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211 N. E. 1<sup>ST</sup> STREET

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KATHERINE M. WALTON  
C. WHARTON COLE

January 29, 1990

The Hon. Steven C. Tribble, Clerk  
Florida Public Service Commission  
101 E. Gaines Street  
Tallahassee, FL 323301

900064-EL

Re: Territorial Dispute between Clay Electric Cooperative, Inc.  
and Florida Power Corporation, in Alachua County, Florida.

Dear Mr. Tribble:

I am enclosing the original and 15 copies of the Petition to  
Resolve Territorial Dispute along with the Cover Sheet. Please  
call me if you have any questions in this regard.

Very truly yours,

  
John H. Haswell

JHH/gz  
Enclosures

cc: James P. Fama, Esquire  
Florida Power Corporation

Robert Vandiver, Esquire  
Director, Legal Department  
Florida Public Service Commission

William C. Phillips, Manager  
Clay Electric Cooperative, Inc.

DOCUMENT NUMBER-DATE  
00918 JAN 30 1990  
FPSC-RECORDS/REPORTING

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Territorial Dispute Between  
Clay Electric Cooperative, Inc.,  
and Florida Power Corporation, In  
Alachua County.

Docket No. 900064-EU

**COVER SHEET TO PETITION TO RESOLVE TERRITORIAL DISPUTE BETWEEN  
CLAY ELECTRIC COOPERATIVE, INC. AND FLORIDA POWER CORPORATION**

**I. Names and addresses of Parties:**

A. Petitioner: Clay Electric Cooperative, Inc.  
P. O. Box 308  
Keystone Heights, FL 32656  
(904) 473-4911

B. Respondent: Florida Power Corporation  
P. O. Box 14042  
St. Petersburg, FL 33733  
(813) 866-5186

**II. Names and addresses of Counsel for parties to receive  
notices and communications:**

A. For Petitioner, Clay Electric Cooperative, Inc.

John H. Haswell, Esquire  
William H. Chandler, Esquire  
CHANDLER, GRAY, LANG,  
HASWELL & ENWALL, P.A.  
211 N. E. 1st Street  
P. O. Box 23879  
Gainesville, FL 32602  
(904) 376-5226  
Florida Bar No. (JHH) 162536  
Florida Bar No. (WHC) 001326

B. For Defendant, Florida Power Corporation

James P. Fama, Esquire  
Corporate Counsel  
Florida Power Corporation  
P. O. Box 14042  
St. Petersburg, FL 33733  
(813) 866-5186

DOCUMENT NUMBER-DATE

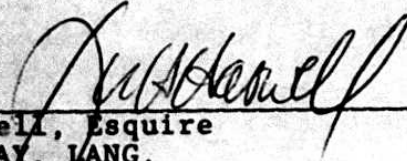
00918 JAN 30 1990

TPSC-RECORDS/REPORTING



III. Nature of Proceeding: Petition to resolve territorial dispute.

IV. Basis of Jurisdiction of Florida Public Service Commission:  
§366.04(2)(e) and 366.04 (5).

  
\_\_\_\_\_  
John H. Haswell, Esquire  
CHANDLER, GRAY, LANG,  
HASWELL & ENWALL, P.A.  
211 N. E. 1st Street  
P. O. Box 23879  
Gainesville, FL 32602  
(904) 376-5226  
Florida Bar No. 162536  
Attorney for Clay Electric Cooperative,  
Inc.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Territorial Disputes Between  
Clay Electric Cooperative, Inc.,  
and Florida Power Corporation, In  
Alachua County.

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Docket No. \_\_\_\_\_

**PETITION TO RESOLVE TERRITORIAL DISPUTE**

CLAY ELECTRIC COOPERATIVE INC., hereinafter designated "Clay", by and through its undersigned attorneys, files this petition to resolve a territorial dispute between itself and Florida Power Corporation, hereinafter designated "FPC", in Alachua County, Florida, and alleges:

1. Clay is a rural electric cooperative organized and existing under Chapter 425 Florida Statutes and under Chapter 31 of Title 7, United States Code and is presently furnishing electric service to its consumer members in Alachua, Bradford, Baker, Clay, Columbia, Duval, Lake, Levy, Marion, Putnam, Union, and Volusia Counties in Florida. Its principal place of business is located in Keystone Heights, Florida and its address is:

Post Office Box 308  
Keystone Heights, FL 32656  
(904) 473-4911

2. All notices and pleadings in this matter should be served upon the following:

A. For Clay: John H. Haswell and William H. Chandler  
Chandler, Gray, Lang, Haswell & Enwall, P.A.  
P. O. Box 23879  
211 N.E. First Street  
Gainesville, FL 32602  
(904) 376-5226  
Florida Bar No. (JHH) 162536  
Florida Bar No. (WHC) 001326



B. For FPC: James P. Fama, Esquire  
Corporate Counsel  
Florida Power Corporation  
P. O. Box 14042  
St. Petersburg, FL 33733  
(813) 866-5186

3. Florida Power Corporation (FPC) is a public utility subject to Chapter 366, Florida Statutes and is an electric utility under Chapter 361, Florida Statutes and is engaged in the business of selling electric energy to its customers within the State of Florida and to certain of its customers in Alachua County, Florida.

4. The Florida Public Service Commission (the Commission) has jurisdiction over both Clay and FPC for the planning, development, and maintenance of a coordinated electric power grid to avoid uneconomic duplication of distribution facilities. Florida Statutes §366.04(5).

5. In addition the Commission has the jurisdiction pursuant to §366.04(2)(e) to resolve territorial disputes between rural electric cooperatives and investor owned utilities.

6. This action is filed pursuant to Florida Statutes §366.04(2)(e) to resolve a territorial dispute involving the service areas between and among rural electric cooperative and another electric utility under the jurisdiction of the Commission, and to avoid further uneconomic duplication of distribution facilities in Alachua County, Florida, pursuant to §366.04(5), Florida Statutes.

7. FPC intends to serve and has constructed facilities to serve a customer in Section 5, Township 11 South, Range 18 East

in Alachua County, north of the Town of Archer, Florida. The location of the service by FPC is a parcel in the SE1/4 of the aforesaid section lying West of State Road 241 and East of highway U.S. 41. The property is bordered on all sides by facilities of Clay. The area is shown on Exhibit 1, attached hereto.

8. Clay has historically served the geographic area described above and claims the subject property as its exclusive service area.

9. Clay currently maintains and has maintained for many years, distribution lines in and about the geographic area, and as of the date of filing this petition, has extensive distribution facilities on, along and in close proximity of the area.

10. The disputed area is in Clay's service territory, and Clay has planned its system to provide service to the area. The area is adjacent to existing Clay facilities.

11. In order to serve the disputed area FPC has constructed over 1,000 feet of distribution facilities, including the setting of four new poles to serve a mobile sales office of the developer.

12. Clay was initially requested by the developer to serve the property (the entire development), and Clay could easily provide service to the sales office with a service drop from its existing 3 phase line on U.S. 41.

13. The developer, Patten Corporation, after requesting



service from Clay for its entire project, asked FPC to move an FPC pole that stands in front of Lot 35 of the development fronting on SR 241. (FPC's line on 241 is an express feeder from FPC's facilities in the City of Archer to FPC's substation). FPC told the developer it would not move the pole unless the developer agreed to take service from FPC. The developer acquiesced and requested service from FPC.

14. The service to this area by FPC will result in the uneconomic duplication of the distribution facilities already provided and available by Clay.

15. Clay can adequately and reliably serve the subject property, and has adequately and reliably served the surrounding area for over 30 years.

16. FPC maintains no distribution facilities other than an express feeder along a portion of SR 241 on or near the subject property and serves no customers on the disputed property. In order to serve the area, FPC will be required to extend its distribution facilities into the historic service area of Clay and will cross, parallel or duplicate existing distribution line facilities of Clay.

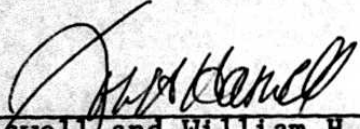
Wherefore, Clay respectfully requests that the Commission:

a) take jurisdiction of this matter under §366.04(2)(e), and §366,04(5) Florida Statutes,

b) resolve the territorial dispute as to the subject area, and prohibit FPC from serving or attempting to serve the area, and

c) conduct hearings under §120.57(1) Florida Statutes.

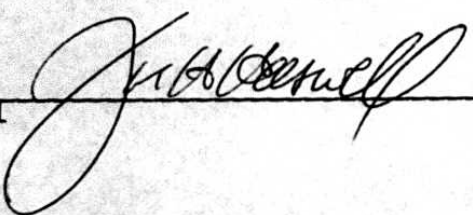
Respectfully submitted,



John H. Haswell and William H. Chandler  
CHANDLER, GRAY, LANG,  
HASWELL & ENWALL, P.A.  
211 N. E. 1st Street  
P. O. Box 3879  
Gainesville, FL 32602  
(904) 376-5226

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been served upon James P. Fama, Corporate Counsel, Florida Power Corporation, P. O. Box 14042, St. Petersburg, Florida 33733 and Robert Vandiver, Director of Legal Services, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32304 by U.S. Mail this 29 day of January, 1990.



Of Counsel



**NORTH** ↑

TWP 105 - RNG 18E

CLAY ELECTRIC LINES IN THE IMMEDIATE AREA =

FLORIDA POWER EXPRESS FEEDER =

FLORIDA POWER NEW LINE =

TWP 115 - RNG 17E

TWP 115 - RNG 18E

COUNTY ROAD S.W. 22

POLE DATE 1985

C.E.C. DISTRIBUTION LINE

STATE ROAD 41

U.S. HIGHWAY 27

C.E.C. DISTRIBUTION LINE

RAILROAD TRACKS

New point of service/FPC

32

31

5

6

8

7

