

VOTE SHEET

DATE: September 29, 1992

RE: DOCKET NO. 911141-EU - Petition to resolve territorial dispute between OKEFENOKE RURAL ELECTRIC MEMBERSHIP CORPORATION and JACKSONVILLE ELECTRIC AUTHORITY.

Issue 1: Does the Commission have the jurisdictional authority to grant exclusive territorial rights to a rural electric cooperative within the municipal corporate limits of Jacksonville in the absence of an approved territorial agreement between the JEA and the rural electric cooperative?

Recommendation: The Florida Public Service Commission has the authority to grant territorial rights to a rural electric cooperative within the municipal corporate limits of Jacksonville, where the evidence shows that the city has abused its right to serve, exercised its right in an unlawful manner, or is not ready, willing and able to serve. That grant of territorial rights, however, does not completely extinguish the municipality's right to serve customers within its 1974 municipal boundaries. The city remains free to exercise its proprietary right to provide utility service if it does so in a manner that is always consistent with the law and public policy of the state.

**APPROVED**

COMMISSIONERS ASSIGNED: DS CL

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*J. Terry Weaso*  
*Susan A. Clark*  
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REMARKS/DISSENTING COMMENTS:

PSC/RAR33 (5/90)

DOCUMENT NUMBER-DATE  
11411 SEP 30 1992  
FPSC-RECORDS/REPORTING

Vote Sheet

Docket No. 911141-EU

September 29, 1992

Issue 2: Does the Commission have the jurisdictional authority to order the JEA to refrain from providing retail electric service to a customer located entirely within the municipal corporate limits of Jacksonville when there exists no approved territorial agreement regarding the customer's site?

Recommendation: Yes, the Commission has the authority to order JEA to refrain from providing electric service to a customer within the city of Jacksonville if that customer is served by another electric utility, or if service by JEA would duplicate the existing electric facilities of another electric utility, and if JEA has not attempted to serve that customer by the means available to it under the law.

**APPROVED**

Issue 3: Does JEA have the exclusive right to serve in Duval County even where other utilities served prior to October 1, 1968?

Recommendation: JEA only has the exclusive right to serve in Duval County if it exercises that right in a lawful manner.

**APPROVED**

Issue 4: If the 1974 Clause preserved JEA's right to serve throughout Duval County, does JEA have an unconditional obligation to serve throughout Duval County?

Recommendation: The parties have basically agreed that JEA has an obligation to serve throughout Duval County commensurate with its right to serve.

**APPROVED**

Issue 5: What is the geographical description of the area in dispute?

Recommendation: Staff recommends that the Commission find that the area in dispute is all of northern Duval County.

**APPROVED**

Issue 6: Which utility has historically served the area in dispute?

Recommendation: Staff recommends that the Commission find that while both utilities have historically served the area in dispute, it appears that there are areas where Okefenoke was the first to provide electric service.

**APPROVED**

Issue 7: What is the location, purpose, type, and capacity of each utility's facilities existing as of the filing of the petition in this case?

Recommendation: Staff recommends that the Commission find that both utilities operate electric facilities in northern Duval County.

**APPROVED**

Issue 8: Are there other areas of potential conflict between the service areas of Okefenoke and JEA?

Recommendation: Staff recommends that the Commission find that the only areas of conflict between JEA and Okefenoke are in northern Duval County.

**APPROVED**

Issue 9: Is either utility presently serving the area in dispute?

Recommendation: Staff recommends that the Commission find that both JEA and Okefenoke are presently serving the area in dispute.

**APPROVED**

Issue 10: What is the expected customer load and energy growth in the disputed area and surrounding areas?

Recommendation: Staff recommends that the Commission find that northern Duval County will experience growth in the future.

**APPROVED**

Vote Sheet

Docket No. 911141-EU

September 29, 1992

Issue 11: What additional facilities would each party have to build to serve the disputed area?

Recommendation: Staff recommends that the Commission find that both utilities have facilities in place to serve the disputed area.

**APPROVED**

Issue 12: What is the ability of each utility to extend existing facilities to the area in question?

Recommendation: Staff recommends that the Commission find that both utilities are capable of serving the disputed area.

**APPROVED**

Issue 13: How long would it take each utility to provide service to the disputed area?

Recommendation: Staff recommends that the Commission find that both utilities presently provide service to the disputed area.

**APPROVED**

Issue 14: Has unnecessary and uneconomical duplication of electric facilities occurred in the vicinity of the disputed area or in other areas of potential dispute between the parties?

Recommendation: Staff recommends that the Commission find that unnecessary and uneconomical duplication of electric facilities has occurred throughout northern Duval County.

**APPROVED**

Issue 16: (STIPULATED) Do the parties have a formal territorial agreement that covers the area in dispute, or any other areas of potential dispute?

Recommendation: Staff recommends that the Commission find that the parties have not entered into any formal territorial agreements.

**APPROVED**

Issue 17: Have the parties made any attempts to reach agreement on who should serve the disputed area, or any other areas of potential dispute?

Recommendation: Staff recommends that the Commission find that, although the parties have never entered into a formal territorial agreement, they have made attempts to do so.

**APPROVED**

Issue 18: Have the parties operated under any informal agreements or "understandings" regarding who should serve the disputed area?

Recommendation: Staff recommends that the Commission find that the parties have operated under an informal agreement or "understanding" regarding who should serve the disputed area.

**APPROVED**

Issue 19: What would be the additional cost to each utility to provide electric service to the area in dispute?

Recommendation: Both parties can serve the Holiday Inn at minimal additional cost, but this is not relevant to the resolution of the major issue in this case, which is the significant uneconomic duplication of facilities in northern Duval County. The record does not contain sufficient information to determine the costs to either utility if uneconomic duplication is eliminated in northern Duval County.

**APPROVED** with the clarification that these costs will be in addition to somewhat significant costs already incurred. (JEA has spent \$53,000 to install lines to the Holiday Inn) (S)

Issue 20: What would be the cost to each utility if it were not permitted to serve the area in dispute?

Recommendation: The record does not contain sufficient information to establish the economic impact to either utility if uneconomic duplication is eliminated in northern Duval County. With regard to the Holiday Inn, the party not granted the right to serve will lose annual revenues of approximately \$400,000.

**APPROVED**

Issue 21: What would be the effect on each utility's ratepayers if it were not permitted to serve the disputed area?

Recommendation: The record does not contain sufficient information to establish the economic impact to either utility if uneconomic duplication is eliminated in northern Duval County. With regard to the Holiday Inn, the party not granted the right to serve will lose annual revenues of approximately \$400,000.

**APPROVED**

Issue 22: If all other things are equal, what is the customer preference for utility service in the disputed area?

Recommendation: Staff recommends that the Commission find that because all other things are not equal, this issue is moot.

**APPROVED**

Issue 23: Which party should be permitted to serve the area in dispute?

Recommendation: Staff recommends that Okefenoke should continue to serve all of its present customers in Duval County, including the Airport Holiday Inn, as well as all new customers JEA requests it to serve in the future. JEA must exercise lawful means in order to provide service to Okefenoke's customers in the disputed area.

**APPROVED**

Vote Sheet

Docket No. 911141-EU

September 29, 1992

Issue 24: What conditions, if any, should accompany the Commission's decision regarding which party should be permitted to serve the disputed area?

Recommendation: Staff recommends that the Commission should retain jurisdiction over this matter and require JEA to submit a specific, detailed proposal for the elimination of duplicate facilities in the disputed area within 120 days of the date of issuance of the Commission's final order.

**APPROVED**

Issue 25: Should this docket be closed?

Recommendation: No, this docket should remain open.

**APPROVED**