

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve	)	DOCKET NO. 900064-EU
Territorial Dispute	)	ORDER NO. 24312
Between Clay Electric Coopera-	)	ISSUED: 4/2/91
tive, Inc. and Florida Power	)	
Corporation.	)	
	)	

The following Commissioners participated in the disposition of this matter:

GERALD L. GUNTER  
MICHAEL McK. WILSON

NOTICE OF PROPOSED AGENCY ACTIONORDER 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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On January 30, 1990, Clay Electric Cooperative, Inc. (Clay) filed a petition for resolution of a territorial dispute between itself and Florida Power Corporation (FPC). The petition stated that FPC intended to serve a customer in an area where Clay has adequate facilities. The area in dispute was Section 5, Township 11 south, Range 18 East in Alachua County, north of the town of Archer, Florida. On January 24, 1991 the parties to the dispute filed a motion to approve Territorial Agreement in Settlement of Territorial Dispute.

The proposed agreement, entered into on January 22, 1991, between FPC and Clay apportions the area in dispute to FPC and establishes the service territories of FPC and Clay in Alachua County. Under the proposed agreement each electric utility would have exclusive authority to furnish retail electric service for use within its territorial area.

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The proposed agreement would continue and remain in effect for a period of fifteen (15) years. Our approval would be required before any modification of the agreement would be permitted.

In order to minimize inconvenience to their customers, each party to the proposed Agreement would continue to serve their respective existing customers in the territorial area of the other, except as provided in Section 2.3 of the Agreement. FPC has 4 electrical accounts in Clay's service area and Clay has 134 electrical account in FPC's service area. Existing customers located in the territorial area of the other utility could request to become customers of the other party at any time after our approval of the agreement. In addition, existing customers would be transferred to the other party whenever there is a "change in use". We believe that this agreement will help eliminate duplication of facilities and provide for a coordinated electrical system in Alachua County.

We did have a concern with the "Bulk Power for Resale" provision found in Section 2.4 of the territorial agreement originally submitted for our approval. That provision permitted the parties to provide bulk power for resale to any other electric utility or person. Since bulk power is not normally provided to individual "persons", we expressed our concern with this language at the March 5, 1991 agenda conference. At that time the parties, on their own motion, agreed to strike the words "or person" from the Bulk Power for Resale provision of Section 2.4. We note that those words have been stricken from the territorial agreement currently before us, which we now approve.

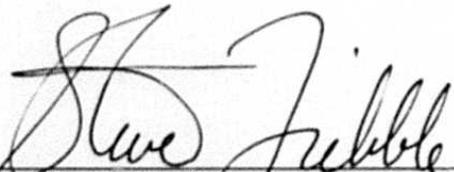
Accordingly, it is

ORDERED by the Florida Public Service Commission that the territorial agreement between Clay Electric Cooperative, Inc. and Florida Power Corporation, dated January 22, 1991, in settlement for their territorial dispute in Alachua County, Florida, is hereby approved. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for a formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0970, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

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By ORDER of the Florida Public Service Commission, this 2nd  
day of APRIL, 1991.

  
\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on April 23, 1991.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.