

State of Florida



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

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COMMISSION  
CLERK

**DATE:** September 20, 2012

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of the General Counsel (Lawson) *JSC*  
Division of Engineering (Rieger) *SDR MTR JY RLW*

**RE:** Docket No. 120171-EU – Joint petition for approval of amendment to territorial agreement in St. Johns County between Florida Power & Light Company, a Florida corporation, and JEA, a Florida municipal corporation.

**AGENDA:** 10/02/12 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Brown

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\120171.RCM.DOC

### Case Background

On June 11, 2012, Florida Power & Light Company (FPL) and Jacksonville Electric Authority (JEA) filed a joint petition for approval of an agreement amending an existing territorial agreement (amended agreement) between the two utilities in St. Johns County. FPL and JEA are parties to a currently effective territorial agreement (current territorial agreement) delineating their respective territories in Duval and St. Johns counties, which was approved by Order No. PSC-98-1687-FOF-EU.<sup>1</sup>

<sup>1</sup> Order No. PSC-98-1687-FOF-EU, issued December 14, 1998, in Docket No. 980755-EU, In re: Joint Petition of for approval of new territorial agreement between Florida Power & Light Company and Jacksonville Electric.

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Docket No. 120171-EU  
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This recommendation addresses the parties' joint petition for approval of the amended agreement. The Commission has jurisdiction over the matter pursuant to Section 366.04, Florida Statutes (F.S.).

### **Discussion of Issues**

**Issue 1:** Should the Commission approve the joint petition for approval to amend to territorial agreement in St. Johns County between FPL and JEA?

**Recommendation:** Yes. The joint petition for approval of the amended territorial agreement between FPL and JEA is in the public interest and should be approved. (Rieger, Lawson)

**Staff Analysis:** Pursuant to Section 366.04(2)(d), F.S., the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Pursuant to Rule 25-6.0440(2), F.A.C., in approving territorial agreements, the Commission may consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved. Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

On June 11, 2012, FPL and JEA filed a joint petition for approval of an amended agreement. According to the petition, the amended agreement, which is to become effective upon the Commission's approval, alters the territorial boundary between the parties along Palm Valley Road, south of the Nocatee Parkway, in St. Johns County. The area lies just northwest of, and is contiguous with, the current territorial boundary between FPL and JEA. The property, which includes approximately 17 acres, will contain 28 proposed single-family residential lots. While the area is presently within JEA's territory, it is part of a larger residential development that began construction in April 2012, in FPL's service territory.

JEA's infrastructure is located over a half mile from the property, while FPL's infrastructure is approximately 600 feet away. Due to the close proximity of FPL's existing infrastructure to this site, the parties agreed to modify the territorial boundary to allow FPL to serve the electric needs of the additional seventeen acres of the development. In response to staff's data request, FPL plans to extend three-phase primary underground cable and conduit from existing underground facilities to the area. FPL also indicated that facility design is complete and FPL plans to meet a requested end of October 2012 service timeline.

According to the amended agreement, there are currently no existing customers or electric facilities in the amended area, and FPL's provision of service to the area will avoid unnecessary duplication of services and provide for the most cost effective provision of service to utility customers. The amended agreement also indicates that all other parts of the current territorial agreement shall remain in effect. The amended agreement, as well as associated maps and territory description delineating the proposed amended area, are attached to this recommendation as Attachment A.

It appears that the amended agreement proposed by FPL and JEA eliminates existing or potential uneconomic duplication of facilities and does not cause a decrease in the reliability of electric service to existing or future ratepayers. Based on all of the above, staff recommends that

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the joint petition for approval of the amended territorial agreement between FPL and JEA is in the public interest and should be approved.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose interests are substantially affected timely files a protest to the Commission's Proposed Agency Action Order, this docket should be closed upon issuance of a Consummating Order. (Lawson)

**Staff Analysis:** If no person whose interests are substantially affected timely files a protest to the Commission's Proposed Agency Action Order, this docket should be closed upon issuance of a Consummating Order.

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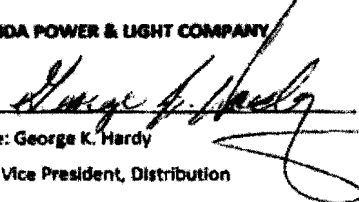
**AMENDMENT TO TERRITORIAL AGREEMENT  
BETWEEN  
FLORIDA POWER AND LIGHT COMPANY  
AND  
JEA**

1. **WHEREAS**, Florida Power and Light Company (FPL) and JEA have an existing Territorial Agreement entered into in 1998 (Territorial Agreement); and,
2. **WHEREAS**, this Amendment to the Territorial Agreement entered into by the parties on this 25th day of May, 2012, alters the territory between the parties along Palm Valley Road south of the Nocatee Parkway in St. Johns County. A new private development is planned for this undeveloped area, for which there is currently no infrastructure in place to serve the electric needs. The new development lies just northwest of, and is contiguous with, the current territorial boundary between FPL and JEA, within JEA's territory. Due to the close proximity of existing FPL infrastructure to this site, and the distance of existing JEA electric infrastructure to this site, FPL and JEA have agreed to modify the territorial boundary to allow FPL to serve the electric needs of the new private development; and,
3. **WHEREAS**, there are currently no existing customers or electric facilities in the region subject to this Amendment to the Territorial Agreement; and,
4. **WHEREAS**, amending the Territorial Agreement to allow FPL to provide service to the region subject to this Amendment will avoid unnecessary duplication of services and provide for the most cost effective provision of service to utility customers;
5. **NOW THEREFORE**, FPL and JEA agree to amend the territorial boundary between the utilities as provided in Exhibits A, B, and C to this Amendment. Exhibit A is a general highway map of St. Johns County, Florida, showing the existing territorial boundaries and area to be transferred. Exhibit B is a more detailed map identifying the existing and new territorial boundary lines. Exhibit C provides a written description of the new territorial boundary lines pursuant to this Amendment.
6. All other parts of the Territorial Agreement shall remain in effect.

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IN WITNESS WHEREOF, this Agreement has been cause to be executed by FPL in its name by its Vice President, and by JEA in its name by its Chief Executive Officer, on the day and year first written above.

FLORIDA POWER & LIGHT COMPANY

By:   
Name: George K. Hardy  
Title: Vice President, Distribution

Date: 5-22-2012

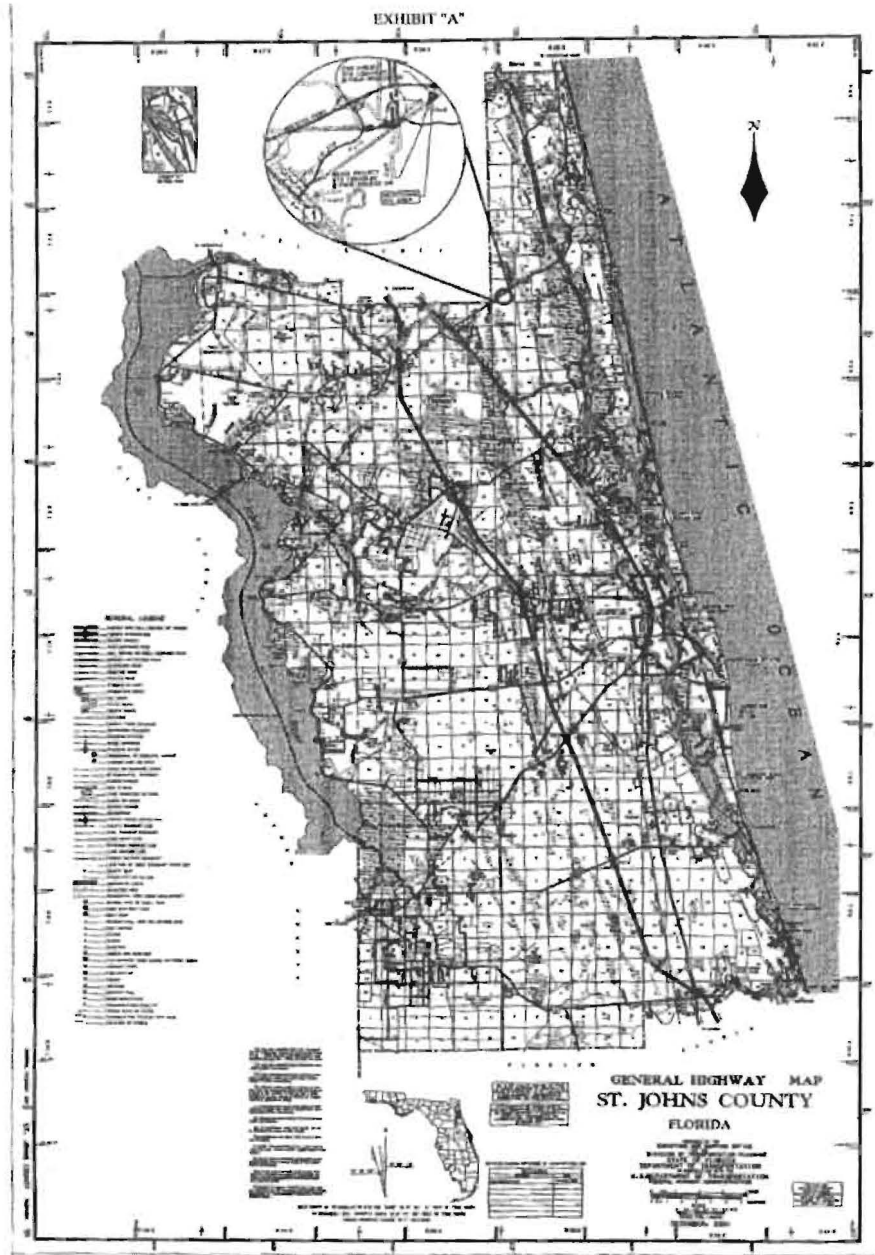
JEA

By:   
Name: James A. Dickenson  
Title: Chief Executive Officer

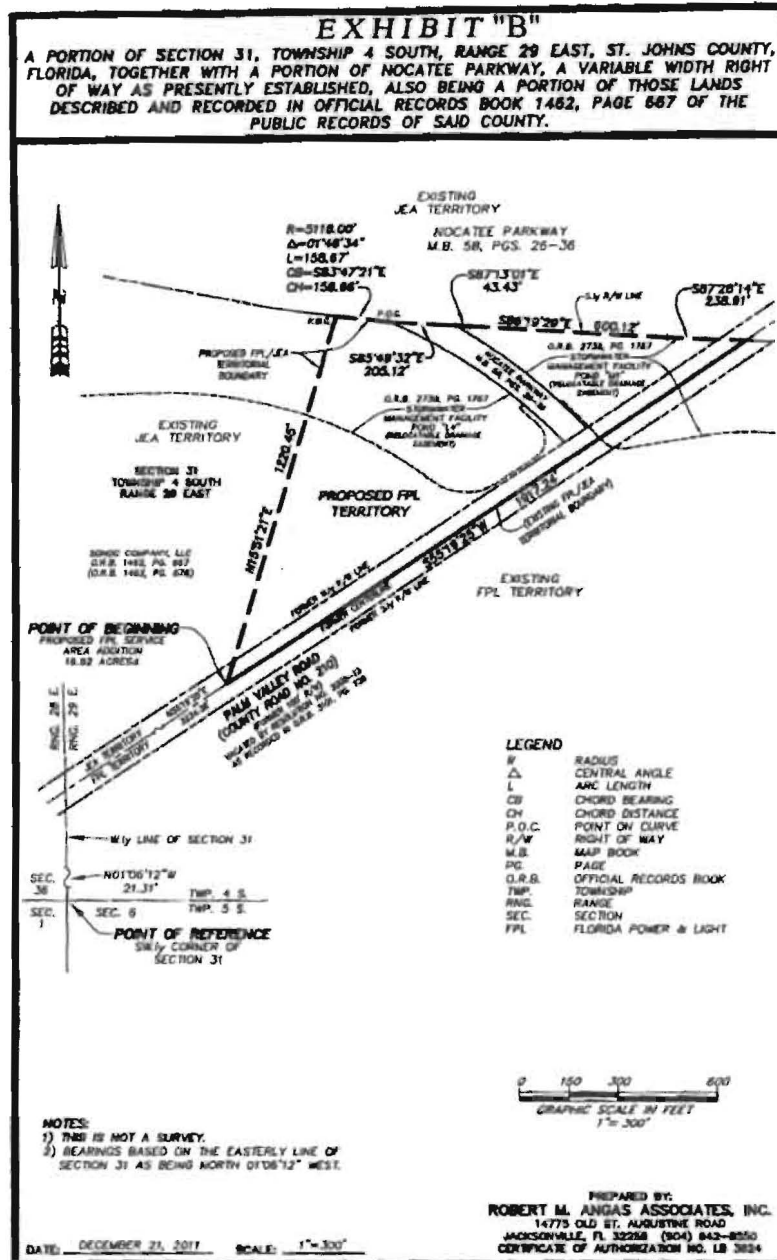
Date: May 25, 2012

Form Approved:

  
Office of General Counsel









Revised November 7, 2011  
October 24, 2011  
Nocatee Towncenter Central

Work Order No. 11-115.00  
File No. I21F-22.00A

**FPL Service Area Addition**

A portion of Section 31, Township 4 South, Range 29 East, St. Johns County, Florida, together with a portion of Nocatee Parkway, a variable width right of way as presently established, also being a portion of those lands described and recorded in Official Records Book 1462, page 667 of the Public Records of said county and being more particularly described as follows:

For a Point of Reference, commence at the Southwesterly corner of said Section 31; thence North  $01^{\circ}06'12''$  West, along the Westerly line of said Section 31, a distance of 21.31 feet to its intersection with the former centerline of Palm Valley Road (County Road No. 210), a 100 foot right of way vacated by Resolution No. 2008-13 as recorded in Official Records Book 3101, page 739 of said Public Records; thence North  $55^{\circ}19'25''$  East, departing said Westerly line and along said former centerline, 3234.38 feet to the Point of Beginning.

From said Point of Beginning, thence North  $15^{\circ}51'21''$  East, departing said centerline, 1220.45 feet to a point lying on the Southerly right of way line of said Nocatee Parkway, said Southerly right of line being a curve concave Northerly having a radius of 5118.00 feet; thence Easterly along said curved Southerly right of way line, through a central angle of  $01^{\circ}46'34''$ , an arc length of 158.67 feet to a point on said curve, said arc being subtended by a chord bearing and distance of South  $83^{\circ}47'21''$  East, 158.66 feet; thence South  $85^{\circ}49'32''$  East, departing said Southerly right of way line, 205.12 feet to a point lying on said Southerly right of way line; thence Easterly along said Southerly right of way line the following 3 courses: Course 1, thence South  $87^{\circ}13'01''$  East, 43.43 feet; Course 2, thence South  $86^{\circ}19'29''$  East, 600.12 feet; Course 3, thence South  $87^{\circ}28'14''$  East, 238.91 feet to a point lying on said former centerline of Palm Valley Road; thence South  $55^{\circ}19'25''$  West, departing said Southerly right of way line and along said former centerline, 1917.24 feet to the Point of Beginning.

Containing 16.92 acres, more or less.

PREPARED BY: ROBERT M. ANGAS ASSOCIATES, INC.  
14775 Old St. Augustine Road, Jacksonville, Florida 32258