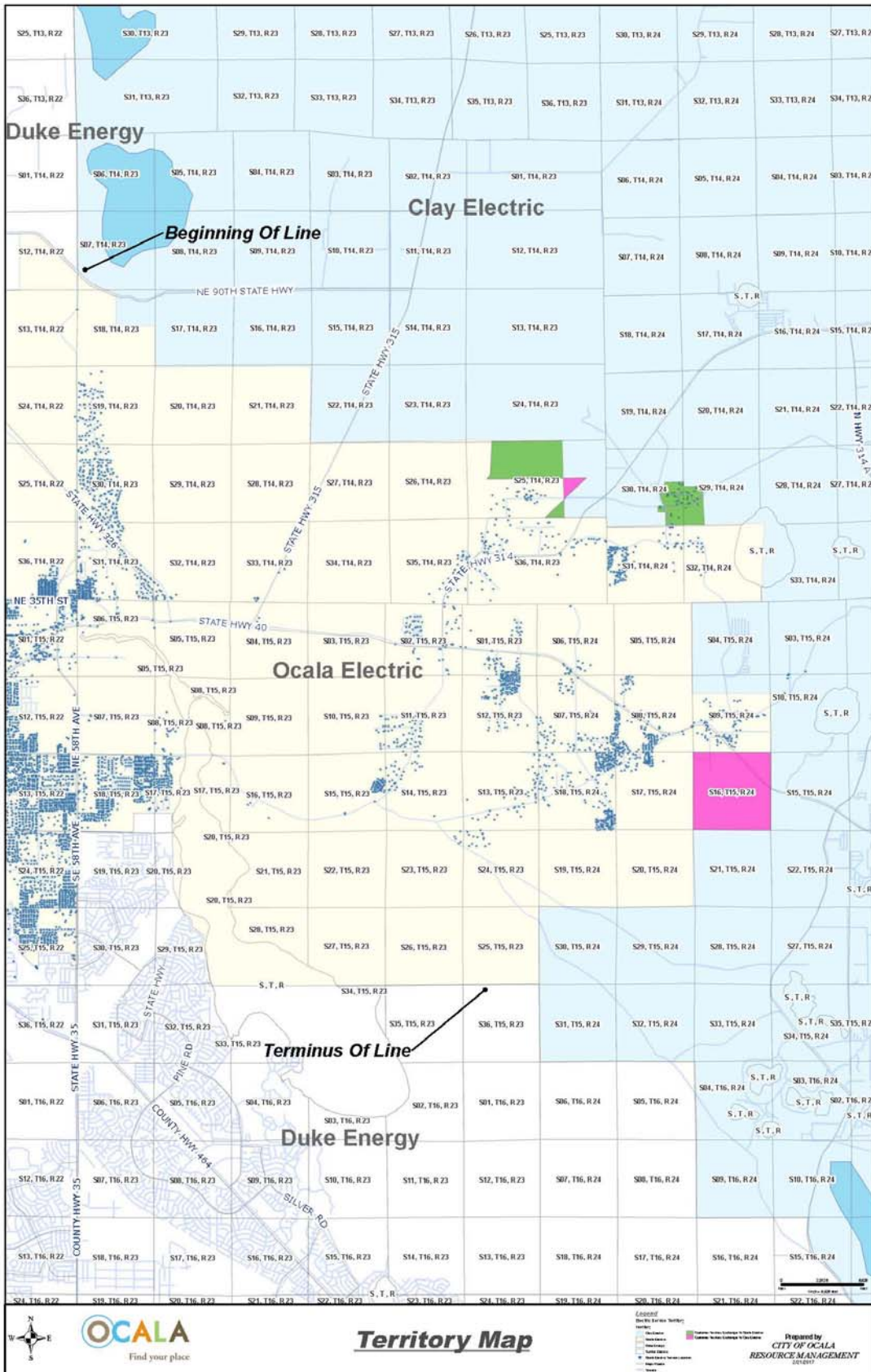
Clay serving in the City territory

1. LAMAR CENTRAL OUTDOOR LLC - 14480 E HIGHWAY 40
2. UNDERHOOD LLC - 14502 E HIGHWAY 40
3. UNDERHOOD LLC - 14502 E HIGHWAY 40
4. CURKENDALL CHARLES - 14478 E HIGHWAY 40
5. SHAMNARINE KAPILDEO - 14480 E HIGHWAY 40
6. LAST RESORT ENTERPRISES LLC - 14400 E HIGHWAY 40
7. NETILES NADINE - 14235 E HIGHWAY 40
8. NICOLETII KATHY - 1046 NE 144 CT
9. RICH LAURIE - 1055 NE 144 CT SUTHERS S/D BL
10. FAITH FAMILY FELLOWSHIP CHURCH INC - 14480 NE 10TH PL
11. SIEG IDA - 14752 NE 10TH PL
12. BRINSON JENNIFER - 14771 NE 10TH PL
13. RODRIGUEZ BLAKE - 14825 NE 10TH PL
14. RIMES CHUCKY - 14690 NE 10TH PL
15. TALLMAN MARYANN - 14790 NE 10TH PL
16. HAYDEN JEAN - 14905 NE 10TH PL
17. SIEG IDA - 14755 NE 10TH PL
18. TREPANIER DAINE - 14588 NE 10TH PL
19. BOTIERN DAVID - 14750 NE 10TH PL
20. ENOS KEN - 14836 NE 10TH PL
21. LEONARD RONALD - 14640 NE 10TH PL
22. HALEY DAVID - 1199-A NE 145TH AVENUE RD
23. ENOS KEN - 14839 NE 10TH PL
24. ENOS KEN - 14835 NE 10TH PL
25. SIEG TERENCE - 14832 NE 10TH PL
26. STRICKER TAMMIE - 14970 NE 10TH PL
27. SIEG BYRON - 14910 NE 10 PL
28. HAYDEN STEVEN - 14850 NE 14TH STREET RD
29. HALEY DAVID - 1189 NE 145TH AVENUE RD
30. M&M MORTGAGE SERVICES - 14701 NE 10TH PL

EXHIBIT A

**MAPS DEPICTING THE TERRITORIAL BOUNDARY LINES AND SERVICE
TERRITORIES OF CLAY ELECTRIC COOPERATIVE AND THE CITY OF
OCALA IN MARION COUNTY**





MARION COUNTY - CLAY ELECTRIC CITY OF OCALA TERRITORIAL AGREEMENT

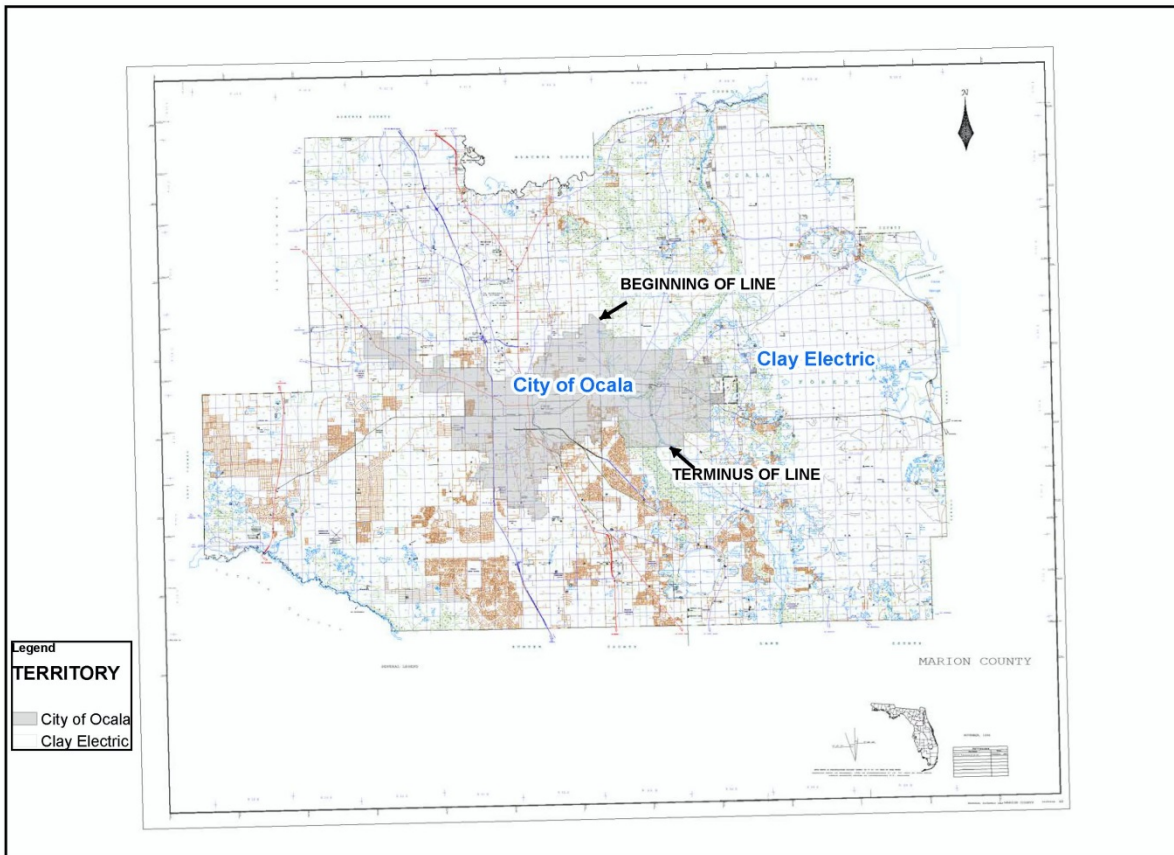


EXHIBIT C

**WRITTEN DESCRIPTION OF THE TERRITORIAL BOUNDARY
IN MARION COUNTY**

EXHIBIT C

Marion County - Written Description of the Territorial Boundary Lines

TERRITORIAL AGREEMENT
BETWEEN
CLAY ELECTRIC COOPERATIVE, INC.
AND
CITY OF OCALA
TERRITORIAL BOUNDARY

A line in Townships 14 and 15 South, Range 23 East and Townships 14 and 15 South, Range 24 East, Marion County, Florida described as follows:

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EXHIBIT C

Marion County - Written Description of the Territorial Boundary Lines

more or less, to the Northeast corner of said Section 32 located in the waters of Lake Charles; thence south along the East line of said Section 32, a distance of 5280 feet, more or less, to the division line between Township 14 South and Township 15 South; thence west along the last-described Township line, 4800 feet, more or less, to the Northeast corner of Section 5, Township 15 South, Range 24 East; thence south along the East line of said Section 5 and continuing along the East line Section 8, said Township and Range, 7,600 feet, more or less, to the North line of the South three-quarters of Section 9, said Township and Range; thence east along the last described North line, 5,280 feet, more or less, to the East line Section 9, thence south along the East line of Section 9 said Township and Range 3,960 feet, more or less, to the Northeast corner of Section 16, said Township and Range, thence west along the North line of Section 16, 5,280 feet, more or less, to the East line of Section 17, thence south along the East line of Section 17, and Section 20, said Township and Range, 10,560 feet, more or less, to the North line of Section 29, said Township and Range; thence west along said North line and continuing along the North line of Section 30, said township and Range, 10,560 feet, more or less, to the division line between Range 23 East and Range 24 East; thence south along said Range line, 5280 feet, more or less, to the Southeast corner of Section 25, Township 15 South, Range 23 East; thence west along the South line of said Section 25, said Township and Range, 4,460 feet, more or less, to the centerline of the Ocklawaha River and the terminus of the above-described line.