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March 20, 1995

**ORIGINAL
FILE COPY**

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

HAND DELIVERY

950307-EU

Re: Jacksonville Electric Authority's Petition to Resolve
Territorial Dispute in St. Johns County

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Jacksonville Electric Authority are the following documents:

1. Original and fifteen copies of Jacksonville Electric Authority's Petition to Resolve Territorial Dispute in St. Johns County; and
2. A disk in Word Perfect 6.0 containing a copy of the document entitled "JEA.Dis".

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

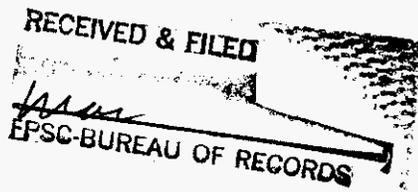
Thank you for your assistance with this filing.

Sincerely,


Kenneth A. Hoffman

KAH/rl

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FPSC-RECORDS/REPORTING

ORIGINAL
FILE COPY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Jacksonville)
Electric Authority to Resolve a)
Territorial Dispute with Florida)
Power & Light Company in St. Johns)
County)
_____)

Docket No. 950307-EU

Filed: March 20, 1995

**JACKSONVILLE ELECTRIC AUTHORITY'S
PETITION TO RESOLVE TERRITORIAL DISPUTE
IN ST. JOHNS COUNTY**

JACKSONVILLE ELECTRIC AUTHORITY ("JEA"), pursuant to Section 366.04(2)(e), Florida Statutes (1993) and Rules 25-6.0441(1) and 25-22.036(4)(b), Florida Administrative Code, hereby petitions the Florida Public Service Commission ("Commission") to resolve a territorial dispute between JEA and Florida Power & Light Company ("FPL"). In support of its Petition, JEA states as follows:

1. Any pleading, motion, notice, order or other document required to be served in this proceeding or filed by any other party to this proceeding should be forwarded to the following individuals on behalf of JEA:

Bruce Page
Assistant General Counsel
Office of General Counsel
220 East Bay Street
Suite 600, City Hall
Jacksonville, FL 32202
(904) 630-1700

Kenneth A. Hoffman, Esquire
William B. Willingham, Esquire
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, FL 32302
(904) 681-6788

2. By this Petition, JEA is seeking relief from the Commission against:

Florida Power & Light Company
c/o Mr. W. G. Walker, III
Vice President
Regulatory Affairs
Florida Power & Light Company
P. O. Box 029100
Miami, Florida 33102-9100

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

3. The JEA is a municipal electric utility operated by the City of Jacksonville that owns, maintains and operates an electric generation, transmission and distribution system within the State of Florida through which the JEA provides retail electric service to customers within Duval, Clay and St. Johns Counties, and wholesale electric service in Nassau County.

4. FPL is an investor-owned electric utility that owns, maintains and operates an electric generation, transmission and distribution system within the State of Florida through which FPL provides retail electric service to customers in numerous counties throughout Florida including St. Johns County. FPL is regulated by the Commission as a public utility pursuant to Chapter 366, Florida Statutes (1993).

5. JEA and FPL are subject to the jurisdiction of the Commission for purposes of resolving territorial disputes pursuant to Section 366.04(2)(e), Florida Statutes (1993), which gives the Commission the authority:

To resolve, upon petition of a utility or on its own motion, any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction.

6. JEA and FPL also are subject to the Commission's jurisdiction over the planning, development and maintenance of a coordinated electric power grid throughout Florida and the Commission's mandate to avoid "further uneconomic duplication of generation, transmission, and distribution facilities." Section

366.04(5), Florida Statutes (1993). The Commission also has exclusive jurisdiction to prescribe and enforce safety standards for JEA's and FPL's transmission and distribution facilities. Section 366.04(6), Florida Statutes (1993).

7. The Commission has consistently interpreted its statutory authority under Section 366.04(2)(e) and 366.04(5) to resolve: (a) existing territorial disputes; and (b) future territorial disputes where the potential exists for future uneconomic duplication of facilities. In Re: Petition to resolve territorial dispute between Okefenokee Rural Electric Membership Corporation and Jacksonville Electric Authority, Order No. PSC-92-1213-FOF-EU, at 5, issued October 27, 1992; In Re: Petition of Gulf Power Company to resolve a territorial dispute with Gulf Coast Electric Cooperative, Inc., Docket No. 930885-EU (approval of staff recommendation at February 7, 1995 Agenda Conference; order not issued as of this date).

8. On March 19, 1963, FPL and JEA entered into a territorial agreement which, inter alia, provided for the interchange of electric energy and established a territorial boundary line allocating exclusive service territory between JEA and FPL in St. Johns County (the "1963 Agreement"). A copy of the 1963 Agreement is attached hereto and incorporated herein as Exhibit A. At the time of execution of the 1963 Agreement and prior thereto, FPL had built, owned and operated electric distribution facilities located directly on and along portions of the north and south sides of State Road 210 in St. Johns County as well as a few distribution line extensions running north of State Road 210. Nonetheless,

under the 1963 Agreement, the center line of State Road 210 beginning on the eastern border of the territorial boundary and running west and then southwest and then due south was established as the geographical north-south territorial boundary between the two utilities in St. Johns County. Thus, as between JEA and FPL, JEA's service territory covered that portion of St. Johns County beginning with the center line of State Road 210 and all property north of State Road 210 plus that area known as "Orangedale" located south of State Road 210 and running adjacent to State Road 13 to State Road 16; FPL's service territory covered that portion of St. Johns County beginning with the center line of State Road 210 and all property south of State Road 210. See Exhibit B which is a colorized map and attached project schedule showing: (a) the JEA - FPL territorial boundary established in the 1963 Agreement; and (b) the existing facilities of each utility and proposed facilities of JEA situated along and in close vicinity to State Road 210.

9. On or about July 2, 1964, FPL filed an application with the Commission's predecessor, the Florida Public Utilities Commission, requesting approval of the 1963 Agreement. On April 28, 1965, the Florida Public Utilities Commission issued Order No. 3799 approving the geographical division of territory set forth in the 1963 Agreement.¹ A copy of Order No. 3799 is attached hereto

¹Order No. 3799 specifically stated that it was the Commission's intent to approve only the geographical division of territory and not to approve the 1963 Agreement in any other regard.

and incorporated herein as Exhibit C.

10. On April 13, 1979, FPL and JEA entered into a second territorial agreement (the "1979 Agreement"), a copy of which is attached hereto and incorporated herein as Exhibit D. At that time, both JEA and FPL had facilities located along State Road 210 and the parties agreed to reaffirm and maintain the existing territorial boundaries set forth in the 1963 Agreement for a period of unlimited duration.² Pertinent provisions of the 1979 Agreement include:

a. A statement that "the parties hereto deem it desirable that the existing territorial boundaries approved by the Florida Public Service Commission be reaffirmed" (Section 0.2).

b. A statement that "the parties hereto deem it desirable to reaffirm that the existence of said territorial boundaries have been and will continue to be beneficial in the elimination of undesirable duplication of facilities thereby providing economical benefits to the customers of each party" (Section 0.3).

c. Confirmation that the parties had complied with the existing territorial boundary set forth in the 1963 Agreement approved by the Commission pursuant to Order No. 3799 (Sections 2.1 and 2.2).

d. Confirmation that each party shall have the exclusive right to serve retail customers within its respective existing service territory with the exception of retail customers currently

²The 1979 Agreement has no specified period of duration or termination date.

served by one utility in the other utility's exclusive territory (Sections 3.1, 3.2 and 3.3).

e. An agreement by the parties

[T]hat in specific instances, good engineering practices or economic constraints may indicate that individual retail customers not be served by the party in whose territory they are located. In such instances, either COMPANY (FPL) or AUTHORITY (JEA) may request the other party to provide service Such departures from the constraints of this Agreement shall be subject to the mutual concurrence of the parties on a specific case basis.

(Section 3.4).

f. Finally, a provision stating that "[t]he failure of either party to enforce any provision of this Agreement in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect (Section 4.1).

11. On May 9, 1980, in response to a petition filed by JEA, the Commission issued Order No. 9363 approving the 1979 Agreement. Order No. 9363 provides, in pertinent part:

Since 1963, the JEA predecessor and FPL have been parties to agreements covering territorial boundaries between their respective utilities. The 1963 agreement was approved by this Commission (Docket No. 7421-EU, Order No. 3799, April 28, 1965). The agreement involved in the instant proceeding (Territorial Boundary Agreement between FPL and JEA, dated April 13, 1979) reaffirms the prior understandings of the parties and seeks to "more clearly describe the intent of the parties with respect to the administration of the existing agreement."

A copy of Order No. 9363 is attached hereto and incorporated herein as Exhibit E.

12. All of the customers and areas at issue in this dispute lie inside and within JEA's exclusive service territory as defined and described in the Commission approved 1963 and 1979 Agreements. JEA notes, however, that JEA currently serves three customers south of State Road 210 in FPL's territory and has served such customers prior to 1979 and prior to FPL's extension of facilities in the vicinity.

13. JEA's course of conduct in dealing with FPL and retail electric customers in St. Johns County has been to strictly observe the territorial boundary established in the 1963 Agreement and reaffirmed in the 1979 Agreement. Pursuant to the agreements, JEA temporarily released individual new customers located in close proximity to State Road 210 and in JEA's service territory to FPL pursuant to Section 3.4 of the 1979 Agreement until such time as JEA had extended its distribution facilities to serve these customers.

14. Beginning in 1963 and continuing through the present date, JEA's service territory north of State Road 210 has been sparsely developed. Over that time, JEA has elected to temporarily release approximately 300 customers to FPL consistent with good engineering practice, to avoid crossing FPL's lines situated north of State Road 210, and to avoid significant investments (to the detriment of JEA's ratepayers) to serve a scattered populace of customers when service was readily available from FPL. Temporary service to these customers has been provided by FPL.

15. Over the more than thirty (30) years that JEA and FPL

have cooperated in providing temporary service to the above-reference customers, JEA always has taken the position that FPL's service was temporary service in JEA's territory, and that JEA would provide service to each such customer once JEA had built adequate facilities to serve that customer. Moreover, over the same time period, FPL has never maintained nor could it under the 1979 Agreement that it had the permanent right to serve these customers located in the territory which FPL, on two occasions, expressly allocated to JEA.

16. Due to current and impending growth in JEA's service territory north of State Road 210, JEA plans to build distribution facilities to serve current and future demand for retail electric service in its service territory. Unless FPL agrees to move its electric facilities located in JEA's territory, such construction by JEA will entail costly and unsafe paralleling and "criss-crossing" of JEA's lines and FPL's existing lines. For example, in the Orangedale area (see Exhibit B), JEA needs to extend distribution facilities which will be used for, among other things, maintaining service reliability to JEA's existing customers. The project is scheduled to be completed in May, 1995. However, unless FPL moves its existing lines, JEA would have to cross FPL's lines to complete the project in two locations for this project alone.

17. JEA has requested FPL to relocate its lines situated in JEA's service territory and along the territorial boundary. FPL refuses to do so in such cases where JEA's new lines, while located within JEA's territory, would cross any FPL lines. This situation

leaves JEA with the unacceptable alternative of building unsafe, costly, duplicative and crossing distribution lines to serve new customers in JEA's service territory and the threat of Commission action against JEA brought by FPL should JEA pursue this unacceptable alternative. JEA also has offered to purchase FPL's facilities and customers located in JEA's service territory. FPL refuses to consider JEA's offer.

18. JEA has strictly complied with the territorial boundary established in the 1963 Agreement and reaffirmed in the 1979 Agreement. JEA also has steadfastly complied with the terms and conditions of the 1979 Agreement and is entitled pursuant to the 1979 Agreement and Commission Order No. 9363 to provide retail electric service to existing FPL customers temporarily released to FPL and to new customers located within its service territory -- without having to engage in the unacceptable alternative of constructing unnecessarily costly, unsafe, duplicative and crossing distribution lines.

19. FPL agreed to the reestablishment of the State Road 210 territorial boundary in 1979 for an unlimited period of time when JEA had very limited facilities in place running along State Road 210. FPL should not now be permitted to obstruct JEA's construction of facilities and provision of service to retail electric customers in JEA's service territory by essentially forcing JEA to take actions which are inconsistent with good engineering practice, in conflict with the Commission's duty to ensure the further avoidance of uneconomic duplication of

facilities, and detrimental to JEA's ratepayers.

20. FPL's conduct is in direct conflict with the jurisdiction of the Commission to coordinate, plan and develop an electric transmission and distribution grid in the State of Florida and to avoid further uneconomic duplication of facilities pursuant to Section 366.04(5), Florida Statutes (1993). As a matter of law, this statutory mandate is part of the 1979 Agreement as if expressly incorporated therein. The purpose of a territorial agreement is to eliminate unnecessary and uneconomical duplication of facilities. In this case, FPL seeks to use the 1979 Agreement to force JEA to engage in the unnecessary and uneconomical duplication the 1979 Agreement was intended to prevent and to prevent JEA from serving its Commission approved territory.

21. The Commission has continuing jurisdiction over the implementation and enforcement of the 1979 Agreement approved in Order No. 9363 and has the authority to grant such relief as necessary to ensure that the 1979 Agreement is implemented by the utilities in a manner that fulfills the express statutory mandates and purposes set forth in Section 366.04(5), Florida Statutes (1993).

22. The best interests of the existing and future customers of both utilities situated in JEA's service territory will be served if FPL agrees to relocate its existing electric facilities situated in JEA's service territory (north of State Road 210) to FPL's service territory (south of State Road 210), at JEA's expense, and by transferring the temporarily released customers to

JEA. Failing such agreement by FPL, the Commission should order the same.

WHEREFORE, JEA respectfully requests that the Commission:

A. Take jurisdiction of this matter under Section 366.04, Florida Statutes (1993);

B. Resolve this territorial dispute in favor of JEA;

C. Find and determine that FPL has engaged in conduct which can only result in the unsafe, uneconomic and wasteful duplication of JEA's distribution facilities, in violation of Section 366.04(5), Florida Statutes (1993), and to the detriment of JEA's ratepayers;

D. Order FPL to:

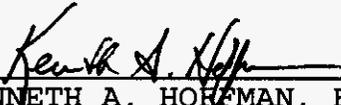
(1) relocate its existing electric facilities situated in JEA's service territory (north of State Road 210) to FPL's service territory (south of State Road 210) with the reasonable costs of relocation borne by JEA;

(2) transfer the customers of FPL temporarily released by JEA to JEA without compensation to FPL;

(3) continue to serve existing customers that FPL was serving prior to the 1979 Agreement, provided however, that FPL should serve such customers through JEA facilities and that FPL should negotiate an agreement with JEA addressing compensation to JEA for the use of its facilities and the release of the service location to JEA upon termination of service by the existing customer; and

E. Grant any other additional relief that the Commission deems fairs, just and reasonable.

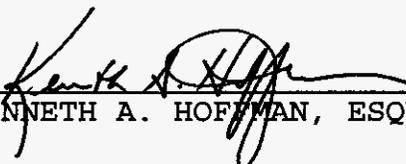
Respectfully submitted,



KENNETH A. HOFFMAN, ESQUIRE
WILLIAM B. WILLINGHAM, ESQUIRE
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302-0551
(904) 681-6788

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Jacksonville Electric Authority's Petition to Resolve Territorial Dispute in St. Johns County was furnished by U. S. Mail to Mr. W. G. Walker, III, Vice President, Regulatory Affairs, Florida Power & Light Company, P. O. Box 029100, Miami, Florida 33102-9100, this 20th day of March, 1995.



KENNETH A. HOFFMAN, ESQUIRE

JEA.dis

AGREEMENT made this 19th day of March, 1963, by and between the City of Jacksonville, Florida, a Florida municipal corporation, hereinafter called "City," party of the first part, and Florida Power & Light Company, a Florida corporation, hereinafter called "Company," party of the second part,

W I T N E S S E T H:

WHEREAS, the City and the Company entered into an agreement dated January 20, 1959, for the interchange of electric energy and

WHEREAS, the City and Company desire to increase the capacity for the interchange of such energy,

NOW, THEREFORE, in consideration of mutual promises herein contained, the parties represent and agree as follows:

ARTICLE I. CONSTRUCTION AND MODIFICATION OF FACILITIES

- A. The City shall supply at its cost and expense and thereafter own terminal equipment at Robinwood Acres Substation including an interconnecting auto-transformer. The auto-transformer shall be designed for and have a capacity of (1) 200,000 kva when the interconnection is operated at 230,000 volts, and (2) 100,000 kva when the interconnection is operated at 115,000 volts. The auto-transformer will be furnished and installed with load tap changing equipment.

EXHIBIT A

FOR THE CITY OF JACKSONVILLE
CITY SOLICITOR
William J. Stebbins

- B. The City shall purchase and install at its cost and expense and thereafter own additions to its frequency and tie line control equipment. The said additions, together with equipment now installed, will serve to control the net interchange of power between the City and Company over the existing and new interconnections.
- C. The City shall purchase and install at its cost and expense and thereafter own metering equipment that will record the kilowatt and reactive power flow over the interconnection line at Robinwood Acres Substation. The new metering equipment, plus that now installed shall record net interchange over the two interconnections between the Company and the City. Details of the installation shall be determined by mutual agreement.
- D. The City shall construct at its cost and expense and thereafter own a 600 MCM copper equivalent 230 kv line from Robinwood Acres to the territorial boundary.
- E. The Company shall construct at its cost and expense and thereafter own a 600 MCM copper equivalent 230 kv line from the territorial boundary to the terminal facilities at the Palatka Generating Station.

- F. The Company shall purchase and install at its cost and expense and thereafter own terminal equipment at the Palatka Generating Station.
- G. The location where the 230 kv line crosses the territorial boundary shall be determined by mutual agreement.
- H. The construction work described above shall be scheduled for completion on or before July 15, 1964. Initial operation shall be at 115,000 volts. The schedule for future conversion to 230,000 volt operation shall be subject to mutual agreement.
- I. The City will make available to the Company space for telemetering and associated equipment as may be desirable or necessary for proper operation of the interconnections.
- J. In order to strengthen the interconnections, the City will construct and place in operation two 138 kv lines between its proposed new generating station and Robinwood Acres Substation. It will also construct and place in operation one 138 kv line between its proposed new generating station and Lane Avenue Substation. All three lines will have a conductor size equivalent to 600 MCM copper, minimum. The plant and new lines are scheduled for service during the latter part of 1965.

- K. The City shall incorporate in its planning provision for future extension of the 230,000 volt interconnection from Robinwood Acres Substation to its proposed new generating station. Present expenditures will be limited to the acquisition of right-of-way for the line. Actual construction of the line is contemplated (but cannot be guaranteed until funds are available therefor) when capacity of the new generating station is increased to a capability that will justify the greater transmission capacity. (After January 1967.)
- L. The City shall incorporate in its planning provision for a 230,000 volt line out of its new generating station to connect to that part of the Florida Power & Light Company system west of the City. Present expenditures will be limited to the acquisition of right-of-way paralleling the original lines serving the new generating station. Actual construction of the line will be subject to future agreement. (After January 1967.)
- M. Studies will be made by the Company and City regarding the possibilities and attractiveness of increasing the capacity of the present interconnection at Lane Avenue Substation up to the thermal limit of the overhead line. Actual changes will be the subject of future agreement.

N. The Company, at its option, shall supply at its cost and expense and thereafter own, operate and maintain such facilities as are necessary to connect the Company's system to the City's Fernandina 69 kv line, at a location to be determined by mutual agreement in the area where the City's line crosses the territorial boundary at the Nassau River. The location, ownership and control of the necessary metering, telemetering, protective relaying, frequency and tie line control equipment shall be determined by mutual agreement. If this interconnection is constructed, this agreement and its provisions shall be applicable thereto and power to be supplied over this interconnection shall be subject to the provisions of Article IV of this agreement and metering and billing with respect to this interconnection shall be subject to the provisions of Article III of this agreement.

ARTICLE II. OWNERSHIP OF FACILITIES

Upon completion of the construction, reconstruction and relocation work outlined in the preceding article, the ownership of facilities will be as follows:

A. Existing Interconnection to Starke

1. The City will own all facilities east of the east line of Section 27, Township 2 South, Range 24 East, except

the telemetering equipment and associated carrier transmitter set, wave trap and coupling capacitor used for telemetering at Lane Avenue Substation.

2. The Company will own all facilities west of the east line of Section 27, Township 2 South, Range 24 East, and will also own the telemetering and its associated equipment at Lane Avenue Substation as outlined in Paragraph A1, above.

B. Interconnection from Robinwood Acres to Palatka

1. The City will own all facilities north of the territorial boundary, except such facilities as may be installed by the Company at Robinwood Acres for telemetering.
2. The Company will own all facilities south of the territorial boundary, and will also own any telemetering facilities installed by the Company at Robinwood Acres Substation.

ARTICLE III. METERING AND BILLING

Power delivered by either party to the other shall be metered at interconnection voltage at the City's Lane Avenue and Robinwood Acres Substations. The metered quantities shall be totaled to obtain net interchange for the period. The detailed design of the metering equipment and accessories shall be approved by the City and Company.

The City shall read the meters at such intervals of time as shall be mutually agreed upon and the Company shall have the right of access to said substation at any reasonable time for the purpose of reading the said meters for check purposes. The testing of all interconnection meters shall be done by the City at regular stated intervals and the Company shall have the right of witnessing and verifying the accuracy of such tests.

Meters shall be read at midnight on the last day of each month, and the recording kw demand and reactive kva demand records shall be assembled for billing purposes. Immediately thereafter the City shall advise the Company in writing as to the said readings and records. Invoices for electricity transferred over said interconnection during the month ending with the said reading shall be presented to the parties receiving said electricity on or before the tenth day of the following month. Said invoices shall be paid within ten (10) days after presentation.

ARTICLE IV. POWER TO BE SUPPLIED

Notwithstanding that the interconnections herein provided for are being made primarily for the purpose of transferring emergency power from one party to the other, the parties

recognize that either party may for reasons of its own, desire to furnish and transmit power to the other party even though no emergency or breakdown has occurred on the other party's system. The power flow between the parties therefore shall be divided into three classes as follows:

A. Emergency or Temporary Power

In the event of failure of equipment on the system of either party or due to temporary loads either party shall desire power from the other party, said other party shall furnish the same within the limitations of its existing facilities, if the furnishing of such power shall not jeopardize the service and reliability of its own loads. The party requiring such power shall notify the other party of its requirements, stating the amount of power required, and the period during which such power will be needed. The party receiving such request for power shall determine if such power can be made available without jeopardizing the service of its own system and, if such power can be made available, shall advise the party making such request that the said power will be made available during the period specified in the request.

Such power flow between the parties shall be considered emergency or temporary power, and shall be paid for on the following basis:

1. Daily Capacity Charge: For each calendar day during which the said power is used, there shall be paid to the party furnishing such power a daily capacity charge of five cents (\$0.05) per kilowatt of the greatest average demand for any even clock hour period of said day, which unit of measurement is hereby designated as a kilowatt day. For the purpose of determining the said charge, however, the average demand for any even clock hour period shall be taken and considered to be the average draft of power in that period, measured in kilowatts, provided, however, that any demand caused by inadvertent interchange shall not be considered in determining the said average demand.

Whenever the power factor during the hour of greatest average demand is less than 80% lagging, the greatest average demand shall be determined by multiplying the average kilovolt amperes during such demand period by 0.8.

2. Energy Charge: For energy associated with emergency or temporary power, the party receiving such power shall pay at the rate of five and one-quarter mills (\$0.00525) per kilowatt hour.

The foregoing energy charge is based on a fuel cost of two dollars (\$2.00) per barrel of forty-two (42) gallons of fuel oil (having an average heat value of approximately 150,000 Btu per gallon) delivered at the Jacksonville and Palatka plants of the parties respectively. When natural gas is used for fuel, 6,600 cubic feet of gas as measured and billed at the power plants shall be considered the equivalent of one barrel of fuel oil. In the event that either party shall pay more or less for such delivered fuel than the aforesaid base price, then an adjustment shall be made in the said energy charge of a quarter mill (\$0.00025) per kilowatt hour for each full ten cent (\$0.10) increase or decrease from the said price of fuel oil, said adjustment being added to the cost per kilowatt hour in the case of an increase and subtracted from the cost per kilowatt hour in the event of a decrease in said delivered fuel cost from the said base price. The average cost of the fuel for the next preceding month of

the party furnishing such power shall be used in determining the amount of the above adjustment for billing purposes.

B. Inadvertent Interchange Power

During periods when no arrangements are in effect for the supply of emergency or temporary power or economy flow power by one party or the other, all power flowing shall be considered inadvertent interchange power. Such inadvertent interchange power resulting from operation of the two systems electrically interconnected shall, insofar as practicable, be kept in balance from hour to hour, and any unbalanced at the end of billing period shall be carried forward for balancing during the next billing period.

C. Economy Flow of Power

In the event that the parties hereto shall determine that savings may be effected by interchange power between the respective systems during periods when no emergency exists or when no requirements exist for the interchange of temporary power, the parties may mutually agree upon an interchange of economy power, such economy power being hereby defined as power available to one system from the other within the

capacities of the operating equipment or within the capacities of equipment which necessarily must be operated for the use of the party supplying the power. Such interchange of economy power shall be furnished on the following basis:

The party having the lower incremental cost per kilowatt hour shall transmit power to the party having the higher incremental cost per kilowatt hour at such hours and at such times and in such quantities as shall be mutually agreed upon, and such supplying party shall receive for the power so furnished its incremental cost per kilowatt hour, plus one-half (1/2) the difference between its incremental cost and incremental cost of the other party. The parties shall during the existence of said economy flow communicate daily with each other, each party advising the other party daily of the incremental cost per kilowatt hour of the station or stations supplying such economy flow power. Incremental cost per kilowatt hour is hereby defined as that additional cost which shall be required to produce the additional defined amount of kilowatt hours, divided by the additional defined kilowatt hours required.

It is understood that neither party hereto is under any fixed or definite obligation hereunder to supply such

economy power to the other party. The party desiring such economy power at any time and from time to time during the continuance of this agreement shall in each instance specifically request such power from the other party, and such other party may grant or refuse any such specific request. If granted, such power shall be transferred in the amounts, at the times and during the hours agreed upon by the parties in each instance. The supply of such economy power at any time or from time to time shall not obligate either party to supply such power at a later date when a request therefor shall be made; provided, however, that payment for such power, if and when supplied, shall be on the terms and conditions herein contained.

REVISION OF CHARGES

In case either party hereto shall become dissatisfied with the charges hereinbefore specified for power, whether emergency power, temporary power or economy flow power, said charges shall be subject to reconsideration after written notice by the dissatisfied party to the other party. If the parties shall be unable to agree on a mutually satisfactory revision, then the matter shall be referred to an arbitrator or a board

of arbitration, as hereinafter in this agreement provided, for decision. No revision of the said charges shall, however, be effective until six months from the date of the aforesaid written notice.

ARTICLE V. TERRITORIAL BOUNDARY

For the purposes of this agreement, the parties hereto agree that the boundary line between their respective territories shall be established as a line approximately midway between the extremes of their local distribution lines as of the date of this agreement, as more particularly described and shown on the map attached hereto and made a part hereof.

ARTICLE VI. LIABILITY FOR ACCIDENTS

Each party hereto shall be liable for, and shall hold the other party hereto harmless of and from, all loss or damage by reason of any bodily injury, accident, death or damage to property caused by or occurring on that part of the interconnected facilities separately owned and/or operated by such party, provided, however, that each party shall be liable for, and shall hold the other party harmless of and from, all such loss or damage for injuries or death suffered or sustained by employees

of such party, regardless of the place where such injuries or death shall have occurred, or the cause thereof.

ARTICLE VII. MAINTENANCE AND OPERATION OF FACILITIES

The Company shall maintain and operate that part of the interconnected facilities separately owned by it, and the City shall maintain and operate that part of the interconnected facilities separately owned by the City. The cost of painting, repairing, maintaining and replacing jointly owned facilities, if any, shall be borne in equal parts by the parties hereto.

ARTICLE VIII. ARBITRATION

In case any dispute or disagreement shall arise hereunder which the parties hereto shall be unable to resolve between themselves, the matter in dispute shall be referred to an arbitrator to be selected by the parties and his decisions shall be final and binding upon the parties. In case the parties shall fail to agree upon a single arbitrator, then the matter shall be referred to a board of arbitrators consisting of three members, one to be selected by each of the parties hereto and the third member to be selected by the two members appointed by the parties. If the said two members shall be unable to agree upon the selection of the third member of the board within a period of

seven (7) days, then the third member of the board of arbitration shall be selected by the Senior Judge of the District Court of the United States for the Southern District of Florida. The decision of a majority of such board of arbitration shall be final and binding upon the parties. The expense of such arbitration, whether by a single arbitrator or by the said board of arbitrators, shall be borne by the parties in the proportions determined by the arbitrator or the board of arbitrators.

ARTICLE IX. DURATION OF AGREEMENT

This agreement shall be effective as of the date first above written and shall remain in effect until one year's written notice shall be received by either party from the other of termination. Equipment installed under this agreement and jointly owned by the parties hereto, if any, shall, upon the termination of the interconnections and of this agreement, be sold or otherwise disposed of as the parties shall determine, and the proceeds derived from such sale or disposition shall be divided equally between the parties.

ARTICLE X. TERMINATION OF JANUARY 20, 1959, AGREEMENT

The Agreement dated January 20, 1959, between the parties is hereby canceled and terminated as of the date of this agreement.

ARTICLE XI. ASSIGNMENT

This agreement shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their duly authorized officers, and their respective corporate seals, duly attested, to be hereunto affixed on the day and year first above written.

CITY OF JACKSONVILLE, FLORIDA, a
Municipal Corporation, acting by
and through its City Commission

Attest:

J. M. Ingraham
Secretary (21-3-19)

By *Raymond B. Quinn*
Chairman

In the Presence of:

Carrie B. Coker
Bessie L. Johns
As to City

FLORIDA POWER & LIGHT COMPANY

Attest:

A. F. Raylock
Secretary

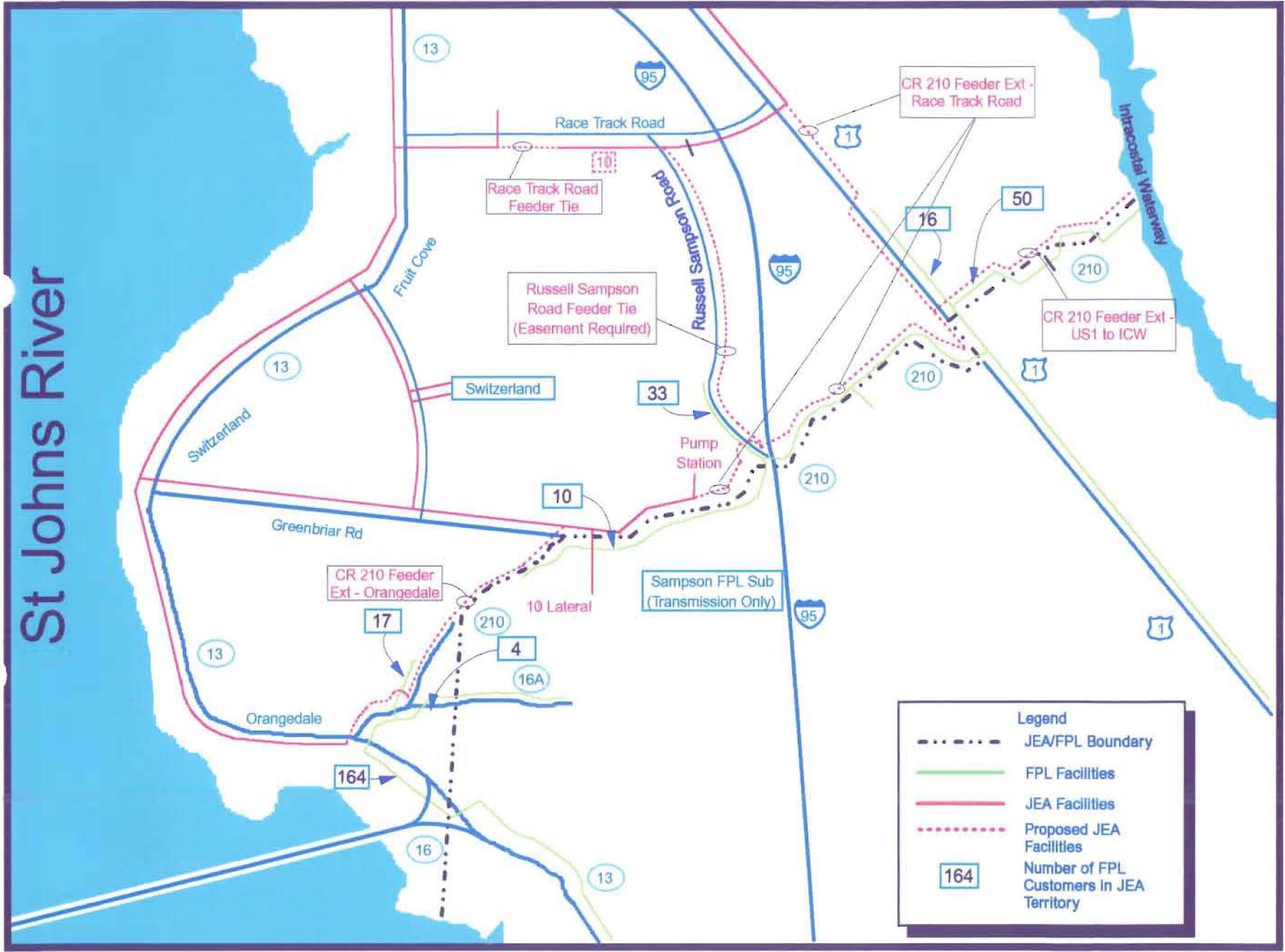
By *Robert H. [Signature]*
President

In the Presence of:

Joseph M. Bilton
Betty J. Steele
AS to Company



Exhibit A



**JEA's PROPOSED ADDITIONS -
TERRITORIAL BOUNDARY AREA**

EXHIBIT B

PROJECT SCHEDULE

OVERHEAD MAJOR PROJECTS

DISTRIBUTION ENGINEERING DIVISION

PROJECT	LENGTH	DEC 94	JAN 95	FEB 95	MAR 95	APR 95	MAY 95	JUN 95	JUL 95	AUG 95	SEP 95	OCT 95	NOV 95
1. CR 210 Fdr Ext - Orangedale Estimated Cost - \$140,000	4.0 mi	Survey		Envir Permit & Eng			Construction						
2. CR 210 Fdr Ext - Racetrack R Estimated Cost - \$245,000	7.5 mi			Survey			Envir Permit & Eng		Construction				
3. Russell Sampson Rd - Fdr Tie Estimated Cost - \$160,000	4.0 mi				Survey		Envir Permit & Eng			Construction			
4. CR 210 Fdr Ext - US 1 to ICW Estimated Cost - \$200,000	6.0 mi				Survey			Envir Permit & Eng		Construction			
5. Racetrack Road Fdr Tie Estimated Cost - \$80,000	2.0 mi					Survey		Envir Permit & Eng			Construction		

NOTE: All construction single phase, 1/0 conductor. Installed poles will handle future three phase 636 conductor.

BEFORE THE FLORIDA PUBLIC UTILITIES COMMISSION

Final Application of Florida Power Corporation for approval of territorial agreement with City of Ocala.	DOCKET NO. 7051-EU
Proposed territorial agreement between Florida Power and Light Company and Florida Power Corporation.	DOCKET NO. 7420-EU
Territorial agreement between Florida Power and Light Company and City of Jacksonville.	DOCKET NO. 7421-EU
Territorial agreement between Florida Power and Light Company and Clay Electric Coop., Inc.	DOCKET NO. 7422-EU
Territorial agreement between Florida Power and Light Company and Glades Electric Coop., Inc.	DOCKET NO. 7423-EU
Territorial agreement between Florida Power and Light Company and Lee County Electric Coop., Inc.	DOCKET NO. 7424-EU
Application of Florida Power and Light Company for approval of territorial agreement with Suwannee Valley Electric Cooperative, Inc.	DOCKET NO. 7425-EU
	ORDER NO. 3799

William Edwin L. Mason, Commissioner Jerry M. Carter and Commissioner William T. Mayo each participated in the disposition of this matter.

The Florida Public Utilities Commission, pursuant to due notice, held a public hearing in each of the above dockets as follows:

- 7051-EU - Meeting Room, Commercial Bank and Trust Co., Ocala, Florida, commencing at 9:00 A.M., on Tuesday, December 17, 1963.
- 7420-EU - Commission Hearing Room, Tallahassee, Florida, commencing at 10:00 A.M., on Monday, June 8, 1964.
- 7421-EU - Hearing Room, State Office Building, 215 Market Street, Jacksonville, Florida, commencing at 9:30 A.M., on Thursday, November 12, 1964.
- 7422-EU - Hearing Room, State Office Building, 215 Market Street, Jacksonville, Florida, commencing at 1:30 P.M., on Tuesday, June 9, 1964.
- 7423-EU - County Commissioners' Meeting Room, Lee County Courthouse, Ft. Myers, Florida, commencing at 10:00 A.M., on Thursday, May 14, 1964.
- 7424-EU - County Commissioners' Meeting Room, Lee County Courthouse, Ft. Myers, Florida, commencing at 11:00 A.M., on Thursday, May 14, 1964.
- 7425-EU - Commission Hearing Room, Tallahassee, Florida, commencing at 11:30 A.M., on Monday, June 8, 1964.

Order No. 3799
Dockets Nos. 7051-EU, 7420-EU,
7421-EU, 7422-EU, 7423-EU, 7424-EU,
and 7425-EU.
Sheet 2

APPEARANCES: MORRIS E. STURGIS, JR., 221 East Silver
Springs Boulevard, Ocala, Florida, for
the City of Ocala, in Docket No. 7051-EU.

WILLIAM C. STEEL, 14th Floor, First
National Bank Building, Miami, Florida,
for the Applicant, Florida Power and
Light Company, in Dockets Nos. 7420-EU,
7421-EU, 7422-EU, and 7425-EU.

HARRY A. EVERETT, 101 - 5th Street, South,
St. Petersburg, Florida, for the Applicant,
Florida Power Corporation, in Dockets Nos.
7420-EU and 7051-EU.

J. DILLON KENNEDY, 1407 City Hall, Jackson-
ville, Florida, in Docket No. 7421-EU.

WILLIAM M. MADISON, 1103 City Hall, Jack-
sonville, Florida, in Docket No. 7421-EU.

HENRY L. CRAY, JR., 211 N. E. 1st Street,
Gainesville, Florida, for Clay Electric
Cooperative, Inc., Keystone Heights,
Florida, in Docket No. 7422-EU.

R. D. HILL, Division Manager of the Eastern
Division, for the Florida Power and Light
Company, Miami 1, Florida, in Docket No.
7423-EU.

W. B. IRBY, JR., Manager, for Glades Elec-
tric Cooperative, Inc., Moorehaven, Florida,
in Docket No. 7423-EU.

J. G. SPENCER, JR., Vice-President and
Western Division Manager, for Florida Power
and Light Company, in Docket No. 7424-EU.

HOMER T. WELCH, JR., General Manager, for
Lee County Electric Cooperative, Inc.,
Fort Myers, Florida, in Docket No. 7424-EU.

WILLIAM RAYBEE SLAUGHTER, Live Oak, Florida,
for the City of Live Oak, in Docket No. 7425-EU.

LEWIS W. PETTEWAY, General Counsel, for the
Commission staff and the public generally,
in Docket No. 7421-EU.

JAMES L. GRAHAM, Assistant General Counsel,
for the Commission staff and the public
generally, in Docket No. 7061-EU.

B. KENNETH GATLIN, Assistant Counsel, for
the Commission staff and the public generally,
in Dockets Nos. 7420-EU, 7421-EU, 7422-EU,
7423-EU, 7424-EU, and 7425-EU.

There were no protestants.

Order No. 3799
Dockets Nos. 7061-EU, 7420-EU,
7421-EU, 7422-EU, 7423-EU, 7424-EU,
and 7425-EU.
Sheet 3

The entire record herein, including the exhibits and testimony adduced at the public hearings, have all been examined by the full Commission. After due consideration, the Commission now enters its order in this cause.

ORDER

BY THE COMMISSION:

The Commission has jurisdiction over the Florida Power Corporation and Florida Power and Light Company. Although they also offer electrical service, the municipalities and cooperatives involved in these dockets are exempted from Commission jurisdiction by Section 356.11, Florida Statutes. However, in each of the seven dockets with which we are concerned in this order, the applicant is a utility under the jurisdiction of this Commission. That is, for example, in Docket No. 7421-EU, although there is before the Commission an agreement between Florida Power and Light Company and the City of Jacksonville, the applicant in the case is Florida Power and Light Company, which is, as mentioned, regulated by the Commission.

In these seven dockets the utilities (both exempt and non-exempt) have entered into agreements where there has been or is about to be some conflict as to the boundaries of the territory that they seek to possess. The Commission, in considering these applications, which are in effect allocations of service areas, is concerned with the fact that Section 356.03, Florida Statutes, states that the electric utilities under the jurisdiction of the Commission "shall furnish to each person applying therefor reasonably sufficient, adequate and efficient service upon terms as required by the commission. . . ." In view of this language, the effect of what the regulated utilities are asking the Commission is to allow them to agree not to serve within certain areas when requested to do so by a person applying for electrical service, if that area is already served by another utility.

Admittedly, there is no statute which says that the Commission should divide the state into service areas as is done in the regulation of telephones, water and sewer utilities. However, it is the public policy of this state that cooperatives and municipalities are entitled which may engage in the sale of electricity through the specific authorization of the Legislature of the State of Florida. The cooperatives engage in such activity not only because of authorization from the state, but also as the result of laws passed by the Congress of the United States. The inescapable conclusion is that it must be the public policy that cooperatives and municipalities are qualified to sell electricity in the geographical territories in which they operate.

Since this is the public policy, the Commission, even in view of Section 356.03, Florida Statutes, should not undertake to direct a utility under its jurisdiction (such as Florida Power Corporation or Florida Power and Light Company) to render service in a territory already served or about to be served by a cooperative or a municipality. It is even wiser that the Commission and the utilities involved anticipate these conflicts as to areas of service and make effective some reasonable territorial agreement.

The advantages of having a territorial agreement are manifold. If there is no agreement, there will be duplications of service as a result of unrestrained competition, which in turn has several undesirable

Docket No. 7425
Dockets Nos. 7051-EU, 7420-EU,
7421-EU, 7422-EU, 7423-EU, 7424-EU,
and 7425-EU.
Sheet 4

results. Unconstrained competition leads to attempted preemption of areas by the premature creation of more lines than are needed for immediate service, which lessens the immediate return of the investment and, in effect, must be subsidized by other customers of the utility. It means application of facilities in the same public ways which results in neither utility being able to get a full return on its investment, to the detriment of other customers who, in effect, also subsidize such uncommercial operations. It requires more employees to be constantly in the competitive areas and consumes more time and energy in efforts to "out-bid" the competing utility. It makes for unsatisfactory customer relations in that the customer, being balked by competing utilities, is driven involuntarily into the competitive squabbles and must suffer the resulting service inefficiencies. It prevents the full development of the customer potential in the competitive area since knowledge that a full return is unobtainable tends to divert the activities necessary for such development to more profitable areas, all to the detriment of the customer, and accordingly, not in the public interest.

It is the intent of the Commission to approve only the geographical division of the territories involved in these agreements, and not to approve the agreements in any other regard. The exhibits indicating these divisions in each of the dockets are as follows:

- (1) 7051-EU - Applicant's Exhibit No. 1 and that portion of Exhibit No. 3, entitled Exhibit II, North Boundary Line A and North Boundary Line B.
- (2) 7420-EU - Exhibit No. 1.
- (3) 7421-EU - Exhibit No. 1. (DEN)
- (4) 7422-EU - Exhibit No. 3.
- (5) 7423-EU - Exhibits Nos. 1-6.
- (6) 7424-EU - Exhibit A, attached to the Amended Application.

The Commission is unable to approve the territorial agreement in Docket No. 7425-EU because the agreement is vague and indefinite. Therefore, in consideration thereof, it is

ORDERED by the Florida Public Utilities Commission that the applications in Dockets Nos. 7051-EU, 7420-EU, 7421-EU, 7422-EU, 7423-EU, and 7424-EU, seeking approval of territorial agreements, be and the same be hereby approved. It is further

ORDERED that the application for approval of the territorial agreement in Docket No. 7425-EU be and the same is hereby denied. It is further

ORDERED that neither Florida Power Corporation nor Florida Power and Light Company shall deviate from these territorial agreements without prior authority from the Commission.

By Order of Chairman Edwin L. Mason, Commissioner Jerry W. Carter and Commissioner William T. Mayo, and constituting the Florida Public Utilities Commission, this 28th day of April, 1965.


EXECUTIVE SECRETARY

(S E A L)

Commissioner Mayo dissents in that he would not approve the territorial agreements.

TERRITORIAL BOUNDARY AGREEMENT

BETWEEN

FLORIDA POWER & LIGHT COMPANY
AND
JACKSONVILLE ELECTRIC AUTHORITY

Section 0.1 THIS AGREEMENT, made and entered into this 13th day of April, 1979, by and between FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, herein referred to as the "COMPANY", party of the first part, and JACKSONVILLE ELECTRIC AUTHORITY, a body politic and corporate of the State of Florida, herein referred to as the "AUTHORITY", party of the second part;

W I T N E S S E T H

Section 0.2 WHEREAS, the parties hereto deem it desirable that the existing territorial boundaries approved by the Florida Public Service Commission be reaffirmed; and

Section 0.3 WHEREAS, the parties hereto deem it desirable to reaffirm that the existence of said territorial boundaries have been and will continue to be beneficial in the elimination of undesirable duplication of facilities thereby providing economical benefits to the customers of each party, and

Section 0.4 WHEREAS, each party desires to more clearly describe the intent of the parties with respect to the administration of the existing Agreement, and

Section 0.5 - WHEREAS, the execution of this Agreement by the parties hereto is not conditioned upon the acceptance of or agreement to any other contractual arrangements pending or contemplated by or between the parties.

Section 0.6 NOW, THEREFORE, in consideration of the foregoing premises and of the mutual benefits to be obtained from the covenants herein set forth, the parties hereto do hereby agree as follows:

ARTICLE I

TERM OF AGREEMENT

Section 1.1 - TERM: After this AGREEMENT becomes effective pursuant to the activities defined in Section 4.4 hereof, it shall continue in effect until termination or modification shall be mutually agreed, or until termination or modification shall be mandated by entities with appropriate jurisdiction. However, after fifteen (15) years from the date above first written, but not before, either of the parties hereto shall have the right to initiate unilateral action before any entity with appropriate jurisdiction, seeking modification or cancellation of this AGREEMENT.

Section 1.2 The provisions of this AGREEMENT shall supersede any territorial boundary-related provisions of existing or prior contracts and/or agreements between the COMPANY and AUTHORITY.

ARTICLE II

BACKGROUND

Section 2.1 The parties stipulate that they have observed a territorial boundary which was described in a contract for interchange service between the Company and the City of Jacksonville, (the predecessor to the AUTHORITY), dated March 19, 1963. Said description was as follows:

"ARTICLE V. TERRITORIAL BOUNDARY

For the purposes of this Agreement the parties hereto agree that the boundary line between their respective territories

shall be established as a line approximately midway between the extremes of their local distribution lines as of the date of this Agreement, as more particularly described and shown on the map attached hereto and made a part hereof."

Section 2.2 Pursuant to the agreements and understandings of said Article V, the COMPANY petitioned the then Florida Public Utilities Commission for approval and recognition of a territorial boundary more particularly described upon a map labelled Exhibit A to the Agreement. (A copy of said map is appended hereto as Exhibit A and made a part hereof.) The petition of COMPANY was approved by the Commission by Order Number 3799 entered in Docket 7421-EU on April 28, 1965.

Section 2.3 On October 31, 1973, the parties hereto entered into a contract for interchange service. Included within said contract was a reference to and re-affirmation of the boundary described in Section 2.2. The exact wording was:

"Section 1.3 Nothing in this contract shall be construed to negate or displace Article V, Territorial Boundary in the inter-connection agreement of March 19, 1963, between the City of Jacksonville and Florida Power & Light Company, which geographical division was approved by the Florida Public Service Commission (then called the Florida Public Utilities Commission) in Docket Number 7421-EU. The parties expressly ratify that agreement and, in consideration of mutual execution of this Contract agree to be bound by that earlier geographical division which is on file in the office of the Florida Public Service Commission and incorporated herein by reference."

ARTICLE III

ESSENCE OF AGREEMENT

Section 3.1 The area inside the boundary line shown on the map attached hereto and labelled Exhibit A is reserved to the AUTHORITY (as relates to COMPANY), with respect to retail customers. (For the purpose of this AGREEMENT, the term "retail" shall connote all those existing or potential customers other than an entity purchasing or desiring to purchase electricity under published and/or filed tariffs, rate schedules or contracts which empower such entity to resell said electricity to the ultimate consumer thereof).

Section 3.2 The COMPANY agrees it will not serve nor offer to serve new customers of electric service at retail within the territory reserved to the AUTHORITY, provided however, that the COMPANY may continue to provide retail electric service to service locations which are within the territory reserved to the AUTHORITY as of the date of this AGREEMENT.

Section 3.3 AUTHORITY agrees it will not serve nor offer to serve new customers of electric service at retail without the territory reserved to AUTHORITY provided however, that the AUTHORITY may continue to provide retail electric service to service locations which are without the territory reserved to AUTHORITY as of the date of this AGREEMENT.

Section 3.4 The parties recognize that in specific instances, good engineering practices or economic constraints may indicate that individual retail customers not be served by the party in whose territory they are located. In such instances, either COMPANY or AUTHORITY may request the other party to provide service, however the parties agree that it is not nor should it be construed to be their intent

to cause any violation or any breach of any contract or covenant that either party may currently have with any third party or parties. Such departures from the constraints of this Agreement shall be subject to the mutual concurrence of the parties on a specific case basis.

ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 4.1 The failure of either party to enforce any provision of this AGREEMENT in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

Section 4.2 Neither party shall assign, transfer or sublet any privilege granted to it hereunder without the prior consent in writing of the other party, but otherwise this AGREEMENT shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

Section 4.3 This AGREEMENT shall be governed by the laws of the State of Florida.

Section 4.4 The parties recognize that under the laws of the State of Florida, the Florida Public Service Commission has jurisdiction to approve retail territorial agreements and agree to cooperate in petitioning that Commission for its required approval and authorization to implement the terms and conditions of this TERRITORIAL BOUNDARY AGREEMENT. Until the issuance of an Order approving this AGREEMENT and requiring the parties to comply with its terms and conditions, the parties will continue to observe the boundary approved as indicated in Section 2.2 hereof.

Section 4.5 This AGREEMENT shall be effective on the date it is approved by the Florida Public Service Commission in accordance with Section 4.4 hereof.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their duly authorized officers, and copies delivered to each party, as of the day and year first above stated.

ATTEST:

FLORIDA POWER & LIGHT COMPANY

BY *Richard W. Puffer*
Secretary

BY *[Signature]*
Vice President

ATTEST:

JACKSONVILLE ELECTRIC AUTHORITY

BY *Madine M. Higgins*
Administrative Assistant

BY *[Signature]*
Managing Director

FORM APPROVED

Thomas R. Welch
For Authority
Assistant Counsel



Exhibit A 44

Review HES 1088
17.06.07 7
FPL

Jacksonville Electric Authority

233 WEST DUVAL STREET • P O BOX 53015 • JACKSONVILLE, FLORIDA 32201



WILLIAM M. IRVING
MANAGING DIRECTOR

April 23, 1979

Mr. Dawson McQuaig
General Counsel
City of Jacksonville
1300 City Hall
Jacksonville, FL 32202

Subject: Territorial Agreement Between
JEA and FPL, Filing of With PSC

Dear Mr. McQuaig:

Enclosed is a copy of the subject Agreement as recently executed by the Authority and Florida Power & Light Company.

It is our desire that this document be filed with the Florida Public Service Commission for its approval and implementation authorization. FPL has agreed (Section 4.4) to cooperate in such an endeavor.

Please initiate the necessary action to accomplish this. FPL has informed us that the attorney to whom you assign this task should contact Mr. Wilton Miller at 904/222-8611 for liaison purposes.

Sincerely,

W. M. Irving

WMI/ctb
Encl.
cc: A. W. Harrington
R. Lyles
C. J. Schultz ✓

Shel Thaman
7
FPL

EXHIBIT E
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED
MAY 14 1980
Inter Utility
Affairs

In re: Petition of Jacksonville Electric Authority for approval of a territorial agreement between JEA and Florida Power and Light Company.) DOCKET NO. 790886-EU) ORDER NO. 9363) ISSUED: 5-9-80

The following Commissioners participated in the disposition of this matter:

WILLIAM T. MAYO
JOSEPH P. CRESSE
GERALD L. GUNTER
JOHN R. MARKS, III

Pursuant to notice, the Florida Public Service Commission, by its duly designated Hearing Examiner, Harry L. Lamb, Jr., held a public hearing on the above matter in Jacksonville, Florida, on January 23, 1980.

APPEARANCES: Thomas R. Welch, 1300 City Hall, Jacksonville, Florida, 32202, for the petitioner, City of Jacksonville.

William D. Moore, 708 Barnett Bank Bldg., Tallahassee, FL 32301, for Florida Power and Light Company, petitioner.

Stephen Stratford, 2508 Gulf Life Tower, Jacksonville, FL 32207, for the City of Jacksonville Beach, intervenor.

RECEIVED
DISTRIBUTION
ENGINEERING DIVISION

MAY 19 1980

SYSTEM ENGINEERING DEPT.
JACKSONVILLE ELECTRIC AUTHORITY

ORDER APPROVING AGREEMENT

BY THE COMMISSION:

By petition dated October 16, 1979, the Jacksonville Electric Authority (JEA) seeks approval of a territorial agreement between JEA and Florida Power & Light Company (FPL). Pursuant to the provisions of Section 366.04(2)(d), Florida Statutes, this Commission has jurisdiction to approve territorial agreements between municipal electric authorities and other electric utilities regulated by the Commission.

At the hearing on the petition, the attorney for the City of Jacksonville Beach and the consulting engineer for the City of Green Cove Springs appeared to express their interest in the scope of the territorial agreement and to ascertain what impact, if any, this agreement would have on their respective municipalities. Due to the nature of the interests expressed by these representatives, the Jacksonville Beach attorney was permitted to intervene and the Green Cove Springs engineer was permitted to participate in the proceedings.

The JEA is a municipal electric utility serving the major portion of the City of Jacksonville (Duval County), Florida. In addition, it provides service to customers in portions of the unincorporated areas of St. Johns and Clay Counties as well as the Town of Orange Park, Florida. JEA also provides wholesale power to the electric systems in the Cities of Green Cove Springs, Fernandina Beach and Jacksonville Beach.

At the hearing, Mr. C. J. Schultz, Director of Procedure and Analysis for JEA, testified concerning the evolutionary history of the subject territorial agreement. Since 1963, the JEA predecessor and FPL have been parties to agreements covering territorial boundaries between their respective utilities. The 1963 agreement was approved by this Commission (Docket No. 7421-EU, Order No. 3799, April 28, 1965). The agreement involved in the instant proceeding (Territorial Boundary Agreement between FPL and JEA, dated April 13, 1979) reaffirms the prior understandings

of the parties and seeks to "more clearly describe the intent of the parties with respect to the administration of the existing agreement."

Mr. J. K. Daniel, Coordinator of Inter-Utility Affairs, Florida Power & Light Company, adopted and confirmed the testimony presented by the JEA official.

At the request of the intervenor, Jacksonville Beach, the Examiner took official notice of this Commission's decision in Docket No. 74814-EU, Order No. 7911. However, based on the evidence presented at the hearing, we find that the agreement which is the subject of this docket does not alter or change any of the conditions set forth by the Commission in Order No. 7911, nor do the terms of this agreement alter the existing rights of any utility.

Accordingly, we conclude that the petitioner has demonstrated by competent and substantial evidence that this agreement is desirable is consistent with the public interest, and conforms to the provisions of Chapter 366, Florida Statutes. This agreement will not result in the alteration of any existing boundaries or service authority of any other electric utility in the subject territory. It is, therefore,

ORDERED by the Florida Public Service Commission that the petition of Jacksonville Electric Authority be granted and that the Territorial Boundary Agreement between Jacksonville Electric Authority and Florida Power & Light Company, dated April 13, 1979, be and the same is hereby approved.

By Order of the Florida Public Service Commission, this 9th day of May 1980.

(S E A L)

JAM


Steve Tribble
COMMISSION CLERK