

DUNLAP & TOOLE, P.A.
LAWYERS

ORIGINAL

DAVISSON F. DUNLAP, JR.
DANA G. TOOLE
DAVISSON F. DUNLAP, III

2057 DELTA WAY
TALLAHASSEE, FLORIDA 32303-4227
PHONE: 850-385-5000
FACSIMILE: 850-385-7636

Of Counsel:
DAVISSON F. DUNLAP

May 7, 2002

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
& Administrative Services
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED FPSC
02 MAY - 9 AM 9:53
COMMISSION
CLERK

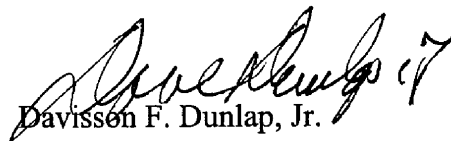
Re: Territorial Dispute Between City of Bartow
and Tampa Electric Company ("TECO")
Case No. 011333-EU

Dear Ms. Bayo:

Enclosed with this letter are the original and sixteen copies of a Response of Bartow to TECO's Motion to Dismiss and Answer in Opposition to Bartow's Motion for Continuance. Please file the original pleading in the Commission's file for this matter. Please then stamp one copy with the date and time filed and return it to me in the enclosed stamped, addressed envelope.

Thank you for your assistance.

Sincerely yours,


Davisson F. Dunlap, Jr.

AUS _____
CAF _____
CMP _____
COM 5 _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC 1 _____
OTH _____

Enclosures
cc Mr. Richard A. Williams

RECEIVED & FILED

R. V. N.

FPSC-BUREAU OF RECORDS

02 MAY - 9 AM 8:44

DOCUMENT NUMBER-DATE
DISTRIBUTION CENTER

05013 MAY - 98

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of City of Bartow, Florida,
Regarding a Territorial Dispute with Tampa
Electric Company, Polk County, Florida.

DOCKET No. 011333-EU
Filed: _____

**RESPONSE OF BARTOW TO TECO'S MOTION
TO DISMISS AND ANSWER IN OPPOSITION
TO BARTOW'S MOTION FOR CONTINUANCE**

The City of Bartow, Florida ("Bartow"), by and through its undersigned attorneys, responds to Tampa Electric Company's ("TECO") Motion to Dismiss and Answer in Opposition to the City of Bartow's Motion for Continuance of Final Hearing and Adjustment of Procedural Schedule, dated May 3, 2002, as follows:

1. Bartow's Motion for Continuance was based on the Florida Public Service Commission ("PSC") staff's expressed concerns that the current existing boundary line dividing the Old Florida Plantation ("OFP") development does not comport with good engineering or planning principles and would result in inefficiencies and unnecessary expenses to both Bartow and TECO.

2. The PSC staff also expressed the opinion that the ultimate configuration of the OFP development in terms of roads, houses, and recreational facilities could have a significant bearing on the merits of the modification of the territorial agreement or resolution of the territorial dispute.

3. It was in response to these expressed concerns and with a knowledge that the current configuration of the OFP development with respect to its roadways and other significant development features was being restructured that Bartow proposed the continuance.

4. It is noted that the requested continuance is for a finite period of time and does not extend these proceedings beyond a reasonable time frame for resolving a dispute of this nature.

DOCUMENT NUMBER-DATE

05013 MAY-98

FPSC-COMMISSION CLERK

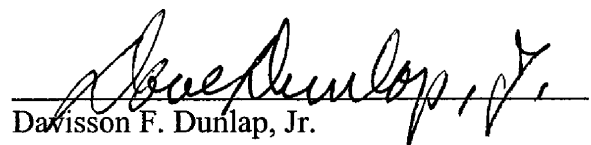
5. Bartow realizes that its petition seeks to serve the entire OFP development. However, Bartow understands that there may be engineering and operational considerations that could result in some division of the territory in dispute that would not strictly follow the current territorial boundary.

6. TECO says that holding the procedural schedule in abeyance would be a waste of the PSC's valuable time and resources. Bartow disagrees. Holding the case in abeyance would not require any additional interim work on behalf of the PSC or PSC staff and would not cause a waste of the PSC's time and resources.

7. Bartow wants a prompt resolution of the issues in this case. However, if a brief delay would result in the availability of complete and relevant data and information is the prudent course of action.

8. The PSC has already denied TECO's motion to dismiss. The filing of a motion for continuance by Bartow is not grounds for a motion to dismiss under the Florida Rules of Civil Procedure or any other recognized, accepted procedural framework.

WHEREFORE, the City of Bartow requests that this court act favorably on its motion for a continuance and deny Tampa Electric Company's motion to dismiss.


Davisson F. Dunlap, Jr.
Florida Bar Number 0136730
DUNLAP & TOOLE, P.A.
2057 Delta Way
Tallahassee, FL 32303-4227
850-385-5000
850-385-7636 Facsimile
Attorneys for Petitioner, City of Bartow

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Response of Bartow to TECO's Motion to Dismiss and Answer in Opposition to Bartow's Motion for Continuance has been furnished by United States mail on this 7th day of May, 2002, to:

Mr. Harry W. Long, Jr.
Assistant General Counsel
Tampa Electric Company
Post Office Box 111
Tampa, FL 33601

Ms. Adrienne Vining
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0863

Mr. Lee L. Willis
Mr. James D. Beasley
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

Attorney for Florida Public Service
Commission

Attorneys for Tampa Electric Company



Attorney