

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint stipulation and petition by Florida Power Corporation and Withlacoochee River Electric Cooperative, Inc. for approval of amendment to territorial agreement in Pasco County.

DOCKET NO. 980597-EU
ORDER NO. PSC-98-1082-FOF-EU
ISSUED: August 10, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING AMENDMENT TO 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 substantial interests are affected files a petition for a formal proceeding pursuant to Rule 25-22.029(2), Florida Administrative Code.

Pursuant to Section 366.04(2)(d), Florida Statutes, this Commission has jurisdiction "to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction." As an exercise of this jurisdiction, we approved Florida Power Corporation (Florida Power) and Withlacoochee River Electric Cooperative, Inc.'s (WREC) original territorial agreement by Order No. 19610, issued July 5, 1988, in Docket No. 880234-EU.

On April 29, 1998, Florida Power and WREC filed a joint stipulation and petition for approval of Amendment Number One to the territorial agreement. The proposed amendment is attached hereto as Attachment A. According to the proposed amendment, Florida Power and WREC seek approval of this amendment for the following purposes: (1) to continue each utility's efforts and

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policies to avoid uneconomic duplication of service facilities and (2) to avoid and eliminate circumstances which may cause potential duplications and possible hazards.

In the joint stipulation and petition, Florida Power and WREC have agreed to, and seek approval of, two changes to their territorial boundaries in Pasco County. First, Florida Power would transfer one ratepayer to WREC. WREC currently serves this ratepayer, the City of New Port Richey's pump station at the Magnolia Valley subdivision, at the request of Florida Power. Florida Power has not received any response from this ratepayer concerning whether it supports or opposes the territorial agreement amendment.

Second, WREC would transfer eight ratepayers to Florida Power. On approximately November 1, 1998, WREC plans to transfer these eight ratepayers to Florida Power after Florida Power has relocated its facilities due to the planned widening of Rowan Road. Rowan Road forms the western boundary of the territory to be transferred. Pursuant to Section 1.2 of the territorial agreement amendment, WREC will also transfer to Florida Power all secondary facilities used exclusively to serve these ratepayers when the transfers occur. WREC has not received any response from these eight ratepayers concerning whether they support or oppose the territorial agreement amendment.

As provided in Section 1.3 of the territorial agreement amendment, neither utility will pay the other utility any compensation for the transfer of facilities or ratepayers. WREC has indicated that it will not incur any incremental costs for the transfer of either the one ratepayer from Florida Power or the eight ratepayers to Florida Power. To transfer the eight ratepayers from WREC, however, Florida Power has indicated that it will incur costs of \$3,000.00 to install one additional pole and secondary extensions to connect these ratepayers to Florida Power's distribution system.

The utilities have agreed to take steps to minimize the impact of the proposed amendment on the affected ratepayers. For the transferred ratepayers, each utility has agreed to waive the initial deposit usually imposed on new ratepayers. Florida Power will maintain the right to impose a deposit on ratepayers who subsequently do not maintain excellent credit. In addition, WREC has indicated that it will pay the eight transferred ratepayers the appropriate amount of capital credits on an annual basis as if they

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were still WREC ratepayers. Based upon data provided by each utility, the eight ratepayers transferred from WREC to Florida Power should not experience a significant reduction in reliability due to the proposed amendment. Further, the City's pump station will not experience any change in reliability because WREC already provides service to it.

Based on the foregoing, we find that the proposed amendment will promote the more efficient use of, and avoid uneconomic duplication of, Florida Power and WREC's facilities within and near the affected areas, consistent with the original Florida Power-WREC territorial agreement. Thus, we find that the amendment is in the public interest and should be approved.

Based on the foregoing, it is

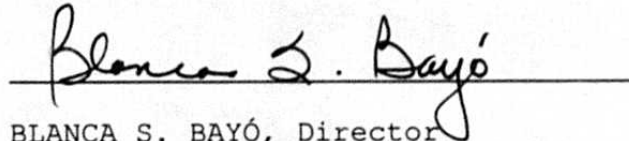
ORDERED by the Florida Public Service Commission that the joint stipulation and petition of Florida Power Corporation and Withlacoochee River Electric Cooperative, Inc., for approval of Amendment Number One to their mutual territorial agreement is granted. The amendment, attached hereto as Attachment A and incorporated herein by reference, will avoid uneconomic duplication of facilities and is in the public interest. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission this 10th
day of August, 1998.


BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 31, 1998.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.

Reg

**AMENDMENT NUMBER ONE TO TERRITORIAL AGREEMENT
BETWEEN WITHLACOOCHEE RIVER ELECTRIC COOPERATIVE, INC.
AND FLORIDA POWER CORPORATION
IN WEST PASCO COUNTY**

Section 0.1 This is an Agreement made and entered into as of the 26th day of January, 1998, by and between Withlacoochee River Electric Cooperative, Inc. ("WREC") an electric cooperative organized and existing under the laws of the State of Florida and Florida Power Corporation ("FPC"), a private corporation organized and existing under the laws of State of Florida. This Agreement constitutes Amendment Number One to the Territorial Agreement between WREC and FPC dated October 9, 1986, and approved by order of the Florida Public Service Commission in Order No. 19610, in Docket No. 880234-EU issued on July 5, 1988.

WITNESSETH

Section 0.2 WREC and FPC desire to make minor changes to the cooperative territorial area and the company territorial area referred to in Section 1.2 and 1.3 of the territorial agreement. Specifically, WREC and FPC have agreed on two (2) changes, the first to Exhibit A, page 24, and the second to Exhibit A, page 45 of the territorial agreement.

Section 0.3 The purpose of the two (2) changes is to continue the efforts and policies of both utilities to avoid the uneconomic duplication of service facilities and to continue to avoid and eliminate circumstances giving rise to potential duplications and possible hazards.

Section 0.4 This Agreement shall not be binding on the parties, and shall have no force and effect unless and until it is approved by order of the Florida Public Service Commission.

Section 0.5 The terms and conditions of the Agreement between the parties for modification of the territorial agreement are set forth as follows:

Section 1.1 Amendment to Exhibit A, page 24. The attached Exhibit 1 to this Amendment shows the current territorial area of the parties in the area defined on that Exhibit. A detail to that Exhibit is attached hereto as Exhibit 1-A "Existing Supplement to Page 24". Exhibit 1-B shows the agreed on change to the boundary line and territorial area between the parties which would transfer one customer identified by the service location number of 80-65 from FPC to WREC. This customer is currently being served by WREC at the request of FPC.

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Section 1.2 Amendment to Exhibit A, page 45. The parties have agreed to modify the territorial boundary shown on Exhibit A, page 45 of the territorial agreement as shown on the attached Exhibits 2-A and 2-B. Exhibit 2-A shows the existing territorial area and boundary between the two parties. The triangle shaped area on page 45 color coded blue is currently served by WREC. The parties have agreed to transfer the service to those customers to FPC, and to therefore amend page 45 of Exhibit A as shown on Exhibit 2-B attached hereto. There are eight (8) customers currently served in that area by WREC who would be transferred to FPC. These customers will be transferred at the time of FPC's facilities relocation necessitated by the planned widening of Rowan Road. At the time of the transfer, WREC shall also transfer to FPC all of its secondary facilities used exclusively to serve these customers.

Section 1.3 Upon full execution of this Agreement by the parties, the customers affected by the transfer, a list of which is attached hereto as Exhibit 3, will be notified by the appropriate utility that the parties have entered into this Amendment to the territorial agreement and that it has been submitted to the Florida Public Service Commission for approval. A comparison of the rates of the two utilities will be furnished to the affected customers. Neither party shall pay the other any compensation for any transfer of facilities or customers contemplated herein.

Section 1.4 Prerequisite approval. The provisions of this Agreement amending the territorial agreement are subject to the regulatory authority of the Florida Public Service Commission and appropriate approval of that body of the provisions of this Agreement shall be a prerequisite to the validity and applicability hereof, and neither party shall be bound hereunder until that approval has been obtained.

Section 1.5 Except to the extent as modified herein, the original agreement shall remain in full force and effect according to its terms.

**Withlacoochee River Electric
Cooperative, Inc.**

Florida Power Corporation

By: C. M. Overstreet
Its President

By: Carice B. Case
Its Senior Vice-President

Attest:

Attest:

Richard M. Buckingham
Secretary

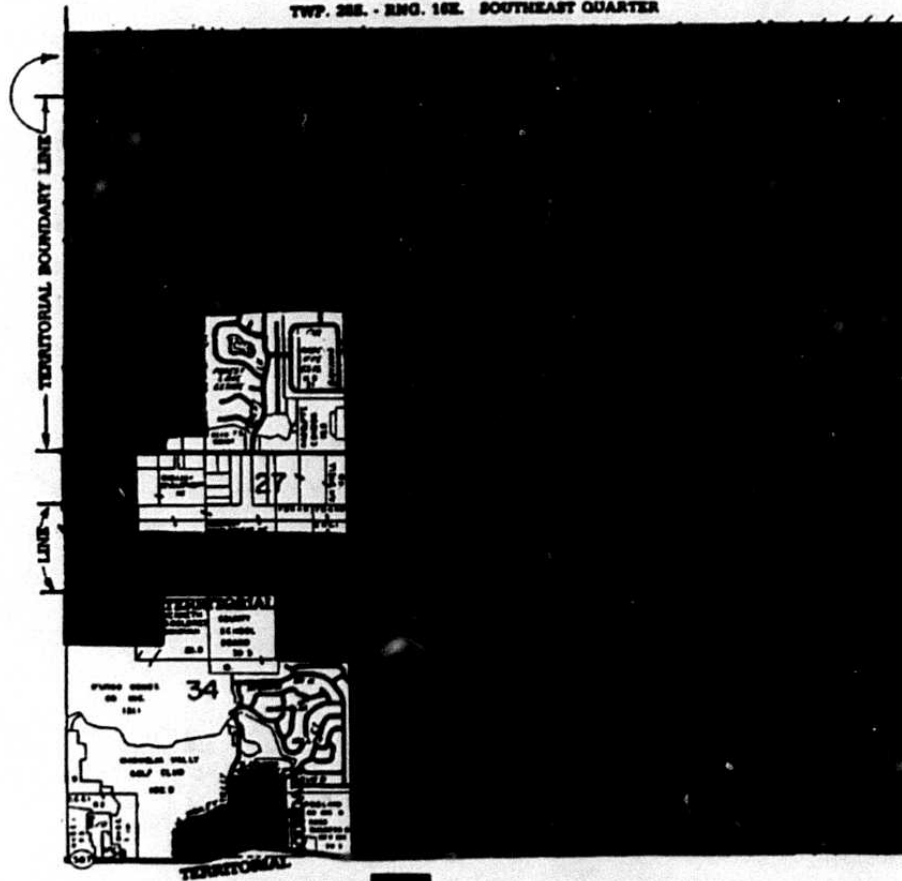
Paula E. White
Assistant Secretary

Dated: 4/21/98

Dated: 1/26/98

PASCO COUNTY

TWP. 28S. - RNG. 16E. SOUTHEAST QUARTER



CODE
■ W.R.E.C. (WITHLACOOCHEE)
□ F.P.C. (COMPANY)

**TERRITORIAL AGREEMENT
BETWEEN
WITHLACOOCHEE RIVER ELECTRIC COOP. INC. and FLORIDA POWER CORP. INC.**

Date OCT 9 1986 Exhibit 24 of 61 Total Exhibits

EXHIBIT 1

to Amendment Number One to
Territorial Agreement between
Florida Power Corporation and
Withlacoochee River Electric
Cooperative, Inc.

EXISTING

SUPPLEMENT TO PAGE 24



EXHIBIT 1-A

to Amendment Number One to
Territorial Agreement between
Florida Power Corporation and
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Cooperative, Inc.

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ATTACHMENT A

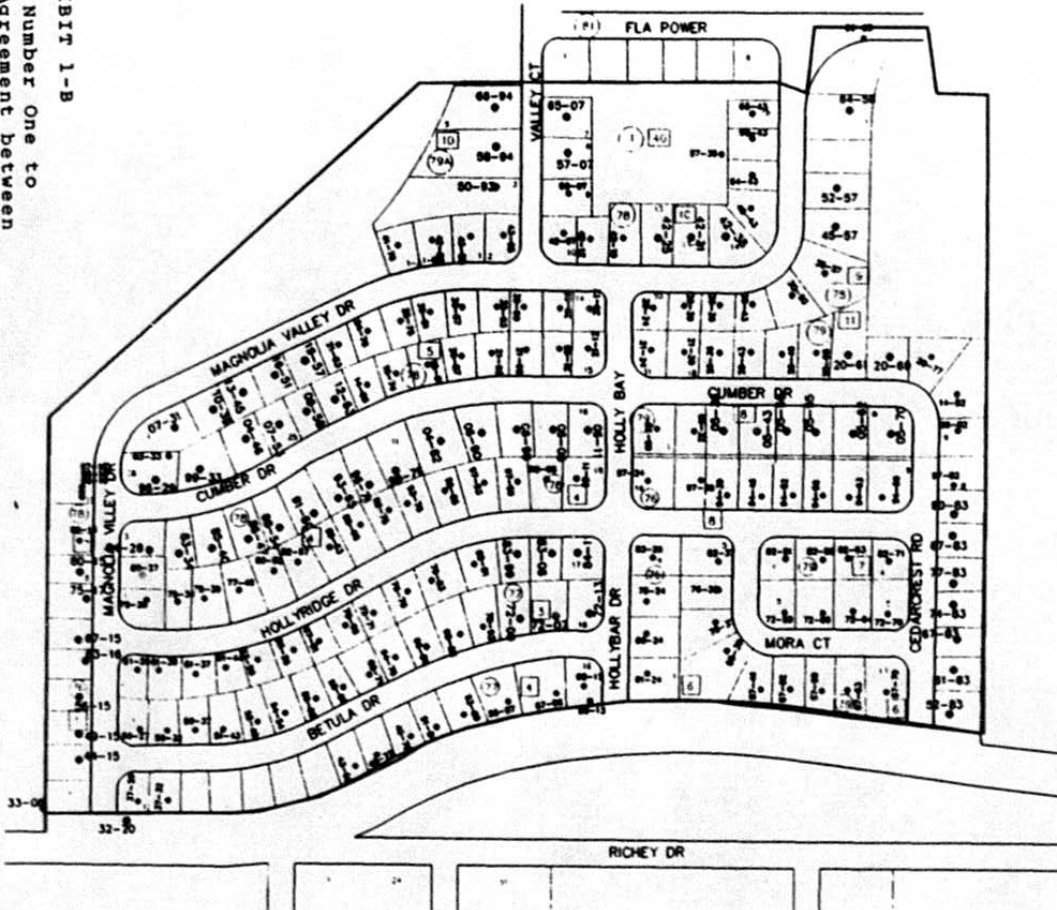
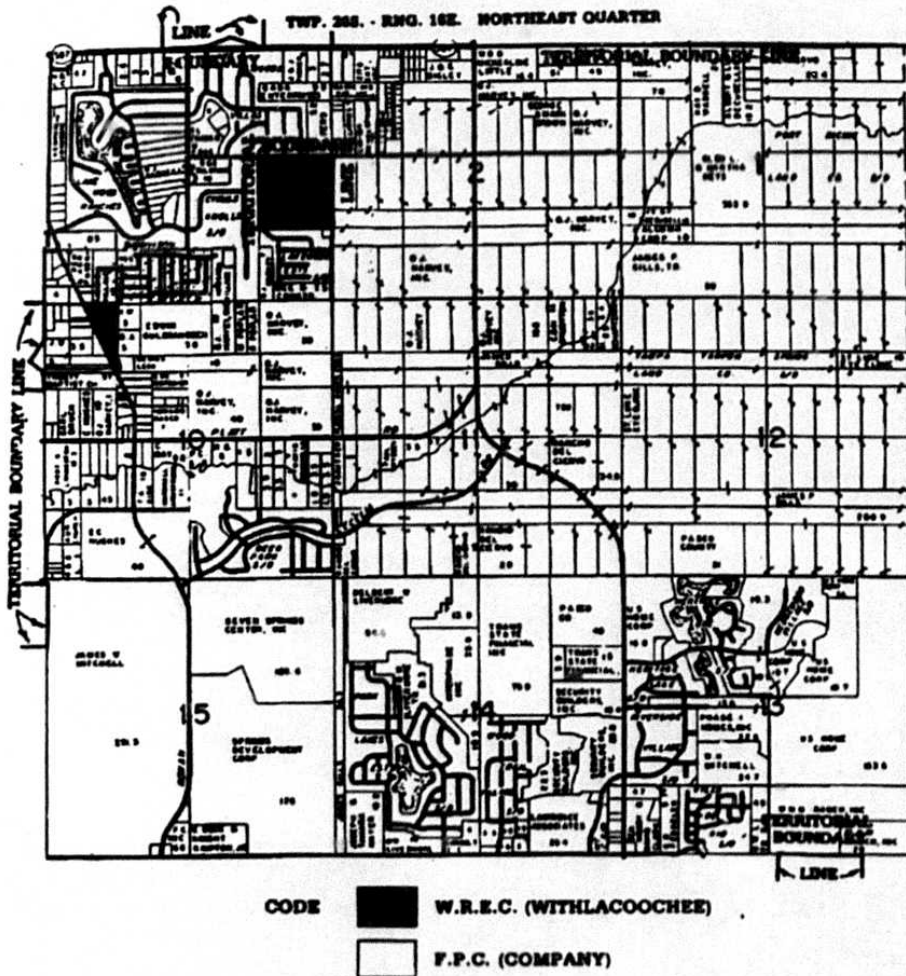


EXHIBIT 1-B

to Amendment Number One to
Territorial Agreement between
Florida Power Corporation and
Withlacoochee River Electric
Cooperative, Inc.

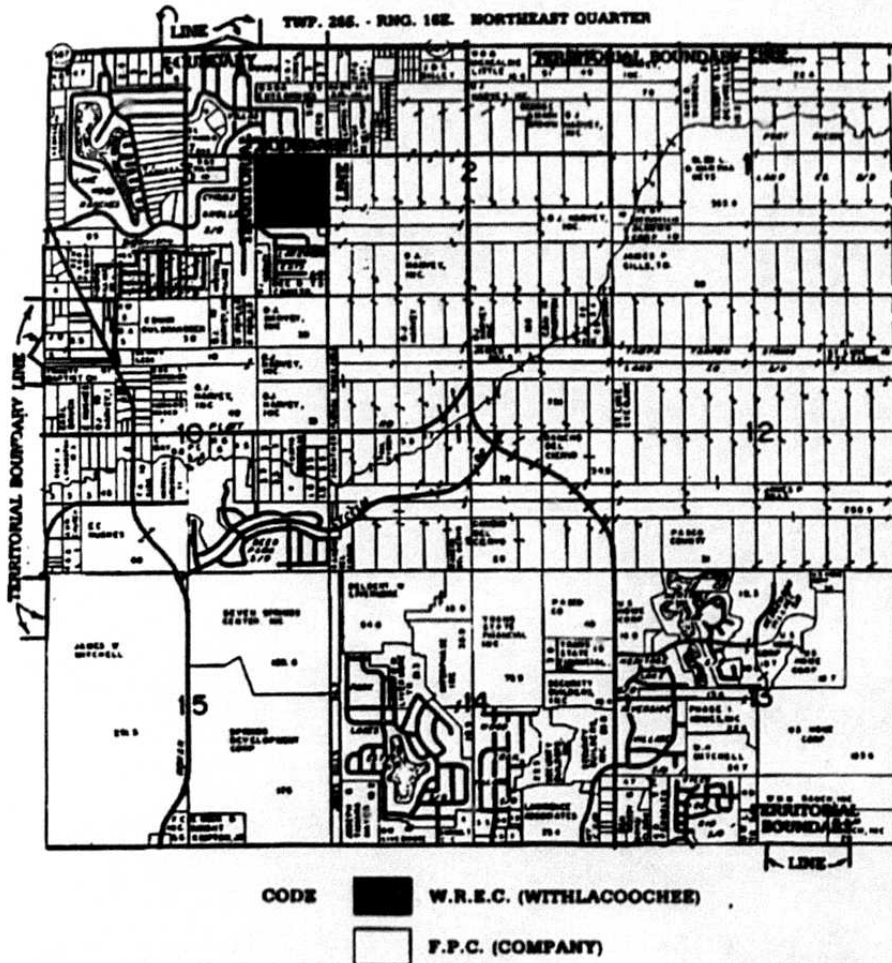
PASCO COUNTY



TERRITORIAL AGREEMENT
BETWEEN
WITHLACOOCHEE RIVER ELECTRIC COOP. INC. and FLORIDA POWER CORP. INC.
Date OCT 9 1966 Exhibit 45 of 61 Total Exhibits

EXHIBIT 2-A
to Amendment Number One to
Territorial Agreement between
Florida Power Corporation and
Withlacoochee River Electric
Cooperative, Inc.

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TERRITORIAL AGREEMENT
BETWEEN
WITHLACOOCHEE RIVER ELECTRIC COOP. INC. and FLORIDA POWER CORP. INC.

Date Oct 9 1996 Exhibit 42 of 61 Total Exhibits

EXHIBIT 2-B
to Amendment Number One to
Territorial Agreement between
Florida Power Corporation and
Withlacoochee River Electric
Cooperative, Inc.