

State of Florida



Public Service Commission
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COMMISSION
CLERK

DATE: April 11, 2002
TO: Division of the Commission Clerk and Administrative Services
FROM: Economic Regulation Section - Office of the General Counsel (Vining) *AEV*
RE: Docket No. 011333-EU - Petition of City of Bartow to modify territorial agreement or, in the alternative, to resolve territorial dispute with Tampa Electric Company in Polk County.

Please file the attached letter dated April 8, 2002, from Davisson F. Dunlap, Jr., Dunlap & Toole, P. A., in the docket file for the above-referenced docket.

Thank you.

AEV/jb
cc: Division of Economic Regulation
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- MMS _____
- SEC
- OTH _____

DOCUMENT NO.
04040-02
04.11.02

DUNLAP & TOOLE, P.A.

LAWYERS

DAVISSON F. DUNLAP, JR.
DANA G. TOOLE
DAVISSON F. DUNLAP, III

2057 DELTA WAY
TALLAHASSEE, FLORIDA 32303-4227
PHONE: 850-385-5000
FACSIMILE: 850-385-7636

Of Counsel:
DAVISSON F. DUNLAP

FACSIMILE COVER SHEET

Date: April 8, 2002
From: Davisson F. Dunlap, Jr.

<u>Sent to</u>	<u>Phone No.</u>	<u>Fax No.</u>
Ms. Adrienne Vining Florida Public Service Commission	413-6183	413-6184

Client-Matter No.:
Client Matter Name: Bartow-TECO

Total Number of Pages Being Transmitted, Including Cover Sheet:

9

Message:

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IF THERE ARE ANY PROBLEMS OR COMPLICATIONS, PLEASE NOTIFY US IMMEDIATELY AT:
850-385-5000

TELECOPIER OPERATOR: Dottie McKenzie

DUNLAP & TOOLE, P.A.
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Of Counsel:
DAVISSON F. DUNLAP

April 8, 2002

BY FACSIMILE and U.S. MAIL
(413-6184)

Ms. Adrienne Vining
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0863

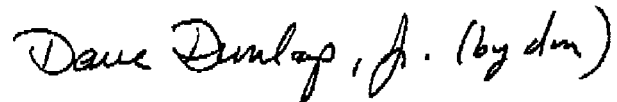
Re: Territorial Dispute Between City of Bartow
and Tampa Electric Company ("TECO")
PSC Docket No. 011333-EU

Dear Adrienne:

I understand that the Commission is interested in whether TECO and Bartow attempted to resolve this matter before the petition was filed. There were some discussions along those lines. I am enclosing copies of four letters that memorialize attempts to resolve this issue with TECO before Bartow filed this petition.

Please call me if you have any questions.

Sincerely yours,



Davisson F. Dunlap, Jr.

Enclosures

cc Mr. Richard A. Williams
Mr. Frederick M. Bryant
Mr. James D. Beasley
(with enclosures)



CITY OF BARTOW

February 12, 2001

Ms. Cindy Price
Regional Manager
TECO Energy Co.
Post Office Box 271
Winter Haven, Florida 33882

RE: Amendment of Territorial Agreement

Dear Ms. Price:

Thank you for your call in response to my telephone message. It is important to both the company and the City of Bartow that we meet and try to reach agreement on issues relative to the territorial boundary agreement and the recent annexation of the Old Florida Plantation property.

During a meeting held in Bartow last November, we had agreed to submit a position paper to the company regarding the need for amendment to the boundary agreement and make certain decisions with respect to wholesale and retail service to the OFP project.

Since that meeting, we have been busy with the County, Developer and the Department of Community Affairs with the attendant paper work which accompanies a large scale project. That process is now complete and we need to move forward expeditiously in crafting a satisfactory agreement and amendment to the agreement.

Major issues are:

1. The majority of residential development is planned for the northern part of the OFP property, which is within the TECO territory. Now that annexation of OFP is complete, the City of Bartow maintains its right to serve electric customers at retail within the city limits and recognizes that TECO has rights to sell electric service within the territory.
2. Should TECO desire to serve OFP retail service, a franchise agreement will be required. Bartow would entertain discussion of meter reading, billing and collection issues since the City will be sending residents of OFP a monthly water, sewer and solid waste billing.

Historic *Bartow*: Touching Tomorrow Together

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February 8, 2001
Page -2-

3. Should TECO desire to sell electric at wholesale to Bartow, issues of pricing, interconnection and metering will need resolution.
4. At the November 2000 meeting, the City Manager presented a small map with an area on the south east side of US Highway 17 and south of the Bartow Municipal Airport, marked in blue, which he wanted to begin some discussion regarding acquisition of this as Bartow territory. We will be annexing land surrounding and including a portion this TECO territory. Our desire is to simplify boundaries and service issues.

These are major issues which are in need of joint discussion and resolution. There may be issues that you would like brought up and this certainly will be an opportunity to do so.

I will look forward to setting a time when we can meet with decision makers from TECO and bring resolution to these territory boundary issues.

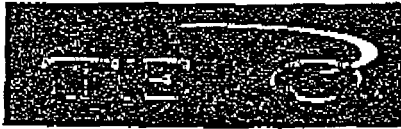
Sincerely,



Richard A. Williams
Assistant City Manager

RAW:ml

Cc: City Manager
City Attorney
Electric Superintendent



TAMPA ELECTRIC

OFFICE OF THE

MAR 26 2001

ASSISTANT CITY MANAGER

March 23, 2001

Mr. Dick Williams
Assistant City Manager
City of Bartow
P. O. Box 1069
Bartow, FL 33831-1069

Re: Electric Service – Old Florida Plantation

Dear Mr. Williams:

This is in reply to the City's letter of February 12, 2001, in which the City of Bartow (City) indicated that the City intends to provide electric service to the homes to be built in the development known as Old Florida Plantation.

Tampa Electric disagrees with the City's determination that the City is entitled to serve that portion of Old Florida Plantation that lies within Tampa Electric's service area. In accordance with the terms of the Territorial Agreement between the City and Tampa Electric, a considerable portion of Old Florida Plantation lies within Tampa Electric's Public Service Commission-approved service area. Tampa Electric has reviewed the maps concerning the location of the Old Florida Plantation and has compared those to the area governed by the Territorial Agreement. Tampa Electric is capable and fully intends to provide electric service to future customers whose homes will be built or businesses located in that portion of the Old Florida Plantation that is in Tampa Electric's service area.

The City's Current actions seeking to serve Old Florida Plantation appears contrary to the terms of the Territorial Agreement. Section 2.3 of the Agreement which provides:

"The Parties agree that neither party, except as provided in Section 2.4, will provide or offer to provide electric service at retail to future customers within the territory reserved to the other party."

Tampa Electric has been advised that the City has made representations to the developer of the Old Florida Plantation that the City intends to serve the future customers of Old Florida Plantation. This would appear to be contrary to Section 2.3 of the Territorial Agreement.

Furthermore, based on Tampa Electric's review of its installed system in the area adjacent to Old Florida Plantation, it has more than sufficient installed facilities to render service to all future customers that would reside in Old Florida Plantation, even those that would, under the terms of the Territorial Agreement, reside in the area to be served by the City of Bartow. In reviewing the

TAMPA ELECTRIC COMPANY
P. O. BOX 111 TAMPA, FL 33601-0111

(813) 228-4111

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CUSTOMER SERVICE:
HILLSBOROUGH COUNTY (813) 222-0800

City's installed facilities, or future facility requirements, it is initially apparent that Tampa Electric would be more able to economically serve such customers, with less capital investment, than would the City. Tampa Electric believes that it would be prudent to discuss the most appropriate way to serve all of the future customers of Old Florida Plantation. Tampa Electric would be happy to discuss these matters at an early date.

Sincerely,



Cynthia A. Price
Regional Manager
Tampa Electric Company

CAP:vql

cc Louis L. Roeder, III
7414 Sparkling Lake Road
Orlando, FL 32819



CITY OF BARTOW

August 1, 2001

Mr. John B. Ramll
President
Tampa Electric Company
Post Office Box 111
Tampa, Florida 33601-0111

Re: Potential Territorial Dispute between City of Bartow
and Tampa Electric Company ("TECO")

Dear John:

I am writing in order to suggest a potential solution to a situation that is developing over a dispute regarding providing retail service to customers that are located in a planned development known as Old Florida Plantation that lies within Bartow's city limits.

I am enclosing with this letter a drawing that depicts the area of the planned development, which is highlighted in yellow. The territory comprising the entire planned development was annexed into the City on August 7, 2000. The heavy black line that extends through Lake Hancock and through the development site marks the current, approximate existing territorial boundary between the City of Bartow and TECO.

In April of 1985, TECO and the City of Bartow entered into a territorial agreement. The agreement, in Section 1.1, contemplates that, after 15 years, either party would have the right to seek to have the agreement modified or cancelled. That 15-year period has now passed.

The City of Bartow has a compelling interest in serving all of the citizens within its territorial boundaries with all utilities, including electrical utilities. A portion of the planned development, which is currently in TECO's territory, lies within the City of Bartow. Bartow will have some city-owned facilities within the development that will be served by City power regardless of other circumstances.

We have had some preliminary discussions in November 2000 concerning this issue with your regional manager, Cynthia A. Price. A copy of her response is attached to this letter.

Historic *B*artow: *Touching Tomorrow Together*

To: janice banka
04/08/2002 MON 16:36 FAX

From: Adrienne Vining

4-10-02 2:53pm p. 9 of 10
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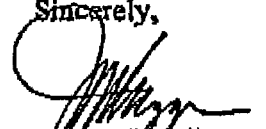
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Mr. John B. Ramil
August 1, 2001
Page 2

The City of Bartow has a proposal that we hope will be well received by TECO. In exchange for agreeing to amend the territorial agreement to permit the City of Bartow to serve these prospective customers with retail power, the City of Bartow will agree to purchase all of the wholesale power for these customers in this particular area from TECO. That way, the City of Bartow would be able to provide all of the utility services to its citizens and TECO would have the economic benefit of providing the wholesale power. We are hopeful that TECO will favorably consider this proposal.

Although we do not know the exact time frame when the developer will be proceeding with actual construction, we understand that it could be soon. Therefore, we would request that you provide us with a response as quickly as possible.

Sincerely,



Joseph V. DeLegge
City Manager

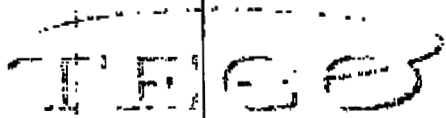
JJD:ps

Cc: Richard A. Williams, Assistant City Manager

SEP-10-2001 11:06A FROM: CITY OF BARTOW 8635340114

TO: 813503857636

P: 2/2



TAMPA ELECTRIC

September 7, 2001

OFFICE OF THE
SEP 10 2001
CITY MANAGER

JOHN B. RAMIL
PRESIDENT

Mr. Joseph J. DeLegge
City Manager
City of Bartow
P.O. Box 1069
Bartow, FL 33831-1069

Re: Territorial Boundary Issue

Dear Mr. DeLegge:

Thank you for your letter dated August 1, 2001, pertaining to the provision of retail electric service to the proposed Old Florida Plantation development. Your correspondence provided me the opportunity to get up to speed on the issue.

I reviewed your letter with Cindy Price and studied maps indicating Tampa Electric Company's significant existing electric infrastructure within and adjacent to the proposed development. Further, I have reviewed Mrs. Price's letter to the City of Bartow, dated March 23, 2001. I support the actions being taken by Mrs. Price and can find no reason for Tampa Electric to back away from its plans and responsibility to provide retail electric service to the development. Further, Tampa Electric has full intentions on serving all retail electric loads, including any city-owned facilities, that may be located within Tampa Electric's retail service territory, as provided for by our Florida Public Service Commission approved territorial agreement.

Mrs. Price will continue to represent Tampa Electric on this issue. Please let us know how we may be of service to you now and in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "JBR", written over a vertical line.

TAMPA ELECTRIC COMPANY
PO. BOX 111 TAMPA, FL 33601-0111
813-228-4452 FAX 813-228-4290