

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Lee County)
Cooperative, Inc., and Florida)
Power & Light Company for Approval)
of a Territorial Agreement)

Docket No.

930092-E4

JOINT APPLICATION FOR
APPROVAL OF A TERRITORIAL AGREEMENT

Lee County Electric Cooperative, Inc., and Florida Power & Light Company hereby apply to the Florida Public Service Commission (Commission) pursuant to Section 366.04(2)(d), F.S., for approval of a Territorial Agreement, and in support thereof represent as follows:

1. Applicants' addresses are:

Florida Power & Light
Company
P.O. Box 029100
Miami, FL 33102-9100

Lee County Electric
Cooperative, Inc.
P.O. Box 3455
North Fort Myers, FL
33918-3455

2. Any pleading, motion, notice, order, or other document required to be served upon the applicants should be addressed to the applicants' counsel:

John A. Noland, Esquire
Henderson, Franklin,
Starnes & Holt
P.O. Box 280
Fort Myers, FL 33902

Wilton R. Miller, Esquire
Bryant, Miller and
Olive, P.A.
Suite 500
201 South Monroe St.
Tallahassee, FL 32301

W.G. Walker, III
Vice President
Regulatory Affairs
Florida Power & Light
Company
P.O. Box 029100
Miami, FL 33102

860-93
4/21/93

3. Applicant, Florida Power & Light Company (FPL), is a "Public Utility" incorporated in the State of Florida. Applicant, Lee County Electric Cooperative, Inc., (LCEC) is a "Cooperative" organized and existing pursuant to Chapter 425, F.S. Applicants are subject to the Commission's jurisdiction as set forth in Section 366.04, F.S.

4. There currently exists a Territorial Agreement between FPL and LCEC pursuant to Commission Order Nos. 3799 And 20817.

5. FPL and LCEC, through this application and the proposed Territorial Agreement submitted herewith, seek the approval of a new Territorial Agreement (attached hereto as Appendix A and incorporated by reference).

6. The primary purpose of the proposed Territorial Agreement is to account for changes that have occurred in the area covered by the present Territorial Agreement since it was approved by the Commission in 1965, and to provide for a better description of the territorial boundary than is afforded by the documents submitted to the Commission in 1964. Changes to the existing boundary are identified in Appendix B. The proposed territorial boundary contains only minor modifications to the existing boundary. The boundary segregates FPL's retail service area from LCEC's retail service area in the Counties of Lee, Hendry, Charlotte, and Collier.

DOCUMENT NUMBER-DATE

00860 JAN 21 82

FPSC-RECORDS/REPORTING

7. The approval and adoption of the proposed territorial boundary will not cause the transfer of any customers or facilities between applicants.

8. The Commission's approval of the Territorial Agreement is a condition precedent necessary for the operation of the agreement.

9. Applicants represent that the Territorial Agreement is in the best interest of the public.

WHEREFORE, the applicants request that the Commission issue an Order approving and adopting the Territorial Agreement.


Dated this 21 day of January 1992.

Respectfully submitted,

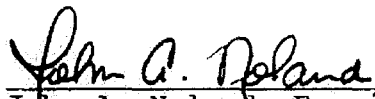
Florida Power & Light Company
Inc.

Lee County Electric Cooperative,

By


Wilton R. Miller, Esquire
Bryant, Miller and
Olive, P.A., Suite 500
201 South Monroe Street
Tallahassee, FL 32301
(904) 222-8611

By


John A. Noland, Esquire
Henderson, Franklin,
Starnes & Holt
P.O. Box 280
Fort Myers, FL 33902
(813) 334-4121

and

K. Crandal McDougall, Esquire
Florida Power & Light Company

Attorneys for Lee County
Electric Cooperative, Inc.

P.O. Box 029100
Miami, Florida 33102-9100
(305) 552-3921

Attorneys for Florida Power
& Light Company

3/Lee.App

**TERRITORIAL AGREEMENT
BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND
LEE COUNTY ELECTRIC COOPERATIVE, INC.**

Section 0.1 This is a Territorial Agreement made and entered into by and between LEE COUNTY ELECTRIC COOPERATIVE, INC., an electric cooperative organized and existing under the laws of the State of Florida (herein called the "COOPERATIVE"), and FLORIDA POWER & LIGHT COMPANY, a private corporation organized and existing under the laws of the State of Florida (herein called the "COMPANY"), for the express purpose of seeking an Order of the Florida Public Service Commission (Commission) adopting the following recommended Territorial Agreement;

Section 0.2 WHEREAS, the COOPERATIVE, by virtue of Florida Statutes, Chapter 425, and the Charter issued to it thereunder, is authorized and empowered to furnish electricity and power to its members, private individuals, corporations and others, as defined by the laws of Florida, and pursuant to such authority, presently furnishes electricity and power to members and customers in areas of Lee, Hendry, Charlotte, and Collier Counties, Florida; and

Section 0.3 WHEREAS, the COMPANY, by virtue of its Charter and the laws of Florida, is authorized and empowered to furnish electricity and power to persons, firms and corporations throughout the State of Florida and pursuant to such authority presently furnishes

electricity and power to customers in areas of Lee, Hendry, Charlotte, and Collier Counties, Florida, and elsewhere; and

Section 0.4 WHEREAS, the COMPANY and the COOPERATIVE have a territorial boundary within Lee, Hendry, Charlotte, and Collier Counties along with terms and conditions relative thereto, established pursuant to Commission Order No. 3799, and later amended by Commission Order No. 20817; and

Section 0.5 WHEREAS, changes have occurred since Commission Order No. 3799 was entered and the COMPANY and the COOPERATIVE desire to amend the territorial boundary established by the Commission's previous orders to account for these changes, in order to further the Commission's policy of avoiding the uneconomic duplication of utility facilities and hazardous situations; and

Section 0.6 WHEREAS, the Commission is empowered by Section 366.04, Florida Statutes, to approve territorial agreements; and

Section 0.7 WHEREAS, the COMPANY and the COOPERATIVE through the below delineated Territorial Agreement seek, through Commission approval, to establish an amended Territorial boundary, and terms and conditions relative thereto;

Section 0.8 NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, the parties hereto, subject to the approval of the Commission, and subject to the terms and conditions herein set forth, do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Territorial Boundary Lines - As used herein, the term "Territorial Boundary Lines" shall mean boundary lines which delineate areas on the county maps attached hereto as Exhibit "A" and which differentiate and divide the Cooperative Territorial Area from the Company Territorial Area.

Section 1.2 Cooperative Territorial Area - As used herein, the term "Cooperative Territorial Area" shall mean the geographic area shown on Exhibit "A" labelled "Lee County Electric Co-Op."

Section 1.3 Company Territorial Area - As used herein, the term "Company Territorial Area" shall mean the geographic area shown on Exhibit "A" labelled "Florida Power & Light Company."

Section 1.4 End Use Facilities - As used herein, the term "End Use Facilities" shall mean a geographic location where the electric energy used by a customer is ultimately consumed.

ARTICLE II

AREA ALLOCATIONS

Section 2.1 Allocations - The Cooperative Territorial Area, as herein defined, is hereby allocated to the COOPERATIVE as its retail service area, and the Company Territorial Area, as herein defined, is hereby allocated to the COMPANY as its retail service area. The parties shall each have the right to provide retail electric service to all customers within their respective territorial area. Neither party shall hereafter serve or offer to serve a customer whose End Use Facilities are located in the territorial area of the other party except as provided in Section 2.2 below.

Section 2.2 Commission Order No. 20817 - The terms and conditions of the settlement in Docket No. 850129-EU, In Re: Petition of Lee County Electric Cooperative, Inc. to resolve a territorial dispute with Florida Power & Light Company, adopted by the Commission in Order No. 20817 as an amendment of the territorial agreement between the COMPANY and the COOPERATIVE are hereby incorporated by reference and are intended to remain in full force and effect.

Section 2.3 Bulk Power Supply for Resale - No provision of this Agreement shall be construed as applying to bulk power supply for resale, or to facilities dedicated to such bulk power supply.

ARTICLE III

PREREQUISITE APPROVAL

Section 3.1 Regulatory Approval - The provisions of this Agreement are subject to the regulatory authority of the Commission whose approval shall be a prerequisite to the validity and applicability hereof. Neither party shall be bound hereunder until such approval has been obtained.

ARTICLE IV

DURATION

Section 4.1 Duration - This Agreement shall continue and remain in effect until the Commission, by order, modifies or withdraws its approval of this Agreement after proper notice and hearing. Modification or withdrawal of the Commission's order of approval of this Agreement shall be based upon a finding that modification or withdrawal is necessary in the public interest because of changed conditions or other circumstances not present at the time this Agreement was approved by the Commission.

ARTICLE V

CONSTRUCTION OF AGREEMENT

Section 5.1 Intent and Interpretation - It is hereby declared to be the purpose and intent of this Agreement, in accordance with which all provisions of this Agreement shall be interpreted and constructed, to eliminate and avoid needless and wasteful expenditures, duplication of facilities and potentially hazardous situations, which would otherwise result from unrestrained competition, between the parties operating in overlapping service areas.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Negotiations - Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement shall be binding upon either of the parties hereto unless the same shall be in writing, signed by both parties, and approved by the Commission.

Section 6.2 Prior Boundaries and Terms - The adoption of this Agreement by the Commission amends all previous territorial boundaries and terms and conditions relative thereto, established by the Commission for the COMPANY and the COOPERATIVE.

IN WITNESS WHEREOF, this Agreement has been caused to be executed in triplicate by the COOPERATIVE in its name by its Director and by the COMPANY in its name by its Vice President; and one of said triplicate copies has been delivered to each of the parties hereto.

LEE COUNTY ELECTRIC COOPERATIVE, INC.

By: Scott Sidney
Scott Sidney, Director

Date: 1-15-93

FLORIDA POWER & LIGHT COMPANY

By: W. W. Hamilton
W. W. Hamilton, Vice President

Date: 1-15-93

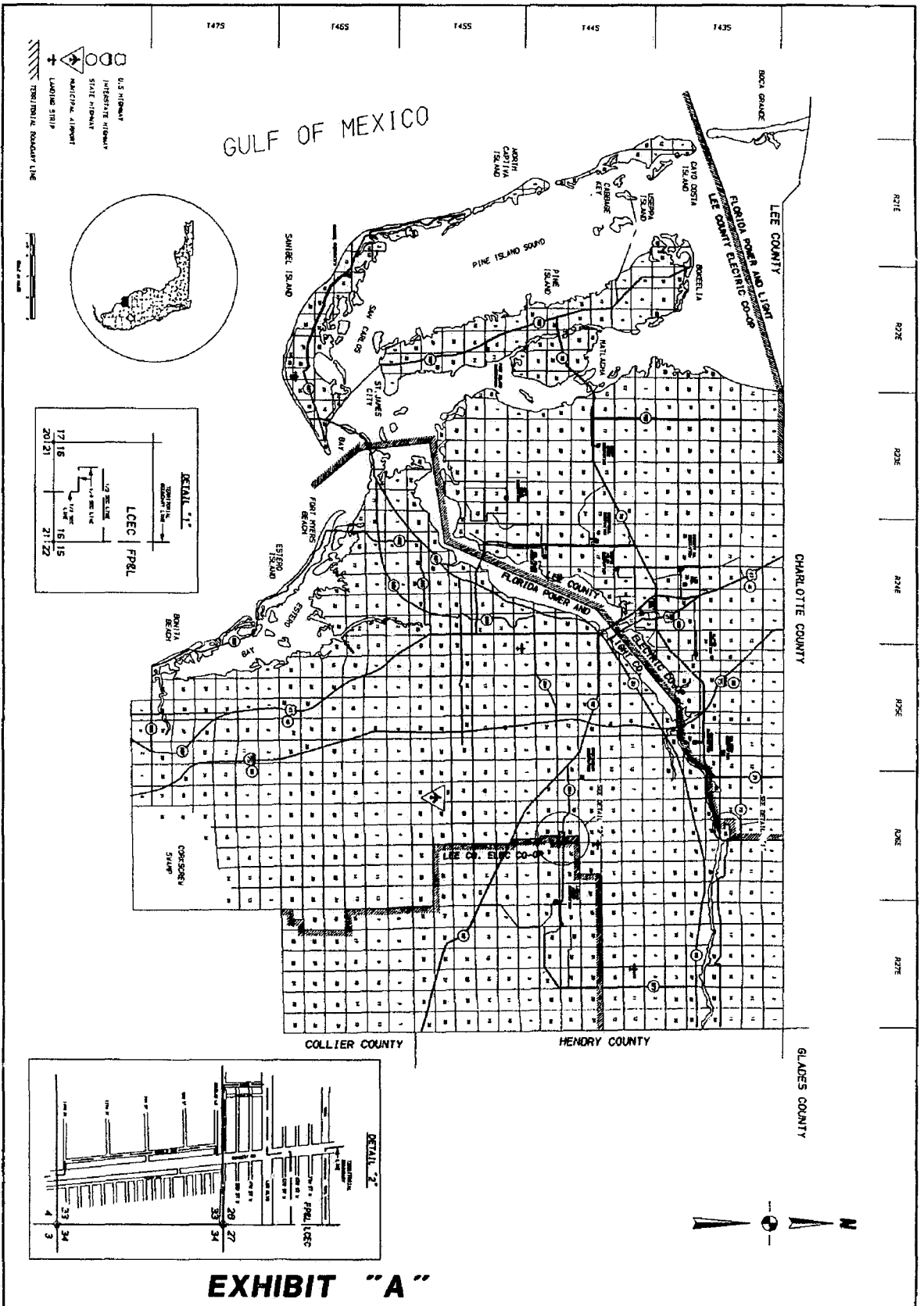


EXHIBIT "A"

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Proj. No.	DATE	01-04-88
Sheet No.	2 OF 4 SCALE: AS SHOWN	
File No.	APPV.	

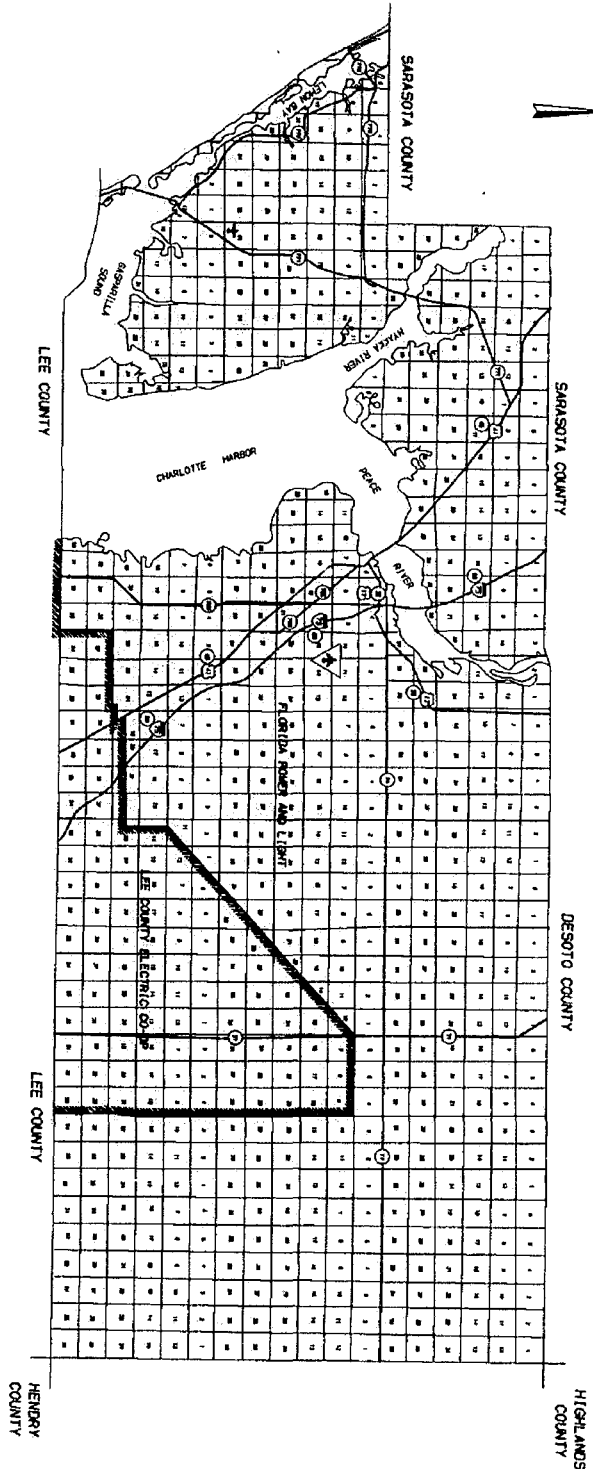
LEE COUNTY
TERRITORIAL MAP

LEE COUNTY ELECTRIC COOPERATIVE, INC.
4880 BayLine Drive
No. Fort Myers, Florida 33917-3709 (813)995-2121

1425 1415 1405



- U.S. Airport
- International Airport
- State Highway
- △ Municipal Airport
- ✈ Landing Strip
- ▬ Territorial Boundary Line



R21E R22E R23E R24E R25E R26E R27E

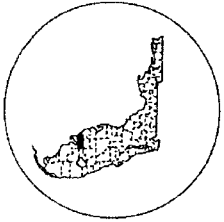


EXHIBIT "A"

H.O. No.	DWG. REV.
Proj. No.	DATE: 12-22-87
Sheet No. 1 OF 4	SCALE: AS SHOWN
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CHARLOTTE COUNTY

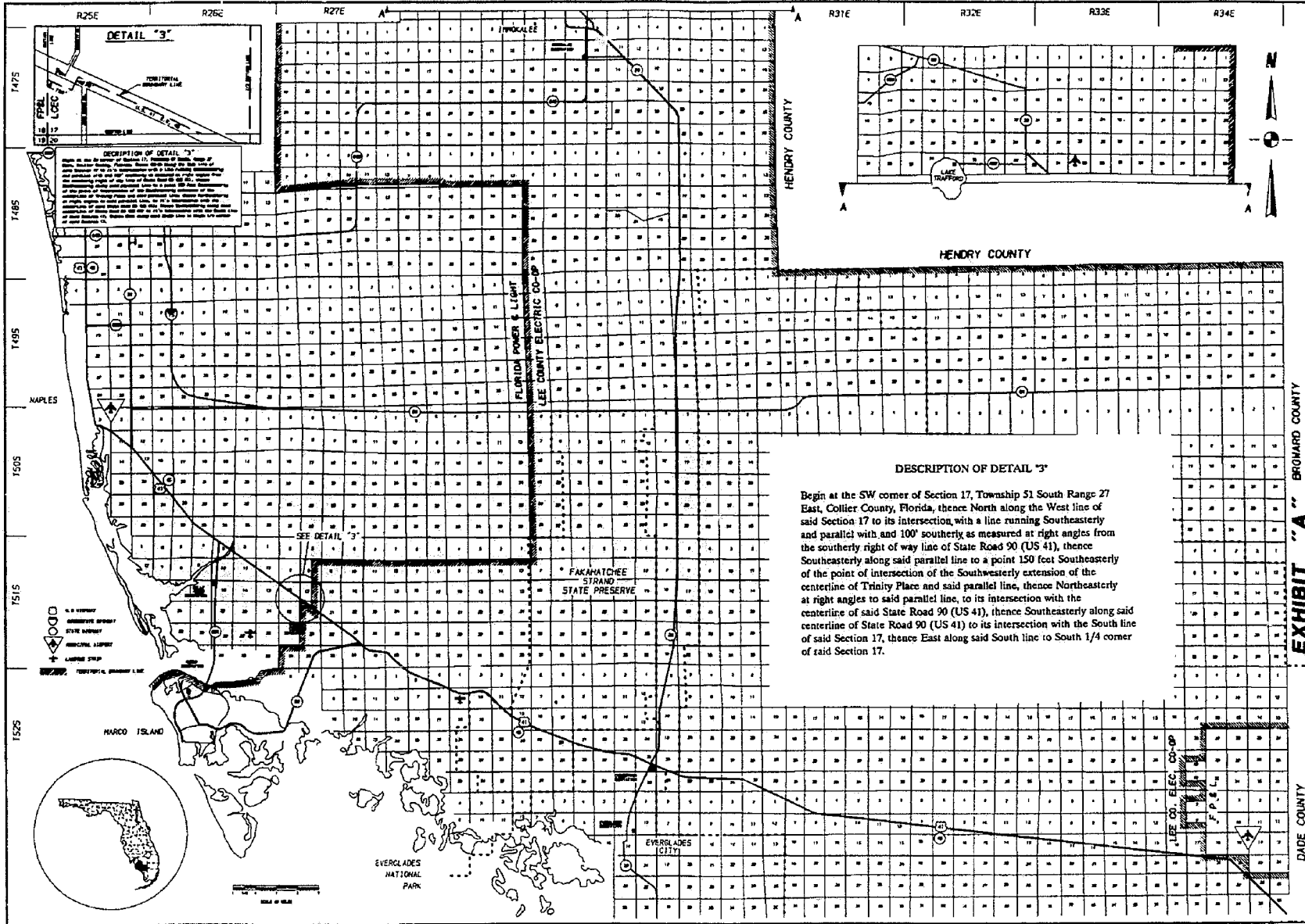
TERRITORIAL MAP



LEE COUNTY ELECTRIC COOPERATIVE, INC.
 4980 Bayline Drive
 Rt. Port Myers, Florida 33917-3909 (813) 995-2121

APPROVED:	
CHECKED:	
DATE:	
BY:	

SECT. 7021B



- 1/4 SECTION
- BOUNDARY SURVEY
- STATE BOUNDARY
- FEDERAL AIRPORT
- LAKE
- TERRITORIAL BOUNDARY LINE



SCALE OF FEET

DESCRIPTION OF DETAIL "3"

Begin at the SW corner of Section 17, Township 51 South Range 27 East, Collier County, Florida, thence North along the West line of said Section 17 to its intersection with a line running Southeasterly and parallel with and 100' southerly as measured at right angles from the southerly right of way line of State Road 90 (US 41), thence Southeasterly along said parallel line to a point 150 feet Southeasterly of the point of intersection of the Southwesterly extension of the centerline of Trinity Place and said parallel line, thence Northeasterly at right angles to said parallel line, to its intersection with the centerline of said State Road 90 (US 41), thence Southeasterly along said centerline of State Road 90 (US 41) to its intersection with the South line of said Section 17, thence East along said South line to South 1/4 corner of said Section 17.

SCOT. MAP	
DATE	
BY	
REV.	

LEE COUNTY ELECTRIC COOPERATIVE, INC.
 3880 Bayline Drive
 No. Fort Myers, Florida 33917-1909 (813)955-2321

EXHIBIT "A"

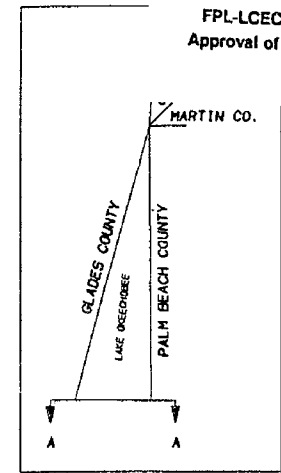
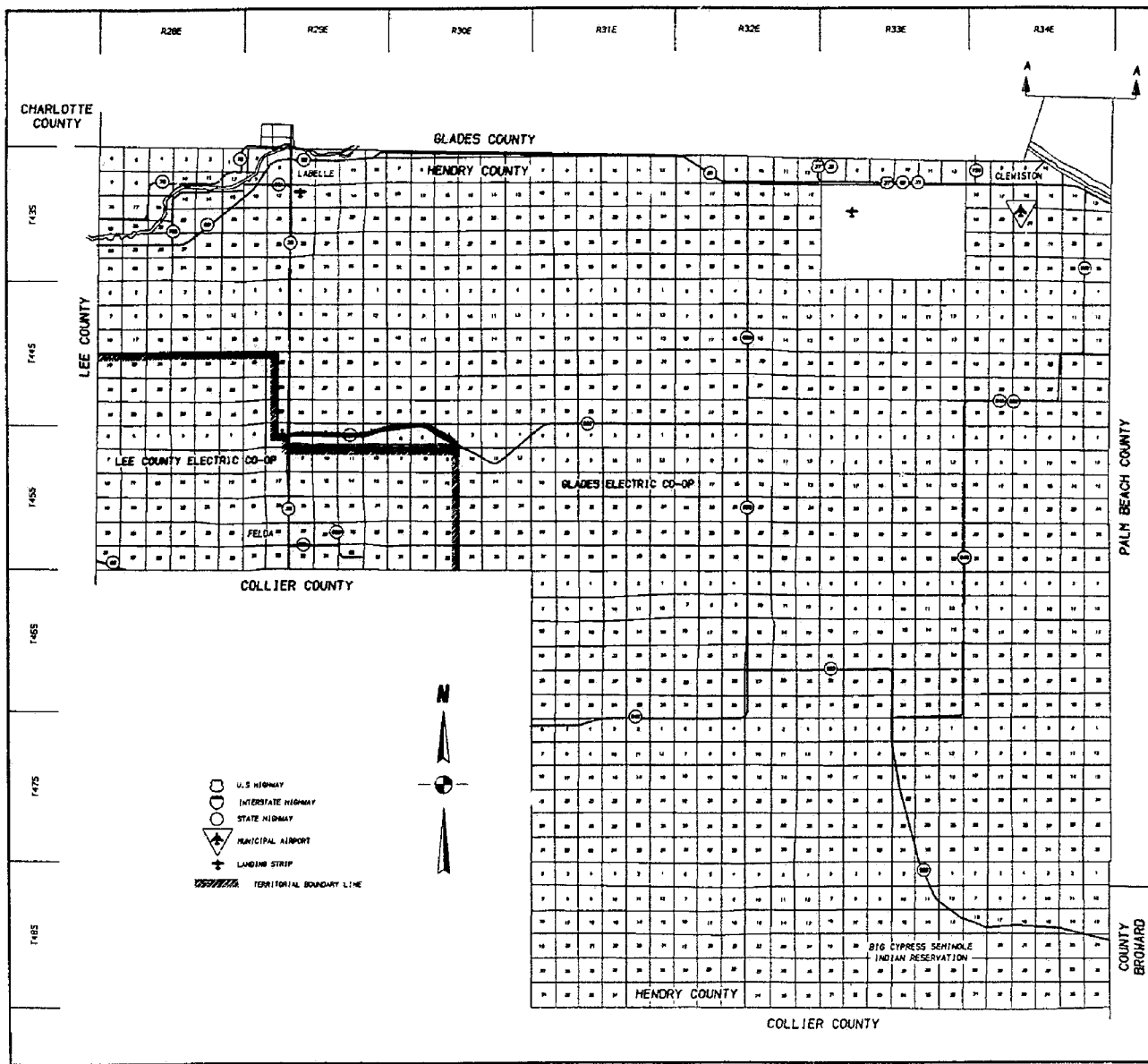
DADE COUNTY BROWARD COUNTY

COLLIER COUNTY
 TERRITORIAL MAP

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APPENDIX B

FPL-LCEC Joint Application For
Approval of a Territorial Agreement



— OLD BOUNDARY
— NEW BOUNDARY

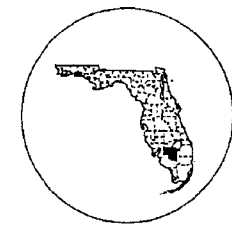


EXHIBIT "A"

LEE COUNTY ELECTRIC COOPERATIVE, INC. 4880 Bayline Drive No. Fort Myers, Florida 33917-3969 (813)995-5121	
HENDRY COUNTY TERRITORIAL MAP	
DATE: _____ DRAWN BY: _____	DATE: 09-12-88 SCALE: AS SHOWN SHEET NO. 3 OF 4 FILE NO. _____

R21E

R22E

R23E

R24E

R25E

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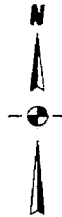
R27E

SCD1 MAP1B

APPENDIX B

FPL-LCEC Joint Application For Approval of a Territorial Agreement

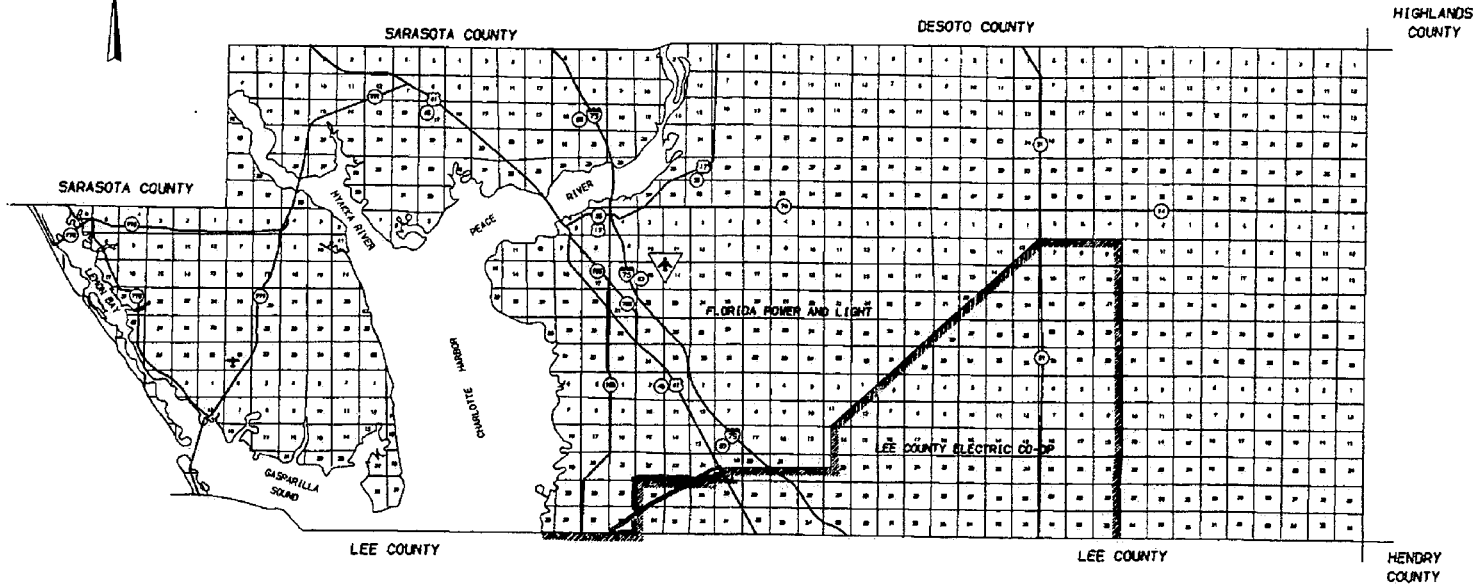
— OLD BOUNDARY
— NEW BOUNDARY



T40S

T41S

T42S



- U.S. HIGHWAY
- INTERSTATE HIGHWAY
- STATE HIGHWAY
- MUNICIPAL AIRPORT
- LANDING STRIP
- TERRITORIAL BOUNDARY LINE

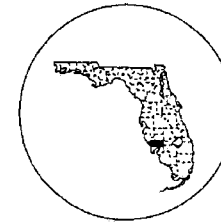



EXHIBIT "A"

CHARLOTTE COUNTY

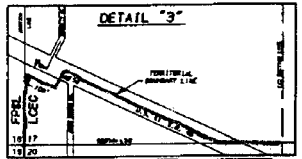
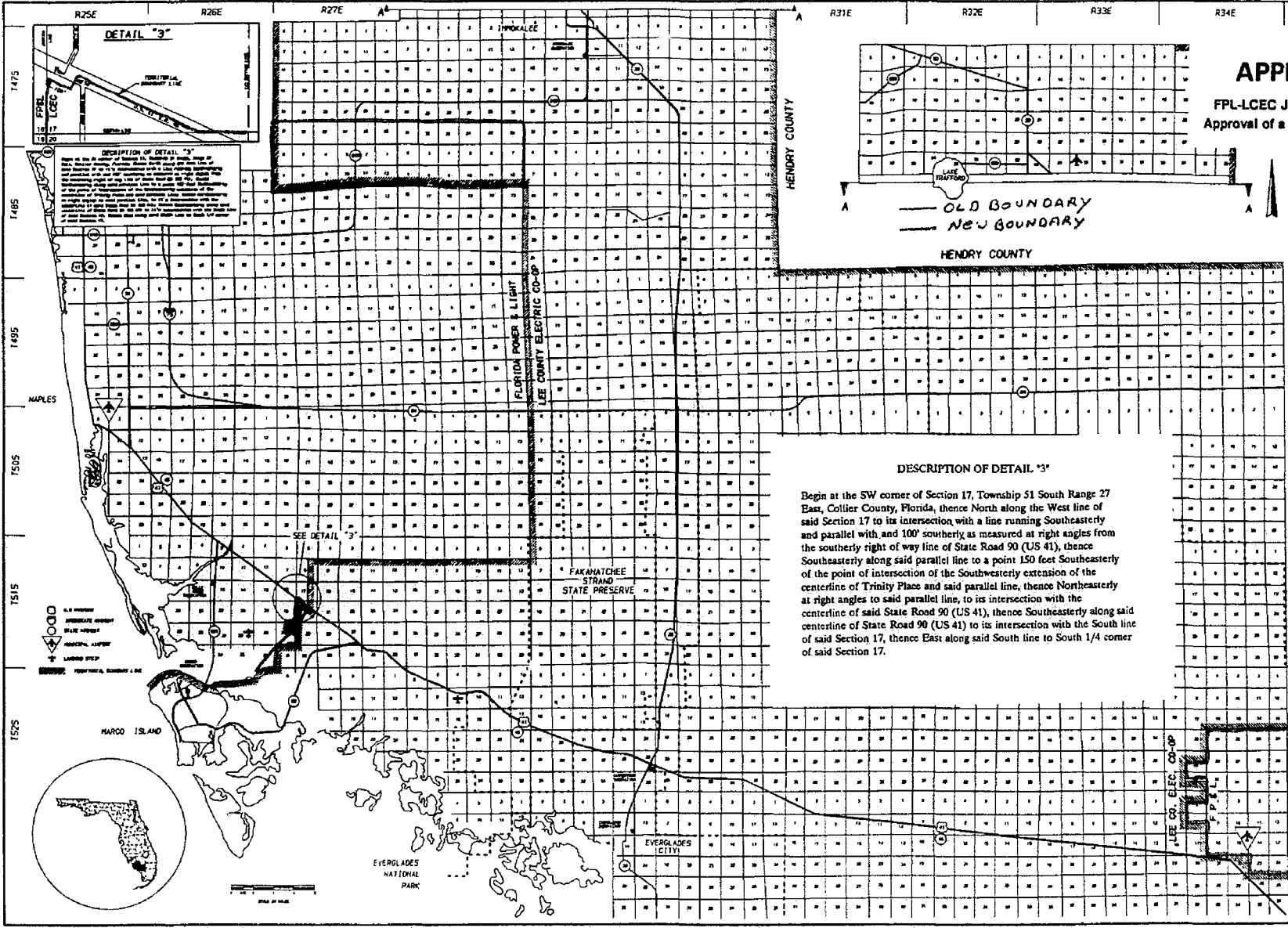
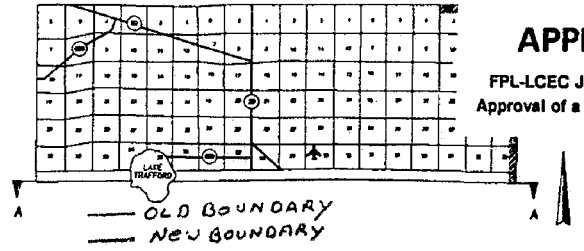
TERRITORIAL MAP


LEE COUNTY ELECTRIC COOPERATIVE,
 480 Southline Drive
 No. Pitts, Fla. 33917-9909 (813)995-2

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APPENDIX B

FPL-LCEC Joint Application For
Approval of a Territorial Agreement



DESCRIPTION OF DETAIL "3"
 Begin at the SW corner of Section 17, Township 51 South Range 27 East, Collier County, Florida, thence North along the West line of said Section 17 to its intersection with a line running Southeastly and parallel with and 100' southerly as measured at right angles from the southerly right of way line of State Road 90 (US 41), thence Southeastly along said parallel line to a point 150 feet Southeastly of the point of intersection of the Southwestly extension of the centerline of Trinity Place and said parallel line, thence Northeastly at right angles to said parallel line, to its intersection with the centerline of said State Road 90 (US 41), thence Southeastly along said centerline of State Road 90 (US 41) to its intersection with the South line of said Section 17, thence East along said South line to South 1/4 corner of said Section 17.

DESCRIPTION OF DETAIL "3"
 Begin at the SW corner of Section 17, Township 51 South Range 27 East, Collier County, Florida, thence North along the West line of said Section 17 to its intersection with a line running Southeastly and parallel with and 100' southerly as measured at right angles from the southerly right of way line of State Road 90 (US 41), thence Southeastly along said parallel line to a point 150 feet Southeastly of the point of intersection of the Southwestly extension of the centerline of Trinity Place and said parallel line, thence Northeastly at right angles to said parallel line, to its intersection with the centerline of said State Road 90 (US 41), thence Southeastly along said centerline of State Road 90 (US 41) to its intersection with the South line of said Section 17, thence East along said South line to South 1/4 corner of said Section 17.

EXHIBIT "A"

DADE COUNTY

BROWARD COUNTY

COLLIER COUNTY

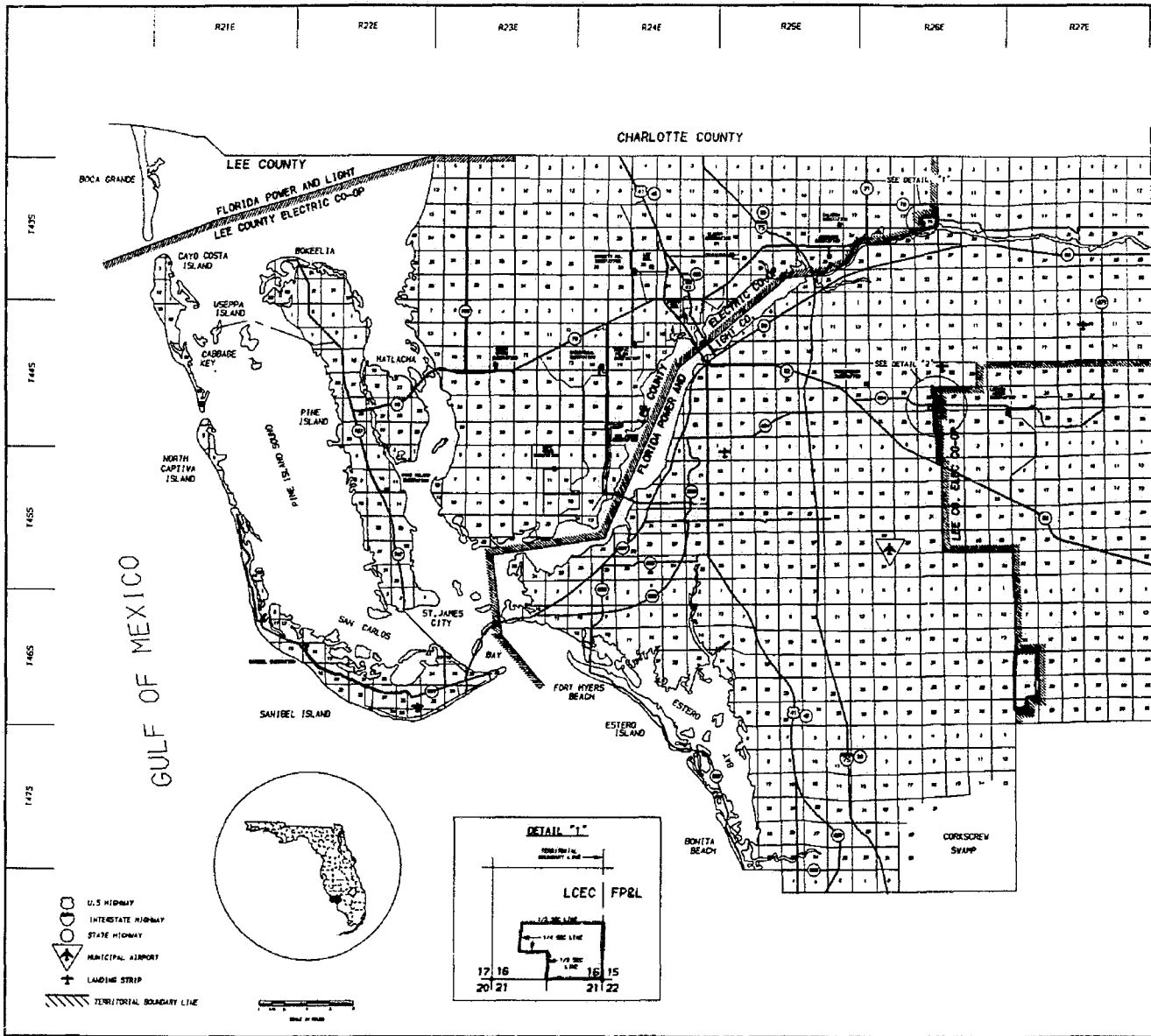
TERRITORIAL MAP

Sheet No.	DATE: 07-20-08	SCALE: AS SHOWN
Proj. No.		
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Proj. No.		

LEE COUNTY ELECTRIC COOPERATIVE, INC.
 6900 Bayline Drive
 Ft. Pierce, Florida 33917-0909 (813)995-2121

APPENDIX B

FPL-LCEC Joint Application For
Approval of a Territorial Agreement



— OLD BOUNDARY
— NEW BOUNDARY

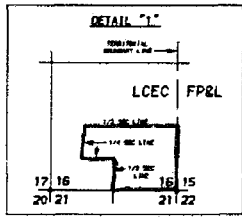
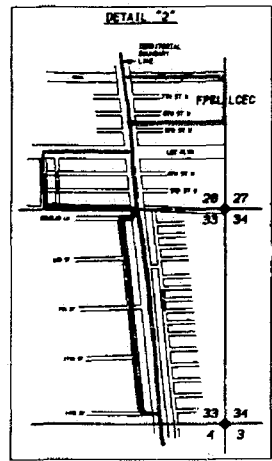


EXHIBIT "A"

LEE COUNTY ELECTRIC COOPERATIVE, INC.
4800 Bay/Lee Drive
Fort Myers, Florida 33917-3909 (813)995-2121

LEE COUNTY
TERRITORIAL MAP

U.S. No.	REV.
Proj. No.	DATE: 01-04-88
Sheet No.	SCALE: AS SHOWN
File No.	3 OF 4

LAW OFFICES
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(904) 222-8611

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Elise F. Judelle
Molly M. Madison*
Leonard T. Marcinko*
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Martha Corry Olive
W. Robert Olive
G. Keith Quinney, Jr.
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Atlanta Office

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Atlanta, Georgia 30326

(404) 239-0450
Fax: (404) 239-9343

January 21, 1993

BY HAND DELIVERY

Of Counsel
C. Farris Bryant

*Admitted in Georgia Only

930092-EU

Mr. Steven C. Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
The Fletcher Building
101 East Gaines Street
Tallahassee, FL 32399

Re: Application of Lee County Electric Cooperative,
Inc., and Florida Power & Light Company for
Approval of a Territorial Agreement

Dear Mr. Tribble:

EC 908
ET 802

Enclosed for filing are the original and fifteen (15) copies of Florida Power & Light Company's and Lee County Electric Cooperative, Inc.'s Joint Application for Approval of a Territorial Agreement.

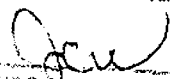
Please acknowledge receipt and filing of the above by stamping the copy of this letter attached and returning same to me.

Yours truly,


Wilton R. Miller

WRM:lms
Enclosures
Cc: John A. Noland, Esquire
Mr. Scott Sidney

RECEIVED & FILED


BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING