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Florida Power & Light Company, P. O. Box 029100, Miami, FL 33102-9100



VIA FEDERAL EXPRESS

January 22, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
Betty Easley Conference Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

970105-EU

Re: **Petition of Florida Power & Light Company for Approval of Change
in Territorial Boundary under Its Territorial Agreement with Lee
County Electric Cooperative, Inc.**

Dear Ms. Bayó:

Enclosed for filing with the Commission are the original and fifteen copies of the above-referenced Petition. An additional copy of the Petition is also enclosed, on which I would appreciate your noting the Docket Number and then returning it to me in the accompanying, postage-paid envelope. Thank you.

Very truly yours,

David L. Smith
Senior Attorney

- ACK _____
- AFA _____ DLS:plm
- APP _____
- CAF _____ Enclosures
- CMU _____
- CTR _____
- EAG _____
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ENCLOSURES PLMSMITH LEECOTA PSC01-22-97

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FPSC-RECORDS/REPORTING

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BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power & Light Company for Approval of Change in Territorial Boundary under Its Agreement with Lee County Electric Cooperative, Inc.)	Docket No. _____
)	Filed: January 23, 1997
)	
)	

PETITION FOR APPROVAL OF CHANGE IN
TERRITORIAL BOUNDARY

Pursuant to Section 366.04(2)(d), F.S. (1995), and Rules 25-6.0440(1) and 25-22.036(4)(b), F.A.C., Florida Power & Light Company ("FPL") hereby petitions the Florida Public Service Commission ("Commission") to approve a change in a territorial boundary under the existing territorial agreement between FPL and Lee County Electric Cooperative, Inc. ("LCEC").

1. Any pleading, motion, notice, order or other document required to be served in this proceeding or filed by any other party to this proceeding should be forwarded to the following individuals:

W. G. Walker, III
Vice President
Regulatory Affairs
Florida Power & Light Company
P.O. Box 029100
Miami, Florida 33102-9100

David L. Smith, Esquire
Law Department
Florida Power & Light Company
P.O. Box 029100
Miami, Florida 33102-9100

William Hetherington
Director of Engineering and Operations
Lee County Electric Cooperative, Inc.
403 N. 15th Street
Immokalee, Florida 33934

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FPSC-RECORDS/REPORTING

HISTORY

2. By Order No. 3799 issued on April 28, 1965, in Docket No. 7424-EU, the Commission approved the original territorial agreement between FPL and LCEC. An amendment to this original territorial agreement was approved by the Commission's Order No. 20817 issued on February 28, 1989, in Docket No. 850129-EU. Subsequently, on May 10, 1993, in Docket No. 930092-EU, the Commission issued Order No. PSC-93-0705-FOF-EU approving a new territorial agreement between FPL and LCEC, which modified the territorial boundaries between FPL's and LCEC's retail service areas in Charlotte, Collier, Hendry and Lee Counties. For ease of reference, copies of Orders Nos. 20817 and PSC-93-0705-FOF-EU are Attachments A and B, respectively, to this Petition.

3. In Order No. PSC-93-0705-FOF-EU, this Commission (among other things) indicated (93 FPSC 5:166,168):

The parties are reminded, however, that the Commission must approve all permanent territorial boundary changes before they occur. In the future, if either LCEC or FPL wishes to make a permanent boundary change, they must seek prior approval from the Commission.

* * *

The new agreement will remain in effect until modified by us, on the petition of either utility, or on our own motion.

APPROVAL BEING SOUGHT

4. By this Petition, FPL is seeking, with the concurrence of LCEC, the Commission's approval of a minor change in the parties' territorial boundary in Lee County, Florida, as previously approved in 1993.

5. Attachment C to this Petition is a one-page "Territorial Variance Agreement" ("TVA") recently executed by FPL and LCEC. Paragraph 1 of the TVA identifies the applicable geographical area and states that "good engineering practices. . . indicate" FPL should provide retail electric service to the customers in the area.

6. The current territorial boundary in this portion of Lee County is comprised in part by Dykes Road, a dirt road separating the Northwest and Southwest Quadrants of Section 31, Township 46 South, Range 27 East. This current territorial boundary as approved by the Commission (see Attachment B) has FPL's service area on the north side of Dykes Road and LCEC's on the south side.¹ FPL has existing distribution facilities along Dykes Road just east of Six L's Farm Road in Lee County, and it is neither economical nor efficient for LCEC to extend its facilities one to two miles in parallel with FPL's to provide service to seven tracts of land (six of which consist of five acres each, and one consists of ten acres) representing forty acres along the south side of Dykes Road just east of Six L's Farm Road. Attachment D to this Petition is a Lee County Land

¹ Prior to the Commission's issuance of its Order in 1993 (Attachment B), FPL was serving customers on the south side of Dykes Road.

Information Systems map identifying the seven tracts which are the subject of the TVA. Attachment E to this Petition provides legal descriptions of these seven properties, which extend 2640 feet east of the centerline of Six L's Farm Road and 660 feet south of the centerline of Dykes Road.

7. Attachment F to this Petition is a county map depicting in the lower right hand corner the Dykes Road area in Lee County. This map is an enhanced enlargement of the official county map comprising page 16 of Order No. PSC-93-0705-FOF-EU (Attachment B).

8. Accompanying this Petition as Attachment G, in compliance with recently adopted Rule 25-6.0440(1)(f), F.A.C., is a portion of an official Florida Department of Transportation General Highway map of Lee County, Florida, depicting the boundary line south of Dykes Road to be established by the TVA.

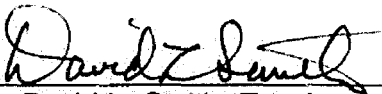
9. Except as sought to be modified herein by Commission approval of the TVA, the FPL/LCEC territorial agreement (as twice previously amended) would remain unaltered and in full force and effect.

10. No customers are being transferred from LCEC to FPL, or vice versa, and the few residential customers on the south side of Dykes Road requested electric service

from FPL due to the proximity of FPL's distribution facilities. Based upon the TVA once it is approved by the Commission, these customers will continue to receive service from FPL.

WHEREFORE, FPL (with the concurrence of LCEC) respectfully requests the Commission to find and determine that the Territorial Variance Agreement (Attachment C) is necessary in the public interest and is therefore approved for the reasons and in the manner set forth herein.

Respectfully submitted,
FLORIDA POWER & LIGHT COMPANY

By: 
David L. Smith, Esquire
Law Department
Florida Power & Light Company
9250 W. Flagler Street, #6514
Miami, Florida 33174
(305) 552-3924

Attorney for Florida Power &
Light Company

Dated January 22, 1997

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Lee County) DOCKET NO. 850129-EU
Electric Cooperative, Inc. to resolve)
a territorial dispute with Florida) ORDER NO. 20817
Power & Light Company.)
_____) ISSUED: 2-28-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
GERALD L. GUNTER

ORDER GRANTING MOTION TO AMEND TERRITORIAL AGREEMENT
AND DISMISSAL OF PETITION BY LEE COUNTY
ELECTRIC COOPERATIVE, INC. TO RESOLVE
A TERRITORIAL DISPUTE

BY THE COMMISSION:

Background

On April 29, 1982, Florida Mining and Materials (FMM) requested Florida Power & Light Company (FPL) to provide service to FMM facilities located in Charlotte County, Florida. On May 5, 1982, FPL advised FMM that FMM's facilities were within the service area of Lee County Electric Cooperative, Inc. (LCEC). FPL advised FMM to seek service from LCEC. By letter dated May 12, 1982, FMM again requested service from FPL. This time, however, FMM requested service at a point of delivery inside FPL's geographic territory as opposed to FMM's earlier request for service within Charlotte County. In February of 1984, FMM formally indicated that it was ready to proceed with construction of an electric line and requested that FPL and FMM enter into a service agreement.

On November 14, 1984, FPL filed a petition with this Commission requesting a declaratory statement regarding FPL's obligation to serve FMM. By Order No. 13998 issued on January 11, 1985, In Re: Petition of Florida Power & Light Company for a Declaratory Statement, Docket No. 840414-EI, we stated that FPL had an obligation to serve FMM at a point of delivery within FPL's territory.

On November 19, 1984 LCEC, in Docket No. 840444-EI, filed its initial petition to resolve a territorial dispute, alleging that LCEC and FPL had an agreement in Lee County, which FPL planned to violate by serving a customer located on LCEC's side of the agreement border. On December 3, 1984, LCEC filed a motion entitled "Motion for Consolidation; Motion for Continuation; Objection to Final Hearing of Florida Power & Light Company's Petition for Declaratory Statement," which alleged that its territorial dispute and FPL's petition for a declaratory statement involved the same facts, issues, and parties and requested that the two dockets be consolidated for hearing. Finding that the question presented by FPL's petition for declaratory statement could and should be answered independently of the territorial dispute complaint, the Commission denied LCEC's motions.

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On April 15, 1985, LCEC filed another petition, Docket No. 850129-EU, which requested that the Commission resolve a territorial dispute between itself and FPL. LCEC alleged that FMM would build a transmission line into FPL's service territory. Both FPL and FMM filed motions to dismiss LCEC's petition. The Commission agreed with FMM and dismissed LCEC's petition, with leave to amend, because the Commission found that it alleged the same facts and applicable law addressed by the Commission in FPL's earlier declaratory statement. Order No. 15452, issued on December 16, 1985. LCEC later amended its petition, stating the same facts it had raised earlier, and specifically alleged that agents of FPL and FMM conspired and acted in concert to deprive LCEC of its rights under the agreement. FPL and FMM again filed motions to dismiss stating that the facts and law contained therein were identical to those in the earlier declaratory statement and that, further, even if accepted as true, they would not constitute a violation of the agreement. The Commission agreed and dismissed with prejudice, finding that the two-page territorial agreement between the two utilities neither addressed nor contemplated a customer removing itself from one service territory to another by building its own transmission line. LCEC sought review of Order No. 15452 before the Supreme Court of Florida.

In its opinion issued in Lee County Electric Cooperative v. John R. Marks, 501 So.2d 585 (Fla. 1987) the Florida Supreme Court reversed Order No. 15452. In so doing, the Court found that (1) the Commission erred in concluding that LCEC's petition, taken as true, failed to allege a violation of the agreement; (2) that the Commission's ruling established "a policy which dangerously collides with the entire purpose of agreements, as well as the PSC's duty to police the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure ... the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities. §336.04(3), Florida Statutes (1985)," and (3) that the Commission's conclusion was "unsupported by precedent and inconsistent with the Commission's own established policy of enforcing agreements for the public good." Citing Storey v. Mayo, 217 So.2d 304 (Fla. 1968), for the holding that "[a]n individual has no organic, economic or political right to service by a particular utility merely because he deems it advantageous to himself." The Court found that it could not "find that the transparent device of constructing a line into another utility's service area may suffice to avoid the effect of an agreement." The Court reversed and remanded to the Commission for further proceedings consistent with its opinion.

Subsequent to that decision, on November 29, 1988, LCEC and FPL filed a joint petition requesting approval of an amendment to their territorial agreement and dismissal of LCEC's April 15, 1985 petition. The proposed amendment would allow FPL to continue servicing FMM's facilities in Charlotte County and is being sought solely because of the unique circumstances presented in this docket. The parties agree that the continued service by FPL and FMM is not precedent for establishing other amendments to the agreement and, further, that neither supplier will attempt to serve any applicant whose end-use facilities are located within the service territory of

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the other, including, but not limited to, a situation where the applicant proposes to build or builds its own electric line from a point inside the territory of either supplier to a point inside the territory of the other, except as provided by the agreement.

After a thorough review of the parties request, we find the proposed amendment to the territorial agreement between FPL and LCEC, attached to this order, to be reasonable. Having approved this agreement, we also find that the joint motion for dismissal of LCEC's complaint is now moot.


It is, therefore,

ORDERED that the joint motion for approval of the attached amendment to the territorial agreement of Florida Power & Light and the Lee County Electric Cooperative, Inc. is hereby granted. It is further

ORDERED THAT the territorial agreement of April 28, 1965, approved in Order No. 3799, will remain in full force and effect, except as hereby amended. It is further

ORDERED that the joint motion of Lee County Electric Cooperative, Inc. and Florida Power & Light Company for dismissal of Lee County's April 15, 1985 petition is hereby granted.

By ORDER of the Florida Public Service Commission,
this 28th day of February, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the

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Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In Re: Petition of Lee County)
Electric Cooperative, Inc. against)
Florida Power & Light Company) Docket No.: 850129-EU
to resolve a territorial dispute)

AMENDMENT TO TERRITORIAL AGREEMENT

Lee County Electric Cooperative (LCEC) and Florida Power & Light Company (FPL) hereby AMEND, subject to the approval of the Florida Public Service Commission, the Territorial Agreement between LCEC and FPL entered into on October 14, 1964, and approved by the Florida Public Service Commission on April 28, 1965, Order No. 3799, as set forth below:

1. The Territorial Agreement between FPL and LCEC approved by the Florida Public Service Commission on April 28, 1965, Order No. 3799, remains in full force and effect except as amended herein.

2. FM&M shall continue to receive service from FPL for its rock crushing plant at the point of delivery at Section 34, Township 42 South, Range 26 East.

3. LCEC and FPL (suppliers) agree that neither supplier will attempt to serve or serve any applicant whose end use facilities are located within the service territory of the other, including, but not limited to, a situation where the applicant proposes to build or builds its own electric line from a point inside the territory of either supplier to a point inside the territory of the other, except as provided herein.

The suppliers recognize that, in exceptional instances, good engineering practices (or economic constraints on either of the suppliers) may from

Amendment to Territorial Agreement
Docket No.: 850129-EU

time-to-time indicate that small service areas and/or future retail electric applicants should not be served by the supplier in whose territory they are located. In such instances, upon written request by the supplier in whose territory they are located to the other supplier, the other supplier may agree in writing to provide service to such small service areas and/or future retail electric service applicants, and the suppliers shall notify the Florida Public Service Commission of any such agreements and provide a copy of the agreement to the Commission.

In the event that a prospective applicant requests or applies for service from either supplier to be provided to end use facilities located in the territory reserved to the other supplier, then the supplier receiving such a request or application shall refer the prospective applicant or applicant to the other supplier, with citation to the Commission approved territorial agreement, and shall notify the other supplier of the request or application.

If the prospective applicant delivers a written application for service after being referred to the other supplier, or continues to demand service under an application made prior to a referral to the other supplier, the supplier shall file a Petition for Declaratory Statement requesting the Commission to apply the Territorial Agreement to the facts presented. The petitioning supplier shall notify the other supplier and the applicant of its intent to file a Petition for Declaratory Statement prior to filing the Petition and shall request the joinder of the other supplier as a necessary party with the filing of the petition. The petitioning supplier shall not provide electric service or attempt to provide electric service to the applicant unless the Commission, after hearing, authorizes the service in an order binding both suppliers.

Amendment to Territorial Agreement
Docket No.: 850129-EU

4. On full execution of this Amendment, LCEC and FPL shall seek approval of this Amendment by filing a Joint Motion for Approval with the Commission.

5. This amendment shall become effective upon approval by the Florida Public Service Commission.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals on this 28th day of November, 1988.

Witnesses:

Don Strick
Richard Taylor

LEE COUNTY ELECTRIC
COOPERATIVE, INC.

James G. [Signature]
Its President

Witnesses:

Barbara Sanchez
Maria [Signature]

FLORIDA POWER & LIGHT COMPANY

By: J. [Signature]
Its Group Vice President

ATTACHMENT B

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint application for approval of territorial agreement between Florida Power & Light Company and Lee County Electric Cooperative, Inc.) DOCKET NO. 930092-EU) ORDER NO. PSC-93-0705-FOF-EU) ISSUED: 5/10/93))

The following Commissioners participated in the disposition of this matter:

- J. TERRY DEASON, Chairman
- THOMAS M. BEARD
- SUSAN F. CLARK
- JULIA L. JOHNSON

ORDER APPROVING TERRITORIAL AGREEMENT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On January 21, 1993, Lee County Electric Cooperative, Inc. (LCEC) and Florida Power and Light Company (FPL) filed a joint application for approval of a territorial agreement. This new territorial agreement amends an existing territorial agreement, which we approved by Orders Nos. 3799 and 20817. The new agreement modifies the territorial boundary between FPL and LCEC's retail service areas in Lee, Hendry, Charlotte, and Collier counties.

¹ We approved the original territorial agreement by Order No. 3799, issued April 28, 1965, in Docket No. 7424-EU - Territorial agreement between Florida Power and Light Company and Lee County Electric Cooperative, Inc. An amendment to this original agreement was approved by us by Order No. 20817, issued February 28, 1989, in Docket No. 850129-EU - Petition of Lee County Electric Cooperative, Inc. to resolve a territorial dispute with Florida Power and Light Company. The agreement for which the parties are presently seeking our approval specifically incorporates by reference the amendment approved in Order No. 20817.

DOCUMENT BY DATE

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The parties state that changes have occurred to the territorial boundary previously approved by us. In several instances, either by mutual agreement or inadvertence, both LCEC and FPL have crossed over the territorial boundary and served in the other's service territory. The parties' new territorial agreement recognizes the boundary changes that have occurred and thus simplifies the provision of service to new customers who live close to the boundary line.

Rule 25-6.0440, Florida Administrative Code, provides that "[a]ll territorial agreements between electric utilities shall be submitted to the Commission for approval." When a territorial boundary is changed, the territorial agreement that established the boundary is also changed, and that change must be approved by us before it takes effect, and not after. We recognize that in certain limited circumstances system efficiencies may dictate that one utility should provide interim service to a customer in the other utility's service territory. For instance, when a customer builds along a territorial boundary, the utility with the closest lines may not be the utility in whose service area the customer built. Interim service may be necessary to provide service to such a customer quickly and efficiently. Interim service, however, must be temporary in nature. It must end at a time certain. As we stated in Order No. PSC-92-0415-FOF-EU,² "[o]ur concern is that 'interim service' will actually be provided indefinitely by one utility in the other utility's service territory on a virtually permanent basis outside of our purview, in violation of the intent of the Commission in approving the territorial agreement."

Section 3 of the amendment approved by us in Order No. 20817 recognizes that interim service may occasionally be necessary, and sets out the procedure the parties are to follow if such a need arises. This procedure includes notifying the Commission of all instances in which interim service is furnished. We find that if interim service is provided the utilities shall notify us and state how the boundary has temporarily changed. The notification should also include the date interim service was first connected and when it will end. The reports may be sent in letter format to the Bureau Chief of Fuel Procurement and Electric Safety in the

² This order was issued May 27, 1992, in Docket No. 920135-EU - Review of interim service arrangement between Peace River Electric Cooperative, Inc. and Tampa Electric Company pursuant to their territorial agreement approved in Order No. 17585.

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Division of Electric and Gas. The Commission staff will review these temporary service notifications, and if a problem arises, they shall bring it to our attention for resolution. These reports will enable the Commission to keep track of all instances of interim service to ensure that the service provided is truly interim in nature. The parties are reminded, however, that the Commission must approve all permanent territorial boundary changes before they occur. In the future, if either LCEC or FPL wishes to make a permanent boundary change, they must seek prior approval from the Commission.

The new territorial agreement provides that it shall go into effect only after approval has been obtained. By our approval, each utility will no longer be serving in the other's service territory. The adoption of the agreement will not result in the transfer of any customers or facilities. The new agreement will remain in effect until modified by us, on the petition of either utility, or on our own motion.

We believe that the new territorial agreement is in the public interest and that its adoption will further our policy of avoiding unnecessary and uneconomic duplication of facilities. Accordingly, we approve the new territorial agreement, with the condition that the parties shall inform the Commission of every instance in which interim service is provided to customers outside each utility's service territory. In addition, our approval is conditioned upon the parties seeking prior approval of any permanent change to their territorial boundary.

It is, therefore,

ORDERED by the Florida Public Service Commission that the territorial agreement submitted by Florida Power and Light Company and Lee County Electric Cooperative, Inc. is hereby approved. It is further

ORDERED the Florida Power and Light Company and Lee County Electric Cooperative, Inc. shall seek prior approval from the Florida Public Service Commission before making any permanent changes to their territorial boundary. It is further

ORDERED that Florida Power and Light Company and Lee County Electric Cooperative, Inc. shall notify the Florida Public Service Commission of any instances in which interim service is provided. It is further

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ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 10th day of May, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
MAH:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 1, 1993.

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**TERRITORIAL AGREEMENT
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND
LEE COUNTY ELECTRIC COOPERATIVE, INC.**

Section 0.1 This is a Territorial Agreement made and entered into by and between LEE COUNTY ELECTRIC COOPERATIVE, INC., an electric cooperative organized and existing under the laws of the State of Florida (herein called the "COOPERATIVE"), and FLORIDA POWER & LIGHT COMPANY, a private corporation organized and existing under the laws of the State of Florida (herein called the "COMPANY"), for the express purpose of seeking an Order of the Florida Public Service Commission (Commission) adopting the following recommended Territorial Agreement:

Section 0.2 WHEREAS, the COOPERATIVE, 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 Lee, Hendry, Charlotte, and Collier Counties, Florida; and

Section 0.3 WHEREAS, the COMPANY, by virtue of its Charter and the laws of Florida, is authorized and empowered to furnish electricity and power to persons, firms and corporations throughout the State of Florida and pursuant to such authority presently furnishes

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electricity and power to customers in areas of Lee, Hendry, Charlotte, and Collier Counties, Florida, and elsewhere; and

Section 0.4 WHEREAS, the COMPANY and the COOPERATIVE have a territorial boundary within Lee, Hendry, Charlotte, and Collier Counties along with terms and conditions relative thereto, established pursuant to Commission Order No. 3799, and later amended by Commission Order No. 20817; and

Section 0.5 WHEREAS, changes have occurred since Commission Order No. 3799 was entered and the COMPANY and the COOPERATIVE desire to amend the territorial boundary established by the Commission's previous orders to account for these changes, in order to further the Commission's policy of avoiding the uneconomic duplication of utility facilities and hazardous situations; and

Section 0.6 WHEREAS, the Commission is empowered by Section 366.04, Florida Statutes, to approve territorial agreements; and

Section 0.7 WHEREAS, the COMPANY and the COOPERATIVE through the below delineated Territorial Agreement seek, through Commission approval, to establish an amended Territorial boundary, and terms and conditions relative thereto;

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Section 0.0 NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, the parties hereto, subject to the approval of the Commission, and subject to the terms and conditions herein set forth, do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Territorial Boundary Lines - As used herein, the term "Territorial Boundary Lines" shall mean boundary lines which delineate areas on the county maps attached hereto as Exhibit "A" and which differentiate and divide the Cooperative Territorial Area from the Company Territorial Area.

Section 1.2 Cooperative Territorial Area - As used herein, the term "Cooperative Territorial Area" shall mean the geographic area shown on Exhibit "A" labelled "Lee County Electric Co-Op."

Section 1.3 Company Territorial Area - As used herein, the term "Company Territorial Area" shall mean the geographic area shown on Exhibit "A" labelled "Florida Power & Light Company."

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Section 1.4 End Use Facilities - As used herein, the term "End Use Facilities" shall mean a geographic location where the electric energy used by a customer is ultimately consumed.

ARTICLE II

AREA ALLOCATIONS

Section 2.1 Allocations - The Cooperative Territorial Area, as herein defined, is hereby allocated to the COOPERATIVE as its retail service area, and the Company Territorial Area, as herein defined, is hereby allocated to the COMPANY as its retail service area. The parties shall each have the right to provide retail electric service to all customers within their respective territorial area. Neither party shall hereafter serve or offer to serve a customer whose End Use Facilities are located in the territorial area of the other party except as provided in Section 2.2 below.

Section 2.2 Commission Order No. 20817 - The terms and conditions of the settlement in Docket No. 850129-EU, In Re: Petition of Lee County Electric Cooperative, Inc. to resolve a territorial dispute with Florida Power & Light Company, adopted by the Commission in Order No. 20817 as an amendment of the territorial agreement between the COMPANY and the COOPERATIVE are hereby incorporated by reference and are intended to remain in full force and effect.

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Section 2.3 Bulk Power Supply for Resale - No provision of this Agreement shall be construed as applying to bulk power supply for resale, or to facilities dedicated to such bulk power supply.

ARTICLE III

PREREQUISITE APPROVAL

Section 3.1 Regulatory Approval - The provisions of this Agreement are subject to the regulatory authority of the Commission whose approval shall be a prerequisite to the validity and applicability hereof. Neither party shall be bound hereunder until such approval has been obtained.

ARTICLE IV

DURATION

Section 4.1 Duration - This Agreement shall continue and remain in effect until the Commission, by order, modifies or withdraws its approval of this Agreement after proper notice and hearing. Modification or withdrawal of the Commission's order of approval of this Agreement shall be based upon a finding that modification or withdrawal is necessary in the public interest because of changed conditions or other circumstances not present at the time this Agreement was approved by the Commission.

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DOCKET NO. 930092-EU
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FPL/CEC
Terminal Agreement
Page 6

ARTICLE V

CONSTRUCTION OF AGREEMENT

Section 5.1 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 constructed, to eliminate and avoid needless and wasteful expenditures, duplication of facilities and potentially hazardous situations, which would otherwise result from unrestrained competition, between the parties operating in overlapping service areas.

ARTICLE VI

MISCELLANEOUS

Section 6.1 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, modification, enlargement or supplement to this Agreement shall be binding upon either of the parties hereto unless the same shall be in writing, signed by both parties, and approved by the Commission.

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FPL-LCEC
Territorial Agreement
Page 7

Section 6.2 Prior Boundaries and Terms - The adoption of this Agreement by the Commission amends all previous territorial boundaries and terms and conditions relative thereto, established by the Commission for the COMPANY and the COOPERATIVE.

IN WITNESS WHEREOF, this Agreement has been caused to be executed in triplicate by the COOPERATIVE in its name by its Director and by the COMPANY in its name by its Vice President; and one of said triplicate copies has been delivered to each of the parties hereto.

LEE COUNTY ELECTRIC COOPERATIVE, INC.

By: Scott Sidney
Scott Sidney, Director

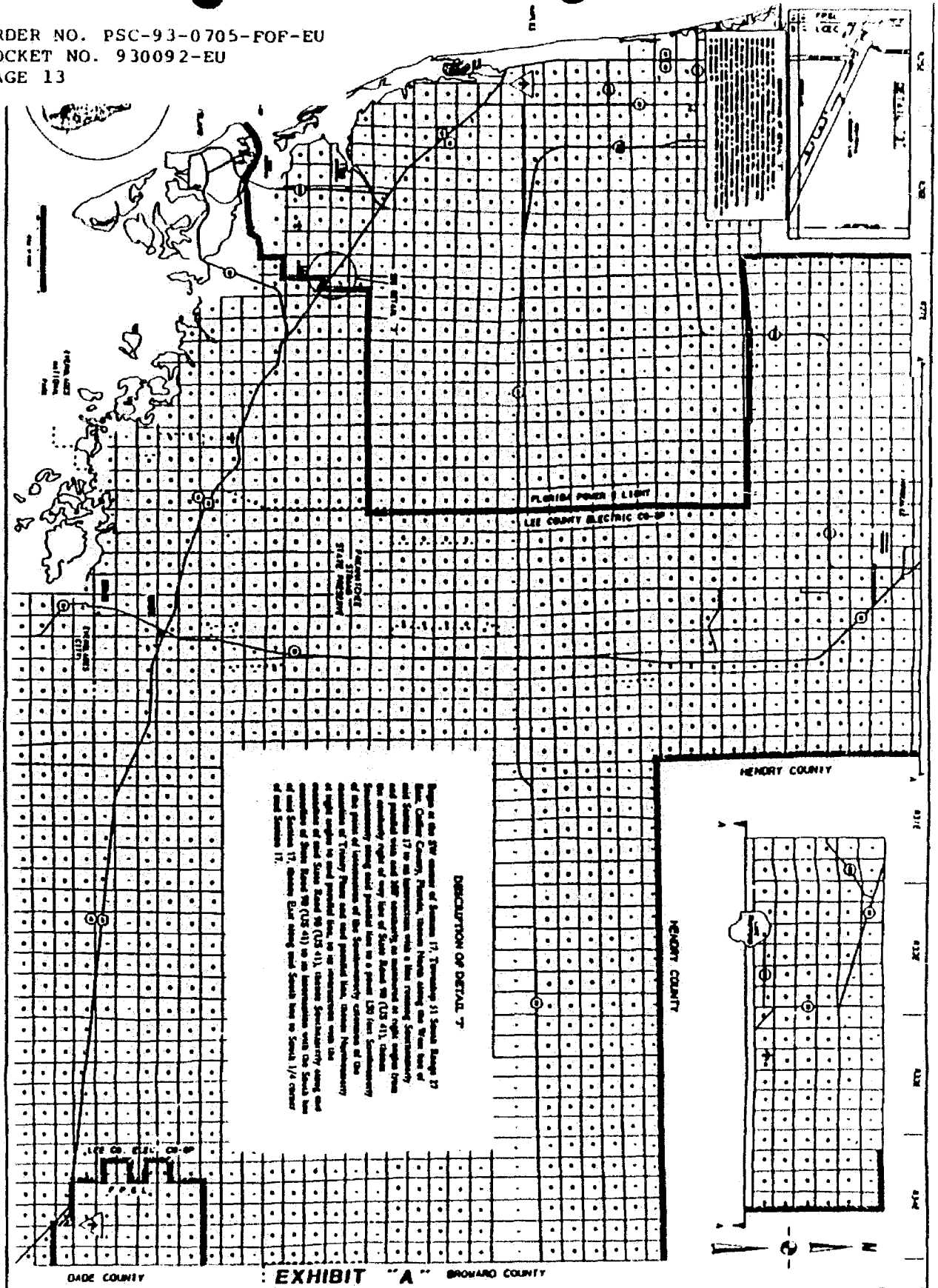
Date: _____

FLORIDA POWER & LIGHT COMPANY

By: W. W. Hamilton
W. W. Hamilton, Vice President

Date: _____

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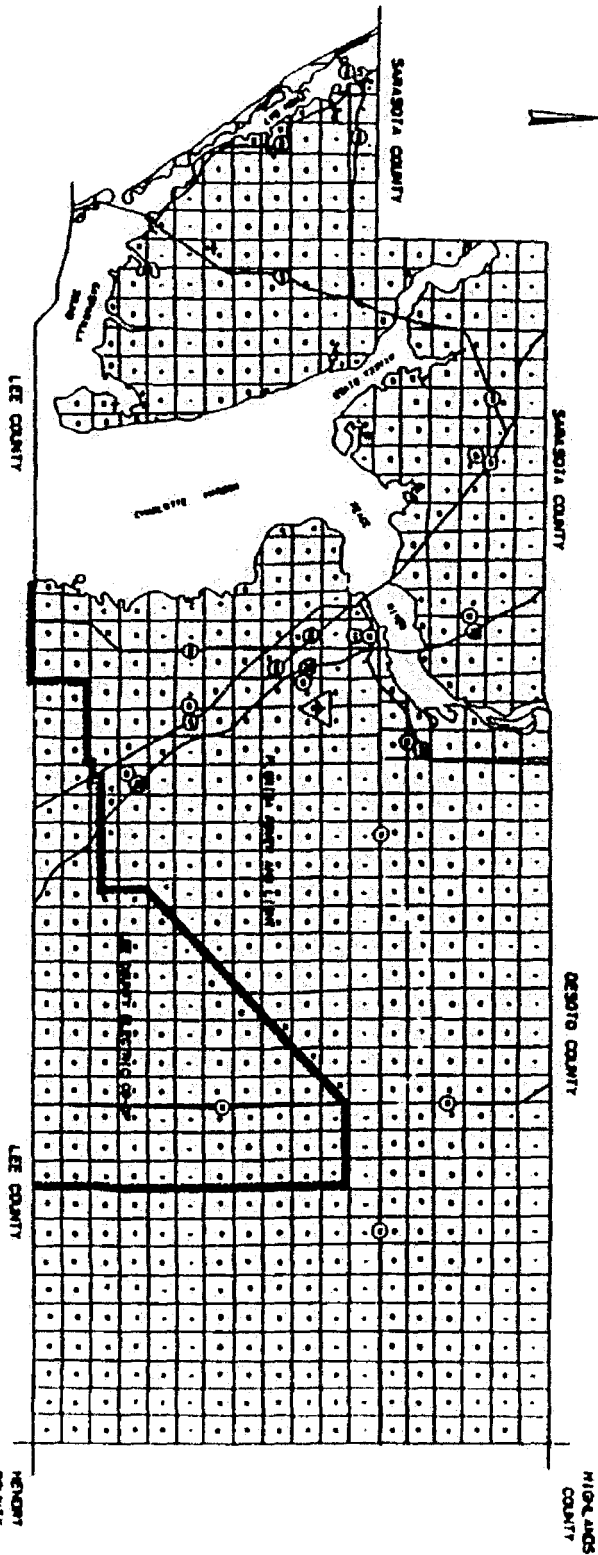
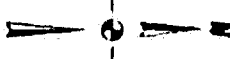
DESCRIPTION OF DETAIL 7

Map of the SW corner of Section 17, Township 31 South Range 27 East, Collier County, Florida, shows the location of the State Road 17 to an intersection with a line reserved for the State and 200' easement, as shown on right-of-way from the existing right-of-way line of State Road 99 (US 41), shown as a dashed line, and a parallel line to a point 150 feet south of the point of intersection of the easement easement of the easement of Trinity Power and used parallel line, shown as a solid line, to and parallel line, to an intersection with the easement of State Road 99 (US 41), shown as a dashed line, and the easement of State Road 99 (US 41) to an intersection with the State line of road Section 17, shown as a solid line to road 1/4 corner of road Section 17.

EXHIBIT "A" BROWARD COUNTY

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ORDER NO. PSC-93-0705-FOF-EU
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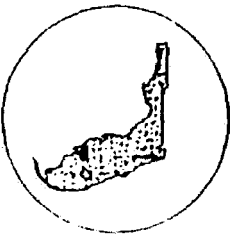
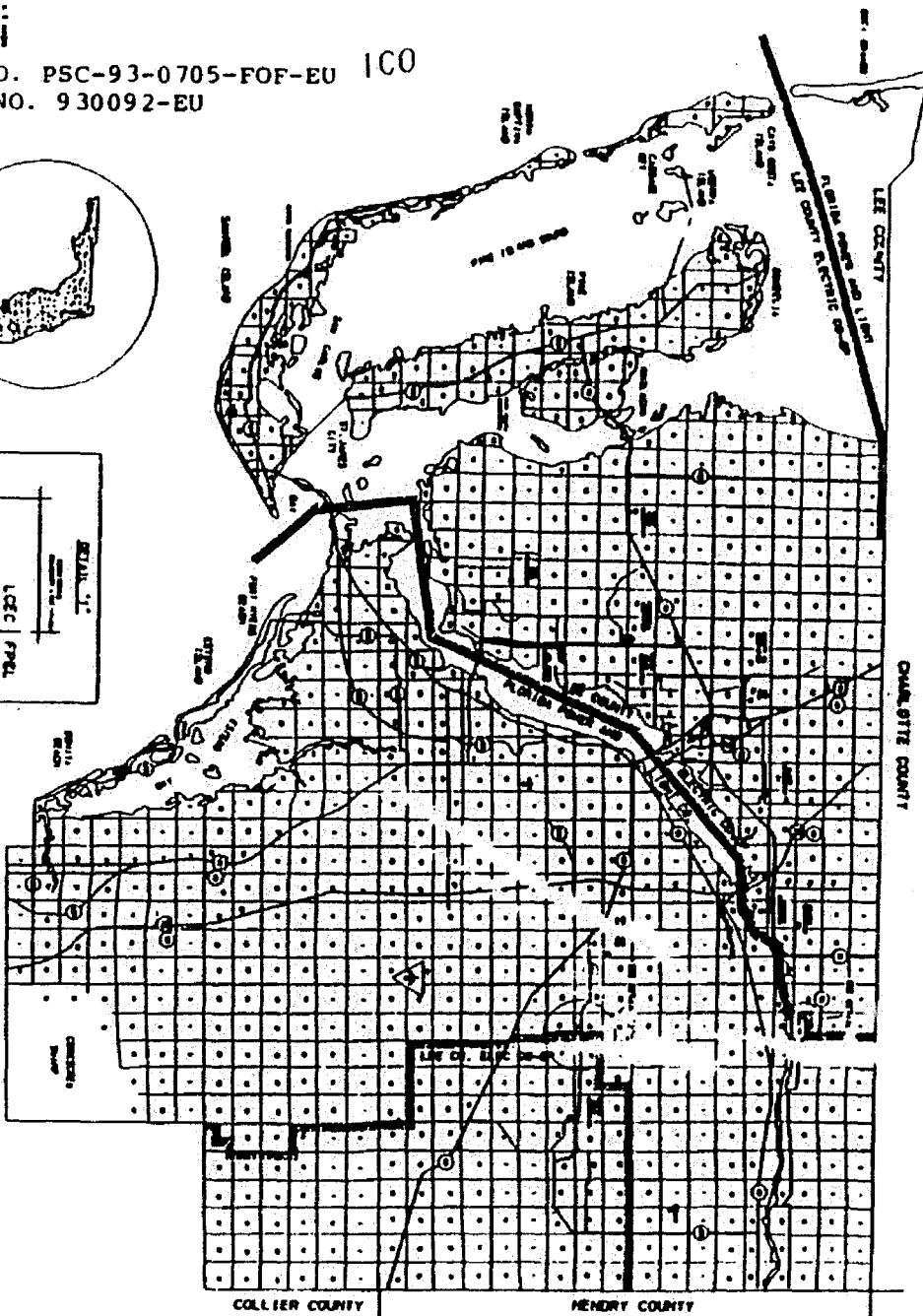
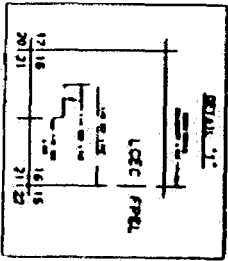
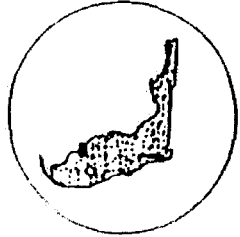


EXHIBIT "A"



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01
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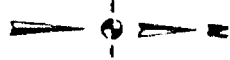
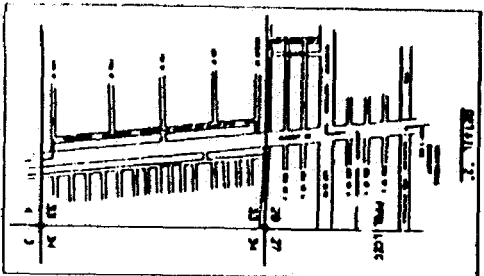


EXHIBIT "A"

ATTACHMENT C

**LEE COUNTY ELECTRIC COOPERATIVE, INC.
AND
FLORIDA POWER & LIGHT COMPANY**

TERRITORIAL VARIANCE AGREEMENT

Lee County Electric Cooperative, Inc. ("LCEC") and Florida Power & Light Company ("FPL"), pursuant to Florida Public Service Commission ("FPSC") Order No. 20817 (89 FPSC 2:321), hereby agree to a variance to the territorial boundary established by Order No. PSC-93-0705-FOF-EU (93 FPSC 5:166) as set forth below:

1. In accordance with paragraph no. 3 at pages 5-6 of FPSC Order No 20817, LCEC and FPL hereby agree that "good engineering practices...indicate" that FPL should serve residential customers located in LCEC's territory on the North boundary of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East, in Lee County, Florida.
2. Service by FPL at the location identified in paragraph 1 hereof will not commence until a copy of this Territorial Variance Agreement is approved by the FPSC in accordance with Order No. PSC-93-0705-FOF-EU.
3. This variance is not intended as a waiver of any other terms and conditions of FPSC Orders Nos. 20817 and PSC-93-0705-FOF-EU, which are hereby ratified and remain in full force and effect.

IN WITNESS WHEREOF, LCEC and FPL have caused this Territorial Variance Agreement to be executed by their respective authorized officers.

Lee County Electric Cooperative, Inc.

By: 

William Hetherington
Director of Engineering and Operations

Florida Power & Light Company

By: 

William W. Hamilton
Vice-President Customer Service

ATTACHMENT D

ATTACHMENT E

TERRITORIAL VARIANCE AGREEMENT WITH LEE COUNTY ELECTRIC COOP

New territorial boundary described as follows:

The North 660' of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East of Lee County, Florida.

Properties to be served by Florida Power & Light Company run 2640' East of the centerline of Six L's Farm Road and extends 660' South of the centerline of Dykes Road.

This description includes the following properties:

The West 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East of Lee County, Florida.

The East 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East of Lee County, Florida.

The Northeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East of Lee County, Florida.

The West 1/2 of the Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East of Lee County, Florida.

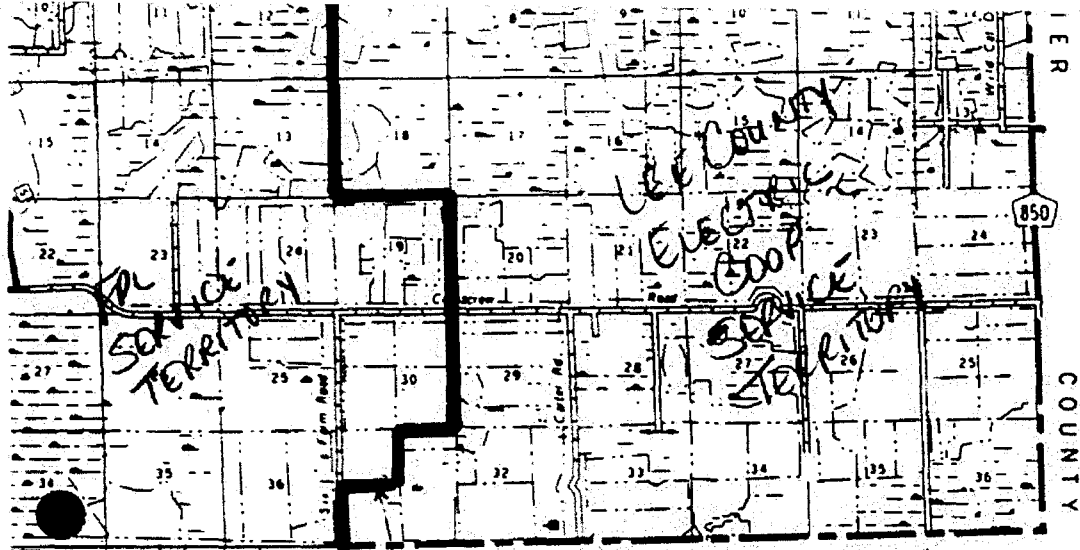
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The West 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East of Lee County, Florida.

The East 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 31, Township 46 South, Range 27 East of Lee County, Florida.

ATTACHMENT F

ATTACHMENT G



In congested rural areas local roads are not
 called by a single line only. For details refer to
 sets prepared for this county.

No attempt has been made to show drainage
 canals and ditches.

City populations are taken from the U.S. Cen-
 sus for 1980.

In 1980 the population of Lee County was
 205,226. There are 804 square miles in the
 county.

No claim is made for the basic cartographic source
 material taken from a work or works of the United
 States Government.

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 Department of Transportation, Tallahassee, Florida,
 32399-0450.

1 46 S

REQUEST TO
 EXTEND BOUNDARY
 SOUTH 660'

GENERAL HIGHWAY MAP LEE COUNTY FLORIDA

PRICE 24 and State Tax
 MAPS AVAILABLE FROM
 STATE OF FLORIDA
 DEPARTMENT OF TRANSPORTATION
 MAPS AND PUBLICATIONS
 TALLAHASSEE, FLORIDA 32301

This public document was
 prepared at an actual cost of
 \$27,002.12 or \$0.2799 per copy to
 provide information necessary for
 transportation planning.

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AUGUST, 1989

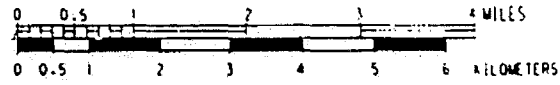
PREPARED BY THE
 STATE TOPOGRAPHIC OFFICE
 FOR THE
 DIVISION OF TRANSPORTATION PLANNING
 STATE OF FLORIDA
 DEPARTMENT OF TRANSPORTATION
 IN COOPERATION WITH THE

U.S. DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION

COPYRIGHT STATE OF FLORIDA 1990

REVISIONS	
FEATURES	DATE
State Maintained Roads	June, 1990
SR 82, CR 865, Alice Rd., Joel Blvd.,	May, 1993
Lee Blvd., Luczell Rd., San Carlos Blvd.	

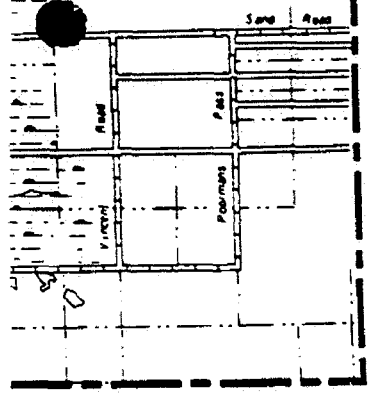
REPRINTED MAY, 1993



SCALE
 0 0.1 0.2 0.3 0.4 0.5 MILE
 SCALE FOR INSETS

720,000 F.T.

1 48 S



6 E
 000'00"

000'00"

R 27 E

000'00"

000'00"



1473 1483 1493 1443 1453

- U.S. HIGHWAY
- STATE HIGHWAY
- AMBITIOUS ALIQUANT
- EMERALD STRIP
- TERRITORIAL BOUNDARY LINE

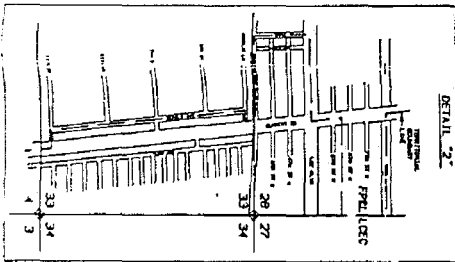
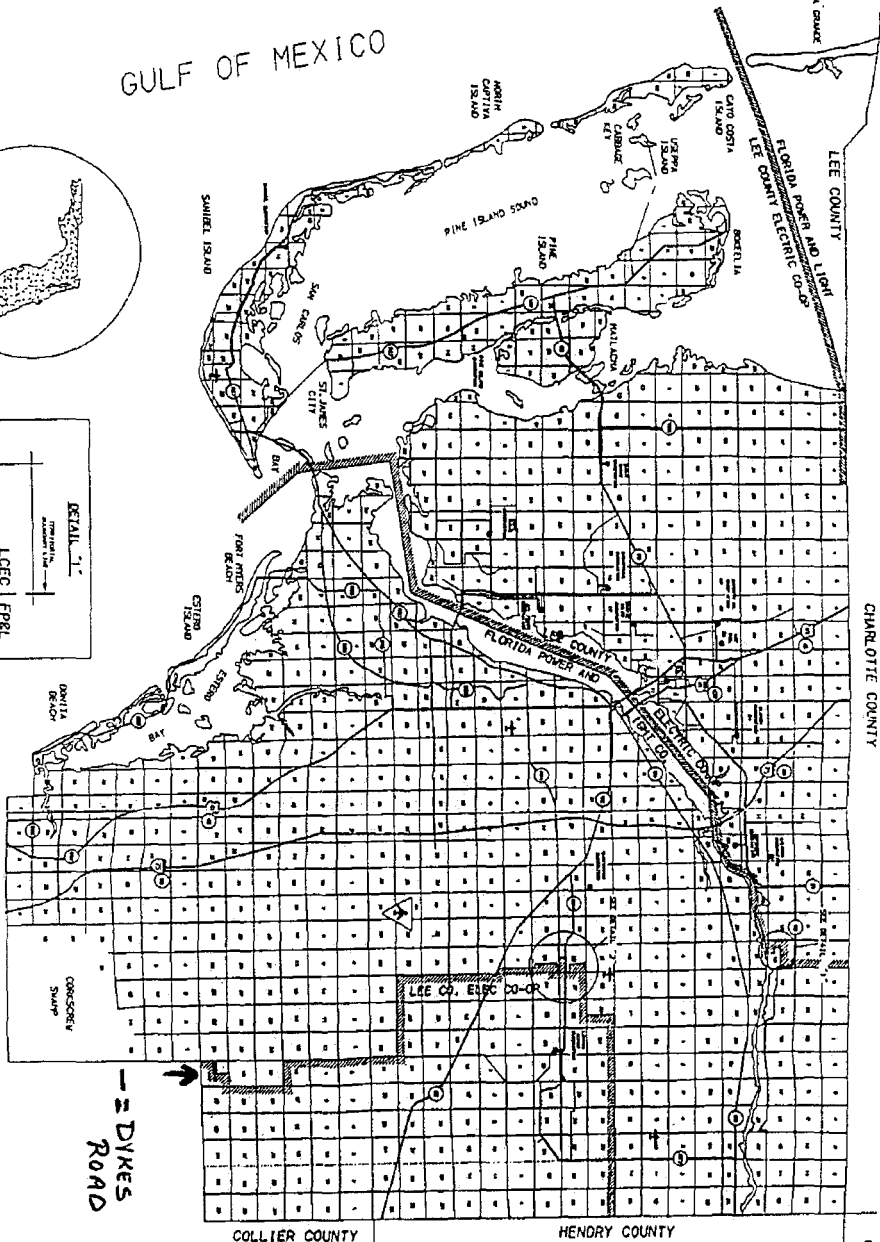
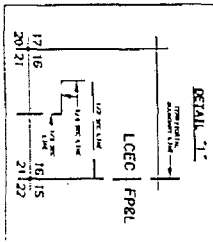
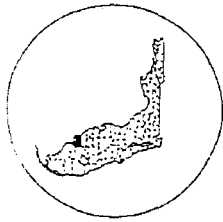


EXHIBIT "A"

P.C. No.	DIV.	REV.
Proj. No.	CITY	DATE
Sheet No.	OF 4	
File No.	APPRO.	

LEE COUNTY
TERRITORIAL MAP



LEE COUNTY ELECTRIC COOPERATIVE, INC.
4890 BayLine Drive
No. Fort Myers, Florida 33917-3909 (813) 995-2121

DATE	BY

