

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition to approve territorial agreement in Columbia, Lafayette, Suwannee, and Hamilton Counties by Suwannee Valley Electric Cooperative and Duke Energy Florida, LLC.

DOCKET NO. 160211-EU  
ORDER NO. PSC-17-0039-PAA-EU  
ISSUED: January 31, 2017

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
RONALD A. BRISÉ  
DONALD J. POLMANN

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING TERRITORIAL AGREEMENT IN COLUMBIA, LAFAYETTE,  
SUWANNEE, AND HAMILTON COUNTIES BY SUWANNEE VALLEY ELECTRIC  
COOPERATIVE AND DUKE ENERGY FLORIDA, LLC.

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 September 14, 2016, Suwannee Valley Electric Cooperative (SVEC) and Duke Energy Florida, LLC (DEF) filed a joint petition for approval of an amended territorial agreement (proposed agreement) in Columbia, Lafayette, Suwannee, and Hamilton Counties. The proposed agreement is Attachment 1 to the petition, and incorporated as Attachment A to this order, while the maps and written descriptions delineating the area to be served by the proposed agreement are provided in the petition as Exhibits A and D, respectively. Due to the volume of those exhibits, only page 25 of the petition, the map of Columbia County's service area, is included as Attachment B. At Commission staff's request, DEF submitted a composite exhibit that contains the data from all 98 map sheets involved in this transfer into a single, easy to read exhibit attached to this order as Attachment C.

This Commission approved the existing territorial agreement between SVEC and DEF in 1995.<sup>1</sup> The existing agreement was for a term of 20 years and ended March 14, 2015. Since then there have been two Commission-approved extensions to allow the joint petitioners time to finalize negotiations. The first extension expired March 14, 2016,<sup>2</sup> and the second extended the agreement until September 14, 2016.<sup>3</sup> The joint petitioners have negotiated the proposed agreement, which delineates their respective service boundaries in Columbia, Lafayette, Suwannee, and Hamilton Counties, for a 20-year term. This agreement also consolidates an expired territorial agreement in Hamilton County which was issued August 1990 and expired in August 2010.<sup>4</sup> This agreement transfers 29 commercial customers and 102 residential customers from DEF to SVEC, and 11 commercial customers and 57 residential customers from SVEC to DEF. The transfers will be implemented as soon as it is operationally feasible for both parties to serve the total 199 impacted customers, but no later than 36 months after this order.

We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

### **Decision**

This agreement is an extension of an earlier one set to expire in 2016, and consolidates the previously expired agreement for Hamilton County. It is in the public interest and will enable SVEC and DEF to better serve their current and future customers.

Pursuant to Section 366.04(2)(d), F.S. and Rule 25-6.0440(2), F.A.C., we have jurisdiction to approve territorial agreements between, and among, rural electric cooperatives, municipal electric utilities, and investor-owned utilities. Unless we determine that the agreement will cause a detriment to the public interest, the agreement should be approved.<sup>5</sup>

The two utilities desire to continue and consolidate two existing agreements and clarify the territorial boundaries within Columbia, Lafayette, Suwannee, and Hamilton Counties. This agreement enables the petitioners to more reliably and economically serve customers. This agreement modifies the territorial boundaries to eliminate split parcels, and results in the transfer of 199 customers between the utilities. Madison County has been removed from this proposed agreement due to the fact that DEF does not share any territorial boundaries with SVEC in the county.

This agreement is in effect for a 20-year term, and contains the condition that after the expiration date, the agreement will remain in effect until and unless either party provides a

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<sup>1</sup> Order No. PSC-95-0351-FOF-EU, issued March 14, 1995, in Docket No. 940331-EU, In re: Petition to resolve territorial dispute with Florida Power Corporation.

<sup>2</sup> Order No. PSC-15-0128-PAA-EU, issued March 20, 2015, in Docket No. 150039-EU, In re: Joint petition to reopen and extend the term of existing territorial agreement in Columbia, Lafayette, Madison, and Suwannee Counties.

<sup>3</sup> Order No. PSC-16-0193-PAA-EU, issued May 17, 2016, in Docket No. 160056-EU, In re: Joint petition to reopen and extend the term of existing territorial agreement in Columbia, Lafayette, Madison, and Suwannee Counties.

<sup>4</sup> Order No. 23310, issued August 6, 1990, in Docket No. 890780-EU, In re: Petition of Suwannee Valley Electric Cooperative, Inc. to resolve territorial disputes with Florida Power Corporation in Hamilton County.

<sup>5</sup> Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

written notice at least 12 months prior to termination. Pursuant to Section 1.9 of the agreement, the effective date of the agreement will be the date that we issue the final order, provided no timely protests are filed.

In accordance with Rule 25-6.0440(1)(d), F.A.C., the 199 customers impacted by this agreement have been notified by mail of the transfer and each were provided with a description of the difference in rates between DEF and SVEC.<sup>6</sup> As of August 2016, the rate comparison for a non-demand commercial customer, using 1,500 kilowatt-hours, was \$171.22 for DEF and \$180.00 for SVEC. As of August 2016, the rate comparison for a residential customer, using 1,000 kilowatt-hours, was \$108.48 for DEF and \$121.00 for SVEC. Both parties will apply any deposits of the impacted customers to their last electric bill and will directly refund any surplus. The joint petitioners expect that the customer transfers will be completed within 36 months of the agreement's effective date and will notify the Commission in writing if additional time is needed.

With regard to this proposed agreement, the petitioners have asserted that SVEC has not received any feedback, questions, or concerns from the customers and DEF has received feedback from three customers. All three customers desired to remain with DEF and raised concerns about reliability of service, higher rates, vegetation management, and comparative restoration times with SVEC during Hurricane Hermine. DEF has personally contacted all three customers and provided information on how to submit comments to the Public Service Commission. This Commission received correspondence from one customer on November 8, 2016.<sup>7</sup> This customer also cited reliability of service and higher rates as concerns with the proposed agreement.

Section 3.4 (Compensation for Transferred Customers) of the proposed agreement allows for the compensation of lost revenue due to the transfer of customers. Compensation only applies to the number of customers affected by modifications to the territorial boundaries, and the party losing the customers will be compensated for the loss of revenue by the receiving party. In total SVEC is estimated to pay DEF approximately \$260,412 in lost revenue and DEF is estimated to pay SVEC approximately \$111,535. These estimates are reasonable in light of current rates. However, the final compensation amounts will depend on the approval date of this agreement. Compensation is intended to be provided within 60 days of the provided invoice.

In accordance with section 3.5 (Compensation for Transferred Facilities) of the proposed agreement, SVEC may elect to purchase electric distribution facilities used exclusively for providing electric service to the transferred customers. To determine the facilities' value, DEF will use a common engineering cost estimation methodology such as the Handy-Whitman index. In response to Commission staff's data request, joint petitioners believe that the net purchase of facilities to be transferred will not exceed \$100,000. The actual amount will depend on approval of this agreement.

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<sup>6</sup> Petition Exhibit E.

<sup>7</sup> Document No. 08730-16, filed November 8, 2016, in Docket 160211-EU, In re: Joint petition to approve territorial agreement in Columbia, Lafayette, Suwannee, and Hamilton Counties.

This agreement should avoid the likelihood of the duplication of services and wasteful expenditures by DEF and SVEC. This agreement should also improve the ability of each utility to take actions to protect the public health and safety of its customers from potentially hazardous conditions. This Commission's approval of this agreement is therefore in the public interest.

By merging the two prior agreements, this Commission has clarified boundary lines, and reduced the likelihood of uneconomic duplication of facilities. This action should promote the responsiveness to customer needs without a decrease in the reliability of electric service. After considering the concerns of cost and service issues raised by individual customers, we have determined that the transfer of 199 customers will benefit the customer base as a whole by avoiding the duplication of services, maintaining lower rates, enhancing safety and reliability, and reducing restoration times. Accordingly, the territorial agreement between SVEC and DEF is hereby approved.

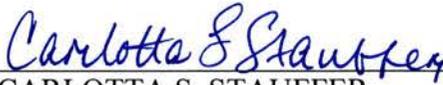
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the territorial agreement between Suwannee Valley Electric Cooperative and Duke Energy Florida, LLC shall be approved.

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 Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 31st day of January, 2017.



CARLOTTA S. STAUFFER  
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.

WLT

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.

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 February 21, 2017.

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**

Section 0.1: Suwannee Valley Electric Cooperative (“SVEC”), and Duke Energy Florida, LLC d/b/a Duke Energy (“DEF”) (collectively, the “Parties” and individually, a “Party”) enter into this Territorial Agreement (the “Agreement”) on this 14th day of September, 2016.

### **WITNESSETH:**

Section 0.2: WHEREAS, SVEC is authorized by Chapter 425, Florida Statutes, to furnish retail electric service to its members and customers, and pursuant to such authority, presently furnishes electric service to members and customers in areas of Columbia, Lafayette, Suwannee and Hamilton counties; and

Section 0.3: WHEREAS, DEF is authorized by Chapter 366, Florida Statutes, to furnish retail electric service to customers throughout the State of Florida, and pursuant to such authority, presently furnishes electric service to customers in areas of Columbia, Lafayette, Suwannee and Hamilton counties; and

Section 0.4: WHEREAS, SVEC and DEF are currently parties to a territorial agreement delineating their respective service territories in Columbia, Lafayette, Madison, Suwannee and Hamilton counties, which were approved by the Florida Public Service Commission (the Commission). The territorial agreements include: Columbia, Lafayette, Madison, and Suwannee Counties, approved by the Commission in Order No. PSC-95-0351-FOF-EU,

issued March 14, 1995, in Docket No. 940331-EU.<sup>1</sup> The Agreement had an original twenty (20) year term through March 14, 2015. On January 27, 2015, the Joint Petitioners submitted a Joint Petition requesting approval of a Stipulation to reopen and extend the term of the Agreement. By Order No. PSC-15-0151-CO-EU, issued April 15, 2015, in Docket No. 150039-EU, the Commission approved the Stipulation, extending the terms of the Agreement through March 14, 2016. The Parties were not able to conclude their negotiations by March 14, 2016, and therefore requested to reopen and extend the term of their agreement until September 14, 2016, which was approved by Order No. PSC-16-0236-CO-EU, issued June 13, 2016 in Docket No. 160056-EU (the "Existing Agreement"). The Parties are also parties to a territorial agreement in Hamilton County, which was approved by Commission Order No., 23310 issued August 6, 1990, in Docket No. 890780-EU (the "Expired Agreement"); and

Section 0.5: WHEREAS, the Parties desire to consolidate the territorial agreements for Columbia, Lafayette, Suwannee and Hamilton counties into one Agreement to better serve their interests and the interests of their customers in realizing the planning, operational, and customer service benefits provided to their respective electric systems by a properly constructed, approved, and supervised territorial agreement; and

Section 0.6: WHEREAS, the respective retail service areas of the Parties are contiguous, with the result that, absent the establishment of a territorial agreement defining the Parties' respective service territories, duplication of service facilities would be

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<sup>1</sup> The SVEC Territorial Area does not include any area in Madison county, and DEF does not share any territorial boundaries with SVEC in Madison county, therefore, Madison county has been removed from this proposed Agreement.

likely to occur; and

Section 0.7: WHEREAS, the Commission has previously recognized that duplication of service facilities results in needless and wasteful expenditures and may create hazardous situations, both being detrimental to the public interest; and

Section 0.8: WHEREAS, the Parties hereto desire to continue to avoid and eliminate circumstances which may create wasteful expenditures and hazardous situations by consolidating the territorial boundary lines between their respective retail service territories in Columbia, Lafayette, Suwannee and Hamilton counties; and

Section 0.9: 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 its 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.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the Parties hereby agree to consolidate and supersede the Existing Agreement and Expired Agreement as follows:

## ARTICLE I

### DEFINITIONS

Section 1.1: Territorial Boundary Line(s). As used herein, the term "Territorial Boundary Line(s)" shall mean the boundary line(s) depicted on the maps attached hereto as Exhibit A which delineate and differentiate the Parties' respective Territorial Areas in Columbia, Lafayette, Suwannee and Hamilton counties. The portions of the counties which are not subject to this agreement are marked on the maps as "Not Part of This Agreement." Additionally, as required pursuant to Rule 25-6.0440(1)(a), F.A.C., a written description of the territorial areas served is attached as Exhibit D. If there are any discrepancies between Exhibit A and Exhibit D, then the territorial boundary maps in Exhibit A shall prevail.

Section 1.2: SVEC Territorial Area. As used herein, the term "SVEC Territorial Area" shall mean the geographic areas in Columbia, Lafayette, Suwannee and Hamilton counties allocated to SVEC as its retail service territory and labeled as "Suwannee Valley Electric Coop" on the maps contained in Exhibit A.

Section 1.3: DEF Territorial Area. As used herein, the term "DEF Territorial Area" shall mean the geographic area in Columbia, Lafayette, Suwannee and Hamilton counties allocated to DEF as its retail service territory and labeled as "Duke Energy" on the maps contained in Exhibit A.

Section 1.4: Point of Use. As used herein, the term "Point of Use" shall mean the location within the Territorial Area of a Party where a customer's end-use facilities consume electricity, wherein such Party shall be entitled to provide retail electric service

under this Agreement, irrespective of where the customer's point of delivery or metering is located.

Section 1.5: New Customers. As used herein, the term "New Customers" shall mean all customers applying for retail electric service after the Effective Date of this Agreement at a Point of Use in the Territorial Area of either Party.

Section 1.6: Extra-Territorial Customers. As used herein, the term "Extra-Territorial Customers" shall mean: (a) those customers served by either Party on the Effective Date of the Existing Agreement who are located within the Territorial Area of the other Party established by such Existing Agreement, and (b) those customers, other than Temporary Service Customers, served by either Party on the Effective Date of this Agreement who are located within the Territorial Area of the other Party due to modifications of the Territorial Boundary Lines established herein.

Section 1.7: Temporary Service Customers. As used herein, the term "Temporary Service Customers" shall mean customers who are being temporarily served under the temporary service provisions of the Existing Agreement.

Section 1.8: Commission. As used herein, the term "Commission" shall mean the Florida Public Service Commission.

Section 1.9: Effective Date. As used herein, the term "Effective Date" shall mean the date on which the final Order of the Commission granting approval of this Agreement in its entirety becomes no longer subject to judicial review.

## ARTICLE II

### RETAIL ELECTRIC SERVICE

Section 2.1: In General. Except as otherwise specifically provided herein, SVEC shall have the exclusive authority to furnish retail electric service within the SVEC Territorial Area and DEF shall have the exclusive authority to furnish retail electric service in the DEF Territorial Area. The Territorial Boundary Line shall not be altered or affected by any change that may occur in the corporate limits of any municipality or county through annexation or otherwise unless such change is agreed to in writing by the Parties and approved by the Commission.

Section 2.2: Service to New Customers. The Parties agree that neither of them will knowingly serve nor 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 Sections 2.3 and 4.4 below.

Section 2.3: 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 instances, 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. Prior to the commencement of temporary service, the Party providing such service shall inform the New Customer of the temporary nature

of its service and that the other Party will ultimately serve the New Customer. 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 5.1 hereof. Such temporary service shall be discontinued upon written notice from the requesting Party of its intent to provide service, which the Parties shall coordinate to minimize any inconvenience to the customer. In conjunction with such discontinuance, the Party providing temporary service hereunder shall be compensated by the requesting Party in accordance with Section 3.5 for its distribution facilities used exclusively to provide such service, which the other Party may elect to acquire, but the other Party shall not be entitled to compensation for any loss of revenues for the period during which such temporary service is provided.

Section 2.4: 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 service is not permitted under this Agreement and shall refer the prospective New Customer to the other Party.

Section 2.5: 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 Territorial Area of the other Party, service to such customer by the other Party will be established at the earliest practical time, but in any event within twelve (12) months of the date the

inadvertent service error was discovered. Until service by the other Party can be reasonably established, the inadvertent service will be deemed to be temporary service provided and governed in accordance with Section 2.3 above.

### ARTICLE III

#### TRANSFER OF CUSTOMERS AND FACILITIES

Section 3.1: In General. It is the intent of the Parties that all customers of either Party shall be served by the Party in whose Territorial Area they are located at the earliest practicable time. Accordingly, no later than thirty-six (36) months after the Effective Date of this Agreement, all customers located in the SVEC Territorial Area who are served by DEF on the Effective Date shall be transferred to and thereafter served by SVEC, and all customers located in the DEF Territorial Area who are served by SVEC on the Effective Date shall be transferred to and thereafter served by DEF. The customers who currently are not served by the Party in whose Territorial Area they are located consist of: (a) all Extra-Territorial Customers, for whom the Parties will seek approval to transfer in conjunction with the approval of this Agreement by the Commission, and (b) all Temporary Service Customers, for whom Commission approval is not required to terminate temporary service and establish service by the Party in whose Territorial Area the Temporary Service Customers are located.

In accordance with Rule 25-6.0440(1)(d), F.A.C., the affected customers subject to transfer have been sent written notification of this proposed Agreement and the

transfer provisions described above. Sample copies of the letters providing such notification are attached as Exhibit E.

In the event that circumstances arise during the term of this Agreement in which the Parties 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 service territory of the other Party, the Parties shall 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 transfer of the customers located in the Reallocated Area to the other Party.

Section 3.2: Transfer of Extra-Territorial Customers. The Extra-Territorial Customers currently served by SVEC and subject to transfer to DEF pursuant to this Agreement are listed by the service address and/or other identifying factor, in Exhibit B, hereto. The Extra-Territorial Customers currently served by DEF and subject to transfer to SVEC pursuant to this Agreement are listed by the service address and/or other identifying factor, in Exhibit C, hereto.

Section 3.3: Transfer of Related Service Facilities. In conjunction with the transfer of Extra-Territorial Customers pursuant to Sections 3.1 and 3.2 above, the receiving Party may elect to purchase the electric distribution facilities of the transferring Party used exclusively for providing electric service to the transferred customers for an amount to be determined in accordance with Section 3.5 below.

Section 3.4: Compensation for Transferred Customers. This Section 3.4 only applies to those customers served by either Party on the Effective Date of this Agreement who are located within the Service Territory of the other Party due to modifications of the Territorial Boundary Lines established herein. This Section 3.4 does not apply to Temporary Service Customers.

For customers to which this Section 3.4 is applicable, the receiving Party shall pay to the transferring Party, known as Going Concern, for each active customer account transferred, an amount equal to: (a) the transferring Party's total revenues from the sale of electric service (including the customer, fuel and demand charges but excluding taxes and fees) to such account during the most recent twelve (12) complete billing months available at the time of transfer, or (b) if service was provided for less than twelve (12) complete billing months, the average monthly amount of such revenues multiplied by twelve (12). In addition, the same compensation methodology shall be followed for the total revenues (including pole rental and fixture maintenance charges) of each transferred street or security lighting account.

Section 3.5: Compensation for Transferred Facilities. The receiving Party shall compensate the transferring Party for the electric distribution facilities described in Section 3.3 above in an amount based upon the replacement cost (new), less depreciation calculated on a straight line basis over the life of the asset (facility) as determined from the transferring Party's books and records. The replacement cost shall be determined by applying a cost calculator such as the Handy Whitman index or a common engineering

cost estimation methodology to the original cost, as long as both Parties apply the same estimation method.

Section 3.6: Transfer Segment Closings. The Parties shall mutually agree on a closing date for each transfer segment, allowing sufficient time for the Parties to identify the customers and facilities to be transferred; to determine the compensation for transferred customers and facilities; and to prepare the appropriate closing statements, assignments, and other instruments to transfer and convey the transferring Party's interest in the electric distribution facilities to the receiving Party pursuant to Section 3.3 above. At the closing, the receiving Party shall pay the transferring Party the compensation due it, and the transferring Party shall execute and deliver to the receiving Party the assignments and other instruments referred to above.

## ARTICLE IV

### OPERATION AND MAINTENANCE

Section 4.1: Facilities to Remain. Other than as expressly provided for herein, no generating plant, transmission line, substation, distribution line, or related equipment shall be subject to transfer or removal hereunder; provided, however, that each Party shall operate and maintain its lines and facilities in a manner that minimizes any interference with the operations of the other Party. To facilitate this objective, in the event either Party intends to construct, locate, or relocate its distribution facilities in or directly adjacent to the Territorial Area of the other Party, such Party shall notify

the other Party in writing at least fourteen (14) days prior to commencement of such intended action.

Section 4.2: SVEC Facilities to be Served. Nothing herein shall be construed to prevent or in any way inhibit the right and authority of SVEC to serve any SVEC facility located in the DEF Territorial Area which is used exclusively in connection with SVEC business as an electric utility; provided, however, that SVEC shall construct, operate, and maintain said lines and facilities in such manner as to minimize any interference with the operation of DEF in the DEF Territorial Area, including notice to DEF pursuant to Section 4.1.

Section 4.3: DEF Facilities to be Served. Nothing herein shall be construed to prevent or in any way inhibit the right and authority of DEF to serve any DEF facility located in the SVEC Territorial Area which is used exclusively in connection with DEF business as an electric utility; provided, however, that DEF shall construct, operate, and maintain said lines and facilities in such manner as to minimize any interference with the operation of SVEC in the SVEC Territorial Area, including notice to SVEC pursuant to Section 4.1.

Section 4.4: Retail Service at Facility Sites. Where either Party serves any of its facilities located in the Territorial Area of the other Party pursuant to Sections 4.2 or 4.3 above, such Party may provide limited retail service on the site of the facility to prevent potential safety hazards or unsound operating conditions that would result from the construction and maintenance of lines and related facilities by the other Party to provide retail service at the site. As used in this section, limited retail service

shall mean no more than three separate retail accounts with a combined load of 25 kW or less at any such site.

## ARTICLE V

### PREREQUISITE APPROVAL

Section 5.1: Commission Approval. The Parties and the provisions and performance of this Agreement are subject to the regulatory authority of the Commission, and appropriate approval by the Commission of the provisions of this Agreement shall be a condition precedent to the validity, enforceability, and applicability hereof. This Agreement shall have no effect whatsoever until Commission approval has been obtained. Any proposed modification to this Agreement, whether proposed jointly or by either Party, shall be submitted to the Commission for consideration and approval prior to becoming effective. In addition, either Party may petition the Commission to resolve any dispute concerning the provisions of this Agreement or the Parties' performance hereunder.

Section 5.2: Liability in the Event of Disapproval. In the event approval of the Commission pursuant to Section 5.1 is not obtained, neither Party will have any claim against the other arising under this Agreement.

Section 5.3: Supersedes Prior Agreements. Upon approval by the Commission, this Agreement shall be deemed to specifically supersede any and all prior agreements between the Parties regarding their respective retail service areas in Columbia, Lafayette, Suwannee and Hamilton counties.

## ARTICLE VI

### DURATION

Section 6.1: Term. This Agreement shall continue and remain in effect for a period of twenty (20) years from the Effective Date. After expiration of the twenty (20) year term provided herein, this Agreement shall remain in effect thereafter unless either Party provides written notice of Termination at least 12 months prior to the termination of the agreement as contemplated by Section 8.3.

## ARTICLE VII

### CONSTRUCTION OF AGREEMENT

Section 7.1: Other Electric Utilities. Nothing in this Agreement shall restrict or affect in any manner the right of either Party to establish its retail service area with respect to any other electric utility. The Parties understand that SVEC or DEF may, from time to time and subject to Commission approval, enter into territorial agreements with other electric utilities that have adjacent or overlapping service areas and that, in such event, nothing herein shall be construed to prevent SVEC or DEF from designating any portion of its Territorial Area under this Agreement as the retail service area of such other electric utility.

Section 7.2: Bulk Power for Resale. Nothing herein shall be construed 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 other section or provision of this Agreement shall be construed as applying to a bulk power supply for resale purposes.

Section 7.3: Intent and Interpretation. It is hereby declared to be the purpose and intent of the Parties that this Agreement shall be interpreted and construed, among other things, to further this State's policy of actively regulating and supervising the service territories of electric utilities; supervising 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 to fulfill the Parties' respective obligations to serve.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.1: 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 shall be binding upon either of the Parties unless agreed to in writing by both Parties and approved by the Commission.

Section 8.2: Successors and Assigns. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon or give to any person or corporation, 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 herein contained shall inure to the sole benefit of and

shall be binding only upon the Parties and their respective representatives, successors, and assigns.

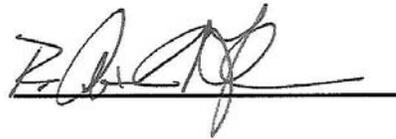
Section 8.3: Notices. Notices and other written communications contemplated by this Agreement shall be deemed to have been given if sent by certified mail, postage prepaid, by prepaid private courier, or by confirmed facsimile transmittal, as follows:

To Suwannee Valley Electric Cooperative:



Michael S. McWaters  
Executive Vice President & CEO  
Suwannee Valley Electric Cooperative  
11340 100th Street  
Live Oak, FL 32060  
Fax: (386) 364-5008

To Duke Energy Florida:



R. Alexander Glenn  
State President  
Duke Energy Florida, LLC  
P.O. Box 14042  
St. Petersburg, Florida 33733  
Fax: 727-820-5044

Either Party may change its designated representative or address to which such notices or communications shall be sent by giving written notice thereof to the other Party in the manner herein provided.

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

SUWANNEE VALLEY ELECTRIC COOPERATIVE, INC.

ATTEST:

By Michael S. McWaters  
Michael S. McWaters  
Executive Vice President & Chief Executive Officer

Erin D. Skeen  
Secretary Executive Assistant



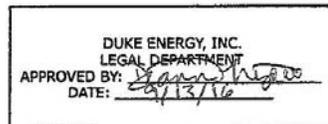
ERIN D. SKEEN  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # FF084833  
EXPIRES 10/24/2016  
BONDED THRU 1-888-NOTARY1

DUKE ENERGY FLORIDA, LLC

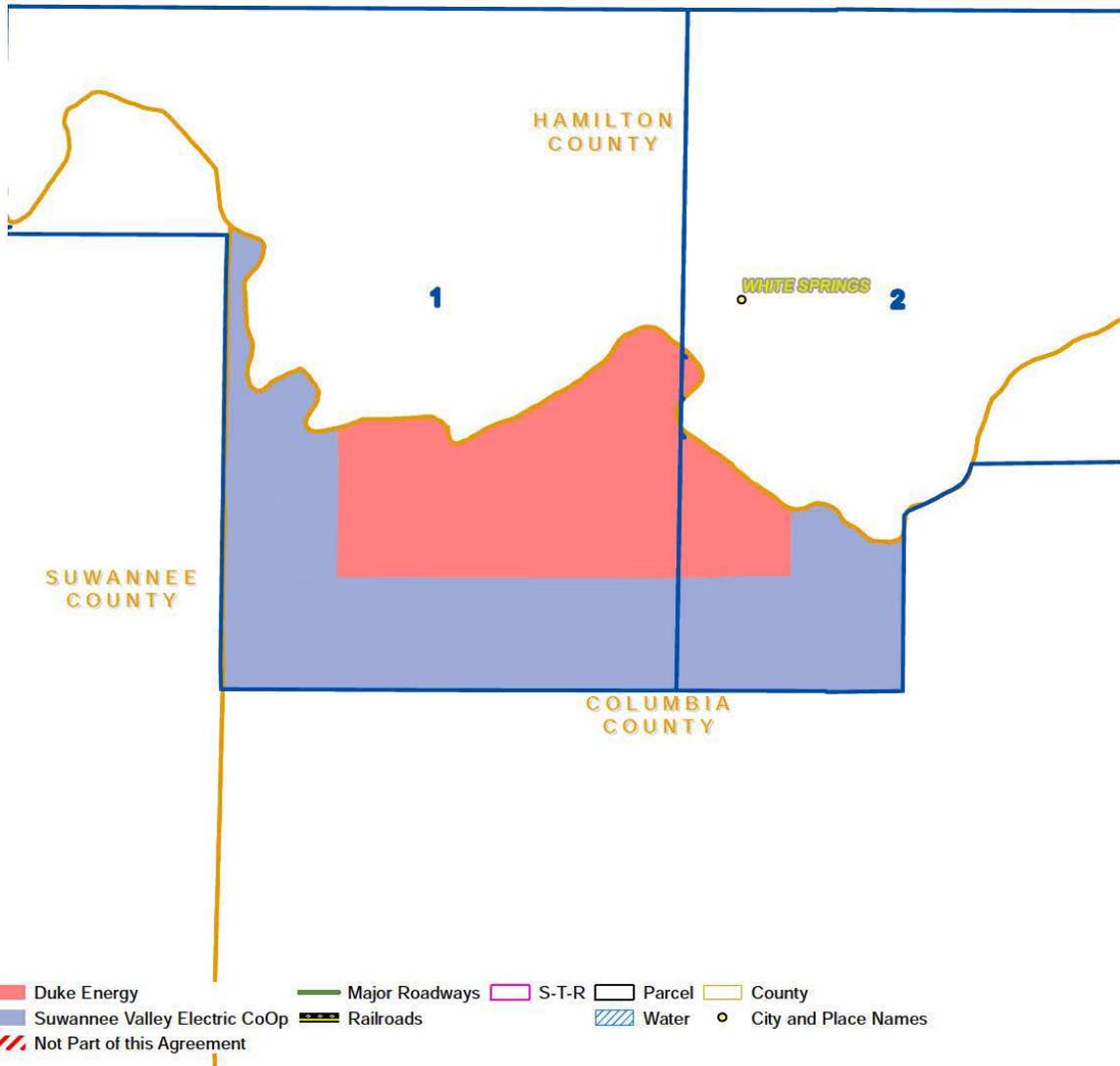
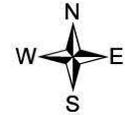
ATTEST:

By R. Alexander Glenn  
R. Alexander Glenn  
State President

Dianne Triplett  
Dianne Triplett, Associate General Counsel



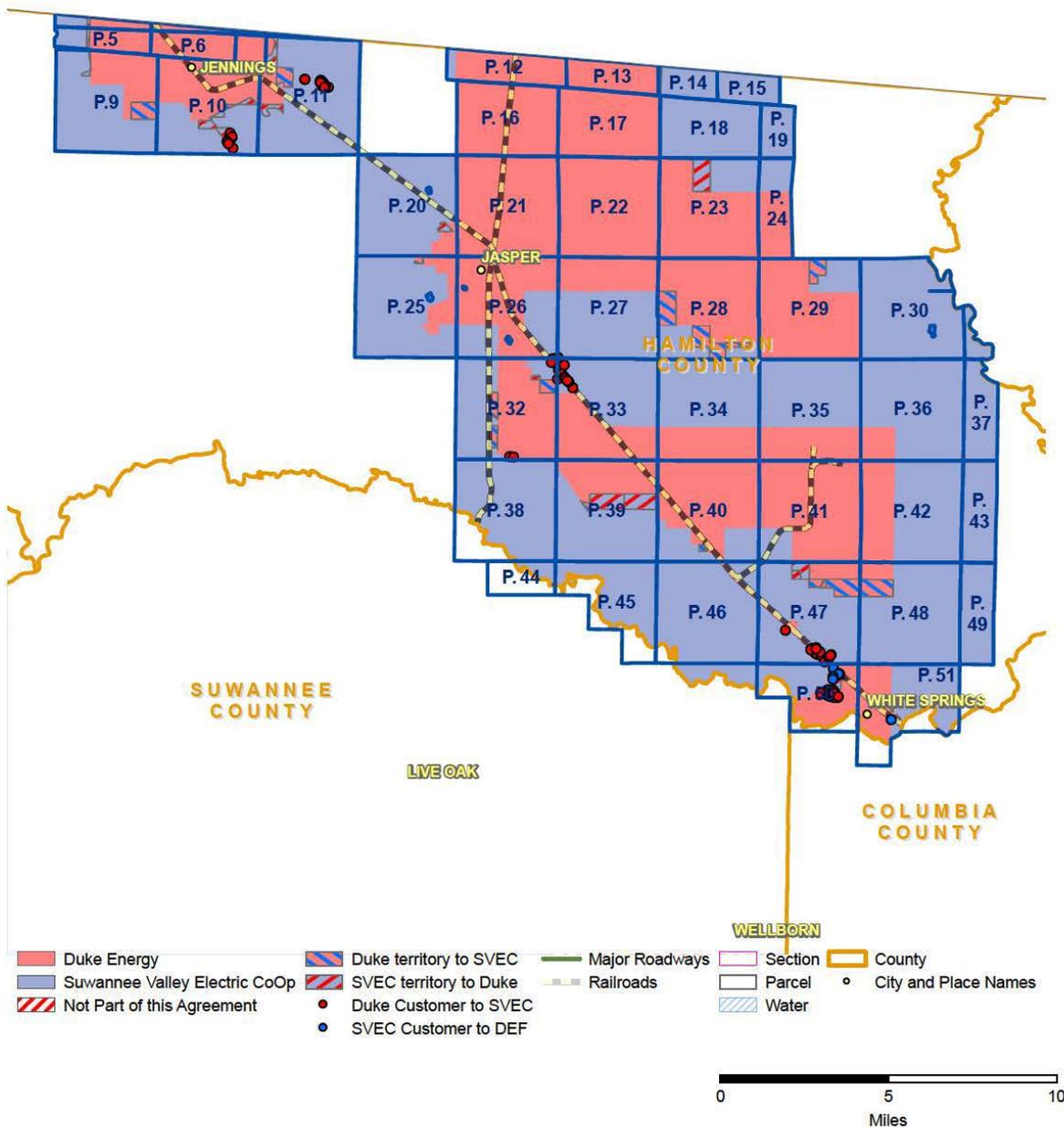
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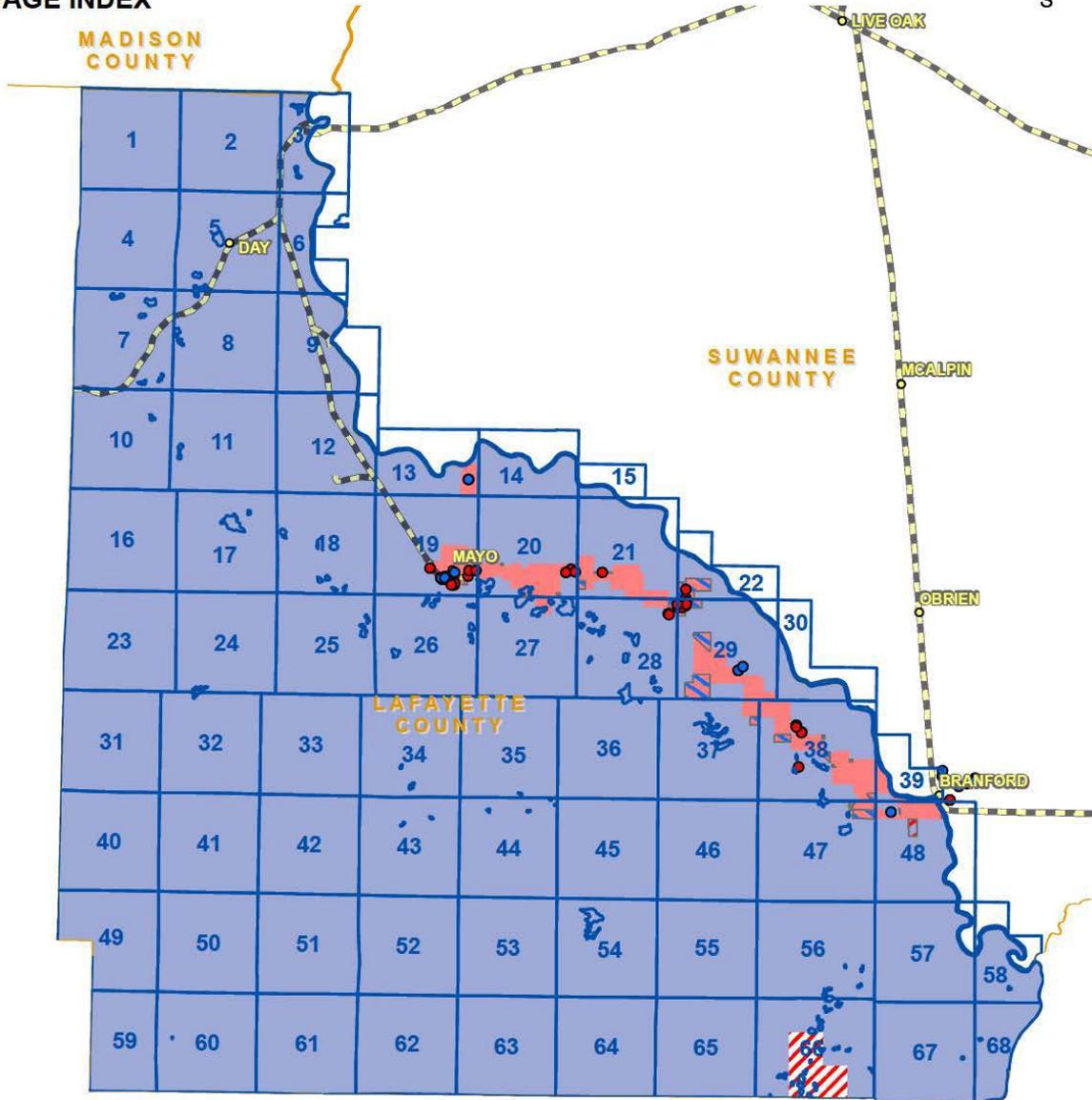
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State of Georgia



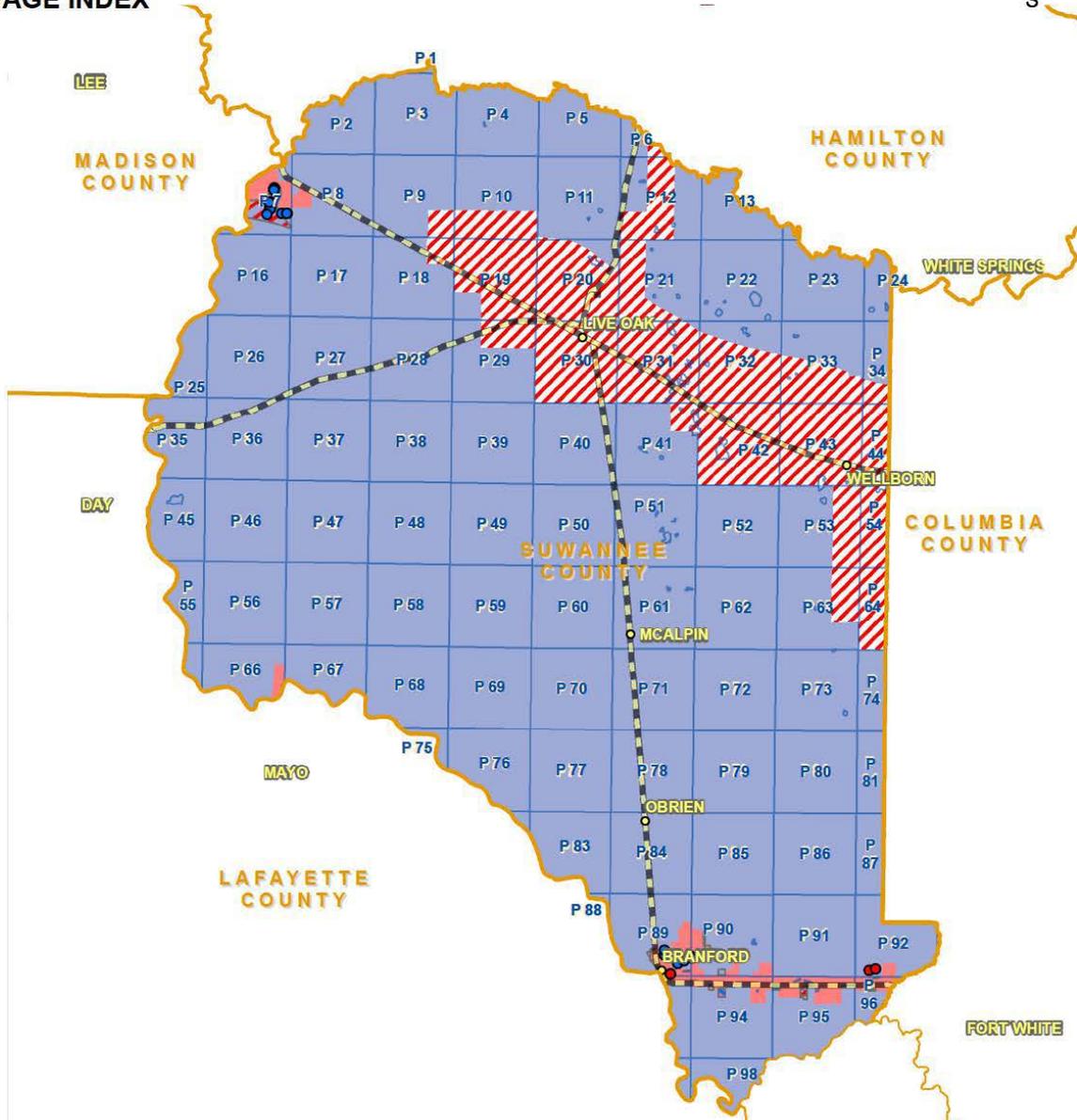
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|-------------------------------|------------------------|----------------|---------|----------------------|
| Duke Energy                   | Duke territory to SVEC | Major Roadways | Section | County               |
| Suwannee Valley Electric CoOp | SVEC territory to Duke | Railroads      | Parcel  | City and Place Names |
| Not Part of this Agreement    | Duke Customer to SVEC  |                | Water   |                      |
|                               | SVEC Customer to DEF   |                |         |                      |



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