### Ausley, McMullen, McGehee, Carothers & Proctor

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Jann Johnson Hart Kenneth R. Hart David J. Hull E. Martin McGehee (Retired) Carolyn D. Olive R. Stan Peeler Robert A. Pierce H. Palmer Proctor M. Julian Proctor, Jr. Steven P. Seymoe William M. Smith Deborah J. Stephens James Harold Thompson J. Jeffry Wahlen Emily S. Waugh C. Gary Williams Lee L. Willis

October 19, 1993

#### BY HAND DELIVERY

Charles S. Ausley (1907-1972)
John C. Ausley (1912-1980)
D. Fred McMullen (1904-1980)
Gereld T. Hart (1948-1991)
DuBose Ausley
Mergaret B. Ausley
James D. Beesley
Michael P. Bruyere
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Kevin J. Carroll
Robert N. Clarke, Jr.
J. Marshall Conred
Timothy B. Elliott

Timothy B. Elliott Stephen C. Emmanuel John P. Fons

Van P. Geeker Michael J. Glazer Carla A. Green

Mr. Steven C. Tribble, Director Division of Records and Reporting Florida Public Service Commission 101 East Gaines Street Tallahassee, Florida 32301

Englaged bewerith

In re Petition to Resolve Territorial Dispute Between Okefenoke Rural Electric Membership Corporation and Jacksonville Electric Authority; Docket No. 911141-EU

Dear Mr. Tribble:

ACK .	/	the original and fifteen (15) copies of the Joint Motion for Approval of Plan to Eliminate Duplicate Electric Facilities and to Resolve Territorial Dispute of Okefenoke Rural Electric Membership
AFA.		Corporation and Jacksonville Electric Authority.
APP . CAF . CMU .		Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.
CTR .		Thank you for your assistance in connection with this matter.
EAG). LEG . LIN .	1	Sincerely yours,
OFC .	_	James Warold Thompson
SE	1	JJW:dm Enclosures
W		cc All Parties of Record
01		(with enclosures)

DOCUMENT NUMBER-DATE

11202 OCT 19 8

1130-RECORDS/REPORTING

In re: Petition to Resolve Territorial Dispute Between Okefenoke Rural Electric Membership Corporation and Jacksonville Electric Authority.

DOCKET NO. 911141-EU Filed: October 19, 1993

FILE COPY

# JOINT MOTION FOR APPROVAL OF PLAN TO ELIMINATE DUPLICATE ELECTRIC FACILITIES AND TO RESOLVE TERRITORIAL DISPUTE

Pursuant to Order No. PSC-92-1213-FOF-EU ("Order No. 92-1213") and Rules 25-6.0440 and 25-22.037, Florida Administrative Code, the JACKSONVILLE ELECTRIC AUTHORITY ("JEA") and OKEFENOKE RURAL ELECTRIC MEMBERSHIP CORPORATION ("OREMC") (together, the "parties") hereby jointly move the Florida Public Service Commission for an order approving the parties' plan to eliminate duplicate electric facilities and resolve the territorial dispute between the parties, and say:

### Background

- 1. On November 19, 1991, OREMC filed a petition before the Florida Public Service Commission ("FPSC") to resolve a territorial dispute between OREMC and JEA.
- 2. The FPSC issued Order No. 92-1213 on October 27, 1992, resolving the territorial dispute between OREMC and JEA and directing JEA to create a plan to eliminate existing duplication and to prevent future duplication of electric facilities within northern Duval County.

DOCUMENT NUMBER-DATE

- 3. During the period from October 27, 1992, and September 9, 1993, the parties met for the purpose of determining a mutually agreeable way to eliminate existing and to prevent future duplication of electric facilities within northern Duval County.
- 4. On September 10, 1993, the parties entered into an agreement, a copy of which is attached hereto as Exhibit A. The agreement reflects the parties' plan to eliminate existing duplication and to prevent future duplication of electric facilities within Duval County.

#### The Agreement

- 5. The agreement is clear, concise, and speaks for itself. In general, it provides that JEA will purchase all of OREMC's electric distribution system in Duval County. The purchase will occur in four phases. Each phase is expected to take approximately one month. The first phase will begin as soon as all necessary approvals have been received. After each transfer has occurred, JEA will begin to dismantle and retire the duplicate facilities. Completion of the transfers of OREMC's facilities to JEA and retirement of the duplicate facilities will eliminate the existing duplication in Duval County. The agreement will also prevent future duplication, because OREMC will not be installing new facilities or providing service in Duval County.
- 6. The agreement contains a territorial provision which is being submitted for approval by the FPSC. The territorial provision is contained in paragraph one of the agreement, which states:

Duval County Line. OREMC will relinquish whatever right it may have to serve in Duval County. As between OREMC and JEA, JEA will not serve customers north or west of the Duval County line, in areas traditionally served by OREMC without obtaining prior approval of the FPSC, with the exception of a small number of customers near Yulee, Florida, which JEA will serve at the request of OREMC.

7. A map reflecting the boundary between the parties and the areas traditionally served by OREMC outside of Duval County is attached hereto as Exhibit B. A list of the "small number of customers near Yulee, Florida, which JEA will serve at the request of ORMEC" is attached hereto as Exhibit C.

### Information Required by Rule

- 8. The information required by Rule 25-6.0440, Florida Administrative Code, is set forth below:
- a. Map and Written Description of Area. See paragraphs 6 and 8 above and Exhibit B, attached.
  - b. Terms and Conditions. See Exhibit A, attached.
- Under the agreement, OREMC will transfer to JEA and JEA will provide retail electric service to all of OREMC's current customers in Duval County and the few customers listed on Exhibit C. This amounts to approximately 2,400 customers, most of whom are residential customers and only a few of whom are commercial or industrial customers.
- d. <u>Customer Notification</u>. On September 24, 1993, OREMC notified all of the customers to be transferred of the proposed transfer by letter. A copy of the letter sent to the customers (first class, United States mail) is attached hereto as Exhibit D.

e. <u>Level of Customer Acceptance</u>. As of the date of this motion, OREMC has received written responses from 794, or about 33 percent, of the customers to whom notice was given. Of those responding, 527, or about 66 percent were in favor of or did not object to the proposed transfer. The Holiday Inn has been contacted and is in favor of the proposed transfer.

#### Other Matters

- 9. As indicated in paragraph four of the agreement, the transfer of facilities described in the agreement is subject to the approval of the Rural Electric Administration ("REA") and the Natural Rural Utilities Cooperative Finance Corporation ("CFC"). Concurrent with the filing of this petition, OREMC has filed a request for approval and partial lien release with REA and CFC. OREMC expects that the required approval of REA and CFC will be forthcoming.
- 10. In paragraphs 13, 14, and 15 of the agreement, the parties indicated that further agreements might be needed as this transaction progresses. At this time, the parties have not indicated a need for any further agreements but will file any such further agreements with the Division of Records and Reporting and the Division of Legal Services for informational purposes if the need for such further agreements arises in the future.
- 11. In paragraph 5 of the agreement, the parties have made provisions for interim service for customers within Duval County. The agreement is silent on interim service provisions for areas outside Duval County, because the parties do not anticipate the need for interim service outside of Duval County. However, if for

some reason it is more economical and practical for JEA to provide service to a location outside of Duval County on an interim basis, the parties will jointly petition the FPSC for permission to provide such service. For the purpose of this paragraph, interim service means service which is expected to last less than one year from the time of inception.

#### Conclusion

12. The parties believe that this plan and the agreement are in the public interest. The plan and agreement will eliminate the existing duplication in northern Duval County and will prevent future duplication in northern Duval County.

WHEREFORE, OREMC and JEA jointly request that the FPSC enter an order which (a) approves the territorial provisions of the agreement and (b) accepts the agreement as a satisfactory plan to eliminate existing and prevent future duplication of facilities northern Duval County.

Respectfully submitted this 19th day of October, 1993.

JAMES HAROLD THOMPSON

J. JEHFRY WAHLEN

Ausley, McMallen, McGehee, Carothers & Proctor

Post Office Box 391 Tallahassee, FL 32302 (904) 224-9115

ATTORNEYS FOR OREMC

CHARLES W. ARNOLD, JR.
General Counsel, and
BRUCE PAGE
Assistant General Counsel
OFFICE OF GENERAL COUNSEL
1300 City Hall
220 East Bay Street

220 East Bay Street Jacksonville, FL 32202

KENNETH A. HOFFMAN

Messer, Vickers, Caparello,
Madsen, Lewis, Goldman &

Madsen, Lewis, Goldman & Metz, P.A.

Post Office Box 1876 Tallahassee, FL 32302-1876 (904) 222-0720

ATTORNEYS FOR JEA

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Joint Motion for Approval of Plan to Eliminate Duplicate Electric Facilities and to resolve Territorial Dispute has been furnished by United States mail or hand delivery\* on this 19th day of October, 1993, to the following:

Charles W. Arnold, Jr., Esquire Bruce Page, Esquire Office of General Counsel 1300 City hall 220 East Bay Street Jacksonville, FL 32202

Kenneth A. Hoffman, Esquire\*
Messer, Vickers, Caparello,
 Madsen, Lewis, Goldman &
 Metz, P.A.
Post Office Box 1876
Tallahassee, FL 32302-1876

Ms. Martha Carter Brown\*
Ms. Mary Anne Helton\*
Fla. Public Service Commission
Division of Legal Services
101 East Gaines Street
Tallahassee, FL 32301

Attorney

In re: Petition to Resolve Territorial Dispute Between Okefenoke Rural Electric Membership Corporation and Jacksonville Electric Authority.	911141-EU
Membership Corporation and	

AGREEMENT BETWEEN OREMC AND JEA

#### AGREEMENT

THIS AGREEMENT is made as of the \_\_\_\_\_\_ day of September, 1993, between OKEFENOKE RURAL ELECTRIC MEMBERSHIP CORPORATION ("OREMC") and the JACKSONVILLE ELECTRIC AUTHORITY ("JEA").

WHEREAS, OREMC is the owner and operator of an electrical distribution system serving customers in Duval County, Florida; and

WHEREAS, JEA desires to purchase and OREMC agrees to sell the entire electric distribution system owned by OREMC in Duval County, Florida, including, but not limited to poles, wires, insulators, meters, real estate, leases, easements, rights-of-way, etc., excluding Oil Filled Equipment, (i.e., transformers, regulators, reclosers, sectionalizers, oil switches, and capacitors), free and clear of all liens and encumbrances; and

WHEREAS, due to the complex nature of this transaction, the parties acknowledge that there are many details to be worked out between the parties; and

WHEREAS, the parties agree to proceed diligently and in good faith to work out such details in a manner mutually agreeable to the parties; and

WHEREAS, the parties intend this agreement to be a valid, legal, and binding obligation for both parties.

NOW, THEREFORE, in consideration of the promises, the representations and warranties contained in this agreement, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

 Duval County Line. OREMC will relinquish whatever right it may have to serve in Duval County. As between OREMC and JEA, JEA will not serve customers north or west of the Duval County line, in areas traditionally served by OREMC without obtaining prior approval of the FPSC, with the exception of a small number of customers near Yulee, Florida, which JEA will serve at the request of OREMC.

- 2. Sale of Facilities. OREMC shall sell, convey, transfer, assign and deliver to JEA free and clear of all liens, security interest, charges and encumbrances, all of the electric distribution system owned by OREMC in Duval County, Florida, including, but not limited to poles, wires, insulators, meters, real estate, leases, easements, rights-of-way, excluding oil filled equipment (i.e., transformers, regulators, reclosers, sectionalizers, oil switches, and capacitors). The parties shall proceed in good faith to accomplish the transfer of OREMC's facilities and customers in Duval County in accordance with the schedule attached as Exhibit "A."
- 3. <u>Purchase Price</u>. The purchase price of the above described facilities shall be \$2,400,000. In addition to the payment for the above described facilities, JEA agrees to pay OREMC ten (10) annual payments, the present value at 6% of which on the date of transfer shall be approximately \$6,753,945. These annual payments shall be compensation to OREMC for the loss of future revenues. In addition, JEA shall pay to OREMC \$100,000.00 as reimbursement for expenses previously incurred in conjunction with this matter. The timing of these payments shall be in accordance

with a schedule to be mutually agreed to by the management of the parties.

- 4. Approvals. The transfer of facilities shall be subject to approval by the Rural Electrification Administration and the National Rural Utilities Cooperative Finance Corporation. No facility or customer transfers shall occur prior to the receipt of such approvals. OREMC will use its best efforts to obtain such approvals to meet the transfer time tables contained herein. To the extent required by law, the transfer of facilities and customers described herein shall also be subject to approval by the Florida Public Service Commission. The parties agree to cooperate for the purposes of securing FPSC approval of the resulting agreement or agreements. In no event shall facilities or customers be transferred from OREMC to JEA without FPSC approval, if required by law.
- 5. Interim Provisions for New Customers. If, prior to the date of the final transfer, an individual requires electric service in an area in Duval County still being served by OREMC, JEA will perform any line work required to serve the customer. OREMC will then hook up the new customer to OREMC's line and set a JEA provided meter. OREMC will bill and receive revenues from such customers until such related facilities and customers are transferred to JEA.
- 6. New Service Point. JEA shall provide to Seminole Electric Cooperative a new 26.4kV service point at the Duval-Nassau

County line to provide OREMC with its needed capacity and energy to serve OREMC's customers in west Nassau County.

- 7. Termination of Existing Contract. Upon transfer of all OREMC Customers in the Black Hammock area and those certain OREMC Customers in the Yellow Bluff area which receive electric power from the Oak Grove Service Point located on Cedar Point Road, JEA agrees to terminate, without penalty to Seminole Electric Cooperative, Inc. ("SECI") or OREMC, that certain Wholesale Electric Service Contract between Jacksonville Electric Authority and Seminole Electric Cooperative, Inc. dated February 17, 1987. The Agreement or Agreements shall also be subject to and contingent upon SECI's agreement to terminate that same agreement without penalty to JEA or OREMC.
- 8. No Assumption of Liabilities by JEA. JEA shall not assume or be responsible for any financial obligations or liabilities of OREMC. Without limiting the generality of the foregoing, JEA shall not assume or be responsible for:
- (a) Any tax, penalty or fee assessed on OREMC arising out of or resulting from the sale of facilities;
- (b) Any tax, penalty or fee resulting from the operations of the facilities before the date of closing;
- (c) Except as discussed in paragraph 3, any attorney's, accountant's or other fees or expenses incurred by OREMC in connection with this Agreement or any transaction made necessary by this Agreement.

- (d) Any liabilities or obligations resulting from any lawsuit or proceeding in any way related to OREMC arising out of transactions or events in any way related to the facilities; or
  - (e) Any accrued but unpaid obligation of OREMC.
- 9. No Assumption of Liabilities by OREMC. OREMC will not be responsible for any financial obligations or liabilities of JEA. Without limiting the generality of the foregoing, OREMC shall not assume or be responsible for:
- (a) Any tax, penalty or fee assessed on JEA arising out of or resulting from the sale of facilities;
- (b) Any tax, penalty or fee resulting from the operations of the facilities after the date of closing;
- (c) Any attorney's, accountant's or other fees or expenses incurred by JEA in connection with this Agreement or any transaction made necessary by this Agreement.
- (d) Any liabilities or obligations resulting from any lawsuit or proceeding in any way related to JEA arising out of transactions or events in any way related to the facilities; or
  - (e) Any accrued but unpaid obligation of JEA.
- 10. <u>Customer Notification</u>. The parties will cooperate for the purpose of giving notice of this transaction to OREMC customers in Duval County. The parties will also work together to minimize service interruptions and customer disruptions.
- 11. Oil-Filled Equipment. JEA shall return the oil-filled equipment covered by the Agreement or Agreements to OREMC over a period of 24 months in good working condition and to a location to

be determined by OREMC. The parties agree to cooperate for the purpose of scheduling such returns in a manner which meets the mutual operational requirements of the parties.

- 12. Environmental Indemnification. OREMC shall indemnify JEA and hold JEA harmless from and against any claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith, including but not limited to attorney's fees, paralegal charges and expenses, arising directly, or indirectly, in whole or in part, out of:
- (a) Any activity by OREMC employees, contractors or agents, in connections with the treatment, decontamination, handling, removal, storage, cleanup, transport or disposal of hazardous material in Duval County before closing; and
- (b) The presence caused by OREMC, its employees, agents or contractors of any hazardous materials or releases or discharges of hazardous materials in Duval County before the transfers.

JEA shall indemnify OREMC in the same manner for (a) and (b) above, as they relate to such activities after closing.

13. Other Provisions. Any future agreement or agreements necessary to work out the details between the parties shall contain recitals, representations, covenants, warranties, limitations of liability, and indemnification provisions, including the environmental indemnification provisions above, all of which shall be mutually agreeable to the parties.

- 14. Other Provisions. Any future agreement or agreements necessary to work out the details between the parties shall include provisions for a closing or multiple closings, as needed, shall define suitable evidence of title, and shall address the assignments of easements, rights-of-way and permits, all in a manner mutually agreeable to the parties.
- 15. Other Provisions. Any future agreement or agreements necessary to work out the details between the parties shall also contain all other provisions necessary to fulfill the purposes of this agreement, all of which shall be mutually agreeable to the parties.

IN WITNESS WHEREOF the parties have executed this Agreement of Intent as of this 10th date of September, 1993.

Signed, sealed and delivered in the presence of:

JACKSONVILLE ELECTRIC AUTHORITY

Its: Managing Director

STATE OF FLORIDA COUNTY OF DUVAL.

The foregoing instrument was acknowledged before me this day of Neotemba, 1993, by ROYCE LYLES, as Managing Director of the JACKSONVILLE ELECTRIC AUTHORITY, on behalf of the Authority. He is personally known to me and did not take an oath.

AXINE M. WIGGINS Name of Notary Typed or Printed

Action of the strategic and th

Signed, sealed and delivered in the presence of:

OKEFENOKE RURAL ELECTRIC MEMBERSHIP CORPORATION

W. DON HOLLAND Its: General Manager

STATE OF FLORIDA COUNTY OF DUVAL

day of \_\_\_\_\_\_, 1993, by W. DON HOLLAND, as General Manager of the OKEFENOKE RURAL ELECTRIC MEMBERSHIP CORPORATION, on behalf of the Corporation. He has produced a drivers license as identification and did not take an oath.

FORM APPROVED

ASSISTANT GENERAL COUNSEL

Signature of Notary

William

Name of Notar

### Transfer Schedule

All customers and facilities of OREMC shall be transferred to JEA in accordance with the following schedule:

On or About	Area			
October 7, 1993	OREMC's Black Hammock area and those facilities and customers in the Yellow Bluff area served by the Oak Grove Service Point.			
November 1, 1993	OREMC's Lannie Road area.			
December 1, 1993	OREMC's Dinsmore area.			
January 10, 1994	OREMC's Airport area plus the remaining facilities and customers in the Yellow Bluff area.			

In re: Petition to Resolve Territorial Dispute Between Okefenoke Rural Electric Membership Corporation and Jacksonville Electric Authority.

DOCKET NO. 911141-EU

MAPS

In re: Petition to Resolve
Territorial Dispute Between
Okefenoke Rural Electric
Membership Corporation and
Jacksonville Electric Authority.

LIST OF SMALL NUMBER OF CUSTOMERS NEAR YULEE, FLORIDA, WHICH JEA WILL SERVE AT THE REQUEST OF OREMC Thweatt, William B. c/o Rick Thweatt 302 Spring Meadow Rd. Yulee, FL 32097

Wells, Gayle S. 291 Spring Meadow Ave. Yulee, FL 32097

Bateman, Minnie D. 285 Spring Meadow Ave. Yulee, FL 32097

King, Rhonda C. P. O. Box 1711 Yulee, FL 32097

Parker, Don L. & Melanie D. 275 Spring Meadow Ave. Yulee, FL 32097

Register, Dennis C. 261 Spring Meadow Ave. Yulee, FL 32097

Grant, Reginald Box 90 Moss Oak Dr. Yulee, FL 32097

Crady, George 1401 U.S. 17 South Yulee, FL 32097

Gardner, C. W. 1309 U.S. 17 South Yulee, FL 32097

LeBlanc, Gilbert J. 1275 Harts Rd. Yulee, FL 32097

Hambrick, James Glen P. O. Box 797 Yulee, FL 32097

Morris, Dennis W. 276 Spring Meadow Yulee, FL 32097 McKnight, Cathleen E. P. O. Box 1045 Yulee, FL 32097

> Hamblett, Leonard L. 292 Spring Meadow Ave. Yulee, FL 32097

Frederick, Bruce W. 455 Cardinal Rd. Yulee, FL 32097

Woods, Steve D. 461 Cardinal St. Yulee, FL 32097

Young, Ron E. 463 Cardinal St. Yulee, FL 32097

Florida Community College Attn: Accounts Payable 501 West State St. Jacksonville, FL 32202

Kirkus, Tony J. 255 Spring Meadow Ave. Yulee, FL 32097

Hinton, Robert J. P. O. Box 1185 Yulee, FL 32097

Simeone, Joseph M. 252 Spring Meadow Ave. Yulee, FL 32097

Ardis, Michael K. 256 Spring Meadow Ave. Yulee, FL 32097

Keene, Elizabeth A. P. O. Box 1252 Yulee, FL 32097

Horne, Rhonda E. 282 Spring Meadow Ave. Yulee, FL 32097

In re: Petition to Resolve Territorial Dispute Between Okefenoke Rural Electric Membership Corporation and Jacksonville Electric Authority.	)	DOCKET	NO.	911141-EU
	)			

CUSTOMER NOTIFICATION LETTER



### Okefenoke Rural Electric Membership Corporation

POST OFFICE BOX 602 NAHUNTA, GEORGIA 31553 912-462-5131 1-800-262-5131

"Owned by Those We Gerve"

September 24, 1993

Dear Member:

I am writing to you, a member of Okefenoke Rural Electric Membership Corporation, to inform you of steps which are currently underway to eliminate duplication of electric service in your area. In recent years the Florida Public Service Commission has periodically expressed concern that having more than one electric utility in an area is more expensive to the consumer. In the case concerning your particular area, they have directed the Jacksonville Electric Authority to solve the matter of service duplication along with our cooperation.

OREMC and JEA have been negotiating for months to settle this issue. Even though we had no desire to lose you as a member, we felt an obligation to explore a number of options which could lead to serving existing and future consumers in the most economical manner.

Okefenoke's Board of Directors and the Jacksonville Electric Authority have both endorsed an agreement pending approval of the Rural Electrification Administration and the Florida Public Service Commission.

This agreement, if approved, will affect you in that your electric service in the future will be provided by the Jacksonville Electric Authority. Currently, JEA rates for your class of service are less than Okefenoke's charge. All reasonable steps will be taken to minimize any inconvenience to you. Provided the agreement is approved, you will be contacted again prior to your transfer which should occur between October 1st and January 31st.

We solicit your opinion of the proposed transfer and have enclosed a response for your completion.

Should you have questions or comments regarding this, please call Tommy Todd at 1-800-262-5131, extension 155. Representatives of Okefenoke REMC and JEA will be pleased to meet with you at your convenience.

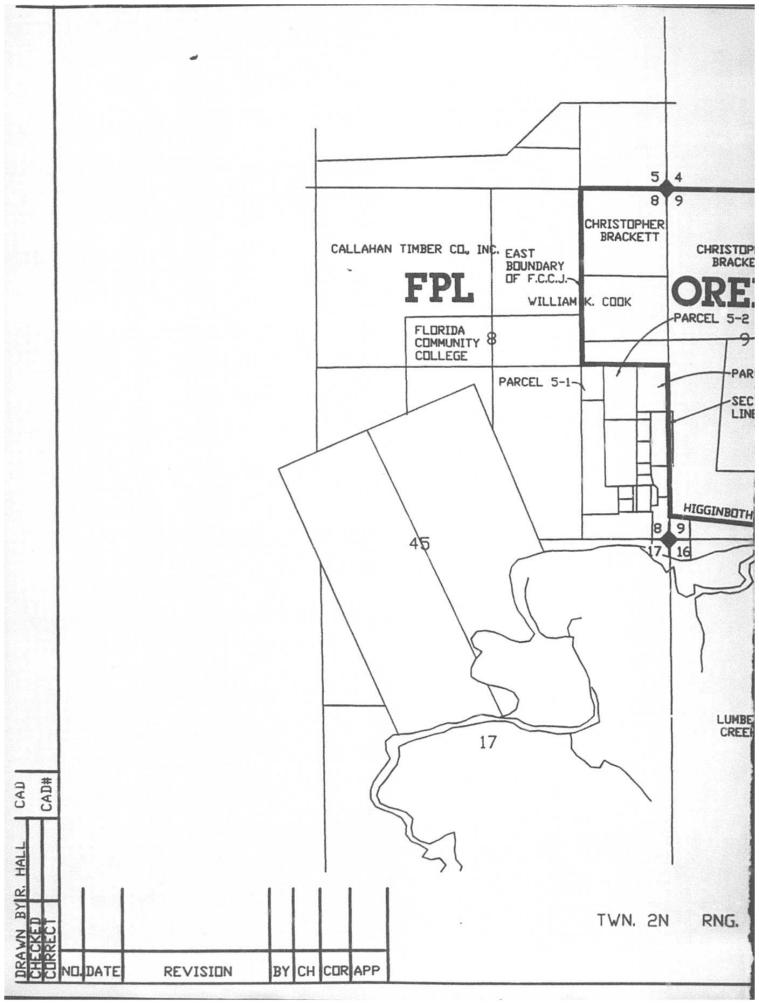
Sincerely,

W. Don Holland General Manager

## Okefenoke Rural Electric Membership Corporation

### Member Response Form

I am in support of the proposed transfer of my account from Okefenoke REMC to the Jacksonville Electric Authority.
I am opposed to the proposed transfer of my account from Okefenoke REMC to the Jacksonville Electric Authority.
I would like a representative from Okefenoke REMC to contact me to discuss this matter.
Account Number
Name
Telephone Number
NOTE: Please place a check mark beside your choice(s) and fill in the blanks, showing your account number and name as they appear on your mailing label, and return this form to us in the enclosed postage-paid envelope.
COMMENTS:



**EXHIBIT A** PAGE 6 OF 7 **JULY 23, 1993** SECTION LINE MC 42 CEL 5-3 TION ST. RD. #5 S.C.L. RAILRDAD R/W 16 **DETAIL FROM** SHEET #1 27E DATE ENGR. M. GARMAN MAP # SCALE SCALE JOB # \_JOB\*

FLORIDA POWER & LIGHT COMPANY

B-0000-06