

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *JGH*
Office of the General Counsel (Tierweiler) *JSC*

RE: Docket No. 20200201-EU – Joint petition for approval of modification to territorial agreement in Lake and Sumter Counties, by City of Leesburg and Duke Energy Florida, LLC.

AGENDA: 12/01/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On August 27, 2020, Duke Energy Florida, LLC. (Duke), and the City of Leesburg (Leesburg) filed a joint petition for approval of the first amendment to their existing territorial agreement (First Amendment) in Lake and Sumter Counties. Duke and Leesburg are parties to a currently effective territorial agreement that was approved by the Commission in 2015.¹ The proposed First Amendment to the current territorial agreement and maps depicting the modified territorial boundaries are included in Attachment A to this recommendation.

¹ Order No. PSC-15-0278-PAA-EU, issued July 7, 2015, in Docket No. 150077-EU, *In re: Joint petition for approval of territorial agreement in Lake and Sumter counties by the City of Leesburg and Duke Energy Florida, Inc.*

Docket No. 20200201-EU

Date: November 17, 2020

During the review process, staff issued a data request to the joint petitioners to which responses were received on October 14, 2020. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve Leesburg's and Duke's proposed First Amendment to their existing territorial agreement in Lake and Sumter Counties?

Recommendation: Yes. The Commission should approve Leesburg's and Duke's proposed First Amendment to their existing territorial agreement in Lake and Sumter Counties. The approval of the First Amendment will allow the parties to reallocate land and form more compact, contiguous service areas for future development. The reallocation of land will enable Leesburg and Duke to avoid duplication of facilities and serve their customers efficiently. The proposed amendment is in the public interest and will not cause a decrease in reliable electric service to existing and future customers of either utility. (Guffey)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.²

Proposed First Amendment to the Territorial Agreement

Leesburg and Duke executed their First Amendment to the Territorial Agreement (see Attachment A) on August 28, 2020. The intent of the First Amendment is to reallocate vacant land pursuant to Article III and modify the territorial boundaries pursuant to Section 3.1 of the agreement. The exchange of land will form more compact and contiguous service territories for future development and avoid duplication of facilities in Lake and Sumter Counties. There are no customer or infrastructure transfers contemplated in this proposed First Amendment. Through the First Amendment, the joint petitioners seek to more accurately define the portions of their respective service areas and gain operational efficiencies.

In response to staff's data request, the joint petitioners stated that the land areas proposed to be reallocated are currently vacant. Therefore, no notice to customers was required pursuant to Rule 25-6.0440(1), F.A.C. However, staff notes that there are conceptual plans for a residential development of approximately 900 dwelling units in the area allocated to Leesburg. Although the area reallocated to Duke has no conceptual development plans at the moment, future development for this area is projected to be equal to that of Leesburg's conceptual development plans.

As stated in paragraph 6 of the petition, with the exception of the modifications contained in the First Amendment, the terms and conditions of the existing agreement remain unchanged and in effect. The First Amendment to the existing Agreement will become effective and enforceable upon the issuance of the Commission's Order and will remain in effect until July 29, 2045.

² *Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission*, 469 So. 2d 731 (Fla. 1985).

Conclusion

After review of the joint petition, the proposed First Amendment to the Territorial Agreement, and the petitioners' joint responses to staff's data request, staff recommends that the Commission should approve Leesburg's and Duke's proposed First Amendment to their existing territorial agreement in Lake and Sumter Counties. The approval of the First Amendment will allow the parties to reallocate land and form more compact, contiguous service areas for future development. The reallocation of land will enable Leesburg and Duke to avoid duplication of facilities and serve their customers efficiently. The proposed amendment is in the public interest and will not cause a decrease in reliable electric service to existing and future customers of either utility.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Trierweiler)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

AMENDMENT TO THE TERRITORIAL AGREEMENT

BETWEEN

THE CITY OF LEESBURG

AND

DUKE ENERGY FLORIDA, LLC

IN

LAKE AND SUMTER COUNTIES

**FIRST AMENDMENT TO THE TERRITORIAL AGREEMENT
BETWEEN
THE CITY OF LEESBURG AND
DUKE ENERGY FLORIDA, LLC**

THIS FIRST AMENDMENT TO THE TERRITORIAL AGREEMENT ("First Amendment"), by and between the City of Leesburg and Duke Energy Florida, LLC. (DEF) (collectively, "Parties," or individually a "Party"), is subject to the approval of the Florida Public Service Commission (the "Commission").

WHEREAS, Leesburg and Duke Energy Florida, LLC are Parties to an existing territorial agreement ("Agreement") delineating their respective service territories in Lake and Sumter Counties which was approved by the Commission in Order No. PSC-15-0313-CO-EU, issued August 4, 2015 in Docket No. 150077-EU.

WHEREAS, the Parties desire, pursuant to Article III, Transfer of Customers and Facilities, and specifically, pursuant to Section 3.1 In General, to modify the territorial boundaries in Lake and Sumter counties.

NOW THEREFORE, the Parties agree as follows:

1. The territorial boundary modification as set forth in the Attachment 1, based on sound economic considerations and good engineering practices would be better served if reallocated to the service territory of the other Party.
2. There are no customers to be transferred within the reallocated areas.
3. The map pages in Attachment 1 shall replace map page 15 in Sumter County and map page 23 in Lake County in the existing Agreement.
4. Upon approval the Commission, this First Amendment to the Territorial Agreement, shall be amended herein and otherwise in full effect until July 29, 2045 and shall remain in effect until and unless either Party provides written notice of termination.

IN WITNESS WHEREOF, each Party hereto has executed this First Amendment by their duly authorized representative on this 28th of August, 2020.

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| THE CITY OF LEESBURG | DUKE ENERGY FLORIDA, LLC. |
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| Elise Dennison Mayor of the City of Leesburg | Catherine Stempien State President Duke Energy Florida, LLC |
| ATTEST:  City Clerk | ATTEST: <i>/s/ Matthew R. Bernier</i> Matthew R. Bernier Associate General Counsel Attorney for Duke Energy Florida, LLC |

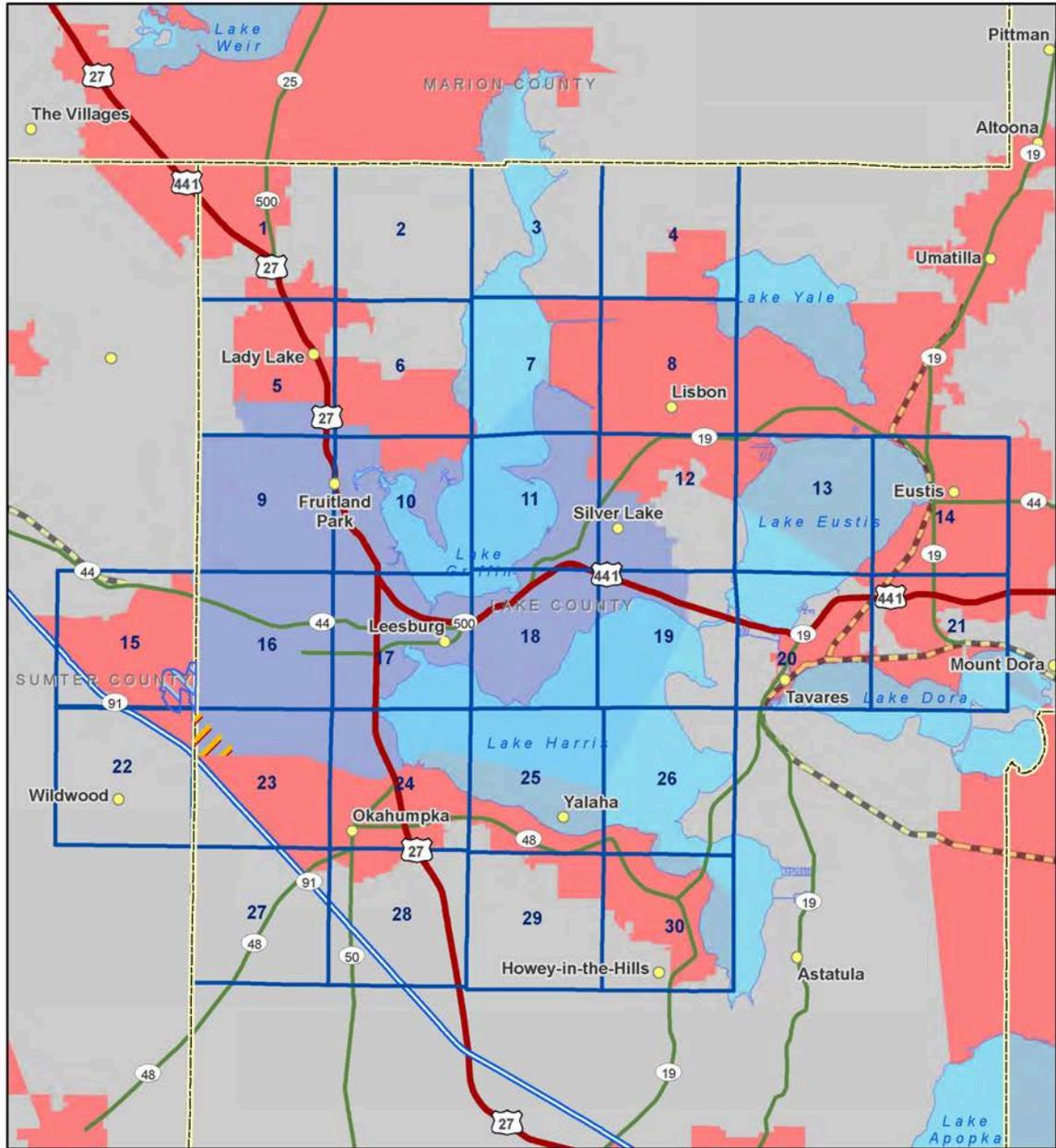
REVISED BOUNDARY MAPS*

IN

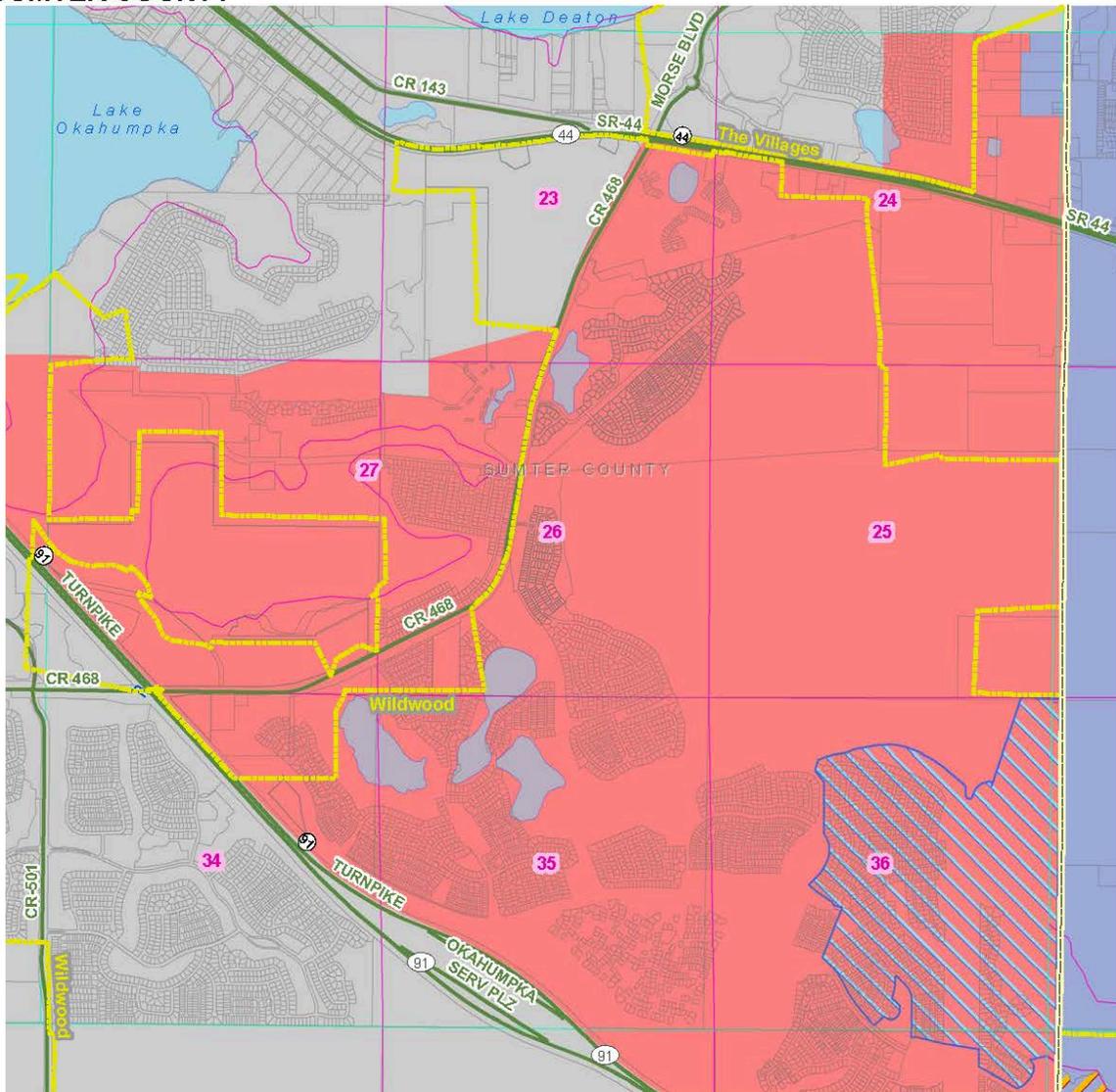
SUMTER AND LAKE COUNTIES

*Demonstrates redrawn area map pages and final map pages versions

**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 LAKE AND SUMTER COUNTIES
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**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 SUMTER COUNTY**

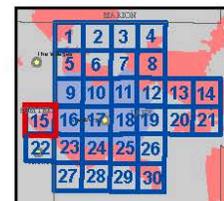


See 19S24E, Southwest Quadrant -- page 16

See 20S23E, Northwest Quadrant -- page 22

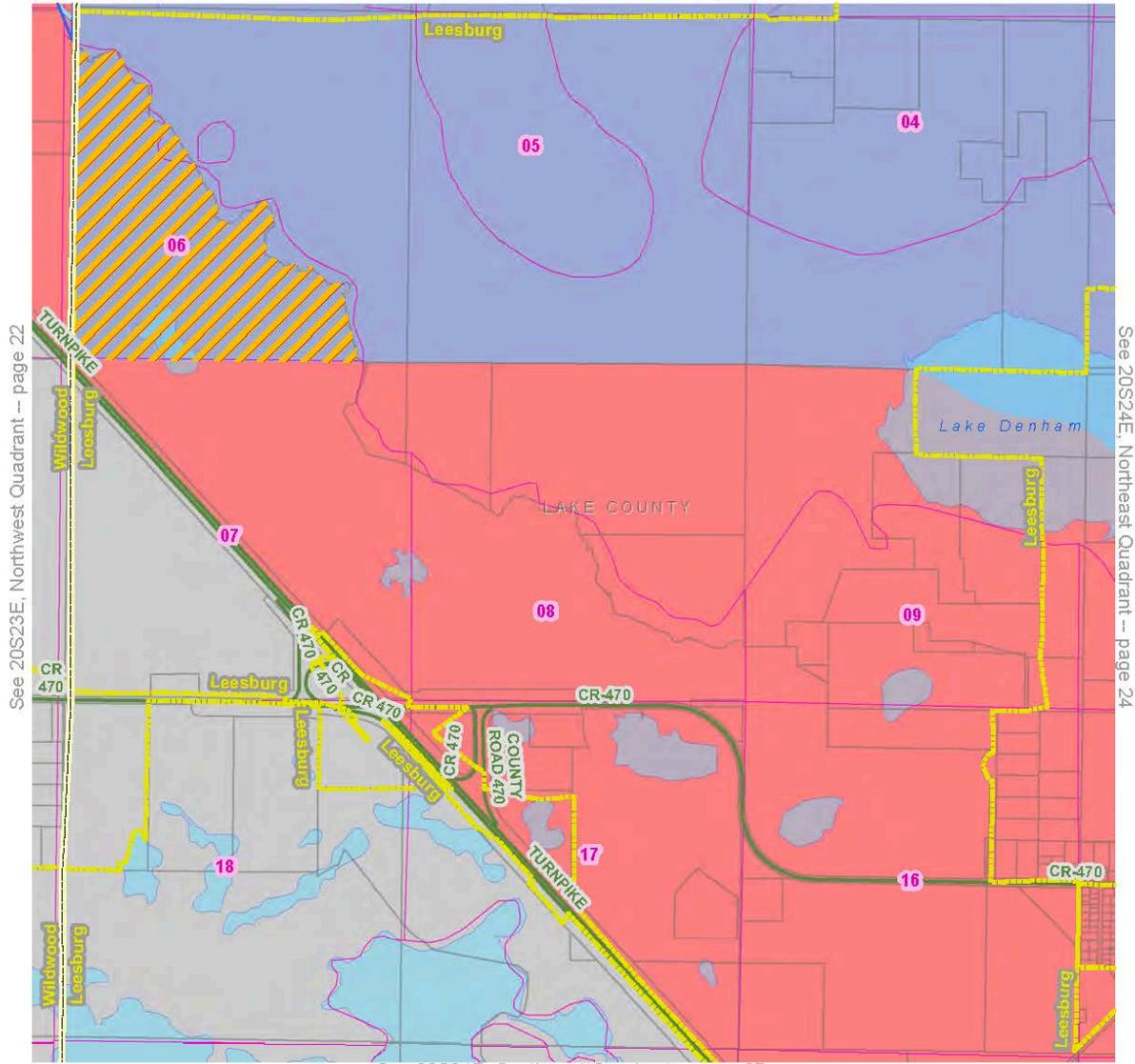
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|----------------------------|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Proposed Revisions | Limited Access | Water | County |
| Not Part of This Agreement | Redraw to City of Leesburg | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Redraw to Duke | Major Road | Section | City and Place Names |
| Duke Energy Florida | | Major Railroad Line | Parcel | |

Quadrant: Southeast
Township: 19S
Range: 23E
County: SUMTER COUNTY, FL



**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 LAKE COUNTY**

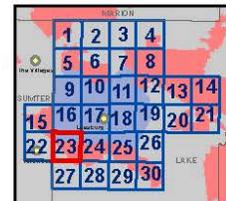
See 19S24E, Southwest Quadrant -- page 16



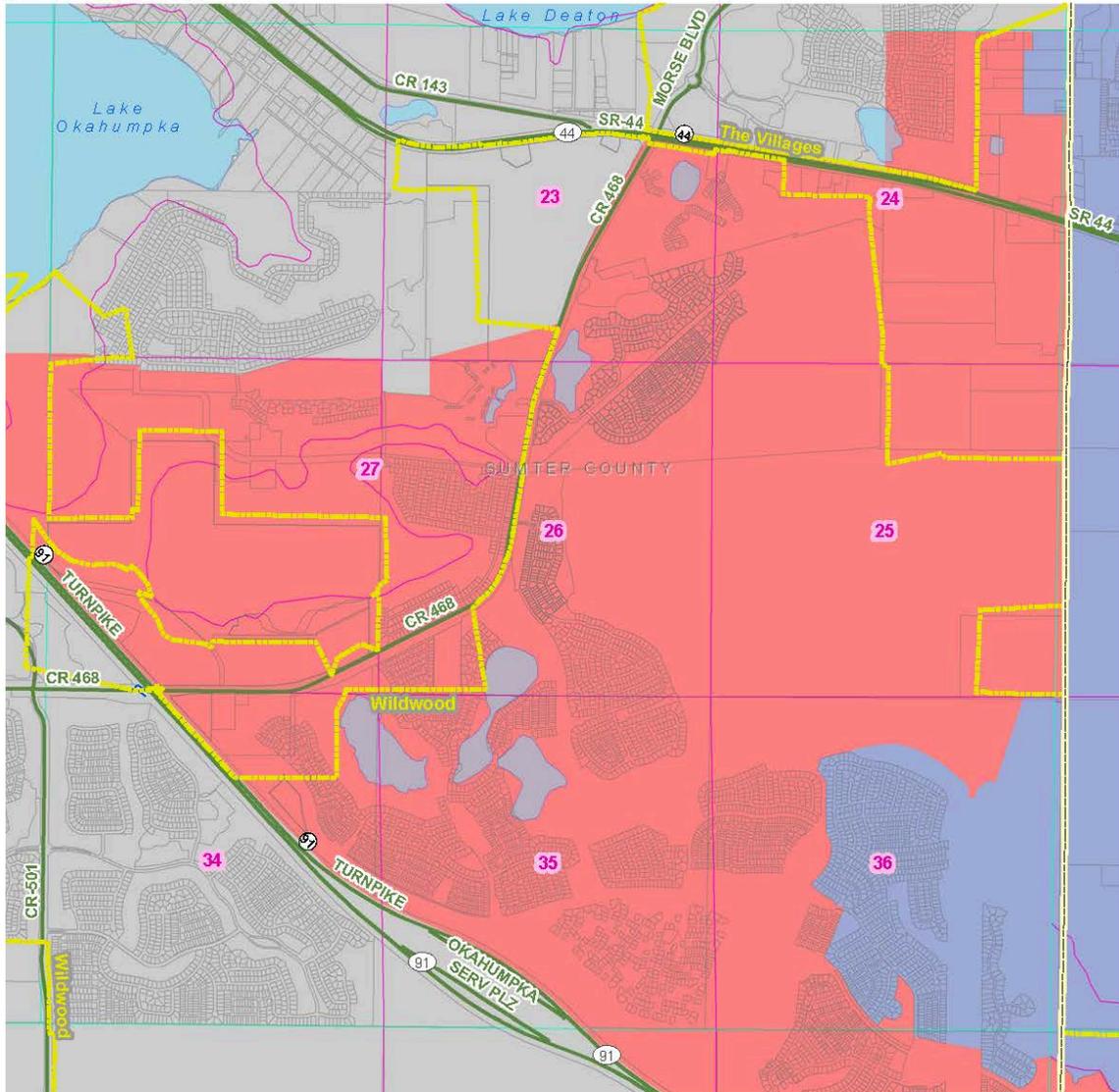
See 20S24E, Southwest Quadrant -- page 27

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|----------------------------|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Proposed Revisions | Limited Access | Water | County |
| Not Part of This Agreement | Redraw to City of Leesburg | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Redraw to Duke | Major Road | Section | City and Place Names |
| Duke Energy Florida | | Major Railroad Line | Parcel | |

Quadrant: Northwest
Township: 20S
Range: 24E
County: LAKE COUNTY, FL



**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 SUMTER COUNTY**

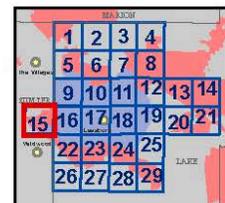


See 19S24E, Southwest Quadrant -- page 16

See 20S23E, Northwest Quadrant -- page 22

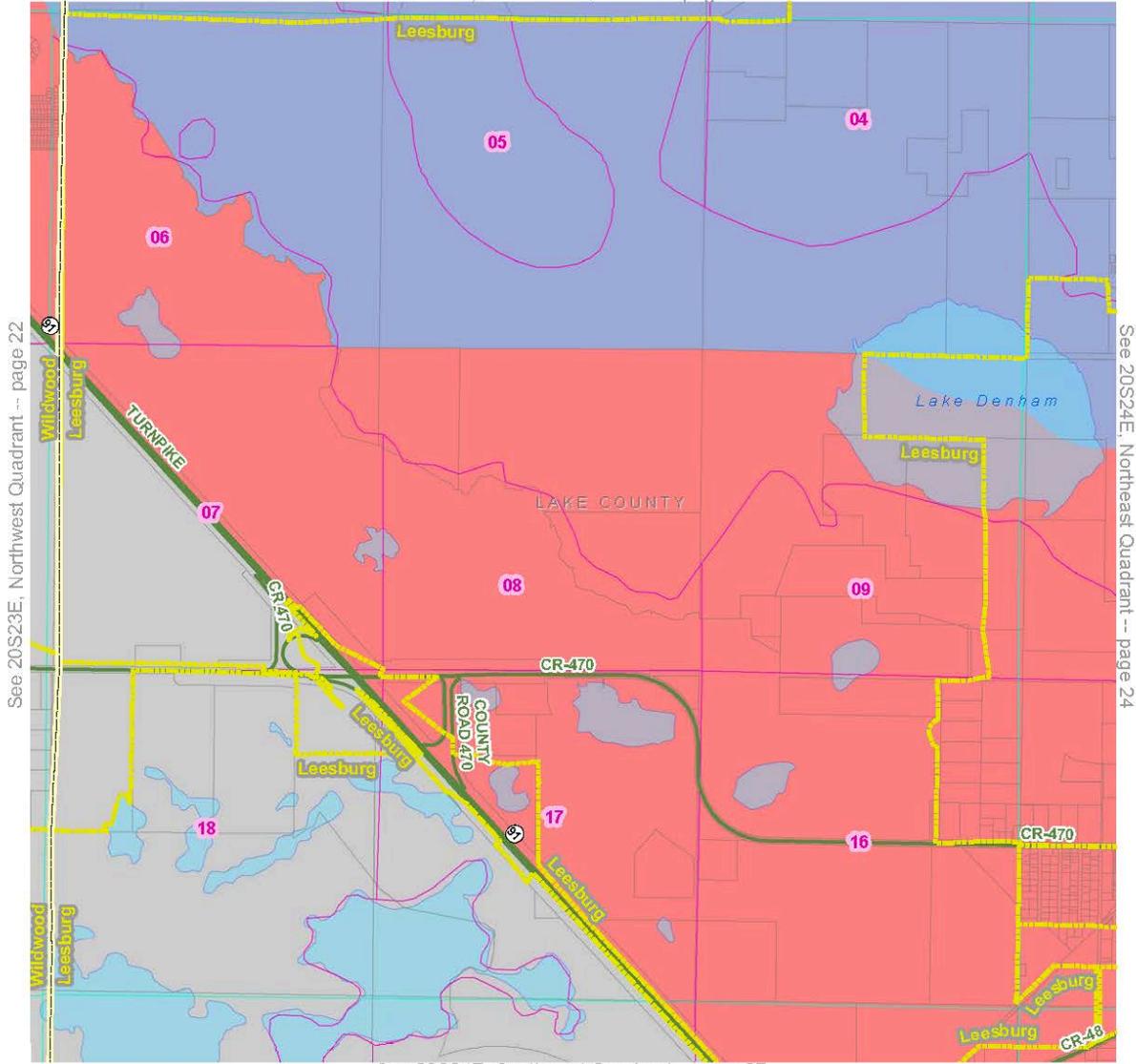
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|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Limited Access | Water | County |
| Not Part of This Agreement | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Major Road | Section | City and Place Names |
| Duke Energy Florida | Major Railroad Line | Parcel | |

Quadrant: Southeast
Township: 19S
Range: 23E
County: SUMTER COUNTY, FL



**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 LAKE COUNTY**

See 19S24E, Southwest Quadrant -- page 16



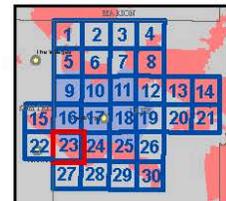
See 20S23E, Northwest Quadrant -- page 22

See 20S24E, Northeast Quadrant -- page 24

See 20S24E, Southwest Quadrant -- page 27

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|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Limited Access | Water | County |
| Not Part of This Agreement | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Major Road | Section | City and Place Names |
| Duke Energy Florida | Major Railroad Line | Parcel | |

Quadrant: Southeast
Township: 20S
Range: 24E
County: LAKE COUNTY, FL



RESOLUTION NO. 10,703

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A MODIFICATION TO THE
TERRITORIAL AGREEMENT BETWEEN THE CITY OF
LEESBURG AND DUKE ENERGY FLORIDA, LLC; AND
PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA:

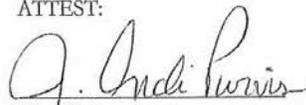
THAT the Mayor and City Clerk are hereby authorized to execute a Modification to
the Territorial Agreement with Duke Energy Florida, LLC, whose address is 299 First Avenue
North, St. Petersburg, Florida 33701.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg,
Florida, at a regular meeting held the 24th day of August 2020.


Elise A. Dennison, Mayor

ATTEST:


City Clerk