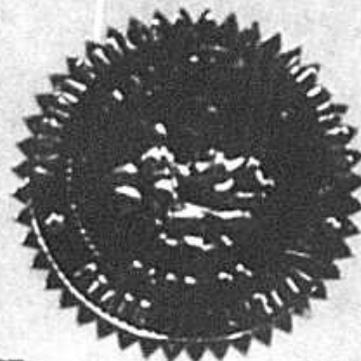


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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 970512-EU  
: :  
Petition to resolve territorial: :  
dispute with Clay Electric : :  
Cooperative, Inc. in Baker : :  
County by Florida Power & : :  
Light Company. : :  
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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER JOE GARCIA  
Prehearing Officer  
Teleconferencing from Miami

DATE: Wednesday, October 15, 1997

TIME: Commenced at 9:30 a.m.  
Concluded at 9:40 a.m.

PLACE: Betty Easley Conference Center  
Room 152  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: ROWENA NASH  
Official Commission Reporter

DOCUMENT NUMBER-DATE

10570 OCT 15 5

FPSC-RECORDS/REPORTING

1 **APPEARANCES:**

2                   **MARK K. LOGAN**, Bryant, Miller & Olive,  
 3 P.A., 201 South Monroe Street, Suite 500, Tallahassee,  
 4 Florida 32301, and **PATRICK M. BRYANT**, Law Department,  
 5 Florida Power & Light Company, 700 Universe Boulevard,  
 6 Juno Beach, Florida 33408, appearing on behalf of  
 7 **Florida Power and Light Company.**

8                   **JOHN H. HASWELL**, Chandler, Lang & Haswell,  
 9 211 Northeast First Street, Post Office Box 23879,  
 10 Gainesville, Florida 32601, appearing on behalf Clay  
 11 **Electric Cooperative, Inc.**

12                   **GRACE A. JAYE**, and **ROBERT V. ELIAS**, Florida  
 13 Public Service Commission, Division of Legal  
 14 Services, 2540 Shumard Oak Boulevard, Tallahassee,  
 15 Florida 32399-0870, appearing on behalf of the  
 16 **Commission Staff.**

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**P R O C E E D I N G S**

(Hearing convened at 9:30 a.m.)

**COMMISSIONER GARCIA:** Are we set?

**MR. ELIAS:** Yes.

**COMMISSIONER GARCIA:** Can they give me sort  
of a wider shot so I can see --

**MR. ELIAS:** Can you do a wider shot? Do we  
need to move around?

**COMMISSIONER GARCIA:** I can see you now,  
Bob. I can see where you are at. I see your hand.

**COMMISSIONER GARCIA:** Call the hearing to  
order.

**MS. JAYE:** Pursuant to notice issued  
September 25, 1997, this time and place have been set  
aside for a prehearing in Docket No. 970512-EU, the  
petition to resolve territorial dispute with Clay  
Electric Cooperative, Inc. in Baker County by Florida  
Power & Light Company.

I note for the record the room has been  
moved from 152 to 148 and the parties have notice and  
signs have been posted on the appropriate doors.

**COMMISSIONER GARCIA:** Okay. I will take  
appearances.

**MS. JAYE:** Grace Jaye appearing on behalf of  
the Commission Staff.

1           **MR. HASWELL:** I'm John Haswell of Chardler  
2 Lang & Haswell, P.O. Box 23879, Gainesville, Florida,  
3 on behalf of Clay Electric Cooperative, Inc.

4           **MR. LOGAN:** Mark Logan of Bryant Miller and  
5 Olive, on behalf of Florida Power & Light Company, and  
6 I'd also like to enter an appearance of Patrick Bryan,  
7 in-house counsel for FP&L. Mr. Bryan is not here  
8 today but will be at the hearing on the 27th.

9           **COMMISSIONER GARCIA:** Okay. Let me make  
10 sure I've got this. Hang on one second.

11           Okay. Are there any preliminary matters?

12           **MS. JAYE:** None that we are aware of.

13           **COMMISSIONER GARCIA:** Okay. So then let's  
14 just go through this section by section, if there are  
15 any questions we'll stop and deal with it then.

16           Corrections or changes to the case  
17 background. Corrections or changes to the order  
18 witness list, order of witnesses.

19           **MR. HASWELL:** Commissioner, I believe FP&L  
20 has some issue numbers to add to the order of  
21 witnesses.

22           **COMMISSIONER GARCIA:** Okay.

23           **MR. LOGAN:** Yes, Commissioner Garcia, for  
24 Mr. Hood on direct testimony, issue numbers will be 1  
25 through 15. The same for Mr. Hood on rebuttal. For

1 Mr. Noble and Mr. Brill for FP&L on rebuttal, they  
2 would both have the following issues, 6, 8, 9 and 10  
3 through 13.

4 COMMISSIONER GARCIA: Okay. Is that it,  
5 Mr. Logan?

6 MR. LOGAN: Yes, sir, thank you.

7 COMMISSIONER GARCIA: Okay. Nothing from  
8 Clay, right?

9 MR. HASWELL: No changes to Clay's.

10 COMMISSIONER GARCIA: Okay. Corrections or  
11 changes to the basic positions.

12 MR. HASWELL: None from Clay.

13 COMMISSIONER GARCIA: Corrections or changes  
14 to the issues and positions? Do you want to go issue  
15 by issue or are we fine with --

16 MS. JAYE: I think going issue by issue at  
17 this point would be very fruitful.

18 COMMISSIONER GARCIA: Okay. Issue 1.

19 MR. HASWELL: Clay's position is stated  
20 properly.

21 COMMISSIONER GARCIA: Okay. Issue 2.

22 MR. HASWELL: Commissioner, I believe we  
23 have a stipulation to Issue 2 and Clay is satisfied  
24 with it.

25 MS. JAYE: FP&L.

1           **MR. LOGAN:** That is correct with respect to  
2 Issue 2 as well. This is language that I believe  
3 Staff has worked out, and it's acceptable to FP&L.

4           **COMMISSIONER GARCIA:** Issue 3.

5           **MR. HASWELL:** Clay's position is stated  
6 accurately.

7           **COMMISSIONER GARCIA:** Issue 4. Issue 5.  
8 Issue 6. And I see that -- I believe you have worked  
9 out or stipulated Issue 7.

10           **MS. JAYE:** We have not reached a stipulation  
11 on that. Staff has not seen that the parties are in  
12 agreement.

13           **COMMISSIONER GARCIA:** And the parties are  
14 not in agreement?

15           **MS. JAYE:** They are not in agreement, no,  
16 sir.

17           **COMMISSIONER GARCIA:** Not in agreement,  
18 okay.

19           **MS. JAYE:** We are working on that, however,  
20 and it may be worked out shortly after this  
21 prehearing.

22           **COMMISSIONER GARCIA:** Very well. So we move  
23 on. 8. 9. 10. 11. 12. 13.

24           **MR. LOGAN:** Commissioner Garcia, on Issue  
25 13, we had a brief conference with Staff prior to the

1 prehearing on this issue. The issue is phrased, I  
2 think, in two parts, and it would appear to FP&L that  
3 Staff's response is kind of a singular response to the  
4 second half of that issue, and I just wanted to point  
5 that out. Staff feels it's, I guess, a hypothetical  
6 question, but we think that the Commission's rules  
7 that govern resolution of these territorial disputes  
8 contemplate this kind of two-step process. And we  
9 just wanted to note that there does not appear to be  
10 an answer or a position taken on the first part of  
11 that issue.

12           **COMMISSIONER GARCIA:** Mr. Logan, are we  
13 speaking about Issue 13?

14           **MS. JAYE:** Yes, sir.

15           **MR. HASWELL:** Commissioner, I think what  
16 Mr. Logan means is that he's concerned that the answer  
17 by Staff assumes -- or they haven't answered whether  
18 all factors are equal. And the way we see the issue  
19 is, that question, the customer preference would come  
20 into play if all other factors are equal, so that's  
21 still an open issue itself.

22           **MS. JAYE:** Staff wishes to clarify that they  
23 are not making any sort of a prejudgment concerning  
24 customer preference at this point, except to say if  
25 everything else is determined to be equal, the

1 customer has made a decision and that is a definite  
2 hypothetical.

3 COMMISSIONER GARCIA: Well, Mr. Logan, I see  
4 it also in that way, so we'll leave it the way it is.  
5 I don't think we need to rephrase that.

6 MR. LOGAN: Thank you, Commissioner. We  
7 appreciate Staff's clarification.

8 COMMISSIONER GARCIA: Okay. Issue 14. Are  
9 we anywhere near a stipulation here?

10 MR. HASWELL: Yes, sir.

11 MR. LOGAN: Yes, sir, I believe we have a  
12 stipulation on that issue.

13 COMMISSIONER GARCIA: Very good. Good,  
14 thank you. Issue 15. And we go to the exhibit list,  
15 any corrections or changes?

16 MR. HASWELL: No, sir.

17 COMMISSIONER GARCIA: All right. Counsel,  
18 is there anything else that needs to be taken up?

19 MR. LOGAN: Commissioner Garcia, I just  
20 wanted to bring to your and Staff's attentions, I've  
21 had a discussion with Mr. Haswell this morning, we  
22 have some outstanding discovery issues which we are  
23 attempting to work out today. If we are not able to,  
24 then there would be some sort of motion filed with  
25 respect to those discovery issues. And I just wanted



1 STATE OF FLORIDA)

2 COUNTY OF LEON )

CERTIFICATE OF REPORTER

3 I, ROWENA NASH Official Commission Reporter,

4 DO HEREBY CERTIFY that the Prehearing  
5 Conference in Docket No. 970512-EU was heard by the  
6 Prehearing Officer at the time and place herein  
7 stated; it is further

8 CERTIFIED that I stenographically reported  
9 the said proceedings; that the same has been  
10 transcribed under my direct supervision; and that this  
11 transcript, consisting of 9 pages, constitutes a true  
12 transcription of my notes of said proceedings

13 DATED this 15th day of October, 1997.

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ROWENA NASH  
Official Commission Reporter  
(904) 413-6736