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January 13, 1992

HAND DELIVERED

Mr. Steven C. Tribble, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32301

Re: Territorial Dispute Between Okefenoke Rural  
Electric Membership Corporation, and the  
Jacksonville Electric Authority of the City of  
Jacksonville, in Duval County;  
FPSC Docket No. 911141-EU

Dear Mr. Tribble:

Enclosed for filing in the above docket are the original and  
fifteen (15) copies of (1) OREMC's Memorandum in Opposition to  
JEA's Motion to Dismiss, and (2) Request for Oral Argument.

ACK  Please acknowledge receipt and filing of the above by stamping  
AFA  the duplicate copy of this letter and returning same to this  
APP  writer.

CAF  Thank you for your assistance in connection with this matter.

CMU

CTR

EAG

LEG  1 w/m

LIN  6  
JJW/jlb

OPC

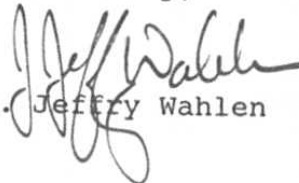
RCH  Enclosures

SEC  All Parties of Record w/enc.

WAS

OTH

Yours truly,

  
J. Jeffrey Wahlen

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

2 Filings Request

DOCUMENT NUMBER-DATE

00447 JAN 13 1992

FPSC-RECORDS/REPORTING

Memo  
DOCUMENT NUMBER-DATE

00446 JAN 13 1992

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Territorial Dispute Between )  
Okefenoke Rural Electric Membership )  
Corporation, and the Jacksonville )  
Electric Authority of the City of )  
Jacksonville, in Duval County. )  
\_\_\_\_\_ )

DOCKET NO. 911141-EU  
Filed: January 13, 1992

OREMC'S MEMORANDUM IN OPPOSITION  
TO JEA'S MOTION TO DISMISS

The OKEFENOKE RURAL ELECTRIC MEMBERSHIP CORPORATION ("OREMC" or "Okefenoke"), by and through its undersigned counsel and in accordance with Section 25-22.037(2)(b), Florida Administrative Code, files this Memorandum in Opposition to Jacksonville Electric Authority's Motion to Dismiss.

I.

Introduction

On November 19, 1991, OREMC filed its Petition to Resolve Territorial Dispute in Duval County ("Petition"). Therein, OREMC alleged, among other things, that the Jacksonville Electric Authority ("JEA") has constructed duplicative electric distribution facilities for the purpose of facilitating the Holiday Inn-Jacksonville Airport's desire to disconnect from OREMC and begin taking electric service from the JEA. Petition at 2-3. On or about November 25, 1991, the Holiday Inn disconnected itself from the OREMC system and connected to the JEA system. The OREMC, which provides electric service to customers in Baker, Nassau and Duval Counties, and which has been serving the Holiday Inn in Duval County since 1968, did not consent to the switch.

DOCUMENT NUMBER-DATE

00446 JAN 13 1992

FPSC-RECORDS/REPORTING

On December 23, 1991, JEA filed its Response to the Petition, and on December 31, 1991, JEA filed a Motion to Dismiss ("Motion"). JEA's Motion alleges that the Florida Public Service Commission ("FPSC") does not have jurisdiction to decide the territorial dispute. The JEA is not the only electric utility providing retail electric service within Duval County. OREMC, the Clay Electric Cooperative and Florida Power & Light Company each provide retail electric service to customers within Duval County. Each have been doing so since before the Consolidated Government came into existence. See Jacksonville, Fl., Ordinances 68-120-88 and 69-217-119<sup>1</sup> (codified as Jacksonville Code §§ 718.101, 718.102 and 718.103) (Exhibit 1)<sup>2</sup>. If, as JEA suggests, the FPSC does not have the jurisdiction over this territorial dispute, the FPSC may not have jurisdiction to determine disputes over territory in Duval County which may arise in the future between JEA, Florida Power & Light, and Clay Electric Cooperative.

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<sup>1</sup> Section 1 of Ordinance 69-217-119 (codified as Jacksonville Code §718.103), which states: "The Jacksonville Electric Authority . . . is delegated the authority to grant permission to other electric utility companies to furnish electric service to additional premises and to extend their lines when it is not practical or economical for the Authority to furnish this service," is plainly at odds with the FPSC's jurisdiction under the Grid Bill.

<sup>2</sup> To the extent necessary, and in accordance with Section 120.61, Florida Statutes, OREMC requests that the FPSC take official recognition of Exhibits 1 and 2 attached hereto and incorporated herein by reference.

## II.

### THE FPSC HAS JURISDICTION TO DETERMINE TERRITORIAL DISPUTES IN DUVAL COUNTY

Contrary to the position taken by JEA, the FPSC does have the jurisdiction to determine this and other territorial disputes in Duval County by virtue of the Grid Bill.

#### A. Background on the Grid Bill

The "Grid Bill," as it has come to be known, was passed by the Florida Legislature in 1974. See Ch. 74-196, 1974 Fla. Laws 538 (Exhibit 2). The purpose of the Grid Bill was to assure an adequate and reliable source of energy for all of the citizens of Florida. Fla. Stat. § 366.04 (1991). The Legislature accomplished this purpose by giving the FPSC jurisdiction (1) over the "planning, development and maintenance of a coordinated electric power grid throughout Florida," (2) to "approve territorial agreements between and among rural electric cooperatives, municipal electric utilities and other electric utilities," and (3) to "resolve territorial disputes involving service areas between and among rural electric utilities, and other electric utilities." Grid Bill § 1 (codified as Fla. Stat. § 366.04). The Florida Supreme Court has recognized that the jurisdiction to determine territorial disputes and approve territorial agreements is part and parcel of FPSC's authority over Florida's coordinated electric grid and is necessary to avoid uneconomic duplication of facilities. See Public Serv. Comm'n v. Fuller, 551 So.2d 1210, 1212 (Fla. 1989) (territorial matters are within the "particular expertise of the PSC"). Indeed, as pointed out in a recent law review article,

"[e]very Florida Supreme Court decision that has considered electric and gas territorial matters since 1974 has acknowledged the Commission's authority and responsibility under the Grid Bill to prevent uneconomic duplication of electric facilities by the orderly establishment of service territories." R. Bellak and M. Brown, Drawing the Lines: Statewide Territorial Boundaries for Public Utilities in Florida, 19 Fla.St.U.L. Rev. 407, 415-16 n. 44 (1991) [hereinafter "Drawing the Lines"].

B. Jurisdiction Over Territorial Disputes

JEA appears to argue that the FPSC does not have jurisdiction over the instant territorial dispute because (1) the Holiday Inn-Jacksonville Airport is not located in a "rural" area, (2) there is no territorial agreement between the parties, and (3) portions of Section 366.04(2), Florida Statutes, divest the Commission of its jurisdiction to decide this case. In this context, "jurisdiction" means the power to hear and decide a case. Black's Law Dictionary 766 (5th Ed. 1979). As shown below, none of these arguments defeat the FPSC's jurisdiction to decide this or other territorial disputes in Duval County.

1. Degree of Urbanization is Unrelated to Jurisdiction

First, whether the Holiday Inn-Jacksonville Airport is located in a "rural" or "urban" area may be a factor for the FPSC to consider when deciding territorial disputes, but is not a jurisdictional prerequisite. "In resolving territorial disputes, the public service commission may consider, but not be limited to the consideration of . . . the nature of the area involved,

including . . . degree of urbanization of the area . . . ." Fla. Stat. §366.04(2)(e) (1991) (emphasis added). The plain language of the statute speaks for itself.

2. Territorial Agreement Not a Jurisdiction Prerequisite

Second, the presence of a territorial agreement, Commission-approved or otherwise, is not a prerequisite to the Commission's territorial dispute resolution jurisdiction. See, e.g., Gainesville - Alachua County Regional Elec., Water and Sewer Util. Bd. v. Clay Elec. Coop., 340 So.2d 1159, 1160 (Fla. 1976).

3. "1974 Clause" Does Not Defeat the FPSC's Jurisdiction

Third, the portion of Section 366.04(2), Florida Statutes, excerpted by JEA does not defeat the FPSC's jurisdiction to decide this case. JEA argues that the FPSC does not have jurisdiction over a territorial dispute by virtue of the following language in Section 366.04(2), Florida Statutes:

No provision of this chapter shall be construed or applied to impede, prevent or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on July 1, 1974; however, existing territorial agreements shall not be altered or abridged hereby.

(Hereinafter the "1974 Clause"). In so doing, JEA misapplies the rules of statutory construction and fails to recognize the purposes behind the Grid Bill.

The purpose of statutory construction is to determine the intent of the Legislature. State v. Webb, 398 So.2d 820, 824 (Fla. 1981). The history, object and purpose of the Legislature, together with the mischief to be remedied, should be considered

when examining the intent of the Legislature. Id.; Blount v. State, 102 Fla. 1100, 138 So. 2 (1931). The allegedly "harmonizing" construction urged by JEA should be rejected because, if accepted, such construction would divest the FPSC of its jurisdiction to consider territorial disputes in Duval County. Both of these results are unreasonable and at odds with the fundamental purposes of the Grid Bill. Interpretations of a statute which would produce unreasonable results should be avoided when alternative interpretations consistent with legislative purpose are available. State v. Webb, 398 So.2d at 825 ("intent must be given effect even though it may contradict the strict letter of statute"). The history, object and purpose of the Legislature, together with an examination of the mischief to be remedied, compel the conclusion that JEA's construction of the Grid Bill should be rejected.

The public policy of the State of Florida disfavors competition between electric utility providers. See Drawing the Lines at 411. Even before the Grid Bill was enacted, the Commission recognized the "mischief" associated with competition between electric utilities:

If two similar utilities enter the same territory and compete for the limited business of the area, each will have fewer customers, but there inevitably will be excess facilities . . . . The rates in such a situation will be higher than the service is worth, or customers in more remote areas will bear some of the unjustified expense necessary to support such economic waste.

In re: Territorial Agreement Between Peoples Gas Sys., Inc. and City Gas Co. of Fl., Docket No. 6231-GU, Order No. 3051 at 1 (Fla.

Pub. Serv. Com'n., Nov. 9, 1960).

In 1974, the Grid Bill was enacted to "assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission and distribution facilities." Fla. Stat. § 366.04(3) (1974) (emphasis added). To accomplish this purpose, and to remedy the mischief associated with inter-utility competition, the FPSC was given a number of tools, one of which is the jurisdiction to resolve territorial disputes involving all types of electric utilities. See Drawing the Lines at 415.

With this in mind, to suggest that the FPSC's jurisdiction to resolve territorial disputes ends at the border of Duval County or at the boundary of any city is unreasonable and inconsistent with the purpose of the Grid Bill. This is especially true when the uneconomic duplication that has already occurred within Duval County<sup>3</sup> has probably already had an adverse impact on Florida residents/ratepayers outside of Duval County, and may have an adverse impact on the efficiency and effectiveness of the statewide power grid. When uneconomic duplication within Duval County creates, or appears to create, a harm to residents/ratepayers outside of Duval County, the 1974 Clause should not be construed to defeat the FPSC's jurisdiction to investigate and order corrective action. For this reason, the "harmonizing" construction of the 1974 Clause urged by JEA should be rejected as inconsistent with

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<sup>3</sup> See Exhibit 1 to Petition and Exhibit B to Motion to Dismiss.



the overall purpose of the Grid Bill.<sup>4</sup>

In place of the "harmonizing" construction urged by JEA, the Commission should adopt a construction of the 1974 Clause which better recognizes the purposes of the Grid Bill. Statutes effectuating the public policy of the state or the general welfare should receive a liberal construction so that their beneficial results may be felt to the fullest extent possible. See Ideal Farms Drainage Dist. v. Certain Lands, 154 Fla. 554, 19 So.2d 234, 239 (1944). With this in mind, the FPSC should construe the 1974 Clause -- not as a jurisdictional limitation as suggested by JEA -- but as a factor to be considered (along with the other factors allowed to be considered under the Grid Bill) when deciding territorial disputes.

This construction has ample support, both in logic and in the legislative history of the Grid Bill. Indeed, when Section 366.04(2)(e), Florida Statutes, is considered as it was originally enacted, it is clear that only the first sentence of Section 366.02(e), Florida Statutes, was intended to be jurisdictional. As originally enacted, Section 366.04(2)(e) reads:

(2) In the exercise of its jurisdiction the commission shall have power over rural electric cooperative and municipal electric utilities for the following purposes:

\* \* \*

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<sup>4</sup> JEA's "harmonizing" construction should also be rejected because it would arguably affirm the validity of the "when practical or economical for the Authority" language in Jacksonville Ordinance 69-217-119 (Jacksonville Code § 718.103) (Exhibit 1). See note 1 above.

"(e) To resolve any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction or any of them. In resolving territorial disputes the public service commission may consider, but not be limited to the ability of the utilities to expand services within their own capabilities, the nature of the area involved including population and the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services. No provision of this chapter shall be construed or applied to impede, prevent or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on the effective date of this act, provided, however, existing territorial agreements shall not be altered or abridged hereby."

Grid Bill § 1. If the Legislature had intended for the 1974 Clause to be jurisdictional, it would have said so. The second and third sentences of Section 366.04(2)(e), when read in para materia with the first sentence and in light of the purposes of the Grid Bill, are factors to be considered by the Commission when deciding a territorial dispute.

### III.

#### Conclusion

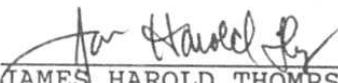
The Grid Bill and the numerous case decisions interpreting the Grid Bill clearly vest jurisdiction to resolve territorial disputes with the FPSC. The FPSC has been charged by the Legislature with the responsibility to avoid the mischief associated with inter-utility competition and has been given the power to do so. The 1974 Clause, when properly construed in light of the purposes of the Grid Bill, does not defeat the FPSC's jurisdiction to resolve this territorial dispute or other territorial disputes involving

municipal electric utilities.

WHEREFORE, Petitioner OREMC requests that the Commission enter an Order denying JEA's Motion to Dismiss.

DATED this 13<sup>th</sup> day of January, 1992.

Respectfully submitted,

  
\_\_\_\_\_  
JAMES HAROLD THOMPSON  
J. JEFFRY WAHLEN  
Ausley, McMullen, McGehee,  
Carothers & Proctor  
P. O. Box 391  
Tallahassee, FL 32302  
(904) 224-9115

ATTORNEYS FOR OREMC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail\* this 13<sup>th</sup> day of January, 1992, to the following:

Bruce Page  
Assistant General Counsel  
Office of the General Counsel  
Suite 715, Towncentre  
421 West Church Street  
Jacksonville, Florida 32202

Robert V. Elias\*  
Mary Ann Birchfield\*  
Staff Counsel  
Florida Public Service Com'n  
Fletcher Building - Room 226  
101 East Gaines Street  
Tallahassee, Florida 32399-0863

\*Hand Delivery

jjw\pld\911141-2.mcm

  
\_\_\_\_\_  
Attorney

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Territorial Dispute Between )  
Okefenoke Rural Electrical Membership )  
Corporation, and the Jacksonville ) DOCKET NO. 911141-EU  
Electric Authority of the City of ) Filed: January 13, 1992  
Jacksonville, in Duval County )

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OREMC'S MEMORANDUM IN OPPOSITION  
TO JEA'S MOTION TO DISMISS

EXHIBIT 1

- |    |                        |             |
|----|------------------------|-------------|
| A. | Jacksonville Ordinance | 68-120-88   |
| B. | Jacksonville Ordinance | 69-217-119  |
| C. | Jacksonville Code      | Chapter 718 |

Introduced by Councilman Grissett

File # 68-260

AN ORDINANCE RELATING TO THE ELECTRIC UTILITY FACILITIES AND BUSINESSES OF FLORIDA POWER AND LIGHT COMPANY, CLAY ELECTRIC CO-OPERATIVE, INC. AND OKEFENOKEE RURAL ELECTRIC MEMBERSHIP CORPORATION WITHIN THE CITY OF JACKSONVILLE; RESTRICTING SAID ELECTRIC UTILITIES FROM SERVING ADDITIONAL PREMISES OR EXTENDING THEIR LINES WITHIN OR INTO TERRITORY OF THE CITY UNLESS AUTHORIZED SO TO DO BY THE COUNCIL; PRESCRIBING PENALTIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 1, 1968, the Consolidated Government of the City of Jacksonville was granted jurisdiction and extended territorially throughout the present limits of Duval County; and

WHEREAS, Florida Power and Light Company, Clay Electric Co-Operative, Inc. and Okefenokee Rural Electric Membership Corporation have electric utility facilities within certain portions of the territory which is now a part of the City of Jacksonville from which they supply electricity to existing customers within the present corporate limits of the City; and

WHEREAS, Florida Power and Light Company has a franchise to operate and do business within the territory of the Fifth Urban Services District, being the Town of Baldwin, and has heretofore entered into an Interconnection and Territorial Agreement, dated March 10, 1963, with the former government of the City of Jacksonville establishing a boundary line between their respective territories in Duval County; and

WHEREAS, neither Clay Electric Co-Operative, Inc. nor Okefenokee Rural Electric Membership Corporation has any right granted by law or agreement to operate and do business within the incorporated territory of the present City of Jacksonville; and

WHEREAS, authority has been granted by law to the Jacksonville Electric Authority, an independent agency of the City of Jacksonville, to own, manage and

operate an electric utility system in the City of Jacksonville, which it is now doing; now, therefore,

BE IT ORDAINED by the Council of the City of Jacksonville:

Section 1. Provisions Applicable to Florida Power and Light Company.

Until such time as Florida Power and Light Company shall be granted a franchise by the City of Jacksonville to operate and do business as an electric utility within the territory of Duval County, now the City of Jacksonville, which lies on the Company's side of the boundary line established by that certain Interconnection and Territorial Agreement dated March 19, 1963, between the Company and the former government of the City of Jacksonville, except within the Fifth Urban Services District, being the Town of Baldwin, wherein the Company has heretofore been granted a franchise by said Town, or until such time as the Jacksonville Electric Authority shall acquire the electric system facilities and properties of the Company located within such territory of the City of Jacksonville, the Company shall not furnish electric service to any additional premises within such territory or extend its lines into or within such territory unless the Company is or shall become authorized so to do by the Council of the City of Jacksonville; but the licensing and taxation by the City of the existing business and properties of the Company within such territory shall not be deemed to constitute such authority.

Section 2. Provisions Applicable to Clay Electric Co-Operative, Inc. and Okefenokee Rural Electric Membership Corporation. Until such time as the Jacksonville Electric Authority shall acquire the electric system facilities and properties of Clay Electric Co-Operative, Inc. and Okefenokee Rural Electric

Membership Corporation which are located within the territory of the City of Jacksonville, neither the Clay Electric Co-Operative, Inc. nor the Okefenokee Rural Electric Membership Corporation shall furnish electric service to any additional premises or extend its lines into or within any areas within the territorial limits of the City of Jacksonville unless it is or shall become authorized so to do by the Council of the City of Jacksonville; but the licensing and taxation by the City of the existing business and properties of said corporation within the City shall not be deemed to constitute such authority.

Section 3. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall be guilty of an offense against the City, and upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than sixty (60) days, or by both such fine and imprisonment. Each day in which any such violation shall continue shall be deemed a separate offense.

Section 4. Effective date. This ordinance shall become effective upon execution by the Mayor or upon becoming effective without the Mayor's signature.

Form approved by:

David H. Livermore, Jr.  
Assistant Counsel

Introduced by Councilman Grissett:

ORDINANCE 69-217-119

AN ORDINANCE DELEGATING TO THE JACKSONVILLE ELECTRIC AUTHORITY THE AUTHORITY TO PERMIT OTHER ELECTRIC UTILITY COMPANIES TO FURNISH ELECTRIC SERVICE TO CERTAIN PREMISES IN THE CITY OF JACKSONVILLE; AMENDING ORDINANCE 68-120-88 TO THE EXTENT INCONSISTENT HEREWITH; PROVIDING AN EFFECTIVE DATE.

WHEREAS, ordinance 68-120-88 prohibits other electric utility companies from furnishing electric service within the City of Jacksonville to any additional premises or to extend its lines unless authorized by the Council of the City of Jacksonville, and

WHEREAS, there are certain areas within the City where applications have been made by other electric utility companies to furnish electric service to consumers, and

WHEREAS, in an effort to avoid loss of service by any consumer it is the desire of the Council to delegate to the Jacksonville Electric Authority the right to authorize other electric utility companies to furnish power to consumers when in the opinion of the Jacksonville Electric Authority it is expedient to do so in order that the consumer not be inconvenienced by loss of service, now therefore

BE IT ORDAINED by the Council of the City of Jacksonville:



Section 1. Delegation To Jacksonville Electric Authority. The Jacksonville Electric Authority, or its authorized agent, is hereby delegated the authority to grant permission to other electric utility companies to furnish electric service to additional premises and to extend their lines when it is not practical or economical for the Jacksonville Electric Authority to furnish such service.

Section 2. Ordinance 68-120-88 Amended. Sections 1 and 2 of Ordinance 68-120-88 are amended to the extent inconsistent with Section 1 hereof.

Section 3. Effective Date. This ordinance shall become effective upon signature by the Mayor or becoming effective without the Mayor's signature.

Form approved:

Daniel H. Lewis  
Assistant Counsel

William A. Dunbar  
General Counsel

ORDINANCE 69-217-119

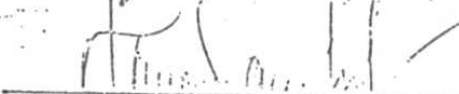
CERTIFICATE OF AUTHENTICATION

DECLARED AN EMERGENCY MEASURE AND  
ENACTED BY THE CITY COUNCIL

MARCH 25, 1969

APPROVED

March 27, 1969



HANS G. TANZLER, JR., MAYOR

ATTEST:



DAVID C. MACNAMARA  
SECRETARY OF THE CITY COUNCIL



**CHAPTER 718  
ELECTRIC UTILITIES**

- 718.101 Florida Power and Light Company.  
718.102 Clay Electric Co-Operative, Inc. and Okefenokee Rural Electric Membership Corporation.  
718.103 Delegation to Jacksonville Electric Authority.  
718.104 Director of Public Works authorized to execute service agreements.  
718.105 Penalties.

**718.101 Florida Power and Light Company.** Until such time as Florida Power and Light Company is granted a franchise by the City to operate and do business as an electric utility within the territory of the City which lies on the Company's side of the boundary line established by that certain Interconnection and Territorial Agreement dated March 19, 1963, between the Company and the former City of Jacksonville, except that territory within the Fifth Urban Services District, or until such time as the Jacksonville Electric Authority acquires the electric system facilities and properties of the Company located within the territory of the City, the Company shall not furnish electric service to any additional premises within the territory or extend its lines into or within the territory unless the Company is or shall be authorized to do so by the Council; but the licensing and taxation by the City of the existing business and properties of the Company within this territory shall not be deemed to constitute this authority.

History.—Ord. 68-120-88, s. 1; Ord. 70-650-526; Ord. 71-397-181; Ord. 83-591-400, s. 1.  
Note.—Former s. 610.101.

**718.102 Clay Electric Co-Operative, Inc. and Okefenokee Rural Electric Membership Corporation.** Until such time as the Jacksonville Electric Authority acquires the electric system facilities and properties of Clay Electric Co-Operative, Inc. and Okefenokee Rural Electric Membership Corporation which are located within the City, neither the Clay Electric Co-Operative, Inc. nor the Okefenokee Rural Electric Membership Corporation shall furnish electric service to any additional premises or extend its lines into or within any areas within the City unless it is or shall be authorized to do so by the Council; but the licensing

and taxation by the City of the existing business and properties of the corporation within the City shall not be deemed to constitute this authority.

History.—Ord. 68-120-88, s. 2; Ord. 70-650-526; Ord. 71-397-181; Ord. 83-591-400, s. 1.  
Note.—Former s. 610.102.

**718.103 Delegation to Jacksonville Electric Authority.** The Jacksonville Electric Authority, or its authorized agent, is delegated the authority to grant permission to other electric utility companies to furnish electric service to additional premises and to extend their lines when it is not practical or economical for the Authority to furnish this service.

History.—Ord. 69-217-119, s. 1; Ord. 70-650-526; Ord. 71-397-181; Ord. 83-591-400, s. 1.  
Note.—Former s. 610.103.

**718.104 Director of Public Works authorized to execute service agreements.** The Director of Public Works is delegated the authority to execute from time to time on behalf of the City agreements for electrical service when these agreements are requested by the Jacksonville Electric Authority when it is supplying new electric service to a City-owned facility. The agreements authorized to be executed by this section shall contain only the following obligations on the part of the City:

(a) to grant permission to the Jacksonville Electric Authority to have access to construct and to maintain electric facilities on, over and across or under those lands which are designated in the agreements to furnish electric service and to have access to install and maintain the necessary facilities from a point of delivery on the Authority's electric lines off the City's property to a point where these lines terminate at the City's facilities or other designated point.

(b) to agree that the City will meet the Jacksonville Electric Authority's current requirements for the type of electric service desired by the City.

(c) to agree that the facilities installed by the City that are to be utilized by the Jacksonville Electric Authority will remain the City's responsibility to maintain unless otherwise agreed upon in writing and that all required construction by the City to be used by the Authority must be approved by an Authority representative prior to the commencing of construction.

(d) to agree that the City shall be responsible for providing normal protection of the

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Territorial Dispute Between )  
Okefenoke Rural Electric Membership )  
Corporation, and the Jacksonville )  
Electric Authority of the City of )  
Jacksonville, in Duval County )

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DOCKET NO. 911141-EU  
Filed: January 13, 1992

OREMC'S MEMORANDUM IN OPPOSITION  
TO JEA'S MOTION TO DISMISS

EXHIBIT 2

CHAPTER 74-196, LAWS OF FLORIDA

Grid Bill as Originally Enacted

or disposed of by the utility as the commission may direct, provided, however, no such funds shall accrue to the benefit of the utility.

(6) In no instance is any regulated company allowed to put into effect suspended rates more than one time in any 12 month period.

Section 6. Subsection (5) is added to section 323.08, Florida Statutes, to read:

323.08 Rates; procedure for fixing and changing.—

(5) Pending a final decision in any rate proceeding under this section, the commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the motor carrier requesting such increase within thirty (30) days a reason or written statement of good cause for withholding its consent. Such consent shall not be withheld for a period longer than five (5) months from the date of filing the new schedules. The new rates or any portion not consented to shall go into effect under bond at the end of such period, but the commission shall by order require such motor carrier to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and upon completion of hearing and final decision in such proceeding shall by further order require such motor carrier to refund with interest at a fair rate, to be determined by the commission in such manner as it may direct, such portion of the increased rate or charge as by its decision shall be found not justified. Any portion of such refund not thus refunded to patrons or customers of the motor carrier shall be refunded or disposed of by the motor carrier as the commission may direct, provided, however, no such funds shall accrue to the benefit of the motor carrier.

Section 7. This act shall take effect July 1, 1974.

Approved by the Governor June 17, 1974.

Filed in Office Secretary of State June 18, 1974.

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## CHAPTER 74-196

### Committee Substitute for House Bill No. 1543

AN ACT relating to the Florida public service commission; adding subsections (2) and (3) to §366.04, Florida Statutes, extending commission jurisdiction over rural electric cooperative and municipal electric utilities for certain purposes; authorizing the commission to plan and develop a coordinated electric power grid; adding subsections (7) and (8) to §366.05, Florida Statutes, authorizing the commission to require certain reports and to require necessary facilities for the reliability of the energy grid; creating §366.05, Florida Statutes, providing for availability of energy reserves; creating §366.061, Florida Statutes, providing for a study of rate structure by the legislature; providing an appropriation; amending §366.11, Florida Statutes, providing limitations on certain exemptions; creating §366.015, Florida Statutes, directing the Florida public service commission to assume primary re-

mission may direct, provided, benefit of the utility.

company allowed to put into effect in any 12 month period.

Section 323.08, Florida Statutes,

is changing.—

proceeding under this section to the operation of all or delivering to the motor carrier (10) days a reason or written consent. Such consent shall not (5) months from the date of or any portion not consented end of such period, but the motor carrier to keep accurate account of such increase, specimens were paid, and upon in such proceeding shall by to refund with interest at a rate in such manner as it may or charge as by its decision such refund not thus refunded carrier shall be refunded or dismission may direct, provided, benefit of the motor carrier.

July 1, 1974.

1974.

18, 1974.

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House Bill No. 1543

public service commission; adding subsections (7) and (8) to Florida Statutes, extending jurisdiction of the commission to plan and develop the commission to require facilities for the reliability of electric power under Florida Statutes, providing for §366.061, Florida Statutes, by the legislature; providing for §366.015, Florida Statutes, dismission to assume primary re-

responsibility for initiation of interagency liaison in all technical areas affecting utilities under its primary jurisdiction; providing an effective date.

*Be It Enacted by the Legislature of the State of Florida:*

Section 1. Section 366.04, Florida Statutes, is amended by adding subsections (2) and (3) to read:

366.04 Florida public service commission; jurisdiction.—

(2) In the exercise of its jurisdiction the commission shall have power over rural electric cooperative and municipal electric utilities for the following purposes:

(a) To prescribe uniform systems and classifications of accounts.

(b) To prescribe a rate structure for all electric utilities.

(c) To require electric power conservation and reliability within a coordinated grid for operational as well as emergency purposes.

(d) To approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction or any of them; provided, nothing in this chapter shall be construed to alter existing territorial agreements as between the parties to such agreements.

(e) To resolve any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction or any of them. In resolving territorial disputes the public service commission may consider, but not be limited to the ability of the utilities to expand services within their own capabilities, the nature of the area involved including population and the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services. No provision of this chapter shall be construed or applied to impede, prevent or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on the effective date of this act, provided, however, existing territorial agreements shall not be altered or abridged hereby.

(3) The commission shall further have jurisdiction over the planning, development and maintenance of a coordinated electric power grid throughout Florida, to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

Section 2. Section 366.05, Florida Statutes, is amended by adding new subsections (7) and (8) to read:

366.05 Powers.—

(7) The commission shall have the power to require reports from all electric utilities to assure the development of adequate and reliable energy grids.

(8) If the commission determines that there is probable cause to believe that inadequacies exist with respect to the energy grids developed by the electric utility industry, it shall have the power, after holding hearings as provided by law, and after a finding that mutual benefits will accrue to the public utilities involved, to require installation or repair of necessary facilities, including generating plants and transmission facilities with the costs to be distributed in proportion to the benefits received, and to take all necessary steps to insure compliance. The electric utilities involved in any action taken or orders issued pursuant to this subsection shall have full power and authority notwithstanding any general or special laws to the contrary, to jointly plan, finance, build, operate or lease generating and transmission facilities and shall be further authorized to exercise the powers granted to corporations in chapter 361, Florida Statutes. Provided that this subsection shall not supersede or control any provision of the electric power plant siting act, sections 403.501 thru 403.516, Florida Statutes, 1973.

Section 3. Section 366.055, F.S., is created to read:

366.055 Availability of and payment for energy reserves.—

(1) Energy reserves of all utilities in the Florida energy grid shall be available at all times to insure that grid reliability and integrity are maintained. The commission is hereby authorized to take such action as necessary to assure compliance; provided, however, prior commitments as to energy use in interstate commerce as approved by the Federal Power Commission; commitments between one electric utility and another which have been approved by the Federal Power Commission; or commitments between an electric utility which is a part of the energy grid created herein and another energy grid shall not be abridged or altered except during an energy emergency as declared by the governor and cabinet.

(2) When the energy produced by one electric utility is transferred to another or others through the energy grid and under the powers granted by this section, the commission shall direct the appropriate recipient utility or utilities to reimburse the producing utility in accordance with the latest wholesale electric rates approved for the producing utility by the Federal Power Commission for such purposes.

Any utility which provides a portion of those transmission facilities involved in the transfer of energy from a producing utility to a recipient utility or utilities shall be entitled to receive an appropriate reimbursement commensurate with the transmission facilities and services provided. Provided further, no utility shall be required to sell purchased power to a recipient utility or utilities at a rate lower than the rate at which the power is purchased from a producing utility.

(3) To assure efficient and reliable operation of a state energy grid, the commission shall have the power to require any electric utility to transmit electric energy over its transmission lines from one utility to another or as a part of the total energy supply of the entire grid, subject to the provisions hereof.

Section 4. Section 366.061, Florida Statutes, is created to read:

366.061 Electric utility rate structure study.—





366.015 Interagency liaison.—The Florida public service commission is directed to provide for and assume primary responsibility for establishing and maintaining continuous liaison with all other appropriate state and federal agencies whose policy decisions and rule-making authority affect those utilities which the commission has primary regulatory jurisdiction. This liaison shall be conducted at the policy-making levels as well as department, division or bureau levels. Active participation in other agency public hearings is encouraged to transmit the commission's policy positions and information requirements in order to provide for more efficient regulation.

Section 7. This act shall take effect July 1, 1974.

Approved by the Governor June 17, 1974.

Filed in Office Secretary of State June 18, 1974.

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#### CHAPTER 74-197

#### Committee Substitute for Committee Substitute for House Bill No. 3096

AN ACT relating to workmen's compensation; amending §440.02(1)(c), (2), (13), (15) and (16), Florida Statutes, 1973, relating to definitions; extending coverage to certain agricultural employees and personnel associated with athletic events; providing that the words "child," "grandchild," "brother," and "sister" include certain persons up to twenty-two (22) years of age; adding a subsection (3) to §440.04, Florida Statutes, 1973, allowing an officer of a corporation who has elected exemption from the workmen's compensation act to revoke such exemption; amending §440.05, Florida Statutes, 1973, requiring corporate officers electing an exemption or revoking an exemption from the chapter to give notice to the division of labor of the department of commerce; creating §440.075, Florida Statutes, providing for application of common law in suits involving exempt corporate officers; amending §440.09(1) and (2), Florida Statutes, 1973, relating to the payment of workmen's compensation for accidents which occur elsewhere than in this state; providing that compensation will not be paid when the employee is already covered by certain federal compensation acts; amending §440.10(1), Florida Statutes, 1973, providing that a subcontractor is not responsible for payment of compensation to employees of another subcontractor; providing that the liability provisions of §440.11, Florida Statutes, do not protect a subcontractor other than the employer of an injured employee; amending §440.12(2) and (3), Florida Statutes, 1973, providing a formula for relating maximum compensation rate to a state average weekly wage; amending present subsection (3) and adding a new subsection (3) to §440.14, Florida Statutes, 1973, providing alternative method of computation of compensation for seasonal workers; amending §440.15(1) and (2), Florida Statutes, 1973, increasing compensation for certain employees; providing additional temporary total disability compensation for certain serious injuries; amending §440.151(1)(a) and (2), Florida Statutes, 1973, expanding the type of diseases covered by the act; amend-