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November 24, 1997

ORIGINAL

Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2549 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Via Hand Delivery

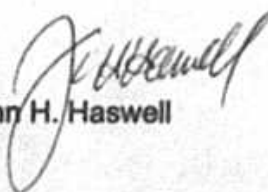
RE: Clay Electric Cooperative, Inc.
and Florida Power & Light Company
Docket No. 970512-EU

Dear Ms. Bayo:

I am enclosing herewith the original and fifteen (15) copies of the Post Hearing Brief of Clay Electric Cooperative, Inc., the Post Hearing Statement of Issues and Positions and the Proposed Findings of Fact and Conclusions of Law for filing. Also enclosed is a 3.5 disk containing these documents.

If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,


John H. Haswell

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMH _____ JHH/lez
- CTZ _____ Enclosures
- EAG _____ cc: Mark Logan, Esquire
- LEG 2 _____ Robert Elias
- LIN 2 _____ Grace Jaye
- OPC _____ Herman Dyal
- RCH _____
- SEC 1 _____
- WAS _____
- OTH _____

Proposed Findings Post-Hearing Statement Brief
DOCUMENT NUMBER-DATE DOCUMENT NUMBER-DATE DOCUMENT NUMBER-DATE
12055 NOV 24 5 12054 NOV 24 5 12053 NOV 24 5
FPSC-RECORDS/REPORTING FPSC-RECORDS/REPORTING FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Petition of Florida Power & Light)
Company to Resolve a Territorial Dispute with)
Clay Electric Cooperative in Baker County)

Docket No.: 970512-EU

Filed: November 24, 1997

**POST HEARING BRIEF OF
CLAY ELECTRIC COOPERATIVE, INC.**

Clay Electric Cooperative, Inc. ("Clay") in compliance with the Pre-hearing Order (PSC-97-1310-PHO-EU) issued on October 22, 1997, files herewith its post hearing brief. Attached to this brief is the required post hearing statement. In this brief the references to the transcript, for example, will be shown as T-51/7, meaning page 51 of the transcript at line 7. When the identity of a witness is appropriate, the witness's name will appear with the cite to the transcript, for example, (Dyal T-20/10).

**PART ONE
INTRODUCTION: SUMMARY OF ARGUMENT**

A customer, River City Plastics, in a rural area of Baker County where no utility had any assigned territory under a territorial agreement, sought and received proposals from two neighboring utilities for service to its new plastic pipe manufacturing plant. It evaluated those proposals both in-house and through the use of an engineering consultant. It expressed its concern for low cost, reliable service particularly due to the unsatisfactory service it is receiving from Jacksonville Electric Authority at its Duval plant, and its concern over weather related momentaries, glitches, or outages. Its manufacturing process is unique in that it cannot tolerate even minor glitches as little as six cycles per second

without losing some of its production lines. When those glitches occur, and more than one-half (½) of River City Plastics' production lines are affected, River City Plastics is basically out of business. The cost to River City Plastics in lost time, labor costs, lost sales, regrinding, and reprocessing costs, and disposal of unusable scrap is approximately \$16,000.00 per glitch. One of its biggest concerns is a series of momentary glitches that have historically occurred while River City Plastics is trying to restart its production lines, and caused the restart process to be repeated again and again. Clay's offer of primary service with load management generators was selected by River City Plastics as, in its judgment, the best type of service based on its needs. Florida Power & Light ("FPL") offered to provide only primary service, and any backup or dual feed service would be at River City Plastics' expense. Only after FPL learned that River City Plastics chose Clay as its service provider did FPL apparently change its mind and now says it would not charge River City Plastics a contribution in aid of construction for its proposed dual feed service. FPL touts its service as the best, and the one that will solve River City Plastics' concerns, even though River City Plastics disagrees and still wants service from Clay. FPL bases its comparison of the two different kinds of service on a mysterious throw-over switch that it admits is not in use anywhere in its system, and for which it has been unable to produce any test results, either field tests, or certified tests. Whether the switch works as claimed or not is basically irrelevant. The customer does not want FPL's dual feed service, period. River City Plastics wants the ability to disconnect from its utility provider's system and to operate from load management generators to protect itself from anticipated weather related outages, and to recover from any primary service outage without repeated

glitches during the restart process. FPL simply will not provide that service. The comparison is, and it always has been, between two different kinds and characters of service. It is apples and oranges again. The customer needs an orange, and why should he not get it?

FPL also focuses on costs. FPL's main witness, Mr. Hood, produced a demonstrative exhibit (which was not introduced in evidence) that claims for basic primary service FPL's costs would be only \$20,550.00 compared to Clay's costs of \$98,000.00. But look at Hood's direct testimony and FPL's responses to discovery requests. Nowhere did FPL say it would add only those facilities that cost \$20,550.00. FPL's testimony is that the service it would provide for primary service to River City Plastics would cost \$106,334.00. In short, FPL will not provide the primary service for \$20,550.00. Clay's witness, Mr. Dyal, a licensed professional engineer, who has direct experience in costing projects, evaluated FPL's proposal and concluded that a more reasonable cost for FPL's service that it says it will provide is \$181,985.00. So even the basic service is higher for FPL than Clay. Clay's total cost with load management generators is \$1,198,000.00 compared to FPL's guesstimate (some of which was by telephone) of \$1,693,154.00 for the same service using load management generators (which of course, FPL will not provide). These are the more accurate apples to apples cost comparisons. The dual feed backup proposal by FPL may work for one element of River City Plastics' needs (avoiding some momentaries on the feeder from the substation) but only if its untested new switch really works. FPL wants to not only deny River City Plastics its requested service, it wants River City Plastics to be the guinea pig that tests FPL's new switch.

PART TWO
ISSUES AND POSITIONS

Issue 1: What is the geographic description of the disputed area?

Summary of Clay's position: The disputed area is located in a rural area of Baker County, Florida, in a parcel designated by Baker County as an industrial park, between US Highway 90 to the north and Interstate 10 to the south. The community of Sanderson lies to the west, and the towns of Glen St. Mary and Macclenny lie to the east.

Discussion: Both Staff and Clay agree that the disputed area is the physical boundary of the real property acquired by River City Plastics to construct its new plastic pipe manufacturing plant in the Baker County Industrial Park near Sanderson, lying between US Highway 90 to the north and Interstate 10 to the south. FPL disagrees, and its disagreement is likely to provoke further territorial disputes particularly if it is allowed to serve River City Plastics against the needs and choices of River City Plastics. First Mr. Hood states that the entire industrial park at a minimum is the disputed area (T-49/5-8), but he also stated that it extends to areas to the east and south (T-49/9-12), at least the area to Interstate 10 and along US Highway 90 and branching off to the south (T-50/17-20), the area all the way to Macclenny (T-54/1-11), and Mr. Hood states that the areas of potential dispute are along the US Highway 90 corridor west of Macclenny (T-33/11-16). Essentially FPL is claiming the right to serve areas that are already served by Clay, because its expansion into these areas, according to Mr. Hood, is needed to use up the excess capacity of its Wiremill substation (T-318/15-25 and T-319/1-2). He stated that FPL could serve the *entire* area that he showed on the demonstrative map used at the hearing (T-

50/1-3). Obviously Clay's service area as shown on Exhibit 9 (HD-1) lies between FPL's Macclenny service area and FPL's Sanderson service area west of the Wiremill substation. The prudence of FPL's installation of so much excess capacity in its Wiremill substation will be addressed later.

Stipulated Issue 2: What is the nature of the disputed area, including population, the type of utilities seeking to serve it, degree of urbanization of the area, the area's proximity to other urban areas, and the area's present and reasonably foreseeable requirements for other utilities?

Position: Baker County is primarily an agricultural and conservation area, having the Okefenokee National Wildlife Refuge, the Nature Conservancy and Osceola National Forest comprising over half its land area. The 1997 projected population of Baker County is 20,787 with the incorporated areas of Macclenny and Glen St. Mary populations being 4,201 and 467 respectively. The next largest area would be the area of Sanderson with some 1,200 - 1,500 in population.

Much of the surrounding area is designated as conservation, wild life or refuge management areas, and national forests. There are no unique outstanding or distinguishing geographic features. The area is rural. No one resides on the site that is in dispute.

FPL, an investor-owned utility, has primarily served the central corridor of Baker County, including Sanderson, Glen St. Mary and Macclenny. The Sanderson community, which includes the area surrounding FPL's Wiremill substation is approximately five miles from the city of Glen St. Mary and approximately seven miles from the city of Macclenny.

FPL serves approximately 330 accounts in Sanderson, 100 accounts in Glen St. Mary, 2,600 accounts in Macclenny and 3,000 accounts in the surrounding rural area. Clay serves approximately 1,900 customers in Baker County and some along Rhoden Road just east of the disputed area. There are no other utility services seeking to serve the site.

Discussion: This issue is basically stipulated. For further information of the Commission, Clay's description of the service area is shown on Exhibit 9 (HD-1 and HD-2), basically the shaded area and the areas shown on the maps submitted (see also T-182/11-13).

Issue 3: Which utility has historically served the disputed area?

Summary of Clay's position: Clay has historically served the areas around the disputed site to the north, south and east. FPL has historically served to the west including its Wiremill substation. Neither utility had service to the specific site of the River City Plastics manufacturing plant until Clay built service to the site at the request of the customer.

Discussion: Based on Staff's and Clay's definition of the "disputed area" neither utility has had service to that site until River City Plastics requested that Clay build service to the site. This issue warrants further discussion due to FPL's position that it perceives its service area going far beyond the specific site of the River City manufacturing plant, particularly in that area to the east all the way to Macclenny. Mr. Hood claims that both utilities have historically served the area (T-17/20-21), and describes FPL's service area as along the US Highway 90/Interstate 10 corridor, the town of Glen St. Mary, the city of Macclenny, and the Sanderson area (T-17/21 to T-18/2). Clay has been in the area along

Arnold Rhoden Road since 1947 (T-175/15 and T-215/15-18). Clay's service along Arnold Rhoden Road is currently provided from its Sanderson substation which it built in 1973 (T-175/16-17). Clay's nearest facilities to the River City Plastics site is 1,800 to 1,900 feet (T-175/22-23). FPL's facilities are also approximately 1,800 feet from the entrance road to the River City Plastics site (T-176/7-8). Clay's service areas around the River City Plastics site run to the east, south, north and northeast, while FPL is primarily to the west (T-316/5-12). Clay's service area is more readily depicted on Exhibit 9 (HD-1), the red area shown on the demonstrative map produced at the hearing which is the same map attached to Mr. Dyal's direct testimony and shown as shaded.

FPL constructed its Wiremill substation in 1976 to serve a new industrial customer, Florida Wire and Cable (T-41/14-17), and prior to the construction of Wiremill, FPL's customers in the Sanderson area were served by a substation farther west (T-42/16-23). The purpose of the discussion regarding FPL's Wiremill substation centers on the enormous capacity in that substation, the reason for it, and whether or not that capacity was part of a plan by FPL to serve areas beyond its historic service area and intruding into Clay's. Essentially that is the position that FPL now takes, but the initial capacity of the substation was 7 megawatts. It upgraded Wiremill in 1980 by adding another 7 megawatt transformer, not necessarily for additional load, but for a contingency plan (T-43/16-17). Mr. Hood stated that it was upgraded again in 1991 by changing out the two 7mva transformers to a 14mva and a 30mva for a total of 44mva (T-44/2-4). FPL did this for another contingency in the event one of the 7's failed and FPL determined that the other 7 would be loaded to 130 percent (T-44/6-9). The load at Wiremill is 8.5 (T-44/25) and FPL

was not planning on load growth when it moved the 14 and the 30 into Wiremill. FPL used the 14 and the 30 at the Wiremill substation for contingency planning and not for future growth, hence, its "historic presence" at 44mva does not grant it the right to go as far beyond the location of that substation as it needs to to use up all of its capacity. Clay does not regard the location of a substation as entitling the utility that built it to any undeveloped territory surrounding it (T-242/21-25 and T-243/1-3). Any other view would allow competing utilities to strategically locate substations at the outer edges of a neighboring utility's facilities as a "fence" around the other utility. Based on FPL's own statements regarding the purpose of the upgrades to the Wiremill substation and its initial construction, Clay had no reason to protest its construction. The bottom line is that FPL used the extra 14 and 30 mva transformers because they were just lying around (T-47/1-6).

Issue 4: What is the expected customer load and energy growth in the disputed area?

Summary of Clay's position: In the foreseeable future, only River City Plastics is the expected customer load, at an expected demand of approximately 2,000kw and energy growth of approximately 13.8 million kwh.

Discussion: FPL projects the growth through the year 2001 at 1.2 percent. With the current load at Wiremill of 8.5 megawatts, by 2001, without adding River City Plastics to its load, the Wiremill substation would be loaded to 8.6 megawatts (T-21/4 and T-45/17-19). If FPL were to get the River City Plastics load it then projects a twenty percent load growth for a total of 12.6 megawatts by 2001 (T-45/25). It would still have 34 megawatts of unused capacity at Wiremill (T-45/13-16). As Mr. Dyal stated, this is not prudent

planning or full utilization of the utility's assets (T-323/19 to T-324/16). There certainly is no prudent reason for having 34 megawatts of excess capacity available even if FPL captured the River City Plastics load. Even if the other parcel in the industrial park attracts an industrial customer the same size as River City Plastics, FPL's excess capacity will still exceed 30 megawatts. Since it took from 1976 to 1997 for Wiremill to get up to a load of 8.5 megawatts, who is to say that it may not take another twenty years before it even approaches doubling that figure?

Issue 5: Has unnecessary and uneconomic duplication of electric facilities taken place in the vicinity of the disputed area or in other areas of potential dispute between the utilities?

Summary of Clay's position: No as to Clay. However, the construction of the Wiremill substation by FPL at a rated capacity of 44 megawatts when its existing load is only 8.5 megawatts could certainly be characterized as a duplication of the facilities of Clay and an attempt by FPL to position itself to serve or attempt to serve customers located within Clay's historic service area.

Discussion: As previously stated, FPL sized its transformers in Wiremill for contingency planning and because it just happened to have a 14 and a 30 transformer lying around unused. Now FPL asserts that the existence of that capacity is the basis for a claim of uneconomic duplication by Clay if Clay attempts to serve River City Plastics or does any upgrades to its Sanderson substation (see FPL position on Issue 5 Prehearing Statement). This is patently ridiculous. If such a claim had any merit, the logical conclusion is that Clay should not be allowed to upgrade its Sanderson substation to serve

anybody, even in its own service area because FPL has excess capacity wasting away at Wiremill! If FPL installed the 44 megawatts at Wiremill for contingency planning for service to Florida Wire and Cable and its existing customers in the area around Sanderson, that is fine. That is what FPL said it did. But if FPL claims the right to go as far north, east, south and west to use up that excess capacity, then the Commission should find that it was FPL who has engaged in uneconomic duplication, and certainly in imprudent planning (T-325/4 to 326/1). Clay has constructed the facilities and has offered the use of load management generators on the basis of a cost benefit analysis favorable to not only the customer but also to Clay's members (T-144/4-23, T-145/4-8, T-158/17-23, T-165/16-20).

Issue 6: Is each utility capable of providing adequate and reliable electric service to the disputed area?

Summary of Clay's position: Clay is capable of providing adequate and reliable service of the character and quality requested by the customer, and only Clay has offered to provide that service. FPL may be capable of providing the same comparable service if it resolves reliability issues related to the location of its proposed facilities along a traveled road, or across lands that it does not own.

Discussion: First, the adequate and reliable electric service that is in issue here is the service the customer requires to allow its facilities to operate in an adequate and reliable fashion. River City Plastics cannot stand even a small momentary glitch (as little as six cycles per second) without losing some of its production lines, and glitches in the range of twelve to eighteen cycles, when they cause as much as half its production lines to go down, will essentially put it out of business. Clay has responded to the operating

requirements of River City Plastics and has offered to provide the service requested. FPL has not. First look at FPL's claim of reliability of its existing facilities. Mr. Hood first said that there had been only one outage at the substation in five years (T-39/9-11). He later stated that there were actually four outages at the substation in the last three years (T-20 to T-61/2) although he added that those four outages all occurred on the same day over a period of one hour and twenty minutes. This is exactly why River City Plastics wants load management generators for backup and restart procedures. Mr. Hood also stated that the transmission line (Baldwin-Columbia) has had three outages since 1992 (T-56/7-8), hence in a period varying between three to five years, there have been seven outages on FPL's system that would have affected River City Plastics if it were serving it, and FPL admits to at least fifteen momentaries on its transmission line and tap since 1992 (T-60/16-19). For the year 1996, FPL shows 96 minutes of interruptions per customer and at Wiremill alone it was 82 minutes per customer on feeder 1561 and 109 minutes per customer on feeder 1562. Exhibit 4 (FPL Exhibit 33). But River City Plastics' concerns are regarding its manufacturing process. Looking at FPL's reliability record with another plastic pipe manufacturing plant in Fort Pierce (World of Plastics) FPL discloses forty momentary outages and nine outages of more than one minute for the period 1995-1997. Exhibit 3 (Hood's Attachment 40). While Clay has certainly had its share of outages and momentaries on feeder 3 from its Sanderson substation, the comparison of the two utilities regarding historic reliability is not materially different. Exhibit 11 (Clay's Answers to FPL's First Set of Interrogatories No. 12). Keep in mind, that Clay has remedied one of its problems with outages at the Sanderson substation by relocating a recloser and changing

the direction of the feeder from Sanderson directly to River City Plastics (T-188/1-25 and T-240/21-25 to T-241/25). These reclosers were scheduled for installation in another area on the feeder, and by relocating them, as Mr. Dyal testified, previous problems with outages on that feeder will be resolved.

Mr. Hood also agreed that if FPL's two mile tap off of its transmission line is out, then Wiremill substation is out, but Clay's Sanderson substation is still on (T-59/23-25 and T-60/1-3). Obviously if FPL's transmission line is out, then both Clay's Sanderson substation and FPL's Wiremill substation will be out (T-60/12-15). Reliability concerns for FPL include the fact that its tap is on a rural paved and dirt road, with its poles located between twelve to thirty feet from the roadway (T-59/1-3), and Mr. Hood agrees that factors that can cause outages include cars hitting a pole, as well as lightning, high winds and insulator failures (T-56/11-22).

Mr. Hood claims in his rebuttal (T-254/15-17) that the reliability of the Sanderson substation will be compromised because the step up transformer will be overloaded. However Mr. Dyal has already stated that Clay will add fans to that transformer to increase its capacity. Even Mr. Hood agreed that FPL has operated its transformers up to 130 percent of capacity. His claim regarding the reliability of Clay's step up transformer is based on the fact that in his calculations the transformer would be operating at 106 percent of capacity.

There are several issues regarding adequate and reliable service that are directly related to Issue 13, the customer's preference. The first is that the system planned by FPL will not provide the type of service the customer is requesting, and the customer's request

is based on the inadequate and unreliable service it has been receiving from Jacksonville Electric Authority. FPL's service to World of Plastics does not give comfort either with forty momentary outages and nine outages of a minute or more in less than a two year period. River City Plastics is requesting the capability to be isolated from the electric supplier in cases of inclement weather as well as having a continuing source of power in the event of a failure on the electric system of whatever utility is providing its service, whether it be distribution, substation or transmission (T-320/10-15). If Clay's substation and transmission and feeder are out of service, River City Plastics can go back into service with the load management generators. If FPL's transmission or substation goes down, River City Plastics is out of luck. If the FPL feeder to River City Plastics goes out, FPL has claimed an exotic throw-over switch will solve that problem, however, it does not appear that such a switch exists in FPL's system. Consequently based on the customer's need, Clay will provide the adequate and reliable electric service that the customer requests, and FPL has declined to provide such service.

The reliability of the Powell-Esco throw-over switch is a serious concern in determining adequate and reliable service, but only to the extent that FPL's dual feed service is evaluated at all. *In short, the customer does not want FPL's dual feed service even if the switch works.* Mr. Hood and Mr. Brill of FPL do not know if such a switch even exists in FPL's system (T-71/20-22; T-307/3-6), they do not have any test results, either uncertified field tests or certified factory tests (T-72/20-25; T-73/6-10; T-302/2-5; T-302/9-11). Hence, there is no evidence in the record that this switch will work at all. Mr. Dyal expressed major concerns over the switch's capability (T-195/18-21) and even FPL's

expert, Mr. Brill, does not know its susceptibility to failures (T-307/12-14). One of Mr. Dyal's concerns is the possibility that the feeder line to which it is attached will hold voltage for several cycles after a failure before the switch can sense a fault (T-246/3-14). Even if it switches as fast as FPL claims, the delay in sensing the fault could run past the time interval it is supposed to beat to avoid a loss of production lines for River City Plastics. The bottom line is, who better is able to evaluate the type, quality and character of the adequate and reliable service it needs than the very industrial customer itself, whose staff and engineers clearly are capable and experienced in making its own decisions. FPL would have River City Plastics be the guinea pig to test this supposedly new standard switch.

Stipulated Issue 7: What is the location, purpose, type and capacity of each utility's facilities existing as of the filing of the petition to resolve the territorial dispute?

Position: Clay Electric Cooperative, Inc. has a one mile radial tap off of the 115kv Baldwin-Columbia transmission line. Clay's Sanderson substation is approximately 3.75 miles from the disputed area. The Sanderson substation has a capacity rating of 7,500kva. Its load is 6,800kva. Clay has a three-phase feeder line running from the Sanderson substation to within approximately 1.5 miles of the disputed area (1.3 miles to the industrial park). Within one-half ($\frac{1}{2}$) mile (2,815 feet to customer's point of service) of the disputed area, Clay has a single phase 14.4kv distribution line.

FPL has the Baldwin-Columbia 115kv transmission line. FPL has a two mile radial tap which connects the Baldwin-Columbia 115kv transmission line with the Wiremill substation. FPL's Wiremill substation is approximately one-quarter ($\frac{1}{4}$) mile from the

disputed area (2,950 feet to customer's point of service). The Wiremill substation has a capacity rating of 44mva. Its load is 8.5mva. There are two feeder lines from the Wiremill substation, 1,561 and 1,562.

Issue 8: What additional facilities would each party have to construct in order to provide service to the disputed area?

Summary of Clay's position: For Clay, add cooling fans to the Sanderson substation transformers and step up transformers for feeder #3, rebuild .6 miles of single phase on Rhoden Road to three phase, add .25 miles of three phase along Rhoden Road, add new three phase along Rhoden Road and up the plant site road approximately .65 miles (which would include rebuilding the existing single phase construction power to three phase).

Discussion: Clay's additional facilities are detailed by Mr. Dyal at T-176/12-25 through T-177/1-18, and again at T-183/17 to T-185/3. In addition, Clay would add two load management generators. This effectively is the service the customer wants. FPL's additional facilities are more problematic. First, Mr. Hood states that for primary service overhead FPL would provide overhead facilities including underground pull-off (T-23/8-13) and a new feeder position consisting of three single phase voltage regulators and associated buswork (T-24/13-14). FPL has clearly stated, in Exhibit 4 (FPL's Answers to Staff's First Request for Production of Documents, No.'s 1-6) in Answer No. 2b: "To accommodate service to River City Plastics FPL would add a new substation feeder position in Wiremill substation, consisting of three single phase voltage regulators and associated buswork". Mr. Hood later claimed that standard three phase overhead service

would only cost \$20,550.00. It is perfectly clear however, that FPL would not construct that "standard three phase overhead service", because as it has also stated, that would not accommodate River City Plastics.

For Option No. 3 derived from Mr. Hood's direct testimony, for the provision of dual feed service (underground feeder with overhead backup) FPL would obviously be adding the underground pull-off, overhead feeder, new feeder position consisting of the three single voltage regulators and associated bus work, together with a new underground feeder as primary (T-27/15-18, Exhibit 1 [RAH-9], see also Exhibit 2 [FPL's Response to Clay's First Set of Interrogatories, Answer to No. 3]). FPL would also add a throw-over switch.

FPL is likely to explain the reason it will not install overhead facilities for \$20,550.00 is because it plans for future needs and growth (T-23/1-2). Certainly Clay's facilities can also be used for future needs and growth, but the bottom line, is that FPL has specifically stated what it would add to accommodate River City Plastics, and it is not the "standard overhead service". Going back to the primary service only (without the dual feed), Mr. Dyal's evaluation of FPL's service is that an additional breaker for the new feeder position is required.

FPL's dual feed service also includes a throw-over switch. While the evaluation of a throw-over switch has been discussed under adequate and reliable service, since it is an additional piece of equipment that FPL requires for its service it will also be discussed here. As River City Plastics has indicated, its equipment cannot stand momentaries in the range of twelve to eighteen cycles per second, and even interruptions as little as six cycles can put down some of its production lines (T-242/12-14). FPL has produced a description of

a throw-over switch that it plans to use for its dual feed backup service which it claims will avoid the momentaries that cause interruptions to River City Plastics' facilities (T-62/21 to T-63/1). A momentary to River City Plastics that will cause a service interruption of at least half of its plant is one between twelve to eighteen cycles per second (T-63/9-15). However River City Plastics has loss of production if it experiences a momentary of anywhere from six cycles to twelve cycles (T-242/12-14). Whether the range is eight to twelve cycles, twelve to eighteen cycles, or six to twelve cycles, we are talking about very small glitches that effect River City Plastics' operations. Hence this additional piece of equipment called the throw-over switch is absolutely critical to FPL's claimed reliable service. In short, the advantages claimed by FPL and listed in its service comparison demonstrative exhibit all depend on this throw-over switch (T-64/10-12). This throw-over switch (Exhibit 13) purportedly operates in two modes, one in nine cycles plus or minus one, and in another mode, at twelve cycles, plus or minus one (Exhibit 13, T-71/6). The question is whether or not this devise actually exists in either production or installed anywhere. Mr. Hood does not know if one is installed in FPL's system (T-71/20-22, T-73/16-20). Mr. Hood has not seen any test results, just "field notes" (T-72/20-25). He does not know if any factory certified tests exist (T-73/6-8). Obviously it was difficult for Clay to evaluate this switch since no tests exist, and the switch is proprietary to FPL (T-195/9-14), consequently as a licensed professional engineer, Mr. Dyal has serious doubts about the operation of the switch in the absence of experience with it in actual operation (T-195/18-21). Interestingly, FPL's witness Mr. Brill, a power quality specialist, does not have test data either (T-302/2-3), nor has he seen any test data (T-302/4-5). While he believes that FPL ran a test, he

does not know when the test was done (T-302/7-23). He admits that there are no certified test results (T-302/9-12), and admits that even if the switch works, River City Plastics will still experience an interruption of power. Mr. Brill does not know the susceptibility of the switch to failures (T-307/12-14).

One can expect that FPL will insist on the inclusion of a recloser that Mr. Dyal testified to that was previously scheduled for installation and the location of that installation was changed to eliminate breaker operations and to coordinate breaker operations with its Sanderson substation and avoid momentaries and outages (T-188/11-25 and T-240/21-25 to T-241/25). Keep in mind, however, that FPL did not include the cost of the re-installation of its two mile tap at a cost of \$81,000.00 because it previously scheduled that work to be done. Obviously such re-installation would improve reliability of service to River City Plastics (T-58/9-11).

Issue 9: What would be the cost to each utility to provide electric service to the disputed area?

Summary of Clay's position:

<i>Primary Service</i>	<i>Clay</i>	<i>FPL</i>
	\$98,000.00	\$181,985.00 ¹
 <i>Primary Service with LMG²</i>	 <i>Clay</i>	 <i>FPL</i>
	\$ 98,000.00	\$ 181,985.00
	<u>\$1,100,000.00</u>	<u>\$1,511,169.00</u>
	\$1,198,000.00	\$1,693,154.00

¹Or \$294,881.00 if FPL provided primary service underground with dual feeder backup, assuming FPL can acquire the appropriate easements.

²This is the customer's requested service, that is primary service with load management generators for use for load management purposes and backup generation.

Discussion: As previously discussed, FPL will not provide what it calls "standard overhead service" but to accommodate River City Plastics, it will incur a cost of \$105,585.00 for the underground pull-off, overhead service and substation improvements (see transcript pages 23-24, the total of \$39,985.00 plus \$64,600.00). Mr. Dyal's evaluation of FPL's costs for this primary single feed service is \$135,000.00 (T-319/18-22). FPL's costs for the dual feed service are a little bit more fuzzy, since Mr. Hood first stated that such dual feed backup service would cost \$140,831.00 (T-27/16-18). However in his summary of his direct testimony, he indicated FPL's costs for this service would be \$205,431.00. Mr. Dyal's evaluation of the actual costs that FPL would incur totalled \$294,881.00 (T-322/13-18). In addition, since Mr. Hood has not seen a catalog price or an invoice for a throw-over switch, nor has Clay been able to obtain a quote for one, the \$40,000.00 for the throw-over switch is also subject to error by FPL. FPL did not include any costs for acquisition of any easements to get to the River City Plastics site (T-66/2). In generating his costs, Mr. Hood claimed that his staff used a Meca II automated system (T-93/9-20), whereas Mr. Dyal priced the required facilities based on his experience in the pricing and costing of distribution substation and transmission facilities (T-315/19 to T-316/3).

Clearly FPL's biggest objection was the use of the load management generators, and its claim that it would not subject its ratepayers to that expense (T-40/23-24). However, Mr. Hood also stated that he had no reason to believe that FPL could not recover the costs of the load management generators in the same fashion as Clay, and that if FPL did a similar cost benefit analysis and saw a net benefit to FPL of \$50,000.00 per year,

FPL certainly would consider the use of such generators as Clay did (T-68/4-8 and T-261/22 to T-262/3). Indeed, FPL has done no cost benefit analysis regarding the use of load management generators and Mr. Hood admitted that he would not go so far as to say that Clay is giving away the generators with no benefit to Clay (T-96/17 to T-97/7). Clay's costs for the generators of 1.1 million is based on Clay's actual knowledge of those costs as they have been incurred and facilities installed by Clay (T-229/20-25). Mr. Noble for FPL claims that the generators should cost closer to 1.5 million, however, Mr. Noble obtained his costs by telephone quotes from Ring Power for the generators, he called a contractor from one of FPL's projects for a guesstimate on the cost of fuel storage tanks and estimated the rest of the costs based on a percentage of construction costs that FPL uses on other projects. He admitted that he did not know what the actual costs should be without knowing the specific scope of the project (T-274/17 through T-278/12). He did admit that he would deduct the profit portion of his cost from what Clay would be charged with (T-279/22 to T-280/3).

Issue 10: How long would it take for each utility to provide service to the disputed area?

Summary of Clay's position: Clay is already providing service to the disputed area.

Discussion: Clay is already providing service to the disputed area, that is, to the River City Plastics plant. FPL has stated that it would take four weeks for it to provide service (T-22/17), however, Clay expresses serious reservations about whether the throw-over switch that FPL insists it will use could be in service in four weeks particularly when it is not commercially available, and does not exist in FPL's system at the current time.

Issue 11: What would be the cost to each utility if it were not permitted to serve the area in dispute?

Summary of Clay's position: \$11,985,089.00, representing the gross power revenue over the fifteen year contract with River City Plastics without taxes. Clay's cumulative cash flow at the end of the fifteen year contract which includes line costs, customer site generation costs, wholesale power costs and retail power revenues would total \$2,431,756.00.

Discussion: As Mr. Dyal clarified, Clay's position at the hearing, \$11,985,089.00 represents the gross power revenues, and the net revenues would total \$2,431,756.00 (T-231/18-24 and T-313/15-16). Since FPL admitted that it did not install the capacity in the Wiremill substation for future load, but installed it because it had the transformers laying around and wanted to use them for contingency purposes for Florida Wire and Cable and its existing customers in Sanderson, there should be no costs whatsoever to FPL for not serving this customer.

Issue 12: What would be the effect on each utility's ratepayers if it were not permitted to serve the disputed area?

Summary of Clay's position: Loss of the revenues identified in Issue 11, loss of the opportunities for Clay's members to reap the benefits of load management and therefore reducing the Cooperative's overall demand costs and the likelihood of further territorial disputes with FPL in the area.

Discussion: Clay's ratepayers will be adversely impacted by disallowing the opportunity to lower the Cooperative's demand cost and save the Cooperative members

money (T-112/18-25 to T-113/1-3). The rate impact is to lower the Cooperative's demand costs (see Exhibit 11, Clay's Response to Staff's First Request for Production of Documents, No.'s 1-6, No.'s 4a and 4b). As Clay responded to Staff, Clay's demand costs go negative for the period of 1998 to 2002, and the annual reduction in power costs is \$244,760.00 (Exhibit 11, Clay's Response to Staff's First Interrogatories 1-15, No. 1f).

Issue 13: If all other factors are equal, what is the customer preference in the disputed area?

Summary of Clay's position: The customer has chosen Clay Electric Cooperative, Inc. as its service provider.

Discussion: This case is unique in several ways, including the appearance of the customer whose site is in dispute as a witness in this proceeding on behalf of Clay. River City Plastics General Manager Stafford McCartney, who earned a degree from the University of London as a Diplomat of Plastics Institute (T-329/1-16), described the details of his plants operation and what happens when even momentary glitches occur (T-330/11 to T-331/17). River City Plastics has costs of over \$412,000.00 due to glitches between December 1996 and June 1997 (Exhibit 14) with an average outage cost of \$12,136.00, and going back to June of 1996, the overall average cost was \$16,195.00 (Exhibit 15) per glitch. Besides the problem of a momentary or outage that causes River City Plastics to lose its production line, repeated glitches following the first one causes River City Plastics to have to begin the restart process all over again (T-332/22-25) (See also T-104/14-25 and T-129/7-23).

Mr. McCartney requested proposals from both Clay and FPL (T-333/7-13) and after

evaluation of the various service proposals, River City Plastics selected Clay (T-133/15-16). River City Plastics' selection was based on an evaluation by River City Plastics, by its engineering consultant, Post Buckley (see Exhibit 6) and on the advice it received from the Florida Public Service Commission that River City Plastics could select either Clay or FPL (T-335/17-21) because no territorial agreement existed. While Clay did not initially offer load management generators to River City Plastics (T-135/19-22), Clay's evaluation of River City Plastics' load characteristics led it to offer the use of the generators as Clay has done for six other customers (T-132/9 to T-133/4; T-118/13 to T-119/17). River City Plastics selected Clay by written application to Clay (T-180/14-16, see also Exhibit 9 [HDB-6]) and the parties have signed the necessary agreements for Clay's service (T-103/1-12 and T-337/7-16).

River City Plastics' chief concern is weather related outages (T-105/5-9; T-332/14-20), and it needs the ability to isolate itself from the utility provider's system to either anticipate the probability of an outage or due to one that already occurred for restarting purposes (T-334/9-23; T-179/7 to T-180/6).

FPL initially offered only overhead primary service, which was unacceptable to River City Plastics (T-65/17-23; T-337/3-12). FPL's position, prior and at the time of River City Plastics' selection of Clay was that River City Plastics would have to pay for any other option besides single feed overhead primary service (T-65/17-23, T-258/24 to T-259/2). FPL knew that River City Plastics selected Clay in March of 1997 (T-259/13-14) and it was not until May 12, 1997, that FPL says it offered to waive the CIAC for Option 3 (T-258/20-23 and T-299/3-5). Even Mr. Hood, FPL's main witness, did not know that FPL was willing

to waive the CIAC until after he filed his direct testimony as seen from the changes he made to it at the hearing. Regardless of FPL's offer to waive the CIAC, the customer still selected the service it preferred from Clay.

The customer's preference is based on the difference in the character and quality of the two types of service offered. Clay offered overhead primary service with dual feed backup using load management generators. FPL offered dual feed backup to its substation using a throw-over switch, lacking the ability to isolate River City Plastics' plant from FPL's system so that River City Plastics could continue to operate. Mr. Dyal explains the differences succinctly in his direct testimony (T-178/9 to T-180/7) and Mr. McCartney clearly understands the difference (T-337/19 to T-338/2). They are basically two different kinds of service, and River City Plastics chose the one that it needs for adequate and reliable service. It was that simple.

Stipulated Issue 14: Are the utilities bound by a territorial agreement?

Position: No territorial agreement governs service in the disputed area.

Discussion: Although this issue is stipulated to, please note Mr. Phillips attempts to secure territorial agreement with FPL as demonstrated by Exhibit 5 (WCP-2 and WCP-3 and his testimony at T-106/7-25 to T-107/1-9).

Issue 15: Which utility should be awarded the service area in dispute?

Summary of Clay's position: Clay based on the following factors: its lower cost to provide primary service, its lower cost to provide primary service with load management generation, its provision of the only service the customer needs, historic service to the general area, and the logical and natural extension of Clay's facilities and their optimal

utilization.

Discussion: Clay's position in this regard is essentially a summary of all of the foregoing issues and in essence boils down to a very simple matter. Does a customer have a right to insist on on-site generation if they feels it is necessary for the reliability of their manufacturing facility? This is the very question that Commissioner Clark asked FPL witness Mr. Hood. Mr. Hood's reply was ". . . I guess anyone has the right to want a particular type service" (T-82/13-20). Mr. Hood also later stated that River City Plastics could request whatever it likes (T-261/13-14). However as Mr. Hood also stated that if the customer insisted on on-site generation, FPL would not provide it (T-81/18-24). This case does not come down to just customer preference. One could argue that all things are not equal because FPL is not offering the equal service. In that case, the customer should be able to receive the service it requests when one utility is refusing to provide it and the other will provide it. If FPL provided the service requested, or offered to provide the service requested, then the cost to the both utilities would be approximately the same, and hence the customer should have the opportunity to select his utility provider. Either way, the utility that should be awarded the service area in dispute in Clay Electric Cooperative, Inc.

Submitted by,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. mail to the following:

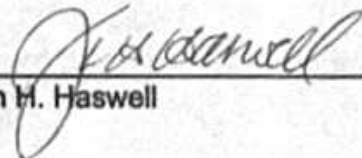
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on this 24 day of November, 1997.



John H. Haswell