

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: April 24, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Klancke) *AK*
Division of Economics (King) *JK* *J.W.D.*

RE: Docket No. 140054-EU – Joint petition for approval of second amendment to territorial agreement in Polk County between Tampa Electric Company and the City of Lakeland.

AGENDA: 05/09/14 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Balbis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On March 18, 2014, Tampa Electric Company (Tampa Electric) and the City of Lakeland (Lakeland) filed a joint petition for approval of a second amendment to their territorial agreement. Tampa Electric provides service to approximately 684,000 retail customers in Hillsborough and portions of Polk, Pasco, and Pinellas Counties in Florida. Lakeland is a Florida municipal corporation that provides retail electric service to approximately 120,000 customers in and around Lakeland, Florida in Polk County. The petitioners are parties to a territorial agreement dated May 20, 1991, that was approved by the Commission in Order No.

Docket No. 140054-EU

Date: April 24, 2014

PSC-92-0570-FOF-EU (Agreement).¹ The Agreement was first amended in August 1998 and the amendment was approved by the Commission in Order No. PSC-99-0024-FOF-EU.²

A copy of the Second Amendment to Territorial Agreement (Second Amendment) entered into on February 3, 2014, is attached (Attachment A). The Second Amendment makes certain adjustments to the territorial boundary separating the service areas of the petitioners as legally described in Attachment A and shown on the maps provided in Attachment B.

This recommendation addresses the parties' joint petition for approval of the Second Amendment. The Commission has jurisdiction over the matter pursuant to Section 366.04, Florida Statutes (F.S.).

¹ Order No. PSC-92-0570-FOF-EU, issued June 25, 1992, in Docket No. 920251-EU, In re: Joint petition for approval of territorial agreement between Tampa Electric Company and the City of Lakeland.

² Order No. PSC-99-0024-FOF-EU, issued January 4, 1999, in Docket No. 981263- EU, In re: Joint petition of Tampa Electric Company and City of Lakeland for approval of amendment to territorial agreement.

Discussion of Issues

Issue 1: Should the Commission approve the joint petition of Tampa Electric Company and the City of Lakeland for Approval of Second Amendment to the Territorial Agreement?

Recommendation: Yes. The Second Amendment to the Territorial Agreement between Tampa Electric and Lakeland will not cause a detriment to the public interest; therefore, it should be approved. (King)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Rule 25-6.0440(2), Florida Administrative Code, (F.A.C.), states that in approving territorial agreements, the Commission may consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved. Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

As noted in the case background, Tampa Electric and Lakeland are parties to a Territorial Agreement dated May 20, 1991, and first amended in August 1998. Both the Agreement and the first amendment were approved by the Commission. Recently, the petitioners evaluated their entire boundary line to identify areas that needed adjustment based on existing facilities and load growth. This evaluation process identified four areas (Detail 1-4), as shown in Attachment B, where such boundary changes were needed. The adjustments will better accommodate service to future load in a more efficient and cost-effective manner avoiding unnecessary duplication of transmission and distribution facilities and better serving the needs of their respective customers.³ The adjustment to the boundary line is described in the Second Amendment contained in Attachment A.

No customers will be transferred when the Second Amendment is implemented; therefore, no customers were notified pursuant to Rule 25-6.0440(1), F.A.C. Nor are there any facilities to be transferred and no purchase price will be involved. The petitioners state that the Second Amendment will not cause a decrease in the reliability of electrical service to the existing or future ratepayers of Tampa Electric or Lakeland. They believe approval and implementation of the Second Amendment will increase the reliability of electric service for customers of both utilities on a going-forward basis. Also, approval and implementation of the Second Amendment will help avoid uneconomic duplication of facilities in the future.

Staff believes the Second Amendment is in the public interest and will enable Tampa Electric and Lakeland to better serve their customers. It appears that the proposed amendment eliminates the potential uneconomic duplication of facilities and will not cause a decrease in the reliability

³ For example, the area captured in Detail 1 is rural farm land and Tampa Electric does not have facilities in this area; Lakeland does, and therefore can serve future load more economically.

of electric service. As such, staff believes that the Second Amendment between Tampa Electric and Lakeland will not cause a detriment to the public interest and should be approved.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Klancke)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

Exhibit "A"

SECOND AMENDMENT TO TERRITORIAL AGREEMENT

THIS SECOND AMENDMENT TO TERRITORIAL AGREEMENT ("Second Amendment") is made and entered into this 3rd day of February, 2014 by and between the City of Lakeland, a Florida municipal corporation ("Lakeland"), and Tampa Electric Company ("Tampa Electric"), a private Florida corporation. Collectively, Lakeland and Tampa Electric will be referred to herein as the "Parties".

WHEREAS, pursuant to the approval of the Florida Public Service Commission ("Commission") in Docket No. 920251-EU, Joint Petition of Tampa Electric Company and the City of Lakeland for Approval of Territorial Agreement, Tampa Electric and Lakeland are Parties to a Commission approved Territorial Agreement dated May 20, 1991 ("Agreement"); and

WHEREAS, that Agreement was first amended by an amendment dated August 17, 1998 by and between the Parties, which amendment was approved in Order No. PSC-99-0024-FOF-EU, issued January 4, 1999 in Docket No. 981263-EU; and

WHEREAS, Tampa Electric and Lakeland have continued to review their existing territorial boundary prescribed in the Agreement; and

WHEREAS, the Parties desire to adjust their territorial boundary line to accommodate service to future load in an efficient and cost-effective manner so as to avoid unnecessary duplication of transmission and distribution facilities and better serve the future needs of their respective customers; and

WHEREAS, certain adjustments to the territorial boundary separating the service areas of the Parties in the areas delineated on the attached Lakeland/TEC Boundary Changes Overall Sketch (the "Subject Area") will enable the parties to better serve future load.

NOW, THEREFORE, in consideration of the mutual covenants and commitments set forth herein, the Parties agree as follows:

1. Attached hereto as Exhibit "A" is an excerpt of an official Florida Department of Transportation General Highway County map of Polk County, Florida showing the general location of the Subject Area. Attached hereto as Exhibit "B" is a more detailed map of the Subject Area showing the current boundary line separating the service territories of Tampa Electric and Lakeland as well as the proposed new boundary line in the Subject Area.

2. Subject to the Commission's approval, Tampa Electric and Lakeland agree to modify the boundary line separating their respective service territories as shown in Exhibit "B" hereto. Adjusting the boundary line as reflected in Exhibit "B" will facilitate the Parties' provision of electric service to future loads of each utility in the Subject Area.

3. The terms and conditions pertaining to implementation of the Second Amendment are to adjust the territorial boundary line separating the Parties' respective service territories upon the Commission's approval of this Second Amendment. Commission approval of this Second Amendment is a condition precedent to its effectiveness.

4. Except to the extent it is modified by this Second Amendment and the Amendment dated August 17, 1998, all of the terms and conditions of the 1991 Territorial Agreement between the Parties which was approved in Order No. PSC-92-0570-FOF-EU in Docket No. 920251-EU shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Agreement to be executed in duplicate in their respective corporate names and their corporate seals affixed by their duly-authorized officers on the day and year first above written.

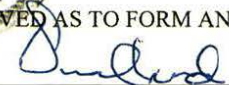
ATTEST:


Kelly S. Koos, City Clerk



THE CITY OF LAKELAND
By: 

R. Howard Wiggs, Mayor

APPROVED AS TO FORM AND CORRECTNESS:


Timothy J. McCausland, City Attorney

ATTEST:


Secretary



TAMPA ELECTRIC COMPANY
By: 

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COMPOSITE EXHIBIT A
TERRITORIAL BOUNDARY
BETWEEN
TAMPA ELECTRIC COMPANY AND THE CITY OF LAKELAND, FLORIDA

DESCRIPTION;

Commence at the Southwest corner of Section 19, Township 29 South, Range 23 East, Polk County, Florida for A POINT OF BEGINNING; thence on the West boundary of said Range 23 East (the same being the County line between Hillsborough County to the West and Polk County to the East), proceed in a Northerly direction to the Northwest corner of Section 6, Township 27 South, Range 23 East the same being the Southwest corner of Section 31, Township 26 South, Range 23 East; thence departing aforementioned Hillsborough-Polk County line and on the West boundary of said Range 23 East, proceed in a Northerly direction to the Northwest corner of the South one-half of the North one-half of Section 30, Township 26 South, Range 23 East; thence on the North boundary of said South one-half of the North one-half of Sections 30 and 29, Township 26 South, Range 23 East, proceed in an Easterly direction to the West boundary of the East one-half of said Section 29; thence on said West boundary of the East one-half of Sections 29 and 20, Township 26 South, Range 23 East, proceed in a Northerly direction to the North boundary of the South one-half of said Section 20, thence on the North boundary of the South one-half of Sections 20 and 21, Township 26 South, Range 23 East, proceed in an Easterly direction to an intersection with the centerline of Sherouse Road; thence departing said North boundary and on centerline of said road, proceed in an Easterly direction to an intersection with the North boundary of the South one-half of aforesaid Section 21; thence departing centerline of said road and on said North boundary, proceed in an Easterly direction to a point which is located 769.80 feet West of the intersection of said North boundary with the Westerly right-of-way boundary of State Road No. 700 & 35 (U.S. 98); thence on a course 553.84 feet Westerly of and parallel to said Westerly right-of-way boundary as shown on D.O.T. right-of-way map for said State Road No. 700 & 35 (U.S. 98) (Section 1621), proceed in a southeasterly direction to the beginning of curve concave Southwesterly, having a radius of 5,095.74 feet and a central angle of 17°26'31"; thence proceed on the arc of said curve a distance of 1,551.23 feet to the curve's end, the same being at the point of intersection with the South boundary of Section 21; thence on the South boundaries of Sections 21 and 22, Township 26 South, Range 23 East, proceed in an Easterly direction to the East boundary of the West one-half of the West one-half of said Section 22; run thence North along said East boundary 2616.65 feet, run thence East and parallel to the North boundary of the South half of Section 22 to the East boundary of Section 22, run thence North along said East boundary to the North boundary thereof, thence North along the West boundaries of Sections 14, 11, and 2, Township 26 South, Range 23 East to the Northwest corner of said Section 2, Township 26 South Range 23 East; thence on the North boundary of Sections 2 and 1, Township 26 South, Range 23 East (the same being the County line between Pasco County to the North and Polk County to the South), proceed in an Easterly direction to the Northeast corner of said Section 1; thence departing said County line and on the East line of said Range 23 East,

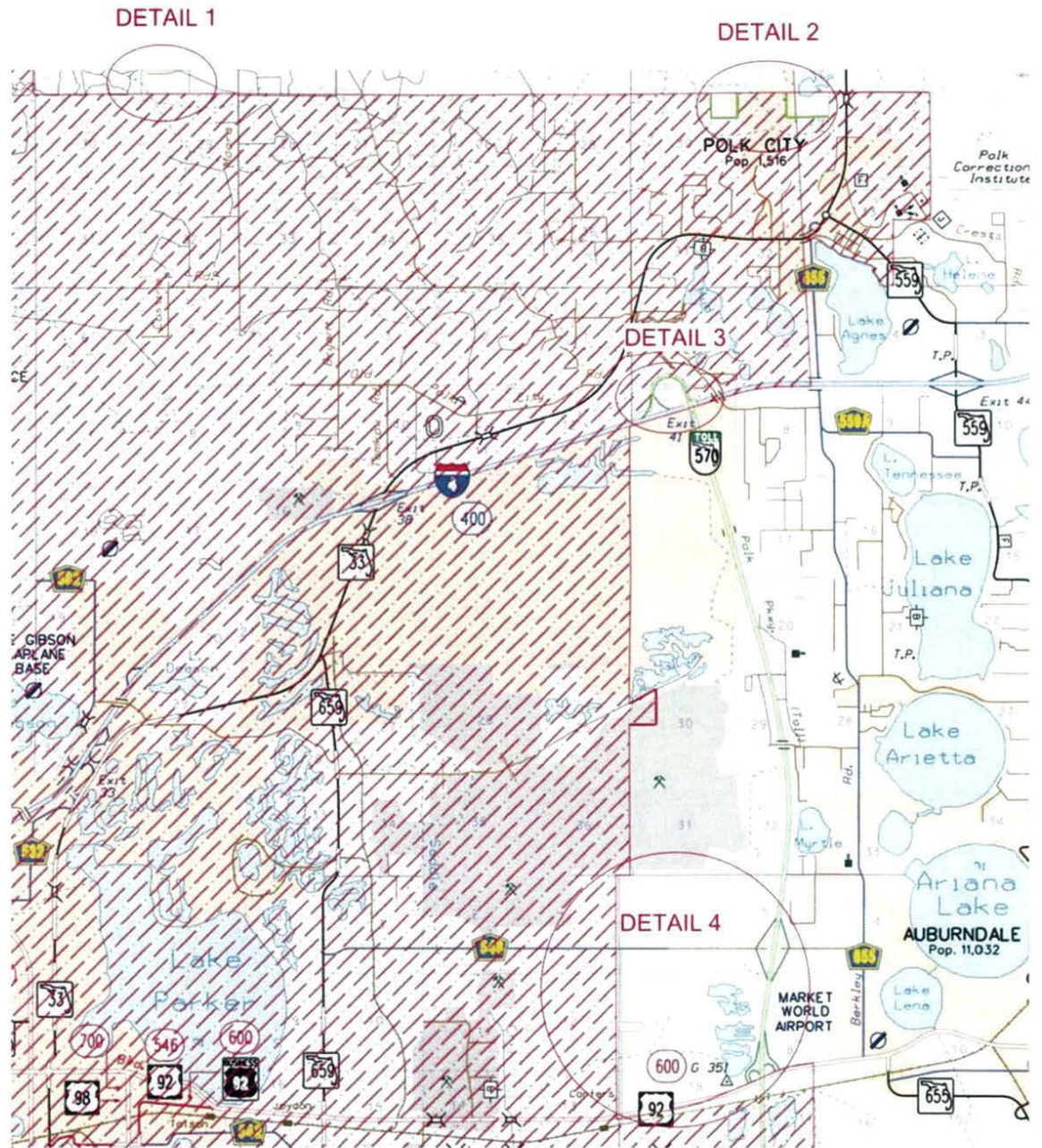
44 proceed in a Southerly direction to the Northeast corner of Section 25, Township 26 South, Range 23
45 East, the same being the Northwest corner of Section 30, Township 26 South, Range 24 East; thence
46 on the North boundary of Section 30, Township 26 South, Range 24 East, proceed to the Northeast
47 corner of said section 30, also being the Southwest corner of Section 20, Township 26 South, Range 24
48 East; thence Northerly along the West boundary line of said Section 20 proceed to the Northwest
49 corner of the Southwest 1/4 of the Southwest 1/4 of said Section 20; thence proceed Easterly to the
50 Northeast corner of the Southeast 1/4 of the Southwest 1/4 of said Section 20; thence proceed
51 Southerly to the Southeast corner of the of the Southwest 1/4 of said Section 20; thence proceed in an
52 Easterly direction along the North boundaries of Sections 29,28,27,26 25, Township 26 South, Range
53 24 East to the Northeast corner of said Section 25, also being the Northwest corner of Section 30,
54 Township 26 South, Range 25 East; thence Easterly along the North boundary of said Section 30
55 proceed to the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of Section 30, Township 26
56 East, Range 25 East; thence Southerly to the Southwest corner of said Northeast 1/4 of the Northeast
57 1/4 of Section 30; thence Easterly to the Southeast corner of said Northeast 1/4 of the Northeast 1/4 of
58 Section 30 ; thence proceed Northerly along the East boundary of said Section 30 to the Northwest
59 corner of Section 29, Township 26 South, Range 25 East; thence Easterly along North boundary of
60 said Section 29 proceed to the Northwest corner of the Northeast 1/4 of said Section 29; thence
61 proceed Southerly to the Southwest corner of the Northwest 1/4 of the Northeast 1/4 of said Section
62 29; thence Easterly along the Southerly boundary lines of the Northwest 1/4 of the Northeast 1/4 and
63 the Northeast 1/4 of the Northeast 1/4 of said Section 29 proceed to a point 900 feet Westerly of the
64 centerline of State Road-33, also known as Commonwealth Ave North; thence along a line 900 feet
65 Westerly of and parallel to the centerline State Road 33 proceed Northerly to the North boundary of
66 Section 29; thence along the North line of Section 29 and 28, Township 26 South, Range 25 East
67 proceed Easterly to the Northeast corner of said Section 28; thence on the East boundaries of Sections
68 28 and 33, Township 26 South, Range 25 East proceed in a Southerly direction to a point 1,700.00 feet
69 South of the Northeast corner of said Section 33; proceed thence in a Westerly direction a distance of
70 2,000.00 feet; proceed thence in a Southerly direction to the South boundary of said Section 33; thence
71 on said South boundary, proceed in a Westerly direction to the Northeasterly shore of Lake Agnes;
72 thence along the Northeasterly shore of said Lake Agnes, proceed in a Northwesterly direction to the
73 intersection with the east line of the Northwest one-quarter of the Southeast one-quarter of Section 32,
74 Township 26 South, Range 25 East; thence North along the East line of said Northwest one-quarter of
75 the Southeast one-quarter of Section 32, to the Northeast corner of the Northwest one-quarter of the
76 Southeast one-quarter of Section 32; thence West along the North line of said Northwest one-quarter of
77 the Southeast one-quarter, to the intersection with the centerline of State Road 665; thence South along
78 said centerline to the Southerly limited access right-of-way boundary of State Road No. 400 (Interstate
79 Hwy. No. 4); thence on said Southerly limited access right-of-way boundary as shown on D.O.T. right-
80 of-way map for said State Road No. 400 (Section 16320-2401) the following three (3) calls: proceed in
81 a Westerly direction a distance of 1,338 feet more or less to the beginning of a curve concave
82 Southerly, having a radius of 11,309.16 feet and a central angle of 16°24'00"; thence on arc of said
83 curve proceed in a Southwesterly direction a distance of 3,237.06 feet to the curve's end; thence in a
84 Southwesterly direction a distance of 1687 feet; thence proceed Northerly perpendicular to said
85 Southern right-of-way line a distance of 400.18 feet to a point on the Northern right-of-way line of I-4
86 as shown on the right-of-way map for I-4 Section 16320-2436; thence Westerly along said right-of-
87 way line a distance of 429.03 feet to the centerline of construction for State Road 670, also known as
88 the Polk County Parkway, as shown on the right-of-way map for State Road 670, Section 97160-2312,
89 thence along the said centerline of construction the following three calls: thence Northerly a distance
90 of 714.07 feet to the beginning of curve concave to the South having a radius of 881.41 feet and a
91 central angle of 160°16'07"; thence along the arc of said curve a distance of 2465.67 feet to a point of

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92 tangency; thence southwesterly a distance of 1048.31 feet; thence departing said centerline of
93 construction on a line perpendicular to the said centerline of construction proceed Westerly a distance
94 of 324.21 feet to a point on the Westerly right-of-way line of State Road 670, said point being the
95 beginning of a non-tangent curve concave Northwesterly and a central angle of 10°36'21" and a radius
96 of 1343.79 feet; thence along the arc of said curve a distance of 248.74 feet to the Northern right-of-
97 way line of I-4 as shown on the right-of-way map for I-4 Section 16320-2433; thence Westerly along
98 said right-of-way line to the East boundary of Section 12, Township 27 South, Range 24 East; thence
99 departing said Northerly limited access right-of-way line and on the East boundary of said Range 24
100 East, proceed in a Southerly direction to the intersection of said East boundary with the centerline of
101 the former Seaboard Coastline Railroad right of way; thence Northeasterly along said centerline to an
102 intersection with the East boundary of the West 1/2 of the Northwest 1/4 of Section 30, Township 27
103 South; Range 25 East; thence departing said centerline, proceed South along said East boundary to the
104 South boundary of the Northwest 1/4 of said Section 30; thence West along the South boundary of the
105 Northwest 1/4 of said Section 30 to the West boundary of said Section 30, also being the East
106 boundary of Section 25, Township 27 South, Range 24 East; thence on the East boundary of said
107 Range 24 East, proceed in a Southerly direction to the Southeast corner of Section 36, Township 27
108 South, Range 24 East; thence on the South boundary of said Section 36, proceed in a Westerly
109 direction to the Northeast corner of Section 1, Township 28 South, Range 24 East; thence on the East
110 boundary of said Range 24, proceed in a Southerly direction to the centerline of CR-546, also known
111 as Saddle Creek Road; thence run Easterly along said centerline to a point 150 feet Easterly of the
112 Northerly projected centerline of Old Dixie Highway; thence Southerly parallel to and 150 feet
113 Easterly of the projected centerline of Old Dixie Highway to the intersection with the North boundary
114 of Kimberly Court subdivision as recorded in Plat Book 73, Page 40 of the public records of Polk
115 County, Florida; thence Easterly along the North boundary of said subdivision to the Easterly
116 boundary of said subdivision; thence Southerly along said Easterly boundary to the Southerly
117 boundary of said subdivision; thence westerly along said Southerly boundary to a point 150 easterly of
118 Old Dixie Highway; thence Southerly parallel to and 150 feet Easterly of the centerline of Old Dixie
119 Highway to the centerline of the CSX railroad track as shown on valuation Map V 3 Fla 50, lying
120 Southerly of US-92; thence Northeasterly along said railroad track centerline to the East line of Section
121 17, Township 28 South, Range 25 East; thence South along the East line of Sections 17, 20, and 29 of
122 Township 28 South, Range 25 East to the Southeast corner of the North one-half, of the North one-
123 half, of the North one-half, of said Section 29. Township 28 South, Range 25 East; thence on the South
124 boundaries of the North one-half, of the North one-half, of the North one-half, of both said Section 29
125 and Section 30 Township 28 South, Range 25 East, proceed in a Westerly direction, to an intersection
126 with the centerline of Saddle Creek; thence on the centerline of said creek, proceed in a Southeasterly
127 direction to the Northerly shore of Lake Hancock; thence on said Northerly shore of said Lake
128 Hancock; proceed in an Easterly direction to the East Boundary of Section 31, Township 28 South,
129 Range 25 East; thence on a line being the Southerly extension the said East boundary of Section 31,
130 proceed Southerly to the theoretical Northeast corner of Section 19, Township 29 South, Range 25
131 East; thence Westerly on the theoretical North boundary (of said Section 19) 2,600.00 feet; thence
132 Southwesterly to the point of intersection of the Southwesterly shoreline of aforesaid Lake Hancock
133 with the Easterly extension of the South boundary of the North one-half of the North one-half of
134 Section 24, Township 29 South, Range 24 East; thence proceed on said Easterly extension in a
135 Westerly direction to the Southeast corner of the North one-half of the aforesaid North one-half of
136 Section 24; thence on the South boundary thereof; proceed in a Westerly direction to the East boundary
137 of the West one-half of the West one-half of said Section 24; thence on said East boundary, proceed in
138 a Southerly direction to the South boundary of the North one-half of the North one-half of the South
139 one-half of said Section 24; thence on said South boundary, proceed in a Westerly direction to the

140 West boundary of said Section 24, the same being the East boundary of Section 23, Township 29
141 South, Range 24 East; thence on the East boundaries of Section 23 and 26, Township 29 South, Range
142 24 East, proceed in a Southerly direction to the Southeast corner of the North one-half of the South
143 one-half of the North one-half of said Section 26; thence on the South boundary of the North one-half
144 of the South one-half of the North one-half of said Section 26, proceed in a Westerly direction to the
145 East boundary of the West one-half of said Section 26; thence on said East boundary, proceed in a
146 Southerly direction to the South boundary of the North one-half of said Section 26; thence on said
147 South boundary, proceed in a Westerly direction to the West boundary of the East one-half of the East
148 one-half of the West one-half of said Section 26; thence on said West boundary, proceed in a Southerly
149 direction to the North boundary of the South one-half of the South one-half of said Section 26; thence
150 on said North Boundary, proceed in an Easterly direction to the East boundary of the West one-half of
151 said Section 26; thence on said East boundary, proceed in a Southerly direction to the Southeast corner
152 of the West one-half of said Section 26; thence on the South boundaries of Sections 26, 27 and 28,
153 Township 29 South, Range 24 East, proceed in a Westerly direction to the Southwest corner of said
154 Section 28; thence on the West boundary of said Section 28, the same being the East boundary of
155 Section 29, Township 29 South, Range 24 East, proceed in a Northerly direction to the Southeast
156 corner of the North one-half of the North one-half of said Section 29; thence on the South boundary of
157 the North one-half of the North one-half of Section 29 and 30, Township 29 South, Range 24 East and
158 on the South boundary of the North one-half of the North one-half of Section 25 and 26, Township 29
159 South, Range 23 East, proceed in a Westerly direction across said Sections 29, 30, 25 and 26 to an
160 intersection with the centerline of State Road No. 37; thence on said centerline as shown on D.O.T.
161 right-of-way map for said State Road No. 37 (Section 16250-2514), proceed in a Northerly direction to
162 the North boundary of said Section 26, the same being the South boundary of Section 23, Township 29
163 South, Range 23 East; thence on the South boundaries of Sections 23, 22, 21, 20 and 19, Township 29
164 South, Range 23 East, proceed in a Westerly direction to the Southwest corner of said Section 19 and
165 the POINT OF BEGINNING.
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 Lakeland Service Territory



Cropped image of the *ca_polik.dgn* and the *I*Lakeland Service Territory with proposed modifications.

