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-VIA ELECTRONIC FILING -

Mr. Adam Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No 20190142-EU – Joint Petition for Approval of Amendment to Territorial Agreement by Florida Power & Light Company and Okefenokee Rural Electric Membership Corporation (Staff’s Second Data Request)

Dear Mr. Teitzman:

Enclosed please find the responses to Staff’s Second Data Request, Nos. 1 through 3, which are submitted on behalf of the Joint Petitioners, FPL and OREMC.

Please contact me at (561) 691-2512 should you or your Staff have any questions or concerns regarding this filing.

Sincerely,

/s/Kenneth M. Rubin
Kenneth M. Rubin

Enclosures

cc: Sevini Guffey, FPSC Staff

E. Dylan Rivers, Esq.

QUESTION:

Please clarify whether the joint petitioners are seeking Commission approval, or not, of the Memorandum of Understanding provided in Exhibit E to the petition.

RESPONSE:

The joint petitioners are not seeking Commission approval of the Memorandum of Understanding provided in Exhibit E to the Petition.

QUESTION:

Please explain why FPL and Okefenoke negotiated two documents: an Amendment of Territorial Agreement and a Memorandum of Understanding.

RESPONSE:

The Amendment of Territorial Agreement is intended to provide the Commission, FPL, OREMC, future potential customers, and all members of the public with certainty regarding the areas in the affected portion of Nassau County that will be served by each of the joint petitioners. Additionally, Order No. PSC-95-0668-FOF-EU, which approved the current territorial agreement (including the maps with the discrepancy sought to be resolved through this proceeding), includes by reference to Section 4.1 of that territorial agreement the following language: "This Agreement shall continue and remain in effect until the Commission, by Order, modifies or withdraws its approval of this Agreement after proper notice and hearing."

Further, Rule 25-6.0440, F.A.C., requires any modifications to existing territorial agreements to be submitted to the Commission for approval.

The Memorandum of Understanding ("MOU"), on the other hand, entered into well before the Amendment of Territorial Agreement, represents the negotiated provisions necessary to resolve the discrepancy in the maps, and which thereafter allowed the joint petitioners to proceed with the Amendment of Territorial Agreement. The MOU, which memorialized the agreement between the joint petitioners, includes the type of commercial terms and provisions not generally included in a territorial agreement (e.g., termination rights, choice of law provisions, equipment specifications, etc.). Additionally, while the MOU included a conceptual or high level map of the area in question in this proceeding, it did not include the detailed map that was subsequently drafted to identify with specificity the areas to be served by each of the joint petitioners, assuming Commission approval of the pending Joint Petition.

QUESTION:

The Memorandum of Understanding contains a provision which requires FPL, provided final Commission approval of the territorial agreement, to construct certain distribution facilities for the benefit of Okefenoke and to transfer such facilities for \$10. Please explain how FPL will recover the cost of constructing those distribution facilities and what the basis is for the \$10 cost of those facilities to Okefenoke. What are the estimated costs FPL will incur to construct the Okefenoke distribution facilities?

RESPONSE:

For the buyer's (Okefenoke) benefit under the bill of sale, \$10 was selected as the nominal consideration to satisfy the requirement for consideration in the bill of sale. The bill of sale will be signed after completion of the facilities.

As described further in response to Staff's First Data Request No. 10, the final estimated cost of the Okefenoke distribution facilities will not be available until the design and engineering are complete. FPL's preliminary estimate to construct the facilities is approximately \$6.8 - \$7.6 million. FPL is not currently seeking to recover the cost of the facilities. If FPL seeks to recover those costs in the future, FPL will make an appropriate request to the Florida Public Service Commission.