

**FLORIDA PUBLIC SERVICE COMMISSION**

**Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850**

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

**January 2, 1992**

**TO : DIRECTOR, DIVISION OF RECORDS**

**FROM : DIVISION OF ELECTRIC AND GAS (COLSON)  
DIVISION OF LEGAL SERVICES (ELIAS)** *KCJ RVE [signature] RLH*

**RE : DOCKET NO. 910811-EU-PETITION OF TAMPA ELECTRIC COMPANY  
FOR RESOLUTION OF TERRITORIAL UNCERTAINTY.**

**AGENDA: JANUARY 14, 1991 - NOTICE OF PAA**

**PANEL: FULL COMMISSION**

**CRITICAL DATES: NONE**

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**CASE BACKGROUND**

On July 31, 1991, Tampa Electric Company (TECO) submitted a petition to resolve territorial uncertainty in regard to providing electric service to International Minerals and Chemicals Corporation (IMC) in Manatee County, Florida.

On August 9, 1991, Peace River Electric Cooperative, Inc. (PRECO) submitted a petition to intervene in this docket. On August 12, 1991, IMC submitted a petition to intervene and response to TECO's petition. On September 25, 1991, Florida Power & Light Company (FPL) submitted its petition to intervene.

TECO's petition stated that IMC has requested that TECO continue providing service to IMC's facilities as they relocate into Manatee County. IMC contends that TECO is authorized to continue serving its draglines and associated mobile facilities even if these facilities are relocated south of the Hillsborough/Manatee County line. IMC believes that TECO is so authorized under the TECO-PRECO territorial agreement since the draglines have been provided electrical service at transmission level (69 kV) prior to the execution of the agreement. The petition states that TECO has existing transmission and substation facilities in place to serve IMC and there will be no additional construction required for TECO to continue providing electric service to IMC. TECO and PRECO entered into a territorial

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agreement dated January 9, 1987 and approved by the Commission on June 11, 1987, in Docket No. 870303-EU, Order No. 17585. The attached map and Exhibit "A" represent the territorial boundary between TECO and PRECO. IMC's facilities are total located within PRECO's territory as defined by TECO-PRECO territorial agreement. According to IMC's petition to intervene, IMC's fixed facilities are on both sides of Hillsborough/Manatee County boundary line. Section 3 of the agreement states that "The parties, by execution of this agreement, acknowledge that TECO presently provides retail electric service to certain phosphate customers and other customers served at transmission voltage (69 KV and above) in the area of Polk and Hillsborough Counties reserved for PRECO. TECO shall have the right to continue serving these existing customers." According to FPL's petition to intervene, TECO and FPL signed a territorial agreement on August 21, 1981. The boundary line defined in this agreement is the Hillsborough-Manatee County line from Tampa Bay east to the four corners intersection of Hillsborough, Polk, Hardee and Manatee Counties to the Southeast corner of Range 22 east, Township 32 south. The area north of the boundary line is TECO's service area and the area south of the boundary line is FPL's service area. FPL's petition also states that FPL and PRECO entered into a territorial agreement on July 17, 1987 and approved on April 13, 1988, in Docket No. 870816-EU, Order No. 19140. This agreement covered the retail electric service areas of the parties in Manatee, Sarasota, Desoto and Hardee Counties. According to this agreement PRECO has the exclusive right and obligation to provide retail electric service to the area in which IMC is located. FPL in it petition recognizes that IMC is located in PRECO's service area as described in the territorial agreement between both PRECO and TECO; however, FPL is requesting that they be allowed to provide service to IMC if it is determined that PRECO cannot meet the service requirement of IMC.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission Issue a statement of resolution and guidance concerning uncertainty as to who should provide electrical service to certain facilities of an industrial phosphate customer in Hardee County?

**RECOMMENDATION:** Yes. There are territorial agreements between TECO and PRECO; FPL and TECO; and FPL and PRECO.

**STAFF ANALYSIS** Section 3 of the agreement between TECO and PRECO dated January 9, 1987 and approved by the Commission in Order No. 17585 and 17714 states that

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"The parties, by execution of this agreement, acknowledge that TECO presently provides retail electric service to certain phosphate customers and other customers served at transmission voltage (69 KV and above) in the area of Polk and Hillsborough Counties reserved for PRECO. TECO shall have the right to continue to serve these existing customers.

Either party shall have the right to serve any such customer applying for service after the effective date of this agreement. Should both parties desire to serve the same customer, the decision as to which company shall serve will be determined on the basis of relative costs to construct additional facilities necessary to serve the customer in question."

IMC's plant and relative facilities are located totally within the territory assigned to PRECO under this agreement. At the time of this agreement, these facilities were located in both Hillsborough and Manatee Counties. Prior to the agreement TECO supplied IMC with 69 KV at a metering point now considered PRECO's territory. Both parties to the agreement have acknowledged that the phosphate customers will take electric service at transmission level (69 KV) voltages. This would allow the customer to build a distribution net work in order to operate its plant and relative facilities. These facilities include draglines, pumps and electric motors. This provision of the agreement allows TECO to continue serving IMC and relative facilities in the territorial area of PRECO. The new area that IMC plans to mine is continuous to its current property and is south of the facilities located in Hardee County that TECO served prior to the territorial agreement.

Staff believes that TECO should be allowed to continue providing service to all of IMC's facilities locate on its continuous property. Staff also believes that since IMC is being supplied electric service by TECO at an interruptible rate, any transfer of IMC's draglines and related facilities to PRECO's firm rates would not be in the best interest of the Florida ratepayers.

FPL's petition to intervene, states that FPL have territorial agreements with both TECO and PRECO. Staff believes that since the agreement between FPL-PRECO, signed July 17, 1987 excludes FPL from providing electric service in PRECO's service area and PRECO's agreement with TECO sign January 9, 1987 predates the FPL-PRECO agreement, TECO should be a allowed to serve IMC. This will not violate the FPL-PRECO agreement.

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FPL suggests that they should retain the rights to serve IMC's facilities in the territory assigned to PRECO because FPL has a territorial agreement with TECO. This is not consistent with the order in which the agreements were approved. FPL signed an agreement with TECO on August 21, 1981. Also, on July 17, 1987 FPL signed an agreement with PRECO giving them the right to serve the area in which IMC is located.

**ISSUE 2:** Who should provide service to IMC?

**RECOMMENDATION** TECO should be allowed to continue providing electric service to IMC as defined in Section 3 of the TECO-PRECO territorial agreement.

**STAFF ANALYSIS:** See Issue 1.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** If no Protest to the Notice of Proposed Agency Action or Notice of Appeal is filed, no further Commission action will be necessary.

LRC/pr  
910811r.rve



AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of JANUARY, 1987, by and between PEACE RIVER ELECTRIC COOPERATIVE, INC., an electric cooperative organized and existing under the laws of the State of Florida (herein called "PRECO"), party of the first part, and TAMPA ELECTRIC COMPANY, a corporation organized and existing under the laws of the State of Florida (herein called "TECO"), party of the second part:

WITNESSETH:

WHEREAS, PRECO, by virtue of Florida Statutes, Chapter 425, and the charter issued to it thereunder, is authorized and empowered to furnish electricity and power to its members, private individuals, corporations and others, as defined by the laws of Florida, and pursuant to such authority, presently furnishes electricity and power to members and customers in areas of Hillsborough and Polk County, Florida, and elsewhere; and

WHEREAS, TECO, a corporation organized and existing under the laws of the State of Florida, is authorized and empowered to furnish electricity and power to persons, firms and corporations in areas of Hillsborough and Polk County, Florida; and

WHEREAS, the respective areas of retail service of the parties hereto are contiguous in many places, with the result that in the future substantial duplication of service facilities will occur unless such duplication is precluded; and

WHEREAS, the Florida Public Service Commission has previously recognized that any such duplication of said service facilities by the parties results in needless and wasteful expenditures and creates hazardous situations; both being detrimental to the public interest; and

WHEREAS, the parties hereto desire to avoid and eliminate the circumstances giving rise to the aforesaid duplications and possible hazards and to that end desire to operate within delineated retail service areas for the period hereinafter fixed and set forth; and

WHEREAS, in order to accomplish said area allocation, the parties have established boundary lines which delineate the contiguous retail service areas of the parties in portions of Hillsborough and Polk County; and

WHEREAS, the Florida Public Service Commission has recognized on several occasions the wisdom of retail territorial agreements between competing utilities and has adhered to the general opinion that retail territorial agreements, in the proper circumstances, are advisable and indeed in the public interest.

NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the parties hereby agree as follows:

## ARTICLE I

### DEFINITIONS

1. TERRITORIAL BOUNDARY LINES - As used herein, the term "Territorial Boundary Lines" shall mean the boundary line depicted on Exhibit "A" which differentiate and divide the PRECO Territorial Area from the TECO Territorial area.
2. PRECO TERRITORIAL AREA - As used herein, the term, "PRECO Territorial Area" shall mean the geographic areas which are not within the TECO Territorial Area, as shown on Exhibit "A."
3. TECO TERRITORIAL AREA - As used herein, the term "TECO Territorial Area" shall mean the geographic areas designated as such on Exhibit "A."
4. TRANSMISSION LINES - As used herein, the term "Transmission Lines" shall mean all transmission lines of either party having a rating of 69 KV or over.
5. DISTRIBUTION LINES - As used herein, the term "Distribution Lines" shall mean all distribution lines of either party having a rating up to but not including 69 KV.
6. NEW CUSTOMERS - As used herein, term "New Customers" shall mean all retail electric consumers applying for service to either TECO or PRECO after the effective date of this Agreement in accordance with Article IV hereof.
7. EXTRA-TERRITORIAL CUSTOMERS - As used herein, the term "Extra-Territorial Customers" shall mean those existing customers (on the effective date of this agreement) of either party located within the territorial area of the other.

## ARTICLE II

### AREA ALLOCATIONS AND NEW CUSTOMERS

1. ALLOCATIONS - The PRECO Territorial Area, as herein defined, is hereby allocated to PRECO as its distribution retail service area for the term hereof; and the TECO Territorial Area, as herein defined, is hereby allocated to TECO as its distribution retail service area for the term hereof, and, except as otherwise specifically provided herein, neither party shall cross any Territorial Boundary Line to serve any New Customer in the territorial area of the other.
2. NEW DISTRIBUTION CUSTOMERS - The parties shall each have the right to provide distribution retail electric service to all New Customers within their respective territorial areas. Neither party shall after the effective date hereof serve or offer to

serve a New Customer located in the territorial area of the other party unless such other party shall request it to do so, in writing, on an interim basis. Upon receipt of such written request the other party will within 15 days of receipt of said request respond to the requesting party whether or not they are willing to serve the New Customer. If such request for service is completed by the other party, the party providing interim service shall be deemed to do so only on behalf of the requesting party, who shall retain all rights to serve the New Customer to the same extent as if it had provided service in the first instance. When the other party makes its reply to the requesting party accepting responsibility to provide the New Customer interim service, they will include in such reply the estimated cost for improvements to their system needed to provide service to the New Customer. Said estimated cost is to be paid to the party prior to the other party extending interim service to the New Customer. It is understood that no additional regulatory approval will be required for such interim service agreement (s).

Upon written request by the requesting party that it now elects to provide service to the New Customer and payment of cost of removal to the other party, such other party shall cease providing interim service and thereafter service shall be furnished to the New Customer by the requesting party.

Notwithstanding the foregoing, each party reserves the right to refuse to serve a New Customer outside its respective territorial area, even though a written request to do so has been made by the other party.

3. TRANSMISSION CUSTOMERS - The parties, by execution of this agreement, acknowledge that TECO presently provides retail electric service to certain phosphate customers and other customers served at transmission voltage (69 KV and above) in the area of Polk and Hillsborough Counties reserved for PRECO. TECO shall have the right to continue to serve these existing customers.

Either party shall have the right to serve any such customer applying for service after the effective date of this agreement. Should both parties desire to serve the same customer, the decision as to which company shall serve will be determined on the basis of relative costs to construct additional facilities necessary to serve the customer in question.

### ARTICLE III

#### OPERATION AND MAINTENANCE

1. RETENTION OF CUSTOMERS - Each of the parties hereto shall continue to serve their respective Extra-Territorial Customers as they presently exist, or until such time as they are transferred to the party in whose territorial area they reside.



2. TRANSFER OF CUSTOMERS - In order to initially establish the territorial boundary line between the territorial areas of PRECO and TECO, the parties agree to transfer certain electrical facilities and customers. A summary of the number and class of customers of each party to be transferred under the terms of this agreement is identified as Exhibit C and attached as a part of this agreement. A summary of the electrical facilities of PRECO with values established by mutual agreement of the two parties is attached, made a part of this agreement, and identified as Exhibit D. Upon the execution of this agreement and its subsequent approval by the Florida Public Service Commission and the Rural Electrification Administration as provided for in Article IV below, TECO agrees to pay PRECO Fifty Thousand, Four Hundred Eighty Dollars (\$50,480.00). These electrical facilities do not include distribution transformers, meters, oil circuit reclosers, and lightning arresters, as these items do not mutually conform to the electrical distribution systems of the parties.

In order to insure that all customers who are to be transferred from the service of one party to that of the other will be fully informed prior to any such transfer, a representative of PRECO and a representative of TECO shall together consult with each such customer and explain fully any changes affecting the customer.

3. FACILITIES TO REMAIN - All Generating Plants, Transmission Lines, Substations, Distribution Lines and related facilities now or hereafter constructed and/or used by either party to serve any Extra-Territorial Customer shall be allowed to remain where situated and shall not be subject to removal, as long as such facility serves any useful purpose in maintaining the integrity of the electrical system of the party.

PROVIDED, HOWEVER, that each party shall operate and maintain said lines and facilities in such manner as to minimize any interference with the operations of the other party.

#### ARTICLE IV

##### APPROVALS REQUIRED

1. FLORIDA PUBLIC SERVICE COMMISSION - The provisions of this Agreement are subject to the regulatory authority of the Florida Public Service Commission, and the appropriate approval by that body of the provisions of this Agreement shall be a prerequisite to the validity and applicability hereof and neither party shall be bound hereunder until that approval has been obtained.

2. RURAL ELECTRIFICATION ADMINISTRATION - The transfer of electrical facilities by PRECO to TECO as provided in Article III, paragraph 2 above is subject to the approval of the Rural Electrification Administration, United States Department of Agriculture and the National Rural Utilities Cooperative Financing Corporation. The

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appropriate approval by the Rural Electrification Administration, United States Department of Agriculture and the National Rural Utilities Cooperative Financing Corporation shall be a prerequisite to the payment by TECO for the facilities and the transfer of such facilities to TECO by PRECO.

#### ARTICLE V

##### DURATION

1. This Agreement shall continue and remain in effect for a period of twenty five (25) years from the effective date hereof, which shall be deemed to be the date of approval by the Florida Public Service Commission as provided for in Article IV above. After the initial twenty five (25) year period, either party may terminate this Agreement by giving the other party a one (1) year notice prior to the desired termination date. This Agreement shall continue from year to year until terminated as provided above.

#### ARTICLE VI

##### CONSTRUCTION OF AGREEMENT

1. INTENT AND INTERPRETATION - It is hereby declared to be the purpose and intent of this Agreement, in accordance with which all provisions of this Agreement shall be interpreted and construed, to eliminate and avoid the needless and wasteful expenditures and potentially hazardous situations which may otherwise result from unrestrained competition between the parties operating in contiguous and overlapping distribution service areas.

2. This AGREEMENT shall apply only to the provision of retail electric service by the parties hereto and shall have absolutely no application or effect with respect to either party's sale of "bulk power supply for resale", which is defined to mean all arrangements for supply of electric power in bulk to any person for resale, including but not limited to, the taking of utility responsibility for supply of firm power in bulk to fill the full requirements of any person engaged or to be engaged in the distribution of electric power at retail, and/or interconnection with any persons for the sale or exchange of emergency power, economy energy, deficiency power, and such other forms of bulk power sales or exchanges for resale made for the purpose or with the effect of achieving an overall reduction in the cost of providing electric power supply.

ARTICLE VII  
MISCELLANEOUS

1. NEGOTIATIONS - Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon are those set forth herein, and no alteration or modification of this Agreement shall be binding upon either of the parties hereto unless the same shall be in writing and signed by both parties and approved in the manner set forth in Article IV above.

2. SUCCESSORS AND ASSIGNS - Nothing in this Agreement, expressed or implied, is intended nor shall it be construed to confer upon or give to any person or corporation, other than the parties hereto, any right, remedy or claim under or by reason of this Agreement or any provisions 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 hereto and their respective representatives, successors and assigns.

3. WAIVERS - The failure of either party to enforce any provision of this AGREEMENT in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

4. NOTICES - Notices given hereunder shall be deemed to have been given to PRECO if served by United States mail, postage prepaid to: Manager, PEACE RIVER ELECTRIC COOPERATIVE, INC., P.O. Box 1310, Wauchula, Florida 33873; and to TECO if served by United States mail, postage prepaid to: TAMPA ELECTRIC COMPANY, P.O. Box 111, Tampa, Florida 33601. The addresses to which such notices shall be mailed may be, at any time, changed by designating such new address and giving notice thereof in the manner as herein provided.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate, by PRECO in its name by its President, and its corporate seal hereto affixed by its Secretary, and by TECO in its name by its Vice President, and its corporate seal hereto affixed and attested by its Secretary, on the day and year written by each execution below; and one of the executed copies has been delivered to each of the parties hereto.

PEACE RIVER ELECTRIC COOPERATIVE, INC.

ATTEST:

By: [Signature]  
President

[Signature]  
Secretary

Dated December 16, 1986

TAMPA ELECTRIC COMPANY

ATTEST:

By: [Signature]  
Vice President

[Signature]  
Secretary

Dated JANUARY 9, 1987

(Corporate Seal)

**TERRITORIAL BOUNDARY AGREEMENT  
BETWEEN  
TAMPA ELECTRIC COMPANY  
AND  
FLORIDA POWER & LIGHT COMPANY**

**Section 0.1** THIS AGREEMENT, made and entered into this 21 day of August, 1981, by and between TAMPA ELECTRIC COMPANY, a corporation organized and existing under the laws of the State of Florida, herein referred to as "TECO," and FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, herein referred to as "FPL;"

**W I T N E S S E T H:**

**Section 0.2** WHEREAS, TECO is presently providing retail electric service in the southern portion of Hillsborough County near and adjacent to the Hillsborough-Manatee County line.

**Section 0.3** WHEREAS, FPL is presently providing retail electric service in the northern portion of Manatee County near and adjacent to the Hillsborough-Manatee County line.

**Section 0.4** WHEREAS, the areas in which each party is supplying retail electric service are in close proximity and abut in the vicinity of the Hillsborough-Manatee County line, TECO and FPL desire to cooperate in the public interest in supplying service in a manner so as to avoid uneconomic waste, potential safety hazards and other adverse effects that would result from duplication of electric facilities in the same area.

**Section 0.5** WHEREAS, the execution of this AGREEMENT by the parties hereto is not conditioned upon the acceptance of or agreement to any other contractual arrangements pending or contemplated by or between the parties.

**Section 0.6** NOW, THEREFORE, in consideration of the foregoing premises and of the mutual benefits to be obtained from the covenants herein set forth, the parties hereto do hereby agree as follows:

**ARTICLE I**

**TERM OF AGREEMENT**

**Section 1.1** **TERM:** After this AGREEMENT becomes effective pursuant to Section 3.4 hereof, it shall continue in effect until termination or until modification shall be mutually agreed upon, or until termination or modification shall be mandated by governmental entities or courts with appropriate jurisdiction. Fifteen (15) years from the date above first written, but not before, either of the parties hereto shall have the right to initiate unilateral action before any governmental entity or court with appropriate jurisdiction, seeking to obtain modification or cancellation of this AGREEMENT.

**ARTICLE II**

**ESSENCE OF AGREEMENT**

**Section 2.1** The boundary line delineating the retail electric service areas of the parties is marked on the map attached hereto and labeled Exhibit A, and said boundary line is further described as follows:

The Hillsborough-Manatee County line from Tampa Bay east to the four corners intersection of Hillsborough, Polk, Hardee and Manatee Counties at the southeast corner of Range 22 east, Township 32 south.

**Section 2.2** The area north of the boundary line is reserved to TECO (as relates to FPL), and the area south of the boundary line is reserved to FPL (as relates to TECO), with respect to service to retail customers.

**Section 2.3** 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.

**Section 2.4** The parties recognize that, in specific instances, good engineering practices (or economic constraints on either of the parties) may from time-to-time indicate that small service areas and/or future retail electric customers should not be served by the party in whose territory they are located. In such instances, upon written request by the party in whose territory they are located to the other party, the other party may agree in writing to provide service to such small service areas and/or future retail electric customers, and it is understood that no additional regulatory approval will be required for such agreement(s). By the execution of this AGREEMENT, the parties acknowledge that TECO is presently and may continue providing retail electric service to the small service area with four existing service locations immediately south of the Hillsborough-Manatee County line in the vicinity of Saffold Road located in Section 3, Township 33 South, and Range 20 East.

**Section 2.5** This AGREEMENT shall apply only to the provision of retail electric service by the parties hereto and shall have absolutely no application or effect with respect to either party's sale of "bulk power supply for resale," which is defined to mean all arrangements for supply of electric power in bulk to any person for resale, including but not limited to, the taking of utility responsibility for supply of firm power in bulk to fill the full requirements of any person engaged or to be engaged in the distribution of electric power at retail, and/or interconnection with any persons for the sale or exchange of emergency power, economy energy, deficiency power, and such other forms of bulk power sales or exchanges for resale made for the purpose or with the effect of achieving an overall reduction in the cost of providing electric power supply.

**Section 2.6** Nothing in this AGREEMENT is intended to affect the power plants, transmission lines, or substations of one party which are now located, or may in the future be located in the service area of the other party; and any problems between the respective parties involving these types of facilities shall be settled at the General Office level of the parties. No such facilities shall be used by the one party to provide retail electric service to customers located in the service area of the other party except as may be necessary to implement the provisions of Section 2.4.

### **ARTICLE III**

#### **MISCELLANEOUS PROVISIONS**

**Section 3.1** The failure of either party to enforce any provision of this AGREEMENT in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

**Section 3.2** Neither party shall assign, transfer or sublet any privilege granted to it hereunder without the prior consent in writing of the other party, but otherwise, this AGREEMENT shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

**Section 3.3** This AGREEMENT shall be governed by the laws of the State of Florida.

**Section 3.4** The parties recognize and agree that both companies are subject to the jurisdiction of the Florida Public Service Commission (hereinafter called the "Commission") and further agree that this AGREEMENT shall have no force and effect unless and until it is submitted to and approved by the Commission in accordance with applicable procedures. The parties further agree that the



AGREEMENT, if and when approved by the Commission, shall be subject to the continuing jurisdiction of the Commission and may be terminated or modified only by Order of the Commission. No modification or termination of this AGREEMENT by the parties hereto shall be effective unless and until approved by the Commission. Each party agrees to promptly notify the other in writing of any petition, application or request for modification of the AGREEMENT made to the Commission and to serve upon the other party copies of all pleadings or other papers filed in connection therewith.

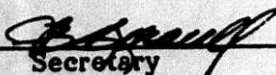
**Section 3.5** This AGREEMENT shall be effective on the date it is approved by the Florida Public Service Commission in accordance with Section 3.4 hereof.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their duly authorized officers, and copies delivered to each party, as of the day and year first above stated.

**ATTEST:**

**TAMPA ELECTRIC COMPANY**

BY:

  
Secretary

BY:

  
Vice President

8-21-81  
Date

**ATTEST:**

**FLORIDA POWER & LIGHT COMPANY**

BY:

  
Assistant Secretary

BY:

  
Vice President

8/21/81 JED.  
Date

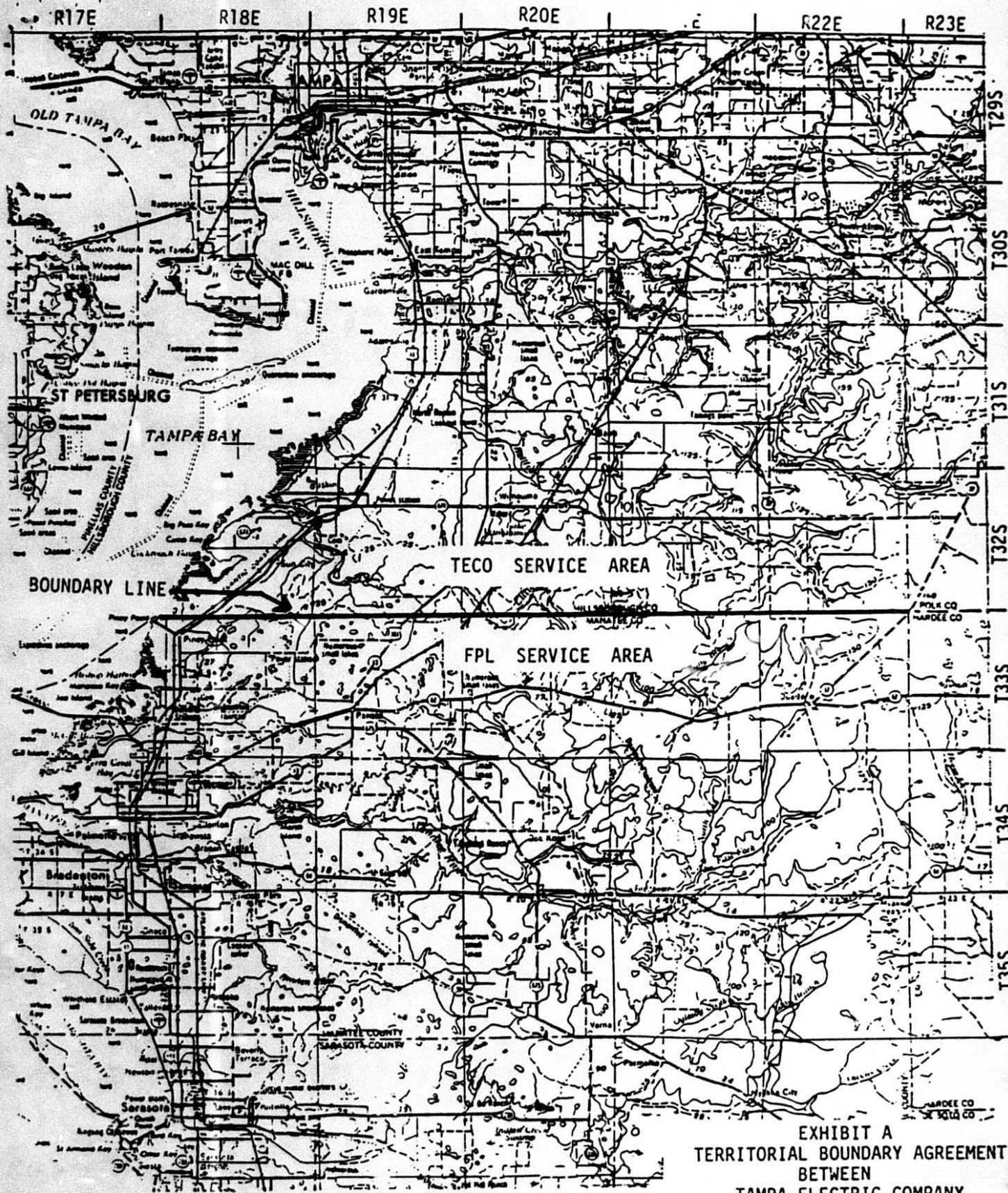


EXHIBIT A  
 TERRITORIAL BOUNDARY AGREEMENT  
 BETWEEN  
 TAMPA ELECTRIC COMPANY  
 AND  
 FLORIDA POWER & LIGHT COMPANY

AUGUST 21, 1981

ATTACHMENT A  
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TERRITORIAL AGREEMENT

This Territorial Agreement (Agreement) is made and entered into this 17<sup>th</sup> day of July, 1987, by and between Florida Power & Light Company, ("FPL"), an investor-owned electric utility, and Peace River Electric Cooperative, Inc. ("PRECO"), an Electric Cooperative, referred to herein collectively as the parties.

WHEREAS, FPL & PRECO furnish electric service to the public within the following counties: Manatee, Sarasota, DeSoto and Hardee; and

WHEREAS, the respective areas in which the parties are providing service are contiguous and overlapping in some areas with the result that in the future substantial and uneconomic duplication of service facilities may occur unless such duplication is precluded by a territorial agreement; and

WHEREAS, the Florida Public Service Commission has determined that territorial agreements which preclude the duplication of facilities between utilities with contiguous and overlapping areas of service are in the public interest; and

WHEREAS, the Florida Public Service Commission is empowered by Section 366.04, Florida Statutes, to approve territorial agreements; and

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WHEREAS, the parties desire to avoid the duplication of facilities and to otherwise realize the benefits of defined retail service boundary;

NOW, THEREFORE, in fulfillment of the premises, and in consideration of the mutual obligations contained herein, the parties agree as follows:

Section 1 - Term. This Agreement shall become effective upon approval as a territorial agreement by the Florida Public Service Commission and shall continue in effect until termination, or until supplemented or amended by mutual written agreement of the parties and approval by the Florida Public Service Commission, but in no event for a period exceeding thirty (30) years from the date of the rendering of the Florida Public Service Commission's Order approving this Agreement. Thereafter, the Agreement may automatically be extended for succeeding periods of five (5) years except that this Agreement may be terminated by either party after expiration of the thirty (30) year period or succeeding five (5) year period upon one (1) year's written notice to the other party.

Section 2 - Scope. This Agreement shall be applicable to retail electric service by the parties in the counties mentioned above as depicted on the maps contained in Exhibit A hereto.

ATTACHMENT A  
Page 3 of 7 Pages

Section 3 - Service Areas. The areas identified as "FPL" areas on the maps contained in Exhibit A are hereby allocated to FPL as its retail service areas. The areas identified as "PRECO" areas on the maps contained in Exhibit A are hereby allocated to PRECO as its retail service areas.

Section 4 - Service Obligations. Each party shall have the exclusive right and obligation to provide retail electric service to the public in its designated retail service areas as set forth in Section 3. Except as provided in Section 5, the parties agree that neither party will provide nor offer to provide electric service at retail at points of delivery located in the territory allocated to the other party.

Section 5 - Extra-territorial Service. Each party hereby retains the right and obligation to continue to provide retail electric service at existing points of delivery, which are in the retail service areas of the other party, at the time this Agreement becomes effective. Existing points of delivery shall mean service drops and underground service laterals which are physically connected to the customer's property, whether energized or not. Each party may maintain, repair and replace its facilities used to service such existing points of delivery.

For purposes of this section, the party in whose retail service area the customer is located is referred to as the "host utility." The party serving a customer in the retail service area of the other party is referred to as the "foreign utility."

A. If service is being provided at an existing point of delivery by a foreign utility and the service requirements change or if service is to be provided at a new point of delivery which is near the facilities of a foreign utility, the host utility shall provide the service except the host utility may request in writing, and the foreign utility may in its discretion agree, that the service be provided by the foreign utility subject to a transfer of the service to the host utility when the host utility determines that it is appropriate to extend its facilities.

B. Customers to be transferred as provided in subsection A shall be notified at the time the parties agree on the service arrangement that, at such time as it becomes economic and efficient for the host utility to provide service, thereafter their service shall be provided by the host utility.

Section 6 - Elimination of Overlapping Services. FPL and PRECO agree to use reasonable efforts to eliminate, during the term of this Agreement, electric services by either party in the retail service areas of the other party. This effort shall include the identification of potential customer and facilities transfers which would eliminate duplication of facilities or avoid hazardous conditions. Any transfers shall be subject to review and approval by the Florida Public Service Commission.

ATTACHMENT A  
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Section 7 - Utility Facilities. Nothing in this Agreement shall be construed to prevent or restrict either party from locating, constructing, maintaining, repairing or replacing its transmission, substation, or other related facilities in the retail service areas of the other party.

Section 8 - Wholesale Electric Services. Nothing in this Agreement shall be construed to apply to the provision by either party of bulk power supply for resale, transmission, interchange or other similar wholesale electric services between electric utilities.

Section 9 - Regulatory Approval. This Agreement shall become effective only upon approval by, and shall be subject to the authority of the Florida Public Service Commission. Neither party shall be bound hereunder in any way until that approval is obtained. The Agreement of the parties hereto is conditioned upon approval of this Agreement without modification.

Section 10- Notices. Any notices given under this Agreement to FPL shall be provided to Division Commercial Manager, Florida Power & Light Company, P. O. Box 1119, Sarasota, Florida. Any notices given under this Agreement to PRECO shall be provided to General Manager, Peace River Electric Cooperative, Inc., P. O. Box 1310, Wauchula, Florida 33873.

Section 11 - Amendment. This Agreement may be amended only by mutual written agreement of the parties.

Section 12 - Successors and Assigns. Nothing in this Agreement, expressed or implied, is intended nor shall it be construed to confer upon or give to any person or corporation, other than the parties hereto, any right, remedy or claim under or by reason of this Agreement or any provisions 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 hereto and their respective representatives, successors and assigns.

Section 13 - Headings. The section headings in this Agreement are for reference purposes only and shall not be considered in construing or interpreting this Agreement.

Section 14 - Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the establishment of defined retail electric service areas where the areas served by the parties are contiguous or overlapping. All prior agreements, understandings or practices with respect to retail electric service areas shall be deemed to have been merged herein and superseded by this Agreement.

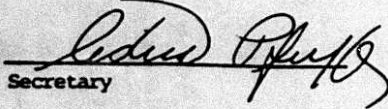
IN WITNESS WHEREOF, the parties have executed this



ATTACHMENT A  
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Territorial Agreement as set forth below.

ATTEST:

  
Secretary

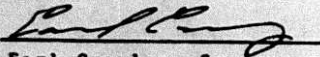
FLORIDA POWER & LIGHT COMPANY

BY \_\_\_\_\_

NAME J. J. [unclear]

TITLE Division Vice President

ATTEST:

  
Earl Crawley, Secretary

PEACE RIVER ELECTRIC COOPERATIVE,  
INC.

BY: \_\_\_\_\_

NAME [Handwritten Signature]

TITLE President