

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of  
modification to territorial agreement in Polk  
County, by City of Lakeland and City of  
Bartow.

DOCKET NO. 20220075-EU  
ORDER NO. PSC-2022-0273-PAA-EU  
ISSUED: July 14, 2022

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman  
ART GRAHAM  
GARY F. CLARK  
MIKE LA ROSA  
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING TERRITORIAL AGREEMENT

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 April 13, 2022, the City of Lakeland, on behalf of Lakeland Electric (Lakeland) and the City of Bartow (Bartow), filed a joint petition for approval of a modification (New Territorial Agreement) to their territorial agreement first approved by the Commission in 1984 (Legacy Agreement) in Polk County.<sup>1</sup> In 2006, Lakeland and Bartow entered into an informal agreement to swap a portion of each other's service territory. While the intent of both parties was to formalize their agreement and submit it to their respective city councils and the Commission, those actions were never completed by the parties. No customers were impacted by this informal agreement, as the affected territories at the time were vacant land. While the Legacy Agreement expired in 2009, the utilities have continued to operate under the general parameters of that agreement.

The proposed New Territorial Agreement reflects the 2006 service territory swap and new subdivision developments that have occurred since 2006. The proposed New Territorial Agreement is included in Attachment A to this order. The relevant maps including a map depicting the swapped territory and timeline of subdivision development are shown in Attachment B to this order.

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<sup>1</sup> Order No. 13025, issued February 23, 1984, in Docket No. 19830566-EM, *In re: Joint Stipulation and Petition for Approval of Territorial Agreement between City of Lakeland and City of Bartow*.

During the review process, Commission staff issued its first data request to the joint petitioners on April 15, 2022. After review of this request, the joint petitioners requested an informal meeting with Commission staff to discuss the unique circumstances involving the proposed New Territorial Agreement. An informal conference call was held on April 21, 2022, during which the joint petitioners provided additional information not contained in the petition and explained the circumstances leading up to the proposed New Territorial Agreement.

As a result of the discussions and additional information received at the informal conference call, Commission staff withdrew its first data request on April 26, 2022, to allow the joint petitioners to file a supplemental response, which included additional information and maps. The supplemental response was filed on April 29, 2022. After review of the supplemental information, Commission staff issued its second data request on May 10, 2022, for which responses were filed on May 20, 2022. We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

### DECISION

Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), we have jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless we determine that the modification to the Legacy Agreement will cause a detriment to the public interest, the proposed New Territorial Agreement should be approved.<sup>2</sup>

#### The Proposed New Territorial Agreement

In 1983, Lakeland and Bartow entered into a territorial agreement which was approved by the Commission in 1984. The Legacy Agreement had a term of 25 years (1984-2009). In 2006, Lakeland and Bartow informally agreed to swap a portion of their respective electric service areas because it allowed for better infrastructure access to serve future development. While the utilities entered into a written agreement dated May 19, 2006, to swap this territory, they did not seek nor receive our approval of this agreement as required by Rule 25-6.0440(1), F.A.C. The May 19, 2006 agreement indicates that the joint petitioners intended to file a petition with this Commission to amend their service territories. However, the joint petitioners explained that as a result of utility staffing changes and administrative oversight,<sup>3</sup> a timely petition was not filed.

In the 2006 territory swap, Bartow acquired from Lakeland the Wind Meadows subdivision which is comprised of 39.65 acres. During the time of the territory swap, the Wind Meadows was a platted subdivision (no customers) and it is located within Bartow's city limits. Between August 2006 and April 2022, the Wind Meadows subdivision was developed and now

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

<sup>3</sup> Paragraph 4 of the Supplemental Information (Document No. 02715-2022) and as explained during the April 21, 2022 informal meeting.

consists of 134 homes.<sup>4</sup> The joint petitioners explained that in 2006, Bartow had the capacity and readily accessible facilities available to serve the future Wind Meadows subdivision.

In return, in 2006 Lakeland acquired 58.19 acres of vacant pastureland from Bartow's service territory. In May 2022, construction started and the pastureland is being developed as the Wind Meadows South subdivision, with 145 potential new residential customers. During the recent platting and development of the Wind Meadows South subdivision on this pastureland, the developer and Lakeland realized that the 2006 service territory swap and boundary adjustment had not been submitted to us for approval. Thereafter, the parties also became aware that the Legacy Agreement had expired in 2009, at the end of its 25-year term. From 2009 to date, the parties have continued to abide by the terms of the Legacy Agreement as modified by the informal agreement and have worked cooperatively to serve their customers. There are currently no outstanding service issues or territorial disputes between these utilities.

To remedy the unapproved territory swap and the expired territorial agreement, on April 4, 2022, the joint petitioners entered into the New Territorial Agreement (see Attachment A). Through the New Territorial Agreement, Lakeland and Bartow desire to define specific areas of their respective electric service areas corresponding to the Wind Meadows and Wind Meadows South subdivisions in Polk County. The swapped territory and the above discussed subdivisions, along with their development timelines, are depicted on a map in Attachment B to this order.

The proposed New Territorial Agreement does not contemplate any customer or facility transfers and therefore no customer notification is required pursuant to Rule 25-6.0440(1)(d), F.A.C. If there is a need to transfer customers and facilities in the future during the term of the agreement, pursuant to Article 2, the transfers will be based on sound economic and engineering practices.

The proposed New Territorial Agreement is for an initial term of 15 years and after that, the agreement would automatically renew for successive 5-year terms. If either of the parties desire not to renew for successive 5-year terms, the party shall provide to the other party written notification of their desire to not renew, no less than 12 months prior to automatic extension date. Any modifications to this proposed agreement will be submitted to this Commission for review and approval.

Upon review of the joint petition and the supplemental information provided in responses to our staff's data requests and at the informal meeting with the joint petitioners, we find that the proposed New Territorial Agreement will not cause a detriment to the public interest, will eliminate any potential uneconomic duplication of facilities, and will not cause a decrease in reliability of electric service to the present or future customers of Lakeland or Bartow. For these reasons, we hereby approve the proposed new Territorial Agreement between Lakeland and Bartow in Polk County included as Attachment A to this order.

Based on the foregoing, it is

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<sup>4</sup> Response 2 in Staff's Second Data Request (Document No. 03048-2022).

ORDERED by the Florida Public Service Commission that the New Territorial Agreement between the City of Bartow, Florida and the City of Lakeland, Florida dated April 4, 2022, attached hereto as Attachment A, is hereby 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 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.

By ORDER of the Florida Public Service Commission this 14th day of July, 2022.



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.

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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.

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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 August 4, 2022.

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

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

**TERRITORIAL AGREEMENT**

This Territorial Agreement is dated as of this 4<sup>th</sup> day of April 2022, and is between the **CITY OF BARTOW, FLORIDA**, a municipality under Florida law that owns or operates electric generation, transmission, or distribution facilities and provides retail electric service to customers in Polk County, Florida ("**Bartow**"), and the **CITY OF LAKELAND, FLORIDA**, on behalf of its municipal utility Lakeland Electric, a municipality under Florida law that owns or operates electric generation, transmission, or distribution facilities and provides retail electric service to customers in Polk County, Florida ("**Lakeland**").

**WITNESSETH:**

**WHEREAS**, Bartow and Lakeland are each, by virtue of Florida law and in the exercise of their proprietary powers as municipalities, authorized and empowered to furnish retail electric service to persons upon request within their respective electric service areas. And, the respective service areas of each party are contiguous in portions of Polk County, Florida; and

**WHEREAS**, to avoid duplication of service and uneconomic duplication of facilities, Bartow and Lakeland entered into that certain Territorial Boundary Agreement Between City of Bartow and City of Lakeland, dated October 31, 1983, which was approved by the Florida Public Service Commission (the "**Commission**") pursuant to its powers under section 366.04, Florida Statutes, in Order No. 13025, issued February 23, 1984, in Docket No. 830556-EM (the "**Legacy Agreement**"), which delineated the parties service area boundaries in Polk County until October 31, 2008; and

**WHEREAS**, upon expiration of the Legacy Agreement the parties have worked cooperatively on the service territorial boundaries and there have been no outstanding disputes between the parties; and

**WHEREAS**, the Commission is empowered by the Florida legislature, pursuant to section 366.04(2)(d), Florida Statutes, to approve territorial agreements and the Commission, as a matter of long-standing regulatory policy, has encouraged retail territorial agreements between electric utilities subject to its jurisdiction based on findings that such agreements, when properly established and administered by the parties and actively supervised by the Commission, avoid uneconomic duplication of facilities, promote safe and efficient operations by utilities in rendering electric service provided to their customers, and, therefore, serve the public interest; and

**WHEREAS**, in order to gain further operational efficiencies and customer service improvements in the retail electric service territory in Polk County, while continuing to eliminate circumstances that could give rise to the duplication of service, uneconomic duplication of facilities, and avoidance of hazardous situations, the parties hereby desire to enter into this Territorial Agreement (the "**Agreement**").

**NOW THEREFORE**, Bartow and Lakeland mutually agree as follows:

Article 1  
RETAIL ELECTRIC SERVICE

1.1 **In General.** Except as otherwise specifically provided in this Agreement, Bartow has the exclusive authority to furnish retail electric service within the Bartow Territorial Area, and Lakeland has the exclusive authority to furnish retail electric service in the Lakeland Electric Territorial Area, both as shown on the maps contained in Composite Exhibit A. The Territorial Boundary Line will not be affected by any change, through annexation or otherwise, that may occur to the corporate limits of either Bartow or Lakeland, unless agreed to in writing by the parties and approved by the Commission.

1.2 **Service to New Customers.** Bartow and Lakeland hereby agree that neither will knowingly serve or attempt to serve any New Customer whose Point of Use is located within the Territorial Area of the other party, except as specifically provided in Section 1.3. However, in those instances where the Territorial Boundary Line traverses the property line of an individual New Customer or prospective New Customer, the party in whose service area the majority of the Customer's electric energy usage is expected to occur (on the basis of reasonable engineering judgment or knowledge) will be entitled to serve all of the Customer's usage.

1.3 **Temporary Service.** The Parties recognize that in exceptional circumstances, economic constraints or good engineering practices may indicate that a New Customer's Point of Use either cannot or should not be immediately served by the party in whose Territorial Area such Point of Use is located. In such circumstances, upon written request by the party in whose Territorial Area the New Customer's Point of Use is located, the other party may, in its sole discretion, agree in writing to temporarily provide service to such New Customer until such time as the requesting party provides written notice of its intent to serve the Point of Use. The other party shall inform the customer of the temporary nature of such service. Any such agreement for temporary service which lasts, or is anticipated to last, for more than one year shall be submitted to the Commission for approval in accordance with Section 4.1. Such temporary service shall be discontinued upon written notice from the requesting party of its intent to provide service, which the parties will coordinate to minimize any inconvenience to the customer. However, the party providing temporary service under this Section 1.3 will not be required to pay the other Party for any loss of revenue associated with the provision of such temporary service, nor will the party providing temporary service be required to pay the other party any going concern value.

1.4 **Referral of Service Request.** In the event that a prospective New Customer requests or applies for service from either party to be provided to a Point of Use located in the Territorial Area of the other party, the party receiving the request or application shall advise the prospective New Customer that such request is not permitted under this Agreement, as approved by the Commission, and shall refer the prospective New Customer to the other party.

1.5 **Correction of Inadvertent Service Errors.** If any situation is discovered during the term of this Agreement in which either party is inadvertently providing retail electric service to a customer's Point of Use located within the service area of the other party, service to such customer

will be transferred to such other party. Until the transfer of service can be completed, the party providing inadvertent service to the customer's Point of Use will be deemed to be providing temporary service in accordance with Section 1.3. The receiving party must purchase the electric facilities of the inadvertently serving party used solely to provide service to the customer subject to transfer in return for compensation determined in accordance with section 2.3(a). The parties will use reasonable efforts to complete such transfer within twelve (12) months of the discovery of the inadvertent error.

1.6 **Transfer of Customers and Facilities.** There are no known customers or facilities to be transferred as of the date of this Agreement.

Article 2  
TRANSFER OF CUSTOMERS

2.1 **Customer Transfers in General.** In the event circumstances arise during the term of this agreement in which the parties subsequently agree that, based on sound economic considerations or good engineering practices, an area located in the Territorial Area of one party would be better served if reallocated to the Territorial Area of the other party, the parties will jointly petition the Commission for approval of a modification of the Territorial Boundary Line that places the area in question (the "Reallocated Area") within the Territorial Area of the other party and the transfer of the customers located in the Reallocated Area to the other party.

2.2 **Transfer of Facilities.** In conjunction with the transfer of customers pursuant to Sections 1.5 and 2.1, the receiving party must purchase the electric distribution facilities of the transferring Party used exclusively for providing electric service to the transferring customers for an amount determined in accordance with Section 2.3(a).

2.3 **Compensation for Transferred Facilities.** (a) The receiving party shall compensate the transferring party for the electric distribution facilities described in Section 2.2 in an amount based upon the replacement cost (new), less depreciation calculated on a straight-line basis over the life of each unit of property comprising the facilities, as determined from the books and records of the transferring party at the time of the transfer. Replacement costs shall be determined by applying a cost escalator such as the Handy Whitman Index or a common engineering cost estimation methodology, as will be mutually agreed to, in writing, by the parties.

(b) All payments determined in accordance with this Section 2.3 must be made by the receiving party in cash within sixty (60) days of the presentation of an invoice from the transferring party upon completion of the transfer.

(c) The transferring party will make, execute, and deliver to the receiving party the appropriate Instruments of transfer to convey the transferring party's interest in the electric distribution facilities transferred to the receiving party pursuant to Section 2.2. Reasonable costs incurred by the transferring party in the preparation, execution, and recording (if required) of any such instruments will be reimbursed by the receiving party, including reasonable attorney's fees



related to the drafting, review, and approval of such instruments or rendition of required legal opinions, if any.

Article 3  
OPERATION AND MAINTENANCE

3.1 **Facilities to Remain.** Other than as expressly provided for in this Agreement, no generating plant, transmission line, substation, distribution line, or any related equipment shall be subject to transfer or removal under this Agreement, except that each party hereby agrees that it will operate and maintain its lines and facilities in a manner that minimizes any interference with the operations of the other party.

3.2 **Bartow Facilities to be Served.** Nothing in this Agreement is to be construed or interpreted to prevent or in any way inhibit the right and authority of Bartow to serve any City of Bartow municipal facility located in the Lakeland Electric Territorial Area, except that Bartow must construct, operate, and maintain any lines and facilities related to serving such municipal facility in such a manner as to minimize any interference with the operations of Lakeland in the Lakeland Electric Territorial Area.

3.3 **Lakeland Facilities to be Served.** Nothing in this Agreement is to be construed or interpreted to prevent or in any way inhibit the right and authority of Lakeland to serve any City of Lakeland municipal facility located in the Bartow Territorial Area, except that Lakeland must construct, operate, and maintain any lines and facilities related to serving such municipal facility in such a manner as to minimize any interference with the operations of Bartow in the Bartow Territorial Area.

3.4 **Location of Express Feeder Lines.** Nothing in this Agreement is to be construed or interpreted to prevent or in any way prohibit the right of each party to keep, construction, and maintain Express Feeder Lines within the Territorial Area of the other party.

Article 4  
PREREQUISITE APPROVAL

4.1 **Commission Approval.** The provisions and the parties' respective performance of this Agreement are subject to the regulatory authority of the Commission, and appropriate approval by that body of this Agreement in its entirety is an absolute condition precedent to the validity, enforceability, and applicability hereof. This Agreement will have no effect whatsoever until such approval has been obtained. Any proposed modification to this Agreement must be submitted to the Commission for approval. In addition, the Parties agree to jointly petition the Commission to resolve any dispute concerning the provisions of this Agreement or the parties' respective performance hereunder.

4.2 **Liability in the Event of Disapproval.** In the event approval pursuant to Section 4.1 is not obtained or given by the Commission, neither party will have any claim against the other arising under this Agreement.

4.3 **Supersedes Prior Agreements.** Upon approval by the Commission, this Agreement is deemed to specifically supersede the Legacy Agreement and all other prior agreements between the parties defining the boundaries of their respective Territorial Areas in Polk County.

Article 5  
DURATION OF THIS AGREEMENT

5.1 **Term.** This Agreement will remain in effect from the Effective Date and continue for an initial term of fifteen (15) years unless otherwise set forth in this Agreement. Thereafter, the "Term" of this Agreement will automatically extend for successive five (5) year periods, unless either party provides not less than twelve (12) months prior written notice of its desire for any such automatic extension to not occur.

Article 6  
CONSTRUCTION OF AGREEMENT

6.1 **Other Electric Utilities.** Nothing in this Agreement is intended to define, establish, or affect in any manner the rights of either party relative to any other electric utility that is not a party to this Agreement, with respect to furnishing retail electric service, including the Territorial Area of either party relative to the service territory of any other electric utility that is not a party to this Agreement. The parties understand that Bartow or Lakeland may, from time to time and subject to Commission approval, enter into agreement with other electric utilities providing retail electric service in Polk County and that, in such event, nothing in this Agreement is to be construed or interpreted to prevent Bartow or Lakeland from designating any portion of its Territorial Area under this Agreement as the retail electric service territory of such other electric utility.

6.2 **Bulk Power for Resale.** Nothing in this Agreement is to be construed or interpreted to prevent either party from providing a bulk power supply for resale purposes, regardless of where the purchaser for resale may be located. Further, no provision or term of this Agreement is to be construed or interpreted as applying to bulk power supply for resale purposes.

6.3 **Intent and Interpretation.** It is hereby declared to be the purpose and intent of the parties that this Agreement is to be interpreted and construed, among other things, to further this State's policy of regulating the service territories of electric utilities; regulating the planning, development, and maintenance of a coordinated electric power grid throughout Florida; avoiding uneconomic duplication of generation, transmission and distribution facilities; and encouraging the installation and maintenance of facilities necessary for the parties to serve their respective customers.

Article 7

GENERAL PROVISIONS

7.1 **Negotiations.** Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only terms and conditions agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement is binding upon either of the parties unless made in writing, signed by both parties, and approved by the Commission.

7.2 **Successors and Assigns.** Nothing in this Agreement, expressed or implied, is intended nor is it to be construed to confer upon or give any Person, other than the parties, any right, remedy or claim under or by reason of this Agreement or any provision or conditions hereof; and all of the provisions, representations, covenants and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding only upon the parties and their respective representatives, successors and assigns.

7.3 **Notices.** (a) Each party giving or making any notice, request, demand, or other communication (each, a "Notice") pursuant to this Agreement must give the Notice in writing and must use one of the following methods of delivery, each of which for purposes of this agreement is a writing: (1) personal delivery; (2) registered or certified mail, in each case, return receipt requested and postage prepaid; (3) nationally recognized overnight courier, with all fees prepaid; or (4) electronic mail with electronic confirmation of the addressee opening the electronic mail (i.e., read receipt).

(b) Each party giving a Notice shall address the Notice to the appropriate person at the receiving party (the "Addressee") at the address listed below or to another Addressee or at another address designated by a party in a Notice pursuant to this section 7.3:

If to Bartow:                   City of Bartow  
450 North Wilson Avenue  
Bartow, Florida 33830  
Attention: Brad Hiers, Director, Bartow Electric  
Email: bradhiers.electric@cityofbartow.net

If to Lakeland:               Lakeland Electric  
501 East Lemon Street  
Lakeland, Florida 33801  
Attention: Cindy Clemmons, Manager of Legislative & Regulatory  
Relations  
Email: cindy.clemmons@lakelandelectric.com

(c) Except as provided elsewhere in this Agreement, a Notice is effective only if the party giving or making the Notice has complied with subsections (a) and (b) and if the Addressee has received the Notice. A Notice is deemed to have been received as follows:

- (1) If a Notice is delivered in person, or sent by registered or certified mail, or nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
- (2) If a Notice is sent by email, upon receipt by the party giving or making the Notice of a red receipt report indicating that the email was received by the Addressees.
- (3) If the Addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change of address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.
- (4) Despite the other clauses in this subsection (c), if any Notice is received after 5:00 p.m. on a business day where the Addressee is located, or on a day that is not a business day where the addressee is located, then the Notice is deemed received at 9:00 a.m. on the next business day where the Addressee is located.

7.4 **Jurisdiction, Venue and Governing Law.** The parties irrevocably consent to jurisdiction and venue of the Courts of Polk County, Florida or the United States District Court in and for the Middle District of Florida, Tampa Division in connection with any action or proceeding arising out of or relating to this Agreement, document or instrument delivered pursuant to, in connection with, or simultaneously with this Agreement, or breach of this Agreement or any such document or instrument if the parties are unable to resolve any dispute by joint petition to the Commission as set forth in Section 4.1 of this Agreement. This Agreement shall be governed by the laws of the State of Florida. The prevailing party in any action, at law or equity, brought for the purpose of enforcing or interpreting this Agreement, shall be entitled to all costs, including reasonable attorneys' fees, including any proceedings before an administrative body.

Article 8  
DEFINED TERMS

8.1 **Defined Terms.** Capitalized terms used in this agreement, and not defined elsewhere in this agreement, have the following definitions:

**"Bartow Territorial Area"** means the geographic areas in Polk County allocated to the City of Bartow, Florida as its retail electric service territory and labeled as "Bartow Territorial Area" or "Bartow" on the maps contained in Composite Exhibit A.

**"Effective Date"** means the date on which the Commission's final order granting approval for this agreement in its entirety becomes effective and no longer subject to judicial review.

**"Existing Customer"** means a Person receiving retail electric service from either Bartow or Lakeland at the location for which service is existent on the Effective Date of this Agreement.

**"Express Feeder Line"** means line(s) and related facilities, regardless of voltage, that transports power through the other party's Territorial Area, but is not used to serve load within the other party's Territorial Area.

**"Lakeland Electric Territorial Area"** means the geographic areas in Polk County allocated to the City of Lakeland, Florida, on behalf of its municipal utility, Lakeland Electric, as its retail electric service territory and labeled as "Lakeland Territorial Area" or "Lakeland" on the maps contained in Composite Exhibit A.

**"New Customer"** means each and every Person applying for retail electric service after the Effective Date of this Agreement at a Point of Use in the Territorial Area of either party.

**"Person"** means an individual, an entity, or a government body, except for Bartow and Lakeland.

**"Point of Use"** means the location within the Territorial Area of a party where a customer's end-use facilities consume electricity, to whom such party is entitled to provide retail electric service pursuant to this Agreement, regardless of where the customer's point of connection or metering is located.

**"Territorial Area"** means and refers to the Bartow Territorial Area or the Lakeland Electric Territorial Area, respectively, as the context requires.

**"Territorial Boundary Line"** means the boundary line(s) depicted on the maps contained in Composite Exhibit A which delineate the parties' respective Territorial Areas in Polk County.

**"Temporary Service Customer"** means a retail electric customer of either party who is being temporarily served under the provisions of Section 1.3.

8.2 **Drafting Conventions.** The following drafting conventions are applicable to the reading of this Agreement:

- (1) The words "include," "includes," and "including" are to be read as if they were followed by the phrase "without limitation."
- (2) The headings provided in this Agreement are for convenience only and do not affect its meaning.
- (3) Any reference to a contract or agreement (including this Agreement), document, or instrument means such contract, agreement, document, or instrument as amended or modified and in effect from time to time in accordance with the terms of that contract, agreement, document, or instrument.


- (4) Unless specified otherwise, any reference to a law, statute, or regulation means that law, statute, or regulation as amended or supplemented from time to time and any corresponding provisions of successor laws, statutes, or regulations.
- (5) The words "party" and "parties" refer only to a named party to this Agreement.
- (6) The definitions in this Agreement apply equally to both singular and plural forms of the terms defined.
- (7) Unless specified otherwise, references in this contract to articles, sections, and exhibits are references to articles, sections, and exhibits of this Agreement.

*[Signature Page Follows]*

The parties are signing this Territorial Agreement as of the date stated in the introductory clause.


CITY OF BARTOW, FLORIDA

By:

  
Name: Steve Githens  
Title: Mayor

Attest:

By:

  
Jacqueline M. Poole, City Clerk

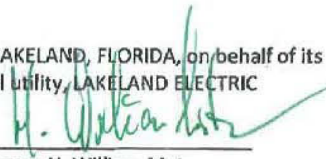
Approved as to form and correctness:

By:

  
Sean R. Parker, City Attorney

CITY OF LAKELAND, FLORIDA, on behalf of its  
municipal utility, LAKELAND ELECTRIC

By:

  
Name: H. William Mutz  
Title: Mayor

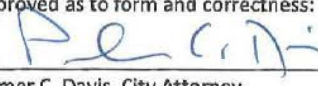
Attest:

By:

  
Kelly S. Koos, City Clerk

Approved as to form and correctness:

By:

  
Palmer C. Davis, City Attorney



[Signature Page to Territorial Agreement between Bartow and LE, dated as of April 4, 2022.]

