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FLORIDA PUBLIC SERVICE COMMISSION
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

April 25, 1990

TO : STEVE TRIBBLE, DIRECTOR
DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF ELECTRIC GAS (COLSON) *KR*
DIVISION OF LEGAL SERVICES (PALECKI) *MP* *JDJ*

RE : DOCKET NO. 890780-EU, JOINT STIPULATION AND PETITION FOR APPROVAL OF
TERRITORIAL AGREEMENT.

AGENDA: MAY 15, 1990 CONTROVERSIAL, PARTIES MAY PARTICIPATE

PANEL: COMMISSIONERS GUNTER & HERNDON

ISSUE AND RECOMMENDATION SUMMARY

ISSUE 1 Should the Commission approve the Territorial Agreement entered into by Florida Power Corporation (FPC) and Suwannee Valley Electric Cooperative, Inc. (SVEC) on April 20, 1990?

RECOMMENDATION: Staff recommends that the Commission approve the Territorial agreement between FPC and SVEC date April 20, 1990.

DISCUSSION

FPC, a Florida investor-owned electric utility and SVEC, a rural electric cooperative, have filed a joint stipulation and petition seeking Commission approval of their Territorial Agreement in Hamilton County, Florida (Attachment 1). This Agreement, if approved, will be in effect for 20 years. The impetus for the Territorial Agreement came in part from a territorial dispute filed on June 8, 1989 by SVEC against FPC in Hamilton County.

SVEC's original petition alleged that FPC constructed distribution

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facilities to serve a subdivision designated as River Trails subdivision located on the south side of highway 50 in Hamilton County, Florida.

SVEC stated that FPC had duplicated its distribution facilities by constructing electric service lines in its attempt to serve the River Trails subdivision.

On March 19, 1990 a motion for stay was submitted by the parties stating that they were actively and persistently pursuing a settlement. On April 20, 1990 the parties submitted this agreement to the Commission for approval. In general, the Territorial Agreement defines each party's retail electric service areas and service obligations in Hamilton County. (See Attachment 2). Under the agreement each party shall have the exclusive right and obligations to provide retail electric service to the public in its designated retail service area. Also each party retains the right and obligation to continue providing service at existing points of delivery which are in the retail service areas of the other party. The exceptions are noted in Section 4, A, B, C and D of the agreement. According to this agreement River Trails subdivision is in the service area of SVEC.

Staff has reviewed this Agreement and believes this agreement will prevent the future duplication of electric service and facilities in Hamilton County. Staff therefore recommends the issuance of a proposed Agency Action order approving the agreement as being in the public interest.

LRC/pr

TERRITORIAL AGREEMENT
HAMILTON COUNTY, FLORIDA

This TERRITORIAL AGREEMENT, made and entered into this 20th day of April, 1990, by and between SUWANNEE VALLEY ELECTRIC COOPERATIVE, INC. an electric cooperative organized and existing under the laws of the State of Florida (herein called the "SVEC"), party of the first part, and FLORIDA POWER CORPORATION, a public utility organized and existing under the laws of the State of Florida, (herein called the "FPC"), party of the second part;

W I T N E S S E T H:

WHEREAS, SVEC, by virtue of Florida Statutes, Chapter 425, and the Charter issued to it thereunder, is authorized and empowered to furnish electricity and power to its members, private individuals, corporations and others, as defined by the laws of Florida, and pursuant to such authority, presently furnishes electricity and power to members and customers in areas of Suwannee, Hamilton, Lafayette and Columbia County, and elsewhere; and

WHEREAS, FPC, by virtue of Florida Statutes, Chapter 366 and its Charter, is authorized and empowered to furnish electricity and power to persons, firms and corporations throughout the State of Florida and presently furnishes

electricity and power to customers in areas of Hamilton County, Florida and elsewhere; and

WHEREAS, the respective areas of retail service of the parties hereto are contiguous in many places, and in some places overlapped, with the result that in the future substantial and uneconomic duplication of service facilities may occur unless such duplication is precluded by territorial agreement; and

WHEREAS, the Florida Public Service Commission (FPSC) has previously recognized that any such duplication of said service facilities results in needless and wasteful expenditures and creates hazardous situations, both being detrimental to the public interest; and

WHEREAS, the parties hereto desire to avoid and eliminate the circumstances giving rise to the aforesaid duplications and possible hazards and toward that end have established territorial boundary lines to delineate their respective retail service areas in Hamilton County, Florida; and

WHEREAS, the FPSC is empowered by the legislature of the State of Florida, pursuant to F.S. 366.04(2)(d), to approve territory agreements and the Commission has recognized on numerous occasions the wisdom of retail territorial agreements between competing utilities and has adhered to the general opinion that retail territorial

agreements, when properly presented to the Commission, in proper circumstances, are advisable and indeed in the public interest;

NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

Section 1 -- Term. This Agreement shall become effective upon approval as a territorial agreement by the FPSC and shall continue and remain in effect until termination, or until supplemented or amended by mutual written agreement of the parties and approved by the FPSC, but in no event for a period exceeding 20 years from the date of the FPSC's Order approving this Territorial Agreement.

Section 2 -- Service Areas. The areas identified as "FPC" areas on the maps contained in Composite Exhibit A are hereby allocated to Florida Power Corporation as its retail service areas (including the Hamilton County/Jasper Industrial Park). The areas identified as "SVEC" areas on the maps contained in Composite Exhibit A are hereby allocated to Suwannee Valley Electric Cooperative, Inc. as its retail service areas. The description of properties identified as "FPC" areas are contained on Exhibit B. The description of the properties identified as "SVEC" areas is

all other lands located in Hamilton County, Florida less and except those specifically allocated to "FPC" and specifically described on Exhibit B.

Section 3 - Service Obligations. Each party shall have the exclusive right and obligation to provide retail electric service to the public in its designated retail service areas as set forth in Section 2. Except as provided in Section 4, the parties agree that neither party will provide nor offer to provide electric service at retail at points of delivery located within the territory allocated to the other party.

Section 4 - Extra-territorial Service. Each party hereby retains the right and obligation to continue to provide retail service at existing points of delivery, which are in the retail service area of the other party, at the time this Agreement becomes effective, with the exceptions noted below. Existing points of delivery shall mean service drops and underground service laterals which are physically connected to the customer's property, whether energized or not. Each party may maintain, repair and replace its facilities used to service such existing points of delivery.

For purposes of this section, the party in whose retail service area the customer is located is referred to as the "host" utility. The party serving a customer in the retail service area of the other party is referred to as the

"foreign" utility.

A. Exceptions - (1) The mobile home located on the south side of County Road 150, to which service was extended by FPC in March, 1990, shall remain FPC territory until such time as the property is sold, assigned or in any other manner transferred. At that time, the mobile home territory shall revert to SVEC territory. (2) FPC shall continue to provide transmission service to Occidental Chemical Corporation and/or its successors as a foreign utility in SVEC territory for as long as the territory is used as a mining operation. If Occidental permanently ceases its mining operation or sells, assigns or in any other manner transfers the property to a non-mining person or entity, the territory shall revert to SVEC territory.

B. If service is being provided at an existing point of delivery by a foreign utility and the service requirements change or if service is to be provided at a new point of delivery which is near the facilities of a foreign utility, the host utility shall provide the service except the host utility may request in writing, and the foreign utility may in its discretion agree, that the service be provided by the foreign utility subject to a transfer of the service to the host utility when the host facility determines that it is appropriate to extend its facilities.

C. Customers to be transferred as provided in

subsection B shall be notified at the time the parties agree on the service arrangement that, at such time as it becomes economic and efficient for the host utility to provide service, their service thereafter shall be provided by the host utility.

D. Notwithstanding the foregoing, it is understood that SVEC must furnish its service mainly to its members in order to preserve its tax exempt status. Therefore, unless the proposed recipient of temporary service will join SVEC, SVEC may decline such request by FPC, when in the judgment of SVEC, the income produced thereby would exceed that percentage of the gross income of SVEC may accept from non-members and maintain its tax exempt status.

Section 5 - Utility Facilities. Nothing in this Agreement shall be construed to prevent or restrict either party from locating, constructing, maintaining, repairing or replacing its transmission, substation or distribution facilities in the retail service areas of the other party. It is the intent of this Agreement only to prohibit each party from providing service to any new customers in the retail service area of the other party.

Section 6 - Wholesale Electric Services. Nothing in this Agreement shall be construed to apply to the provision by either party of bulk power supply for resale, transmission, interchange or other similar wholesale

electric services between electric utilities.

Section 7 - Regulatory Approval. This Agreement shall become effective only upon approval by, and shall be subject to the authority of, the FPSC. Neither party shall be bound hereunder in any way until that approval is obtained. The Agreement of the parties hereto is conditioned upon approval of this Agreement without modification.

Section 8 - Notices. Any notices given under this Agreement to SVEC shall be provided to General Manager, Suwannee Valley Electric Cooperative, Inc., Post Office Box 160, Live Oak, Florida 32060. Any notices given under this Agreement to FPC shall be provided to President, Florida Power Corporation, Post Office Box 14042, St. Petersburg, Florida 33733.

Section 9 - Amendment. This Agreement may be amended only by mutual written agreement of the parties.

Section 10 - Headings. The section headings in this Agreement are for reference purposes only and shall not be considered in construing or interpreting this Agreement.

Section 11 - Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the establishment of defined retail electric service areas where the areas served by the parties are contiguous or overlapping. All prior agreements, understandings or practices with respect to retail electric

service areas shall be deemed to have been merged herein and superseded by this Agreement.

SUWANNEE VALLEY ELECTRIC
COOPERATIVE, INC.

By *A. L. Ward*

Name A. L. Ward

Title President

FLORIDA POWER
CORPORATION

By *R. W. Neiser*

Name R. W. Neiser

Title Sr. Vice President,

Corporate Services

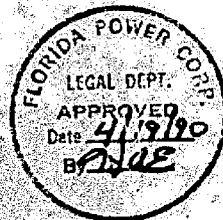


EXHIBIT B

DESCRIPTIONS

ALL PROPERTIES LOCATED IN HAMILTON COUNTY, FLORIDA

Tract Nos. 190, 191, 192, 193, 194, 195, 220, 221, 222, 223, 224 and 225; all said tracts being located in Township 3 North, Range 12 East; West 1/4 of tract 189 and West 1/4 of tract 226; said tracts being located in Township 3 North, Range 13 East; tract numbers refer to those parcels located north of the Watson Line (Old Florida-Georgia line).

All of Sections 1, 2, 3, 4, 5 and 9; the North 1/2 of Sec. 10 plus a parcel in the shape of a triangle beginning at the northeast corner of the NE 1/4 of SE 1/4 of Sec. 10, thence run west 800 feet, thence run SE to a point located 800 feet south of the point of beginning, thence run north 800 feet to the point of beginning, all being in sec. 10; all of Sec. 11 less and except the south 660 feet of that portion of Section 11 lying east of U. S. Highway 41; and the North 1/2 of Sec. 12; all said lands being located in Township 2 North, Range 12 East.

39.5 acres in the Southeast corner of Section 5 subdivided into the Ashley Oaks Subdivision as it appears of record in Hamilton County Florida; the West 1/2 of Sec. 6; and West 3/4 of the North 1/2 of Sec. 7; all said lands being located in Township 2 North, Range 13 East.

All of Township 2 North, Range 14 East.

Commence at the Northeast corner of Section 36, Township 2 North, Range 13 East, thence run west to east line of existing roadway, said point also being the west line of Olivi Tindall property, thence run southeast along the east line of said roadway to a point intersecting with the south line of the Northeast 1/4 of the Northeast 1/4, thence run west along the south line of the North 1/2 of the North 1/2 of the section to the northwest corner of the property now owned by Sherrell and Harriett Eudy, thence run south along the west line of the Eudy property to the north line of the existing roadway, thence run southwest along and with said graded road to the northwest corner of property now owned by Richard and Barbara Gibson, thence run south along the west line of the Gibson property to the southeast corner of lands owned by Mabelle Black, thence run west along the south line of the Mabelle Black property 400 feet, thence run south along the east line of the Mabelle Black property 400 feet to the south line of said section 36, thence run east to the southeast corner of said section, thence run north along the east line of said section to the point of beginning; all said lands being located in Section 36, Township 2 North, Range 13 East.

North 1/2 of Northeast 1/4 of Northeast 1/4 of Section 2, Township 1 North, Range 13 East.

North 1/2 less and except the Southwest 1/4 of Northwest 1/4 and less and except West 1/4 of Southeast 1/4 of Northwest 1/4 of Section 1, Township 1 North, Range 13 East; and that part of the Southeast 1/4 of Section 1, Township 1 North, Range 13 East lying east of State Road 249.

That part of Section 12, Township 1 North, Range 13 East lying south and east of State Road 249 less and except the west 660 feet thereof.

North 1/2 of Northwest 1/4 less and except the Southwest 1/4 of Northwest 1/4 of Northwest 1/4 of Section 13, Township 1 North, Range 13 East.

All of sections 1, 2, 3, 4, 5, 6, 7 and 8, Township 1 North, Range 14 East.

All of section 19; West 1/2 of section 20; and all of sections 27, 28, 29, 30, 31, 32, 33, and 34 of Township 2 North Range 15, East.

West 1/2 of section 2; all of sections 3, 4, 5, and 6; East 1/2 of section 7; all of sections 8, 9, 10, 11, 12, 13, 14, and 15; North 1/2 of section 16; and the Northeast 1/4 of section 17; all in Township 1, North Range 15 East.

Section 31, Township 1 North, Range 16 East.

Sections 31, 32, 33, 34, 35, and 36, Township 1 North, Range 15 East.

All of sections 6, 7, and 18; and the North 1/2 of section 19; all in Township 1 South, Range 16 East.

All of sections 1, 2, 3, 4, 5, 6; section 7 less and except the Southwest 1/4 of Southwest 1/4; all of sections 8, 9, 10, 11, 12, 13, and 14; North 1/2 of section 23; and North 1/2 of Section 24; all in Township 1 South, Range 15 East.

North 1/2; North 1/2 of Southeast 1/4; and commence at the northeast corner of Southeast 1/4 of Southeast 1/4 thence run west to a point 300 feet west of the centerline of US Highway 41 thence run southeast along a line parallel to and located 300 feet south and west of the centerline of said US Highway 41 to a point of intersection with the south line of the section, thence run east to the southeast corner of said section, thence run north to the point of beginning; all said lands lying in section 17, Township 1 South, Range 15 East.

All of sections 1 and 2; North 1/2 of section 11; North 1/2 of section 12; that portion of section 3 lying north and east of

Interstate I-75; that portion of the Northeast 1/4 of section 10 lying north and east of Interstate I-75; and that portion of the Northeast 1/4 of Northeast 1/4 section 4 lying north and east of Interstate I-75; Township 1 South, Range 14 East.

All that portion of section 16 lying south and west of the Georgia Southern and Florida Railroad right-of-way; East 3/4 of section 17; East 3/4 of section 20; Southwest 1/4, Southwest 1/4 of Northwest 1/4, 11.6 acres belonging to J. A. Corbett, Sr. located east of US Highway 129 and north of County graded road, all in the northwest corner of the NW 1/4 of NW 1/4 of section 21; that portion of Southwest 1/4 of section 26 lying south and west of the Georgia Southern and Florida Railroad right-of-way; all of section 27 lying south and west of Georgia Southern and Florida Railroad right-of-way; that portion of the East 3/4 of section 32 lying north of State Road 158; East 3/4 of section 29; all of sections 28, 33, 34, 35 and 36; all said lands lying in Township 1 North, Range 14 East.

Commence at the northeast corner of section 20, Township 1 South, Range 15 East, thence run west along the section line to a point located 300 feet west of the centerline of US Highway 41, said point being the point of beginning; thence run southeasterly along a line parallel to and located 300 feet south and west of the centerline of US Highway 41 through sections 20, 21, 28, 27 and 35 to a point of intersection with the 1/2 section line of section 35, thence run northeast to the centerline of the Georgia Southern and Florida Railroad right-of-way, thence run northwest along and with the centerline of said railroad right-of-way to a point of intersection with the northerly right-of-way line of State Road 137, thence run northeasterly along and with the northerly right-of-way line to a point of intersection with the northeast line of land owned by the Suwannee River Church of the Nazarene, thence run northwesterly along and with the northeast line of lands owned by said church to a point of intersection with the west line of section 26, thence run southwesterly along and with lands owned by said church to a point of intersection with the centerline of a county graded road, thence run southeasterly along and with the centerline of said graded road to properties owned by Jack and Thelma Taylor, thence run southwesterly along the northwest line of properties owned by Jack and Thelma Taylor to the centerline of the Georgia Southern and Florida Railroad right-of-way, said point of intersection being located in Southeast 1/4 of Southeast 1/4 of section 27, Township 1 South, Range 15 East, thence run northwesterly along and with the centerline of said railroad right-of-way through sections 27, 28, 21 and 20 to the point of intersection with the north line of section 20, Township 1 South, Range 15 East, thence run west to the point of beginning.

That part of section 1 lying north and east of US Highway 41; all that part of Southeast 1/4 of section 1 lying south and west of US Highway 41; a parcel of land containing approximately one acre located in the southeast corner of that part of

Southwest 1/4 of Northeast 1/4 lying south of US Highway 41 now owned by the Stephen Foster Memorial; the South 1/2 of Southwest 1/4 less and except that part of the West 1/2 of Southwest 1/4 of Southwest 1/4 lying north of County Road 225-A; all lying in Section 1, Township 2 South, Range 15 East.

That part of Southeast 1/4 of Southeast 1/4 lying south of County Road 225-A; and the Southeast 1/4 of Southwest 1/4 of Southeast 1/4 of Section 2, Township 2 South, Range 15 East.

All of Sections 11 and 12, Township 2 South, Range 15 East lying north of the Suwannee River.

All of Sections 6 and 7; and that part of Section 18 lying north of the Suwannee River; all in Township 2 South, Range 16 East.

Begin at a point where the centerline of US Highway 41 intersects with the west line of section 8, Township 2 South, Range 16 East; thence run north 950 feet, thence run east 300 feet, thence run south 500 feet, thence east 250 feet, thence run south 500 feet thence run east 250 feet, thence south 500 feet more or less to the centerline of US Highway 41, thence run northwesterly along said centerline to the point of beginning; all in Section 8, Township 2 South, Range 16 East.