

AUSLEY & MCMULLEN

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TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

February 6, 2002

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

020105-EI

Re: Joint Petition of Florida Power Corporation and Tampa Electric Company for Expedited Declaratory Relief

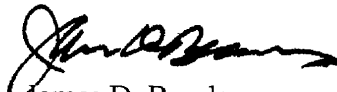
Dear Ms. Bayo:

Enclosed for filing in the above matter are the original and fifteen (15) copies of Joint Petition of Florida Power Corporation and Tampa Electric Company for Expedited Declaratory Relief.

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

Thank you for your assistance in connection with this matter.

Sincerely,


James D. Beasley

JDB/pp
Enclosure

cc: James A. McGee (w/enc.)
John W. McWhirter, Jr. (w/enc.)(via: Fed-X)
Steven F. Davis (w/enc.)(via: Fed-X)

DOCUMENT NUMBER-DATE

01455 FEB-6 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Florida Power Corporation)
and Tampa Electric Company for Expedited)
Declaratory Relief.)
_____)

DOCKET NO. 020105-EI
FILED: February 6, 2002

**JOINT PETITION OF FLORIDA POWER CORPORATION
AND TAMPA ELECTRIC COMPANY FOR EXPEDITED DECLARATORY RELIEF**

Florida Power Corporation (“Florida Power”) and Tampa Electric Company (“Tampa Electric”) jointly petition the Commission for expedited declaratory relief concerning the provision of electric service to an industrial customer’s facilities located in Tampa Electric’s Commission approved service territory and, in support thereof, say:

1. The name, address and telephone number of joint petitioners are as follows:

Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733
(727) 820-5151

Tampa Electric Company
Post Office Box 111
Tampa, FL 33601
(813) 228-4111

2. The persons to whom copies of all pleadings, correspondence, notices, orders and other filings in this proceeding should be served are as follows:

For Florida Power Corporation:

John Flynn
Manager, Regulatory Affairs
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733

James A. McGee
Associate General Counsel
Progress Energy Service Co., LLP
Post Office Box 14042
St. Petersburg, FL 33733

For Tampa Electric Company:

Angela Llewellyn
Administrator, Regulatory Affairs
Tampa Electric Company
Post Office Box 111
Tampa, FL 33602

Lee L. Willis
James D. Beasley
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

3. Florida Power and Tampa Electric are both investor-owned electric utilities whose service, rates and charges are regulated by this Commission pursuant to Chapter 366, Florida Statutes.

4. On May 29, 1991 the Commission approved a territorial agreement between Florida Power and Tampa Electric. Attached hereto as Exhibit "A" is a copy of that territorial agreement which provides in pertinent part:

Section 2.1 Territorial Allocations. Except as otherwise specifically provided herein, during the term of this Agreement TEC shall have the exclusive authority to furnish retail electric service for end use within the TEC Territorial Area and FPC shall have the exclusive authority to furnish retail electric service for end use within the FPC Territorial Area. (emphasis supplied)

5. The territorial agreement further states:

Section 2.3 Service to New Customers. The Parties agree that neither of them will knowingly serve or attempt to serve any New Customer whose end use facilities are located within the Territorial Area of the other Party, except as specifically provided in this Section of this Agreement. (emphasis supplied)

6. In mid 2001 Tampa Electric determined that IMC Phosphates Company ("IMC") was operating end use facilities within the service territory allocated to Tampa Electric by the 1991 Territorial Agreement utilizing electric power supplied by Florida Power through an interconnection located on Florida Power's side of the territorial boundary defined in the 1991 Territorial Agreement. In essence, IMC is distributing Florida Power supplied electricity purchased from Florida Power at a Florida Power substation into Tampa Electric's service territory to power its own end use facilities within Tampa Electric's service territory. The end use facilities in question are four large industrial motors powering four pumps and other miscellaneous load. These end use facilities are being fed from Florida Power's Fort Green No. 8 Substation located in Hardee County, but are located in Polk County.

7. The Commission approved territorial agreement between Florida Power and Tampa Electric specifically and consistently focuses on the location of the customer's "end use facilities" in determining which utility should provide retail electric service. The location of the serving utility's interconnection with the customer is irrelevant to this determination.

8. Under the terms of the joint petitioners' Commission approved territorial agreement, the facilities in question should be served by Tampa Electric and not by Florida Power given their location within Tampa Electric's service territory.

9. After verifying the foregoing facts, Tampa Electric contacted Florida Power to advise of the situation. Shortly thereafter, a Florida Power representative met with an IMC official to ascertain IMC's response regarding the information provided by Tampa Electric. Although the IMC official did not specifically confirm this information, he did acknowledge generally that IMC equipment located in Tampa Electric's service territory was using electricity received by IMC from Florida Power's Fort Green No. 8 Substation. The IMC official also indicated his opinion that such use of electricity supplied by Florida Power was proper.

10. Counsel for Florida Power subsequently wrote to counsel for Tampa Electric and indicated that IMC's response to Florida Power's inquiry about the situation appeared to confirm in general the existence of IMC load in Tampa Electric's Commission approved territory that is being served from Florida Power's substation, contrary to the requirements of the Commission approved territorial agreement between the two utilities. That letter further acknowledged the importance of complying with orders of the Public Service Commission – in this case, the 1991 order approving the territorial agreement – and pledged assurance that Florida Power would cooperate fully to bring the matter to a satisfactory conclusion.

11. On October 29, 2001 Tampa Electric wrote to IMC's Energy Engineering Manager advising that IMC's use of Florida Power supplied electricity to power its end use

facilities in Tampa Electric's Commission approved service territory constitutes a violation of the approved territorial agreement and requested that steps be taken within the next 90 days to switch electric service from the end use facilities in question from Florida Power to Tampa Electric. A copy of that letter is attached hereto as Exhibit "B".

12. Tampa Electric did not receive a response from IMC until it received a January 9, 2002 letter from IMC's Energy Engineering Manager. A copy of that letter is attached hereto as Exhibit "C". Rather than agreeing to switch service as requested, the January 9 IMC letter offered unacceptable alternatives.

13. Florida Power and Tampa Electric have been unsuccessful to date in attempting to persuade IMC to cooperate in switching electric service to the end use facilities in question from Florida Power to Tampa Electric despite several meetings and correspondence. It is incumbent upon Florida Power and Tampa Electric to take action to rectify this situation and to bring themselves into compliance with the Commission approved territorial agreement. An approved agreement, such as the joint petitioners' territorial agreement, becomes "an order of the Commission, binding as such on the parties." City Gas Company v. Peoples Gas System, Inc., 182 So.2d 429, 435 (Fla. 1965).

14. On this date, Florida Power and Tampa Electric have each sent a letter to IMC officially requesting that IMC take immediate steps to procure whatever equipment and to take whatever actions it considers necessary or appropriate to convert the electric service to the end use facilities in question from Florida Power supplied service to Tampa Electric service. A copy of Tampa Electric's letter to IMC is attached hereto as Exhibit "D" and a copy of Florida Power's identical letter will be filed under a separate cover letter. Joint petitioners have further advised IMC that absent prompt action on the part of IMC to accomplish this, Florida Power will have no alternative but to terminate all service to IMC for the end use facilities in question at

Florida Power's Fort Green No. 8 Substation in Hardee County. As stated in Exhibit "D" Florida Power and Tampa Electric have furnished IMC a courtesy copy of this joint petition.

15. The Commission traditionally has approved territorial agreements as a means of avoiding unnecessary duplications of service. As the Supreme Court of Florida noted in Storey v. Mayo, 217 So.2d 304, 307-308 (Fla. 1968):

An individual has no organic, economic or political right to service by a particular utility merely because he deems it advantageous to himself. If he lives within the limits of a city which operates its own system, he can compel service by the city. However, he could not compel service by a privately-owned utility operating just across his city limits line merely because he prefers that service.
...

16. Based upon the clear terms of their Commission approved territorial agreement and the case law pertaining to such agreements, joint petitioners believe they are correct in demanding that IMC take steps to immediately transfer electric service to the end use facilities in question from Florida Power to Tampa Electric and that in the absence of such cooperation on the part of the customer, that the appropriate remedy is for Florida Power to terminate service to IMC at the Florida Power substation from which the end use facilities in question are receiving power. In advance of taking such action and in recognition of this Commission's jurisdiction to regulate and supervise each public utility with respect to its rates and service,¹ joint petitioners request an order of this Commission concurring in the appropriateness of joint petitioners' above described proposed action to enforce the terms and conditions of their Commission approved territorial agreement.

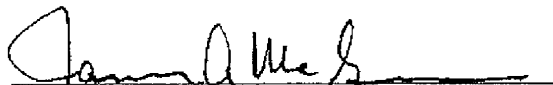
¹ Section 366.04(1), Florida Statutes.

17. Joint Petitioners have attempted to resolve this matter informally for a number of months but have not been able to do so. Accordingly, Joint Petitioners request expedited declaratory relief from the Commission in order to ensure compliance with their Commission approved territorial agreement at the earliest possible date.

WHEREFORE, Florida Power and Tampa Electric respectfully request that the Commission enter an order on an expedited basis confirming the appropriateness of Florida Power and Tampa Electric requiring IMC to immediately cease utilizing retail electric service provided by Florida Power to operate IMC's end use facilities located in Tampa Electric's Commission approved retail service territory and to instead utilize electric service provided by Tampa Electric to operate such end use facilities. Joint petitioners further request that the Commission's order confirm the appropriateness of Florida Power terminating service to the IMC end use facilities in question at Florida Power's Fort Green No. 8 Substation in the event IMC does not take immediate steps to switch electric service to those end use facilities located in Tampa Electric service territory from Florida Power supplied service to Tampa Electric supplied service.

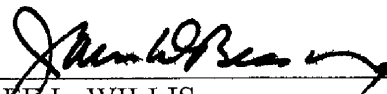
DATED this 6th day of February, 2002.

Respectfully submitted,



JAMES A. MCGEE
Post Office Box 14042
St. Petersburg, FL 33733

ATTORNEY FOR FLORIDA POWER
CORPORATION



LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

ATTORNEYS FOR TAMPA ELECTRIC
COMPANY

AGREEMENT

Section 0.1 THIS AGREEMENT, made and entered into this 13th day of November, 1990 by and between FLORIDA POWER CORPORATION, (herein called "FPC"), and TAMPA ELECTRIC COMPANY, (herein called "TEC"), each of which are corporations organized and existing under the laws of the State of Florida and electric utilities as defined in, and whose retail service territories are subject to regulation pursuant to, Chapter 366, Florida Statutes, and which corporations are herein collectively called the "Parties";

WITNESSETH:

Section 0.2 WHEREAS, each of the Parties is authorized, empowered and obligated by its corporate charters and the laws of the State of Florida to furnish retail electric service to persons desiring to use such service within their respective areas of service; and

Section 0.3 WHEREAS, each of the Parties presently furnishes retail electric service to Customers in areas of Hillsborough, Pasco, Pinellas, and Polk Counties of Florida; and

Section 0.4 WHEREAS, the respective areas of service of the Parties are contiguous in many places, and the Parties previously entered into a Territorial Agreement dated February 23, 1960, which was amended on July 18, 1977, and on



June 28, 1988, in an effort to minimize costs to their respective ratepayers by avoiding duplication of generation, transmission and distribution facilities; and

Section 0.5 WHEREAS, the Florida Public Service Commission (herein called the "Commission") has previously recognized that any such duplication of facilities results in needless and wasteful expenditures and may create hazardous situations, both being detrimental to the public interest; and

Section 0.6 WHEREAS, the Commission previously approved the above mentioned Territorial Agreement on July 5, 1960 in Docket No. 6081-EU by Order No. 2948 and the amendments thereto, respectively, on July 31, 1978 in Docket No. 770982-EU by Order No. 8411, and on October 12, 1988 in Docket No. 880896-EI by Order No. 20158; and

Section 0.7 WHEREAS, the Parties desire to continue to avoid and eliminate the circumstances giving rise to potential duplications of facilities and hazardous situations, and toward that end have established the Territorial Boundary Line to delineate their respective retail Territorial Areas; and

Section 0.8 WHEREAS, the Commission is empowered by Section 366.04(2)(d), Florida Statutes, to approve and enforce territorial agreements between electric utilities, has often recognized the wisdom of such agreements, and has held that such agreements, when properly presented to the Commission, are advisable in proper circumstances, and, indeed, in the public interest;

Section 0.9 NOW, THEREFORE, in consideration of the premises aforesaid and the mutual covenants and agreements herein set forth, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Territorial Boundary Line. As used herein, the term "Territorial Boundary Line" shall mean the boundary lines which circumscribe the geographic areas shown on the maps and legal descriptions attached hereto as composite Exhibit "A", which differentiate and divide the TEC Territorial Area from the FPC Territorial Area.

Section 1.2 TEC Territorial Area. As used herein, the term "TEC Territorial Area" shall mean the geographic area shown on composite Exhibit "A" and designated "TEC."

Section 1.3 FPC Territorial Area. As used herein, the term "FPC Territorial Area" shall mean the geographic area shown on composite Exhibit "A" and designated "FPC."

Section 1.4 Transmission Line. As used herein, the term "Transmission Line" shall mean any transmission line of either Party having a rating of 69 kV or greater.

Section 1.5 Distribution Line. As used herein, the term "Distribution Line" shall mean any distribution line of either Party having a rating of up to, but not including, 69 kV.

Section 1.6 Person. As used herein, the term "Person" shall have the same inclusive meaning given to it in Section 1.01(3), Florida Statutes.

Section 1.7 New Customer. As used herein, the term "New Customer" shall mean any person that applies to either TEC or FPC for retail electric service after the effective date of this Agreement.

Section 1.8 Existing Customer. As used herein, the term "Existing Customer" shall mean any person receiving retail electric service from either TEC or FPC on the effective date of this Agreement.

Section 1.9 Change in Use. As used herein, the term "Change in Use" shall mean:

- (1) a change in the use of real property from residential to business or business to residential;
- (2) a change in the use of real property that would normally require a reclassification of service under the applicable tariff of either FPC or TEC;
- (3) a change in the use of real property that results in the addition of three or more meters during the term of this Agreement; or
- (4) a change in the use of real property by reason of a change in the ownership or occupancy thereof to any person other than a widow, widower, or divorced spouse of an Existing Customer who received electric service at the same location.

ARTICLE II

AREA ALLOCATIONS AND NEW CUSTOMERS

Section 2.1 Territorial Allocations. Except as otherwise specifically provided herein, during the term of this Agreement TEC shall have the exclusive

authority to furnish retail electric service for end use within the TEC Territorial Area and FPC shall have the exclusive authority to furnish retail electric service for end use within the FPC Territorial Area.

Section 2.2 Service to Agrico. Nothing contained herein shall affect the rights and obligations of the Parties to serve facilities of Agrico Chemical Company (herein called "Agrico") as set forth in the Settlement Agreement between TEC and Agrico in Commission Docket No. 890646-EI, as approved by Commission Order No. 22634 dated March 5, 1990, and FPC and TEC agree to furnish electric service to Agrico facilities as provided in said Settlement Agreement, a copy of which is attached hereto marked Exhibit "B", and the terms thereof are incorporated herein, made a part hereof and shall be binding upon FPC and TEC upon the approval of this Agreement by the Commission, the same as if FPC had originally been a party to said Settlement Agreement. The above referred to Settlement Agreement is subject to renewal or extension upon approval by the Commission.

Section 2.3 Service to New Customers. The Parties agree that neither of them will knowingly serve or attempt to serve any New Customer whose end use facilities are located within the Territorial Area of the other Party, except as specifically provided in this Section of this Agreement.

The Parties recognize that in exceptional circumstances, economic constraints or good engineering practices may indicate that a Customer's end use facilities either cannot or should not be immediately served by the utility in whose Territorial Area they are located. In such instances, upon written request

by the Party in whose Territorial Area the end use facilities are located, to the other Party, the other Party may agree in writing to temporarily provide service to such Customer's end use facilities. Any such agreement for temporary service shall be submitted to the Florida Public Service Commission for approval in accordance with Article IV, Section 4.1 hereof.

In the event that a New Customer or prospective New Customer requests or applies for service from either Party to be provided to end use facilities located in the Territorial Area of the other Party, then the Party receiving such a request or application shall refer the New Customer or prospective New Customer to the other Party, with citation to this Agreement as approved by the Commission, and shall notify the other Party of such request or application.

If the New Customer or prospective New Customer delivers a written application for service after being referred to the other Party, or continues to demand service under an application made prior to a referral to the other Party, the Party receiving the application shall file a Petition for Declaratory Statement requesting the Commission to apply this Agreement to the facts presented. The petitioning Party shall notify the other Party and the applicant of its intent to file a Petition for Declaratory Statement prior to filing such Petition and shall request the joinder of the other Party as a party to the proceeding. The petitioning Party shall not provide or attempt to provide electric service to such a New Customer unless the Commission authorizes such service in an order binding upon both Parties.

Section 2.4 Transition Period. In order to minimize inconvenience to their customers, each Party may continue to serve their respective Existing Customers who are located in an area approximately five miles south of Dade City and who are listed on Exhibit "C" as provided in this Section of this Agreement, even though the location at which they are using electric service shall be in the Territorial Area of the other Party effective upon the approval of this Agreement by the Commission. Each of such Existing Customers and the Party by which they are presently served are listed on Exhibit "C" attached hereto and made a part hereof. This Section of this Agreement shall also apply to additional requirements for electric service by Existing Customers listed on Exhibit "C" at their existing locations, subject to the "Change in Use" limitation set forth below. Existing Customers listed on Exhibit "C" may request to become Customers of the other Party, at any time after approval of this Agreement by the Commission, in which event the Parties agree that such Customers shall then be transferred. Once service is transferred pursuant to this provision it may not be transferred back to the previously serving utility. A widow, widower or divorced spouse of an Existing Customer of either Party listed on Exhibit "C" who remains at the same service location shall be considered an Existing Customer the same as if he or she had specifically been listed on Exhibit "C" and included in the definition of "Existing Customer" in Section 1.8 above. If there is a "Change in Use," as defined in Section 1.9 above, of the real property at a location at which an Existing Customer listed on Exhibit "C" receives service, the person receiving such service shall cease to be considered an Existing Customer and electric service at that location shall be provided by the Party in whose Territorial Area the real property is located.

Section 2.5 Transfer of Facilities. Upon the transfer of any Customer or Customers pursuant to this Agreement, the transferring Party shall sell and the receiving Party shall purchase the distribution facilities of the transferring Party previously used to serve the transferred Customer or Customers for the original cost of such facilities less depreciation.

Section 2.6 City of Winter Haven. If, at any time prior to March 31, 1997, the city limits of the City of Winter Haven are extended by annexation or other means into that part of the FPC Territorial Area shown as cross hatched on Document No. 4 of Exhibit "A" attached hereto, with a legal description of such cross hatched area being contained in Document No. 6 of Exhibit "A", such newly annexed area shall become a part of the TEC Territorial Area and service therein shall be transferred to TEC without any requirement for an amendment to this Agreement or any further approval of such transfer or change in Territorial Areas by the Commission. No other annexation or change to the city limits of the City of Winter Haven or any other municipality shall have any effect upon the Territorial Areas of the Parties. The city limits of Winter Haven within the cross-hatched portion of Document No. 4 of Exhibit "A", as of March 31, 1997, shall constitute a part of the permanent boundary line separating the Territorial Areas of FPC and TEC.

Section 2.7 Bulk Power for Resale. Nothing herein shall be construed to prevent either Party from providing a bulk power supply for resale purposes to any other electric utility or person regardless of where such other electric utility or person may be located. Further, no other section or provision of this Agreement shall be construed as applying to a bulk power supply for resale purposes.

ARTICLE III

OPERATION AND MAINTENANCE

Section 3.1 Facilities to Remain. Except as expressly provided herein, any generating plant, transmission line, substation, distribution line or related facility now or hereafter constructed or used by either Party in conjunction with its electric utility system, which is directly or indirectly used and useful in service to its Customers by either of the Parties in its Territorial Area, shall be allowed to remain where situated and shall not be subject to removal or transfer hereunder; provided, however, that each Party shall operate and maintain all such plants, lines, substations or facilities in such a manner as to minimize any interference with the operations of the other Party.

ARTICLE IV

PREREQUISITE APPROVAL

Section 4.1 Commission Approval. The provisions and the Parties' performance of this Agreement are subject to the regulatory authority of the Commission, and appropriate approval by that body of the provisions of this Agreement shall be an absolute condition precedent to the validity, enforceability and applicability hereof. This Agreement shall have no effect whatsoever until that approval has been obtained, and the date of the Commission's Order, if any, granting initial Commission approval of this

Agreement shall be deemed to be the effective date of this Agreement. Any proposed modification to this Agreement shall be submitted to the Commission for approval. In addition, the Parties agree to jointly petition the Commission to resolve any dispute concerning the provisions of this Agreement or the Parties' performance of this Agreement.

Section 4.2 No Liability in the Event of Disapproval. In the event approval of this Agreement pursuant to Section 4.1 hereof is not obtained, neither Party will have any cause of action against the other arising under this document or on account of such non-attainment of approval.

Section 4.3 Supersedes Prior Agreements. Upon its approval by the Commission, this Agreement shall be deemed to specifically supersede any and all prior Agreements between the Parties defining the boundaries of their respective Territorial Areas; provided, however, that this Agreement shall not be deemed to alter or supersede the Commission approved Settlement Agreement referred to and incorporated herein pursuant to Section 2.2 hereof relating to service to Agrico.

ARTICLE V

DURATION

Section 5.1 This Agreement shall continue and remain in effect for a period of fifteen (15) years from the date of the Florida Public Service Commission's initial Order approving this Agreement, and shall be automatically renewed for additional fifteen (15) year periods unless either Party gives

written notice to the other of its intent not to renew at least six (6) months prior to the expiration of any fifteen (15) year period; provided, however, that each such renewal of this Agreement shall require prerequisite approval of the Commission with the same effect as the original Commission approval of this Agreement as required and provided for in Article IV hereof.

ARTICLE VI

CONSTRUCTION OF AGREEMENT

Section 6.1 Intent and Interpretation. It is hereby declared to be the purpose and intent of the Parties that this Agreement shall be interpreted and construed, among other things, to further this State's policy of actively regulating and supervising the service territories of electric utilities; supervising the planning, development, and maintenance of a coordinated electric power grid throughout Florida; avoiding uneconomic duplication of generation, transmission and distribution facilities; and encouraging the installation and maintenance of facilities necessary to fulfill the Parties' respective obligations to serve.

ARTICLE VII

MISCELLANEOUS

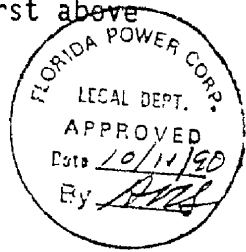
Section 7.1 Negotiations. Regardless of any other terms or conditions that may have been discussed during the negotiations leading up to the execution of this Agreement, the only terms or conditions agreed upon by the Parties are

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, attached hereto, signed by both of the Parties and approved by the Commission in accordance with Article IV, Section 4.1 hereof.

Section 7.2 Successors and Assigns; For Benefit Only of Parties. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns. Nothing in this Agreement, expressed or implied, is intended, or shall be construed, to confer upon or give to any person other than the Parties hereto, or their respective successors or assigns, any right, remedy, or claim under or by reason of this Agreement, or any provision or condition hereof; and all of the provisions, representations, covenants, and conditions herein contained shall inure to the sole benefit of the Parties or their respective successors or assigns.

Section 7.3 Notices. Notices given hereunder shall be deemed to have been given to TEC if mailed by certified mail, postage prepaid, to: Vice President, Customer Service/Marketing, Tampa Electric Company, Post Office Box 111, Tampa, Florida 33601-0111; and to FPC if mailed by certified mail, postage prepaid, to: Florida Power Corporation's Resident Agent for service of process, Patricia A. Brown, or her successor, Legal Department, Florida Power Corporation, 3201 34th Street, South, St. Petersburg, Florida 33711. The person or address to which such notice shall be mailed may, at any time, be changed by designating a new person or address and giving notice thereof in writing in the manner herein provided.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate in their respective corporate names and their corporate seals affixed by their duly authorized officers on the day and year first above written.



ATTEST:

FLORIDA POWER CORPORATION

Stephen D. Purifoy
Secretary
(SEAL)

By: Maurice H. Phillips
Executive Vice President

ATTEST:

TAMPA ELECTRIC COMPANY

[Signature]
Secretary
(SEAL)

By: William T. Snyder, Jr.
Vice President Customer Services/Marketing

FLORIDA POWER CORPORATION
TAMPA ELECTRIC COMPANY
COMPOSITE EXHIBIT "A"

TAMPA ELECTRIC COMPANY

INDEX

| <u>Document No.</u> | <u>Title</u> |
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| 1 | Overall Territorial Map |
| 2 | Detailed Map - Oldsmar Area |
| 3 | Detailed Map - Dade City Area |
| 4 | Detailed Map - Winter Haven Area |
| 5 | Overall Legal Description |
| 6 | Legal Description for Area Subject to Annexation and Transfer to TEC |

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR

Public Service Commission

MAPS

DOCKET NO.: 020105-EI

DOCUMENT NO.: 01455-02

DOCUMENT DESCRIPTION: *(Example: page 5 of pdf file.)*

Tampa Electric Company Document No. 1 Page 1
of 1 visual Reference map FPC vs TEC. [CLK
Note: Map forwarded to Staff.]

R16E

STATE RD. 584

22

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SAFETY HARBOR
TEC

FPC

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MOBBLY BAY

TEC

FPC

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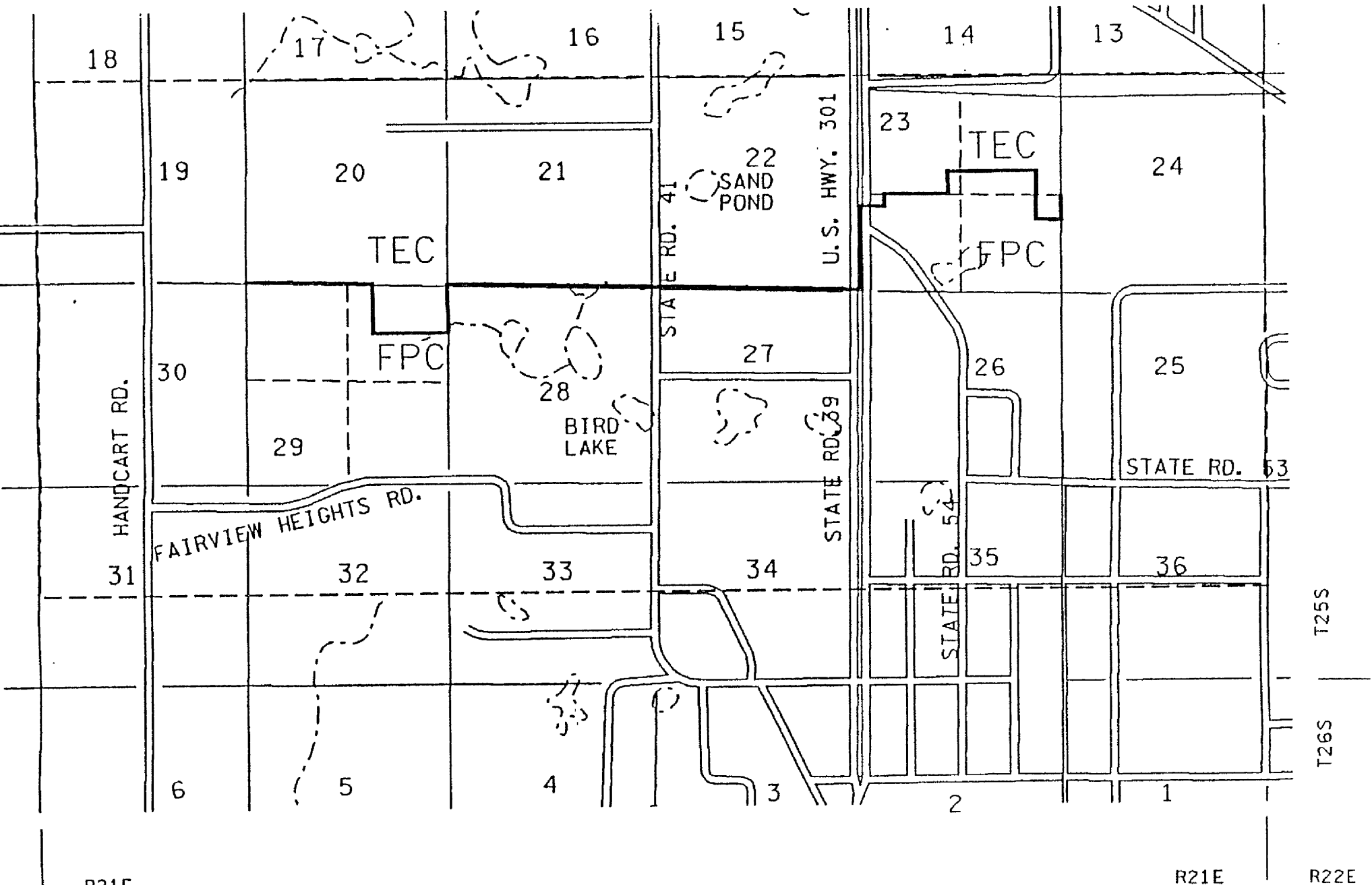
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EXISTING TERRITORIAL BOUNDARY

TAMPA ELECTRIC COMPANY
DOCUMENT NO. 2
PAGE 1 OF 1

PROPOSED TERRITORIAL BOUNDARY



R21E

R21E

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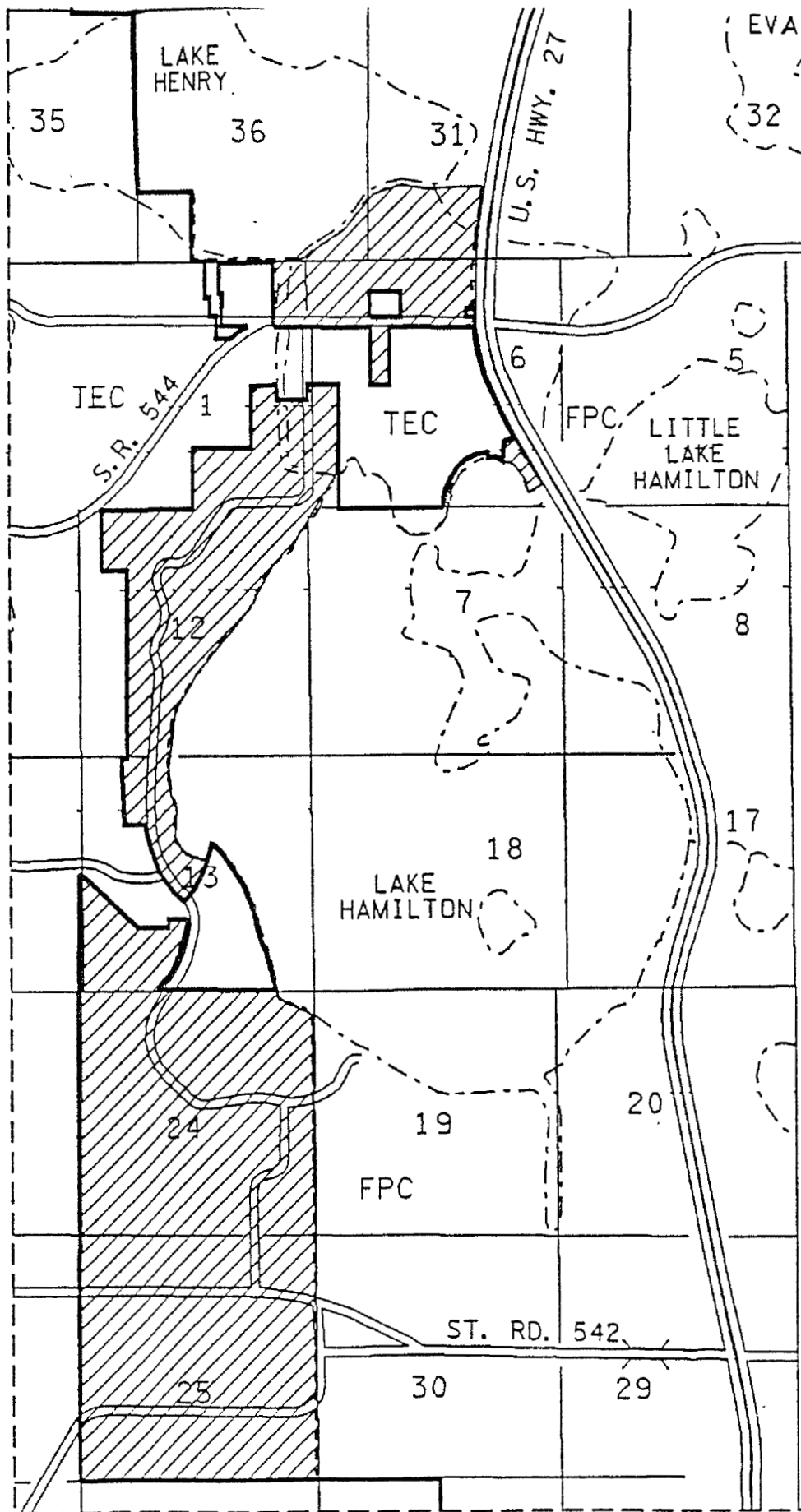
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LEGEND

TERRITORIAL BOUNDARY

TAMPA ELECTRIC COMPANY
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WINTER HAVEN



LEGEND

EXISTING TERRITORIAL BOUNDARY

TAMPA ELECTRIC COMPANY
DOCUMENT NO. 4
PAGE 1 OF 1

CROSSHATCHED AREA SUBJECT TO

Territorial Boundary Between Tampa Electric Company
and Florida Power Corporation, as Indicated on
the Attached Prints of Maps of Pinellas, Pasco,
and Polk Counties

Pinellas County

Begin at the point where the Hillsborough - Pinellas County line intersect the Northeast corner of the South 1/2 of Section 36, Township 28-South, Range 16-East; thence West along the North line of the South half of said Section 36, to the Northwest corner of the Southeast 1/4 of Section 35, Township 28-South, Range 16-East; thence extend in a Northwesterly direction to the intersection of the East shore line of Possum Branch Bayou and the Oldsmar City limits, thence Northerly along the East shore of the Lake Tarpon outfall canal to County Road 77 (East Lake Road), thence along the centerline of County Road 77 to a point that intersects the South boundary of Section 4, Township 28-South, Range 16-East, thence East along the South line of Section 4 and Section 3, Township 28-South, Range 16-East to the Southeast corner of Section 3, Township 28-South, Range 16-East, thence South along the East line of Section 10, Township 28-South, Range 16-East to the South boundary of the Florida Power Corporation right-of-way in Section 11, Township 28-South, Range 16-East, thence East along the South boundary of said right-of-way through Sections 11 and 12, South routed Florida Power Corporation, right-of-way in Section 12, Township 28-South, Range 16-East, thence North along the East boundary to the Easterly routed Florida Power Corporation right-of-way in Section 12, Township 28-South, Range 16-East, thence Northerly along the South boundary of said right-of-way to the Pinellas/Hillsborough County Line, thence North along this East Pinellas County line to the Pasco County line.

Pasco County

Extend East along the South county line of Pasco County from the Southwest corner of Section 31, Township 26-South, Range 17-East, to the West line of Section 34, Township 26-South, Range 17-East, thence North along the West line of this section to the Northwest corner of this section, thence East along the North line of sections 34 and 35, Township 26-South, Range 17-East, to the Northeast corner of Section 35, thence South along the East line of Section 35 to the North line of the South 1/2 of the South 1/2 of Section 36, Township 26-South, Range 17-East, thence East along the North line of the South 1/2 of the South 1/2 of Section 36 to the East line of Section 36, thence South along the East line of Section 36 to the South county line of Pasco County, thence East along the South county line of Pasco County to the Southwest corner of Section 35, Township 26-South, Range 19-East, thence North along the West line of Section 35 to the Northwest corner of this section, thence East from the Northwest corner of

this section to a point where the Hillsborough River intersects the North line of Section 35, Township 26-South, Range 21-East, thence Northeast along the Hillsborough River to the Pasco-Polk County line.

Beginning at the Northwest corner of Section 29, Township 25-South, Range 21 East, Pasco County, Florida; run thence East along the North boundary of said Section 29 to the Northwest corner of the East 1/2 of the Northwest 1/4 of the Northeast 1/4 of said Section 29; thence South to the South boundary of the East 1/2 of the Northwest 1/4 of the Northeast 1/4 of said Section 29; thence East along the South boundary of the North 1/2 of the Northeast 1/4 of said Section 29 to the West boundary of Section 28, Township 25-South, Range 21-East; thence North along the West boundary of said Section 28 to the Northwest corner of said Section 28; thence East along the North boundary of Sections 28 and 27, Township 25-South, Range 21-East to the Northeast corner, of said Section 27 and also being the Southwest corner of Section 23, Township 25-South, Range 21-East; thence North along the West boundary of said Section 23 to the Southwest corner of the North 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 23; thence East along the South boundary of the North 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 23 to the Southeast corner of the North 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 23; thence North along the East boundary of said North 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 to the North boundary of the Southwest 1/4 of said Section 23; thence East along said North boundary of the Southwest 1/4 to the Southeast corner of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of said Section 23; thence North along the East boundary of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of said Section 23 to the South boundary of the North 3/4 of the North 1/2 of said Section 23; thence East along said South boundary to the Northwest corner of the Southeast 1/4 of the Southeast 1/4 of the Northeast 1/4 of said Section 23; thence South along the West boundary of the Southeast 1/4 of the Southeast 1/4 of the Northeast 1/4 of said Section 23 and its South projection to the Southwest corner of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 23; thence East along the South boundary of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 23 to the Southeast corner of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 23; thence North along the East boundary of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 23 to the Northeast corner of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 23.

Polk County

Territorial boundary is to extend South from the Lake-Polk county line from the Northwest corner of Section 5, Township 25-South, Range 26-East, to the Southwest corner of Section 8, Township 26-South, Range 26-East, thence East to the Northwest corner of Section 13, Township 26-South, Range 26-East, thence South to the Southwest corner of Section 24, Township 27-South, Range 26-East, thence West to the West line of the East 1/2 of the East 1/2 of Section 26, Township 27-South, Range 26-East, thence South to the Southwest corner of the East 1/2 of the East 1/2 of Section 26, Township 27-South, Range 26-East, thence East along the South line of Section 26 to the Northeast corner of Section 35, thence South along the East line of Section 35 to the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of Section 36, thence East to the Northeast corner of the Southwest 1/4 of the Southwest 1/4 of Section 36, thence South to the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of Section 36, thence East to the Northeast corner of the West 56.50 feet of grove tract 321, as shown on a Plat of property belonging to the Lucerne Park Fruit Association and recorded in Plat Book 3, Page 67, Official Records of Polk County, Florida, thence South to a point 100.00 feet South of said tract 321, thence East 100.00 feet, thence South to the North right-of-way line of Lucerne Road, thence East 122.00 feet; thence South 348.00 feet; thence East to the Northwesterly right-of-way line of State Road 544, thence Northeasterly along State Road 544 to its intersection with the South right-of-way line of Lucerne Road; thence West to the intersection of the southerly projection of the West boundary of Lake 'N Golf Estates addition as recorded in Plat Book 80, Page 16, Official Records of Polk County, Florida, thence N00° 02' 18"E 696.38 feet; thence North 89° 57' 42" West 44.00 feet, thence North 00° 02' 18" East 660.25 feet to the North boundary of Section 1, Township 28-South. Range 26-East, thence East to the West boundary of the Southwest Florida Water Management District Canal, thence South to the South right-of-way line of State Road 544, thence East to the West boundary of the Southeast 1/4 of the Northwest 1/4 of Section 6, Township 28-South, Range 27-East, thence South to the half-section line of Section 6, thence East 400.00 feet thence North to the South right-of-way line State Road 544, thence East to the West right-of-way line of U.S. Highway 27 & 98, thence Southerly along said right-of-way to a point approximately 856.7 feet North of the intersection of said Westerly right-of-way and the North line of the Haines City Drainage District Canal, thence South 60° 08' West 80.9 feet thence run South 29° 52' East 15.05 feet, thence run South 60° 08' West 163.2 feet, thence run South 05° 38' West approximately 750 feet to the shoreline of Middle Lake Hamilton to the West Boundary line of East 1/2 of Southeast 1/4 of Section

6, Township 28-South, Range 27-East, thence Southerly along said right-of-way to the South boundary of Section 6, thence West to the West boundary of the East 1/2 of the Southwest 1/4 of the Southwest 1/4 of Section 6, thence North to the half-section line of Section 6, thence West to the East boundary of Section 1, Township 28-South, Range 26-East, thence South 319.40 feet, thence West to the East boundary of tract 207 of said Plat of Property belonging to the Lucerne Park Fruit Association, thence North to the North boundary of tract 207, thence West to the West boundary of tract 207, thence South to the South boundary of the North 1/2 of the Southeast 1/4 of Section 1, thence West to the West boundary of the Southeast 1/4 of Section 1, thence South to the South boundary of Section 1, thence West to the Southeasterly right-of-way line of State Road 544, thence Southwesterly to the West boundary of the East 1/2 of the Northwest 1/4 of the Northwest 1/4 of Section 12, Township 28-South, Range 26-East, thence South to the South boundary of the Northwest 1/4 of the Northwest 1/4 of Section 12, thence East to the Southeast corner of the Northwest 1/4 of the Northwest 1/4 of said Section 12; thence South to the Northeast corner of Government Lot 2, section 13, Township 28-South, Range 26-East - also being the Northeast corner of the Northwest 1/4 of the Northwest 1/4 of said section 13; thence West along the North boundary of said Government Lot 2, 115.00 feet; thence South parallel with the East boundary of said Government Lot 2 to the point of intersection with the centerline of the Lake Fanny to Lake Hamilton canal as described in OR book 936, page 625 of the Polk County Public Records; thence Southwest along said centerline (approximately 136 feet plus or minus) to the Northwest corner of tract 1, lot 6 of Howard James subdivision as recorded in Plat Book 6, page 32, Polk County Public Records thence South along the West boundaries of tracts 1, 2, 3 and 4 of said Plat to the Southwest corner of tract 4, thence East along the South boundary of said tract 4 to the East boundary of said Government Lot 2; thence South to the Northwest corner of Parcel B of the Pollard Shores Unit Number 1, Plat Book 42 page 33; thence East 405.43 feet to the Northeast corner of said Parcel B and the West right-of-way line of West Lake Hamilton Drive; thence South along said right-of-way line to the Northerly right-of-way line of Country Club Road (Buckeye Road by Plat); thence Southeasterly along said right-of-way to a point of intersection with the East boundary of the West 16 feet of the Northwest 1/4 of the Southeast 1/4 of said section 13; thence North along said East boundary to a point being 789.17 feet South of the North boundary of said Northwest 1/4 of the Southeast 1/4 of Section 13; thence South 87° 58' 42" East, 143.31 feet; thence North 12° 10' 28" East, 859.60 feet to a concrete monument; thence North 13° 07' 48" East, 50 feet more or less to the Southwesterly shore of Lake Hamilton; thence Southeasterly along said shoreline to the intersection with the

South boundary of Government Lot 5 of said section 13; thence West to the intersection with the Northeasterly right-of-way of a canal extending from the Southeast corner of the Southwest 1/4 of said section 13 to the Northwest corner of the Southwest 1/4 of said section 13; thence Northwesterly along said canal right-of-way to the Westerly right-of-way of said Country Club Road; thence Northerly along said right-of-way to a point 25 feet West of the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of said section 13; thence North $02^{\circ} 13' 56''$ East, 180 feet; thence West, 242.23 feet; thence South $02^{\circ} 13' 56''$ East, 180 feet to the South boundary of the Northeast 1/4 of the Southwest 1/4 of said section 13; thence West along said South boundary to the aforementioned Northeasterly canal right-of-way; thence Northwesterly along said canal right-of-way to the Southerly right-of-way of aforementioned Country Club Road; thence West along said right-of-way to the West boundary of said section 13. Thence South to the Southwest corner of Section 25, Township 28-South, Range 26-East, thence East along the South line of Section 25, Township 28-South, Range 26-East, to the 1/2 section line of Section 31, Township 28-South, Range 27-East, thence South along the 1/2 section line of this section to the South line of this section, thence East to the Southwest corner of Section 32, Township 28-South, Range 27-East, thence South along the West line of Section 5, Township 29-South, Range 27-East, thence East along the South line of Section 5 to the 1/2 section line of Section 8, Township 29-South, Range 27-East, thence south to the North line of Section 29, Township 29-South, Range 27-East, thence West along the North line of Sections 29 and 30, Township 29-South, Range 27-East, and Section 25, Township 29-South, Range 26-East, to the Northwest corner of Section 25, thence South along the West line of Section 25 to the East-west centerline of Section 26, thence West along the centerline of Sections 26, 27, 28, 29 and 30, Township 29-South, Range 26-East, and Sections 25, 26 and 27, Township 29-South, Range 25-East, thence South along the West line of Section 27, Township 29-South, Range 25-East, to the Southeast corner of Section 28, thence West along the South line of this section to the Southwest corner of this Section 28, thence South along the West line of Section 33, Township 29-South, Range 25-East, to the Southeast corner of Section 32, Township 29-South, Range 25-East, thence West along the South line of this section to the Southeast corner of Section 31, Township 29-South, Range 25-East, thence North along the East line of this section to the North line of the South 1/4 of this section, thence West to the East line of Section 36, Township 29-South, Range 24-East, thence South along the East line of this section and the East line of Section 1, Township 30-South, Range 24-East the Northeast corner of Section 12, Township 30-South, Range 24-East, thence West along the North line of Sections 12, 11 and 10 to the North-South centerline of

Section 10, Township 30-South, Range 24-East, thence South to the Southwest corner of the Southeast 1/4 of Section 34, Township 32-South, Range 24-East, thence West along the South line of Polk County to the West line of Polk County.

Together with

Beginning at an iron rod at the intersection of the North right-of-way line (as maintained) of State Road 544 and the West right-of-way line (as purchased) of U.S. Road 27, which iron rod is 329.75 feet West and 40 feet North of the Southeast corner of the Northwest 1/4 of the Northeast 1/4 of Section 6, Township 28-South, Range 27-East, Polk County, Florida, thence Northwesterly with said right-of-way of U.S. 27, curving to the right a distance of 200.00 feet to an iron rod; thence West 200.00 feet to an iron rod; thence southeasterly, parallel to the West right-of-way line of U.S. 27, a distance of 200.00 feet to an iron rod in the North right-of-way line of State Road 544; thence with said right-of-way line, East 200 feet to the Beginning.

Together with

Lots 1, 2 and 3, less the right-of-way for State Road 544, of the Resubdivision of part of Bowen Davis Subdivision, as recorded in Plat Book 25, page 41, public records of Polk County Florida, including abutting rights-of-way platted in said subdivision as Monroe Street, Macon Street, Cameron Avenue, the West 25.00 feet of Madison Street, and a 25.00 foot right-of-way West of Lot 1 platted as Santa Clara Road; said property also being the Southwest 1/4 of the Northeast 1/4 of the Northwest of Section 6, Township 28-South, Range 27-East, less right-of-way State Road 544.

**LEGAL DESCRIPTION FOR AREA SUBJECT
TO ANNEXATION AND TRANSFER TO TEC**

Beginning at the intersection of the North boundary of Section 1, Township 28-South, Range 26-East, and the West boundary of the Canal right-of-way as recorded in the official record 770-371 of Polk County Public Records; being 431.01 feet west of the Northeast corner of said Section 1, Township 28-South, Range 26-East, thence East along the North boundary of said Section 1, to the intersection of the southerly shore of Lake Henry; thence Northeasterly along said southerly shore to a point of intersection with the North boundary of the South 1/4 of Section 31, Township 27-South, Range 27-East; thence East along the North boundary of the South 1/4 of said Section 31 to the centerline of U.S. Highway 27; thence Southerly along the centerline of said U.S. Highway 27 to its intersection with the North shore of the canal connecting Little Lake Hamilton and Lake Hamilton; thence meandering Westerly and Southerly along the Northerly and Westerly shore of Lake Hamilton to its intersection with the East boundary of Section 24, Township 28-South, Range 26-East; thence South along the East boundary of Section 24 and Section 25 to the Southeast corner of Section 25.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric) DOCKET NO. 890646-EI
Company for resolution of a) ORDER NO. 22634
territorial dispute with Florida) ISSUED: 3-5-90
Power Corporation.)
_____)

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
JOHN T. HERNDON

ORDER APPROVING SETTLEMENT OF TERRITORIAL DISPUTE

BY THE COMMISSION:

On May 9, 1989, Tampa Electric Company filed a complaint against Florida Power Corporation for resolution of a territorial dispute regarding provision of electricity to Agrico Chemical Company. According to the Complaint, Agrico had requested FPC to provide service to certain of its Polk County facilities then being served by TECO under the terms of a 1960 territorial agreement between TECO and FPC. TECO contended that this would have been in violation of the 1960 agreement.

Under the 1960 territorial agreement the service boundary between FPC and TECO was drawn on the county line between Polk and Hardee Counties. Agrico's Fort Green mine property is essentially split by the line. Twenty-six square miles are within the TECO service area and twenty-five square miles are within the FPC service area. Further to the south four square miles are within FPC's service area, but this property is unaffected by the instant territorial dispute.

FPC provides 69kV interruptible service to Agrico at a metering station in northwestern Hardee County, approximately two miles south of the Polk County line (its own territory). Agrico claims that its mining operations are moving south and

TAMPA ELECTRIC COMPANY
EXHIBIT "B"

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will soon be operating predominantly in Hardee County (FPC's territory). According to Agrico it has mined all but 19% (2,990 acres) of the land remaining within TECO's service area. As the mining progresses it follows the phosphate reserves into Hardee County (FPC's territory).

When intervenor Agrico answered TECO's complaint on May 30, 1989, it intended to employ FPC's 69kV transmission line to serve all of Agrico's internal electrical distribution system, including the plant (in TECO's service area) as well as any draglines within the TECO service area. According to Agrico, with the bulk of its mining operations moving into FPC'S territory continued use of TECO power would cause an unnecessary duplication of facilities and foster economic waste.

In addition Agrico claimed that a dual power supply would be dangerous. Typically, phosphate mining facilities consist of draglines; large electrical machines which move about the area (and sometimes over territorial boundaries) and dig ore from the ground. The ore is placed in a pit where it is made into a slurry with high pressure water. The slurry is pumped through a pipeline to the processing plant.

The slurry pipeline is a large, powerful system. The pipe is typically 20 inches in diameter and the pipelines can be from one to ten miles long. Large booster pumps, each driven by a 1,250 hp electric motor, are placed along the pipeline at intervals of approximately 3,000 to 4,000 feet in order to provide sufficient velocity necessary to keep solids in suspension within the pipeline. It is sometimes necessary that these pipelines cross territorial boundaries when the mining operation is located away from the processing plant.

Agrico asserts that each pipeline should be served by a single power source.

According to Agrico's experts, a blink in power due to lightning, which may go unnoticed by other customers, can shut down the phosphate operation. Such a shut-down in the pumps can produce water hammer that can cause pipes and/or pumps to burst, creating a hazard to employees in the vicinity.

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According to Agrico, if some pumps shut down, and others continue to operate (such as those provided electricity from a separate power source), a dangerous situation is created. Graeme R. Addie, Agrico's slurry pump expert from Australia, submitted testimony that no technology available could prevent this type of water hammer and that a dual power supply would significantly increase its likelihood. TECO on the other hand disputed Agrico's claim that a single power source was necessary for safety reason. According to TECO, any such safety problems could be solved with currently available technology.

The parties to the territorial dispute were also in disagreement as to whether Agrico's proposed use of FPC power in TECO's territory would be in violation of the Supreme Court's ruling in Lee County Cooperative v. Marks, 501 So.2d 585 (Fla. 1987). According to TECO any customer taking power from a service point in one utility's territory and using the power inside another utility's territory would be in direct contravention of Lee County.

Agrico and FPC deny that a similar factual circumstance was addressed by the Supreme Court of Florida in Lee County Electric Cooperative v. Marks. According to Agrico, it has moved into Hardee County in order to mine available phosphate, not to switch electric supplies. Here, unlike Lee County Cooperative, the customer has not built a line solely for the purpose of establishing a point of delivery for electric power within one utility's service area to be transmitted to a facility located within another utility's service area. Rather, this situation involves, among other things, contiguous property owned by the customer which crosses the service area boundary between FPC and TECO. Electric service is being provided at a new point of service within FPC's service area for the specific purpose of serving Agrico mining facilities located and operated within FPC's service area. Also, unlike Lee County Cooperative, the electric load in this case moved to a different service area and is expected to stay there on a long-term basis. In Lee County, the Supreme Court found that the "extension cord" transmission line was a "transparent device" to avoid the territorial agreement. Agrico and FPC contend that this is not the case here.

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Despite these conflicts, on November 15, 1989, the parties filed with the Commission a proposed settlement to the territorial dispute. (see attachment A). There are actually two proposed settlements, one between TECO and Agrico, and one between TECO and FPC. The proposed agreement between TECO and FPC however essentially provides only that FPC does not oppose the settlement between TECO and Agrico, should it be approved by the Commission.

There are three principal conditions to the settlement agreement between Agrico and TECO:

1. All fixed facilities to TECO's territory, including processing plants and washer facilities will continue to be served by TECO at the applicable TECO rate schedule. Agrico will then discontinue its efforts to serve these facilities through FPC's 69kV line in Hardee County.

2. Any Agrico mobile facility having its dragline in FPC's service area shall take service from FPC notwithstanding the fact that a portion of such mobile facility may be physically located in TECO's service area. The term mobile facility is defined to include slurry pipelines and pumps as well as draglines. This provision resolves the safety issue raised by Agrico, regarding dual power supply on slurry pipelines which cross over territorial boundaries.

3. Any Agrico mobile facility having its dragline in TECO's service area shall take service from TECO pursuant to the Mobile Facility Adjustment Rider Interruptible (MFI). The intent of the MFI is to allow Agrico and other qualifying customers to pay no more for electricity supplied by TECO and utilized to power a mobile facility, than the cost of FPC supplied electricity. This provision addresses the unique ability of phosphate draglines to move about and cross over territorial boundaries. The proposed MFI rider eliminates the motivation for qualifying customers to migrate between TECO and FPC to achieve rate advantages. In addition, the settlement agreement provides that Agrico will promptly inform FPC and TECO prior to the time an Agrico dragline crosses the Polk/Hardee County line which separates their respective service areas.

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In implementing this tariff, TECO has agreed to provide with its surveillance reports being filed with the Commission, billing information for customers under this service. The information provided by TECO will allow the computation of the difference between the current interruptible tariff and this mobile rate in terms of revenues.

The settlement with Agrico and the implementation of the MFI rider will enable TECO to avoid possible loss of a significant phosphate mining load from its system. This avoidance of risk and retention of load benefits all of TECO's customers. Any loss of revenue that TECO may incur with the implementation of the MFI rider is a reasonable trade-off in that it is negligible when compared to the phosphate mining load TECO will retain as a result of this settlement. Thus the compromise settlement proposed by the parties appears to be a reasonable means of resolving this territorial dispute.

In consideration of the foregoing it is

ORDERED by the Florida Public Service Commission that the settlement agreement between Tampa Electric Company and Agrico Chemical Company, filed November 15, 1989, is hereby approved. It is further

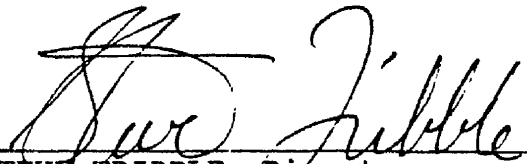
ORDERED by the Florida Public Service Commission that the limited settlement agreement between Tampa Electric Company and Florida Power Corporation filed November 15, 1989, is hereby approved. It is further

ORDERED that the Tampa Electric Company will include an attachment to its surveillance reports providing billing information for customers under the Mobile Facilities Rider in order to allow the computation of the difference between the previous interruptible tariff and the Mobile Facilities rate in terms of revenues.

ORDERED that this docket be closed, if no Motion for Reconsideration or Notice of Appeal is timely filed.

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By ORDER of the Florida Public Service Commission
this _____ day of March, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
(6190L)MAP:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric)
Company for resolution of territorial)
dispute with Florida Power Corporation.)

DOCKET NO. 890646-EI
Submitted for Filing 11/15/89

JOINT MOTION FOR CONTINUANCE AND FOR
APPROVAL OF SETTLEMENT AGREEMENT

Agrico Chemical Company, a division of Freeport-McMoRan Resources Partners Limited Partnership ("Agrico") and Tampa Electric Company ("Tampa Electric") which are two of the parties to the above-styled proceeding hereby move the Commission to continue the present schedule in the above-styled proceeding pending Commission consideration and approval of the Settlement Agreement entered into by and between the above parties. Movants further request the issuance of a Commission order approving the Settlement Agreement effective on the date of approval of Tampa Electric's proposed MFI rider. In support of this Motion, the Movants say:

Continuance

1. Tampa Electric and Agrico have entered into a Settlement Agreement, subject to Commission approval, which would resolve their differences regarding the provision of electric service to Agrico's facilities. A copy of that Settlement Agreement is attached hereto as Exhibit "A". Tampa Electric, Agrico and Florida Power Corporation ("Florida Power") have entered into a separate Settlement Agreement wherein Florida Power has indicated that it will not oppose the dismissal of this proceeding provided Tampa Electric and Agrico resolve their differences with respect to Agrico's consumption of electricity delivered to it by Florida Power within Florida Power's service territory on a sufficiently

agreeable basis to induce Agrico and Tampa Electric to mutually seek the dismissal of this proceeding. A copy of that Agreement is attached hereto as Exhibit "B".

2. Tampa Electric and Agrico are seeking Commission approval of the Settlement Agreement attached hereto as Exhibit "A". Upon approval of the Agreement and the MFI rider, the issues raised in Tampa Electric's Petition will have been rendered moot and this proceeding may then be properly dismissed. Considerable time and expense both to the Commission and to the parties can be saved if the schedule in this docket is continued pending Commission review and approval of the Settlement Agreement and the MFI rider.

3. Florida Power has advised Tampa Electric and Agrico that it does not object to the requested continuance.

Approval of the Settlement Agreement

4. Tampa Electric and Agrico hereby request Commission approval of the Settlement Agreement attached hereto as Exhibit "A". The Staff of the Commission scheduled and conducted a settlement conference in the offices of the Commission on October 23, 1989 and met individually and collectively with Tampa Electric, Florida Power and Agrico for the purpose of encouraging a settlement of the issues involved in this docket. Through ensuing discussions, Agrico and Tampa Electric were able to fashion a Settlement Agreement which accommodates Agrico's concerns and which recognizes the propriety of having a separate rate classification for mobile facilities used in phosphate mining operations.

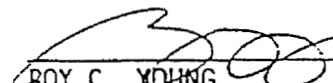
5. Tampa Electric is simultaneously petitioning the Commission to approve the MFI rider which is an integral part of the Settlement Agreement. A copy of the MFI rider is attached to the Settlement Agreement

as Exhibit "A". Approval of such proposed rider will resolve the controversy in this action. In addition, the settlement with Agrico and the implementation of the MFI rider will enable Tampa Electric to avoid the threat of loss of significant phosphate mining load from its system. This avoidance of risk is of significant benefit to all customers of Tampa Electric.

WHEREFORE Agrico and Tampa Electric move the Commission for a continuance of the schedule in the above-styled proceeding pending Commission review and final approval of the Settlement Agreement and the MFI rider which is the subject of a separate Petition simultaneously filed herewith. Agrico and Tampa Electric further request that upon final approval of the Settlement Agreement and the MFI rider, this proceeding be dismissed.

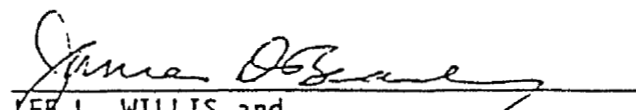
DATED this 14th day of November, 1989.

Respectfully submitted,



ROY C. YOUNG
Young, van Assenderp, Varnadoe,
& Benton, P.A.
225 South Adams Street
Tallahassee, Florida 32302

ATTORNEY FOR AGRICO CHEMICAL COMPANY



LEE L. WILLIS and
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Post Office Box 391
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(904)224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

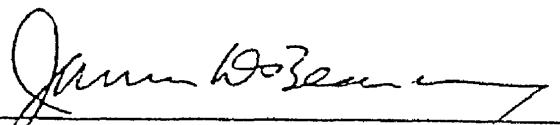
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Motion for Continuance has been furnished by U. S. Mail this 15th day of November, 1989 to the following parties of record:

Mr. Albert H. Stephens
Office of the General Counsel
Florida Power Corporation
Post Office Box 14042
St. Petersburg, Florida 33733

Ms. Sylvia H. Walbolt
Carlton, Fields, Ward, Emmanuel
Smith and Cutler, P.A.
Post Office Box 3239
Tampa, Florida 33601

Mr. Michael A. Palecki*
Division of Legal Services
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301



ATTORNEY

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between AGRICO CHEMICAL COMPANY, a division of Freeport-McMoRan Resource Partners Limited Partnership ("Agrico") and TAMPA ELECTRIC COMPANY ("Tampa Electric"), which are two of the parties to the proceeding currently pending before the Florida Public Service Commission ("FPSC") entitled Tampa Electric Company, Complainant v. Florida Power Corporation, Respondent, Docket No. 890646-EI.

W I T N E S S E T H:

WHEREAS, the Staff of the FPSC scheduled and conducted a settlement conference in the offices of the Commission on October 23, 1989 and met individually and collectively with each of the parties and with FLORIDA POWER CORPORATION ("Florida Power") for the purpose of encouraging a settlement of this matter; and

WHEREAS, the parties wish to amicably resolve the disputed issues involved in the above-referenced complaint proceeding and to avoid the time and expense of further litigation and the uncertainties of the outcome of such litigation; and

WHEREAS, the parties recognize the unique situation involved with providing electric power to dragline/slurry systems and tailings pipelines which are mobile in nature; and

WHEREAS, the parties desire to avoid the unnecessary duplication of electric facilities and the unnecessary impairment of the generation, transmission and distribution processes of Florida Power and Tampa Electric;

NOW, THEREFORE, in consideration of the foregoing, said parties do hereby mutually agree as follows:

1. Definitions. As used in this Settlement Agreement the following terms shall have the following definitions:

1.1. "Tampa Electric's service area" means that area north of the Polk/Hardee County line in the area assigned to Tampa Electric by the Florida Power/Tampa Electric territorial agreement approved by the FPSC.

1.2. "Florida Power's service area" means that area south of the Hardee/Polk County line in the area assigned to Florida Power by the Florida Power/Tampa Electric territorial agreement approved by the FPSC.

1.3. "Mobile facility" means (i) a mobile, integrated phosphate dragline together with the slurry pipeline, electric pumps, telemetry and other associated equipment used to enable phosphate ore to be transported via pipeline from the dragline work site to the washer facility, and (ii) tailings pipelines.

1.4. "Beneficiation plant" means Agrico's Fort Green mine phosphate processing plant located approximately 1.5 miles north of the Hardee County line within Tampa Electric's service area.

1.5. "Washer facility" means the phosphate washing facility and equipment located at the beneficiation plant.

1.6. "Fixed facilities" means all facilities which utilize electric power but which are not mobile facilities.

1.7. "Tailings pipelines" means sand and clay slurry pipelines, electric pumps, telemetry and other associated equipment used to transport sand, clay and other waste material from a washer facility or beneficiation plant to the mining site.

2. Basic Considerations. The parties hereby acknowledge receipt of good and valuable considerations from each other, including the mutual covenants hereinafter set forth.

3. Provision of Electric Power

3.1 Tampa Electric asserts that it has the continuing right and obligation under the Florida Statutes and independent of this Settlement Agreement to provide exclusive electric service to all of the fixed facilities of Agrico located in Polk County and other areas within Tampa Electric's service area, including but not limited to Agrico's Fort Green beneficiation plant and washer facility, Payne Creek beneficiation plant and washer facility, South Pierce chemical plant, Pierce plant and Agrico's Big Bend Terminal. Agrico has disagreed with Tampa Electric's position on this issue. However, for purposes of settlement, Tampa Electric and Agrico agree that during the term of this Agreement Tampa Electric shall have the continuing right and obligation under Florida Statutes to provide exclusive electric service to all of the above mentioned fixed facilities of Agrico. Agrico agrees that during the term hereof, all of its fixed facilities located in Tampa Electric's service area, including but not limited to the beneficiation plant and washer facility, will continue purchasing all of their electrical requirements from Tampa Electric, exclusive of any such requirements which Agrico meets with on-site cogeneration. Service to the fixed facilities shall be provided at the applicable Tampa Electric rate schedule.

3.2. Any Agrico mobile facility which has its dragline located within Tampa Electric's service area shall take service from Tampa Electric pursuant to the Mobile Facility Adjustment Rider-Interruptible ("MFI") which Tampa Electric will propose for approval by the FPSC in connection with its Rate Schedule IS-1, IST-1, IS-3, or IST-3. A copy of the proposed MFI rider is attached hereto as Exhibit "A" and incorporated herein by reference. It is the intent of the parties that the effect of the MFI rider shall be to allow Agrico and any other qualifying Customer to pay no more for electricity supplied by Tampa Electric and utilized to power a mobile facility where the dragline of said mobile facility is located within Tampa Electric's service area than the Customer would pay had Florida Power actually supplied the electricity and billed the Customer. Tampa Electric will submit the MFI for approval by the FPSC and the parties agree that the same should be approved by the FPSC. This Settlement Agreement is specifically conditioned on FPSC final approval of the MFI. The MFI shall expire two years after the effective date of FPSC final approval, or on the effective date of new rates approved by the FPSC in any full revenue requirements rate case order of Florida Power or Tampa Electric, whichever first occurs.

3.3. Any Agrico mobile facility having its dragline located within Florida Power's service area shall take service from Florida Power pursuant to the applicable Florida Power rate schedule, notwithstanding the fact that a portion of such mobile facility may be physically located in Tampa Electric's service area.

3.4. No Agrico mobile facility shall be required to take electric service simultaneously from Florida Power and Tampa Electric.

3.5. Agrico will promptly inform Florida Power and Tampa Electric prior to the time an Agrico dragline crosses the Polk/Hardee County line which separates the service areas of Florida Power and Tampa Electric.

4. General Provisions

4.1 Agrico agrees not to pursue any antitrust, rate discrimination claim or other legal action, either in a judicial or administrative forum, against Tampa Electric or its affiliates where the basis for such claim or action involves Tampa Electric's providing electric service to Agrico and such claim or action accrued or occurred prior to FPSC approval of this Settlement Agreement. Agrico releases Tampa Electric and its affiliates from any and all liability relating to any such claim or action with such release effective as of the date of FPSC approval of this Agreement.

4.2. The settlement reached in this docket is based on the unique factual circumstances of this case and shall have no precedential value in any other proceeding before the Commission.

4.3. The parties reserve the right to assert different positions in this docket on these matters if this proposed settlement is not accepted by the Commission in its entirety.

4.4. The parties agree that this Settlement Agreement, along with the MFI rider, will be submitted to the FPSC for approval and that the agreement is enforceable only upon the approval by the FPSC. If the proposed settlement and MFI rider are not both accepted by the FPSC, they shall be null and void and of no binding effect on the parties.

4.5. The term of this Agreement shall be coextensive with the term of the MFI as provided in paragraph 3.2 above.

4.6. Upon final execution of this Agreement, the parties will jointly move the FPSC to stay the proceedings in Docket No. 890646-EI pending FPSC review and approval of this Agreement and the MFI to be submitted by Tampa Electric.

4.7 This Agreement shall be executed in duplicate with a duplicate original being provided to each of the parties hereto.

DATED this 14 day of November, 1989.

AGRICO CHEMICAL COMPANY

By: Don A. Morrison
Its Senior Vice President,
Florida Operations

TAMPA ELECTRIC COMPANY

By: [Signature]
Its President

MOBILE FACILITY ADJUSTMENT RIDER - INTERRUPTIBLE

SCHEDULE: MFI

AVAILABLE: Entire Tampa Electric Company service area for mobile facilities. The term "mobile facility" means (i) mobile integrated phosphate dragline together with the slurry pipeline, electric pumps, telemetry and other associated equipment used to enable phosphate ore to be transported via pipeline from the dragline work site to a washer facility or beneficiation plant, and (ii) sand and clay slurry pipelines, electric pumps, telemetry and other associated equipment used to transport sand, clay and other waste material from a washer facility or beneficiation plant to the mining site. "Fixed facility" means all facilities which utilize electric power which are not mobile facilities. The rider will be available initially for a period of two years after its effective date, or until the effective date of new rates approved by the Florida Public Service Commission in any full revenue requirements rate case of Florida Power Corporation or the company, whichever first occurs.

APPLICABLE: To any mobile facility on a voluntary basis and upon application by the mobile facility provided it meets all of the following criteria:

- (a) The mobile facility is served pursuant to Rate Schedule IS-1, IST-1, IS-3 or IST-3 by Tampa Electric and its dragline is located within Tampa Electric's service area;
- (b) The mobile facility is not served by Tampa Electric pursuant to rate schedule SSI; and
- (c) The entity which owns the mobile facility takes electric service only from Tampa Electric to serve all of the entity's fixed facilities located in Tampa Electric's service area and each of the entity's mobile facilities when the dragline of such mobile facility is located in Tampa Electric's service area.

Resale not permitted.

CHARACTER OF SERVICE: This rider is offered in conjunction with the rates, terms, and conditions of the interruptible tariff the Customer is billed under for regular service and only affects the total amount due in the event of credits made in accordance with this rider.

MONTHLY CREDITS: The Customer bill for any mobile facility meeting the criteria for this MFI Schedule will be computed using Florida Power Corporation's billing charges. This computation would duplicate the amount of the bill the Customer would actually pay if the Customer were on Florida Power Corporation's system.

Exhibit "A"

SETTLEMENT AGREEMENT

This Settlement Agreement, made and entered into this 14th day of November, 1989, by and between AGRICO CHEMICAL COMPANY, a division of Freeport-McMoRan Resource Partners Limited Partnership ("Agrico"), FLORIDA POWER CORPORATION ("Florida Power") and TAMPA ELECTRIC COMPANY ("Tampa Electric");

W I T N E S S E T H:

That Florida Power hereby agrees that if Agrico and Tampa Electric resolve their differences with respect to Agrico's consumption of electricity delivered to it by Florida Power within Florida Power's service territory on a sufficiently agreeable basis to induce Agrico and Tampa Electric to mutually seek the dismissal of that certain territorial dispute entitled Tampa Electric Company, Complainant v. Florida Power Corporation, Respondent, now pending before the Florida Public Service Commission (FPSC), in Docket No. 890646-EI, then Florida Power will not oppose such dismissal. Subject to the approval of such dismissal by the FPSC, Agrico hereby releases Florida Power from any anti-trust, rate discrimination, or other legal or equitable claim or action whatsoever, without regard to whether the same might properly be brought in an administrative forum or in a judicial forum, at law or in equity, where the basis for such claim or action relates directly or indirectly to the provision of electric service or rates or changes for such service, and such claim or action arose, accrued or occurred prior to the date of this Agreement.

IN WITNESSETH WHEREOF, the parties have executed this Agreement acting by and through their duly authorized officers this 14th day of November, 1989.

TAMPA ELECTRIC COMPANY

By: 

Its: President

AGRICO CHEMICAL COMPANY

By: 

Its: Sr. V. P. Elec. Dept.

FLORIDA POWER CORPORATION

By: 

Its: Executive Vice President

Exhibit "B"

FPC CUSTOMERS TO BE TRANSFERRED TO TEC

| <u>NAME</u> | <u>SERVICE ADDRESS</u> | <u>METER #</u> | <u>MAILING ADDRESS</u> |
|---------------------------------------|--------------------------|----------------|---|
| Copeland, Frank 29-1470-0720-1 | Bailey Hill & Ft King | 3093831 | 4881 Ft. King RD Dade City, Fl 33525 |
| Meadows, Rhonda W. 29-1470-0740-2 | 4871 Ft. King Rd | 7111282 | 4871 Ft. King Rd. Dade City, Fl 33525 |
| Copeland, Frank 29-1470-0760-1 | 4881 Ft. King Rd | 1110121 | 4881 Ft. King Rd Dade City, Fl 33525 |
| Strickland, D. C. 29-1470-0780-1 | 4005 Ft. King Rd | 0818786 | 4005 Ft. King Rd Zephyrhills, Fl 33541 |
| Deboer, John 29-1470-0800-5 | 4854 Ft. King Rd | 5242029 | 4854 Ft. King Rd Dade City, Fl 33525 |
| Strickland, Gene 29-1470-0820-1 | 214 Ft. King Rd | 5029594 | 4005 Ft King Hy. Zephyrhills, Fl 33541 |
| Latter Day Saints 29-1470-0840-1 | Ft King & Bailey Hill | 2564602 | % Jack Besavitch 1551 Highcrest Cr. Valrico, Fl 33594 |
| Hail, Thomas A. 29-1470-0860-1 | 955 Bailey Hill Rd | 5036304 | 955 Bailey Hill Rd Dade City, Fl 33525 |
| Vandenburg, Kenneth 29-1470-0880-1 | 101 Marston Dr. | 5140803 | 101 Marston Dr. Dade City, Fl 33525 |
| Winski, Walter J. 29-1470-0900-1 | 103 Marston Dr. | 7095914 | 103 Marston Dr Dade City, Fl 33525 |
| Lehmann, Cindy 29-1470-0920-1 | 105 Marston Dr. | 5030260 | 105 Marston Dr. Dade City, Fl 33525 |
| Wade, Danny 29-1470-0940-1 | 7 Marston Dr. | 5204869 | 7 Marston Dr. Dade City, Fl 33525 |
| Gage, Richard A. 29-1470-0960-1 | 8 Marston Dr. | 5204949 | 35350 Condominium Bv Zephyrhills, Fl 33541 |

| <u>NAME</u> | <u>SERVICE ADDRESS</u> | <u>METER #</u> | <u>MAILING ADDRESS</u> |
|--|--------------------------|----------------|---|
| Barsness, Marvin L. 29-1470-0980-1 | 106 Marston Dr | 5149647 | 106 Marston Dr. Dade City, Fl 33525 |
| Sickle, Roger 29-1470-1000-1 | 102 Marston Dr | 5008840 | 102 Marston Dr. Dade City, Fl 33525 |
| Rhoden, Jack 29-1470-1020-1 | 821 Bailey Hill Rd | 7061496 | 821 Bailey Hill Rd. Dade City, Fl 33525 |
| Strickland, D. C. 29-1470-1040-1 | Ft King Rd Pump | 5211137 | 4005 Ft King Hy Zephyrhills, Fl 33541 |
| Hauff, Cecil L. 29-1470-1060-1 | 4482 Ft King Rd | 5073493 | 4482 Ft King Rd Dade City, Fl 33525 |
| Shubert Const Co Inc 29-1651-2550-1 | Hy 301 N at Apex | 5036307 | 1355 E Altamonte Dr. Altamonte Spgs, Fl 3270 |
| Conely, Thomas S. 29-1651-2575-2 | 301 at Greer Hill Frt | 0738863 | 37844 TLC Ln Zephyrhills, Fl 33541 |
| Conely, Thomas S. 29-1651-2600-2 | 4405 N 301 Tr | 0742661 | 37844 TLC Ln Zephyrhills, Fl 33541 |
| Conely, Thomas S. 29-1651-2625-2 | 301 at Greer Hill | 5009275 | 37844 TLC Ln Zephyrhills, Fl 33541 |
| Conely, Thomas S. 29-1651-2650-2 | 4405 301 N #B | 5055065 | 37844 TLC Ln Zephyrhills, Fl 33541 |
| Conely, Thomas S. 29-1651-2675-2 | 4405 301 N #A | 5055066 | 37844 TLC Ln Zephyrhills, Fl 33541 |
| Conely, Thomas S. 29-1651-2700-2 | 4401 N 301 Apt #D | 0433307 | 37844 TLC Ln Zephyrhills, Fl 33541 |
| Conely, Thomas S. 29-1651-2725-2 | 4401 N 301 Apt #c | 3070561 | 37844 TLC Ln Zephyrhills, Fl 33541 |
| Rite Media Inc 29-1651-2750-1 | 2.5 Mi N 54 on Hy 301 | 1183978 | 1500 S Hy 27 Clermont, Fl 34711 |
| Williams, Paul 29-1651-3000-4 | 4895 Gall Bv | 7080077 | 4895 Hy 301 Dade City, Fl 33525 |

TEC CUSTOMER TO BE TRANSFERRED TO FPC

| <u>NAME</u> | <u>SERVICE ADDRESS</u> | <u>METER #</u> | <u>MAILING ADDRESS</u> |
|---|----------------------------|----------------|--------------------------------------|
| Sundance Golf & Country 1990-003595-0 | Yawn/Centennial/.25S ES | 647381 | 4600 Rd 301 S Dade City, FL 33525 |



TAMPA ELECTRIC

October 29, 2001

Mr. Steven Davis
IMC Phosphate Company
P.O. Box 2000
Mulberry, FL 33860

Re: Service to IMC's Facilities Located in Tampa Electric Company's Commission
Approved Territorial Area

Dear Mr. Davis:

It has come to our attention that Florida Power Corporation is providing retail electric service to certain industrial facilities owned and operated by IMC Phosphates Company ("IMC") located in Tampa Electric's Florida Public Service Commission ("Commission") approved territorial area. This letter will serve as Tampa Electric's formal notification to IMC Phosphates Company ("IMC") of the necessity for IMC to take prompt action to disconnect the IMC facilities in question from Florida Power's electrical system. To the extent that further service is required for the facilities in question, Tampa Electric stands ready to provide such service pursuant to the appropriate electric rate schedule.

We believe that the IMC facilities in question include at least four large pumps powered by 1,500 horsepower electric motors. These facilities are located in southwestern Polk County and are served from Florida Power's Ft. Green #8 substation located in Hardee County.

The existing service to the pumps in question is prohibited under the Florida Public Service Commission approved service territory agreement currently in effect between Tampa Electric and Florida Power. Florida Power and Tampa Electric agree that Florida Power cannot serve the IMC facilities in question without violating the existing service territory agreement. Therefore, it is imperative that IMC take such steps as may be necessary to disconnect the IMC facilities in question from the Florida Power system within 90 days from the date of this letter. Tampa Electric will cooperate with IMC as appropriate to facilitate the transfer of the electric load in question to Tampa Electric's system.

Tampa Electric values its business relationship with IMC and looks forward to continuing to assist IMC in meeting its energy needs.

Sincerely,

Robert L. Jennings

For: RL Jennings

cc: Mr. Rich Krakowski (IMC)
Mr. James A. McGee (Florida Power Corporation)





January 9, 2002

Mr. Robert Jennings
Account Manager
Tampa Electric Company
P. O. Box 111
Tampa, FL 33601-0111

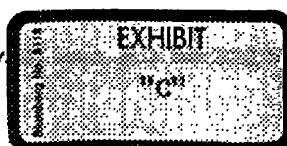
Dear Mr. Jennings:

This letter is a formal response to your October 29 letter.

As you know our company takes electric service from three utilities at transmission and other voltage levels. We have over 300 miles of electrical transmission and distribution within IMC property boundaries. These lines and the necessary substations are owned and maintained by IMC at no cost to the utilities. This avoids cost for each utility and duplication of delivery systems. More importantly to IMC, it enables us to operate our company in the most efficient manner for consolidated operations that are strung out over long distances.

The pumps you refer to in your letter serve to transport matrix through pipes that possibly transverse traditional territories included in the non compete agreements between your company and other utilities. There are numerous pumps along these slurry lines on our property. We have examined the agreements that appear to cover the pumps in question, and it appears that IMC is clearly serving them from the supply source that the agreements call for. It has also been recognized in previous territorial agreements that for safety reasons, since our service is subject to interruption, it is very important that all interconnected facilities receive service from one utility. There can be explosions and other disastrous results if pumps in one utility service area continue to run while those in another utility area are shut down. Therefore, can you please explain why you believe these pumps should be converted to Tampa Electric service?

As you may recall from our previous discussions, another reason IMC connected the loads to Florida Power was to take advantage of out-of-service IMC portable substations that were only compatible with the Florida Power service voltage. This allowed us to provide electricity service to the loads at the lowest installed cost of equipment. We have been studying options for converting the minor loads (other than matrix lift pumps) at Agroek & Payne Creek to Tampa Electric service. Unfortunately, due to the high cost of installing a 69KV:4160Volt transformer that appears to be required for IMC to complete this project independently, we are still faced with the same problem of much higher installation expense for connecting to Tampa Electric. Therefore, IMC is formally requesting that Tampa Electric consider executing one of the following options at Tampa Electric's expense:



Mr. Robert Jennings

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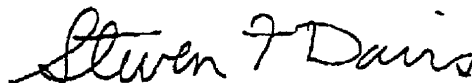
January 9, 2002

1. Install secondary meters on the IMC owned 25KV:4160Volt Substation #699 that feeds Agroek & Payne Creek.
2. Install a Tampa Electric owned 69KV:25KV substation and provide 25KV service to the primary side of IMC Portable Substation #699.
3. Install a 69KV:4160Volt substation at the end of the 69KV power line at Payne Creek.

The first option appears to provide a much less expensive alternative than any independent project available to IMC. I would think that Tampa Electric is much better positioned than IMC to execute this strategy because the secondary meters would have to be approved by Tampa Electric and incorporated into Tampa Electric's and Florida Power's monthly billing cycles. IMC is very open to any additional ideas Tampa Electric may have for economical ways to shift these loads to Tampa Electric service. We believe the secondary meter strategy may be a way to accomplish this task, but we question if it really makes sense for either IMC or Tampa Electric to spend significant funds to reconnect loads that have already been installed using the lowest cost strategy available.

Please let me know what you decide.

Sincerely,



Steven F. Davis
Energy Engineering Manager
IMC Phosphates Company

cc: Mr. Steve Rudolph (Florida Power Corporation)

TAMPA ELECTRIC

February 6, 2002

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Steven F. Davis
Energy Engineering Manager
IMC Phosphates Company
P.O. Box 2000
5000 Old Hwy. 37 South
Mulberry, FL 33860

Dear Mr. Davis:

Tampa Electric Company (TEC) and Florida Power Corporation (FPC) have reviewed your January 9, 2002 response to the October 29, 2001 letter that Robert Jennings sent to you concerning IMC's end use of electricity supplied by FPC to power IMC's industrial pumps and other miscellaneous load in TEC's Florida Public Service Commission ("Commission") approved service territory. Unfortunately, none of the alternatives put forth in your letter would properly rectify the on-going violation of the Commission approved territorial agreement between TEC and FPC.

The territorial agreement between the two utilities, approved by the Commission on May 29, 1991, provides in very clear terms:

Section 2.1 Territorial Allocations. Except as otherwise specifically provided herein, during the term of this Agreement TEC shall have the exclusive authority to furnish retail electric service for end use within the TEC Territorial Area and FPC shall have the exclusive authority to furnish retail electric service for end use within the FPC Territorial Area. (emphasis supplied)

The Commission approved territorial agreement specifically and consistently focuses on the location of the customer's "end use facilities" in determining which utility should provide retail electric service. The location of the serving utility's interconnection with the customer is irrelevant to this determination.

TAMPA ELECTRIC COMPANY
P. O. BOX 111 TAMPA, FL 33601-0111

AN EQUAL OPPORTUNITY COMPANY
[HTTP://WWW.TAMPAELECTRIC.COM](http://www.tampaelectric.com)



(813) 226-4111

CUSTOMER SERVICE:
HILLSBOROUGH COUNTY (813) 223-0800
HILLSBOROUGH COUNTY 1 (888) 223-0600

It is incumbent upon FPC and TEC to take immediate action to rectify this situation and to bring their operations into compliance with the Commission approved territorial agreement. An approved agreement, such as this one, becomes an order of the Commission, binding as such on the parties.

This letter serves as an official request by TEC and FPC that your company take immediate steps to procure whatever equipment and to take whatever actions you consider necessary or appropriate to convert the electric service to the end use facilities in question from FPC supplied service to TEC supplied service. Both companies stand ready to coordinate with IMC to effect the prompt conversion of service to these end use facilities. Absent prompt action on the part of IMC to accomplish this, FPC will have no alternative but to terminate all service to IMC for these end use facilities at the Fort Green No. 8 Substation.

On this date, TEC and FPC are filing a joint petition with the Commission asking for a determination that the current arrangement by which IMC is powering its end use facilities in TEC's service area with electricity supplied by FPC constitutes a clear violation of the Commission approved territorial agreement between the two companies. We are seeking a further determination that termination of FPC supplied electric service to IMC for these end use facilities in question at the Fort Green No. 8 Substation is the appropriate remedy in the absence of IMC's willingness to take immediate steps to convert to TEC supplied power to the end use facilities in question.

For your convenience, we enclose a copy of the joint petition referred to above. We would appreciate your prompt attention and response to the matters requested herein.

This letter is being sent to you in duplicate by FPC and TEC to facilitate prompt transmission.

Sincerely,

TAMPA ELECTRIC COMPANY

By: 

Robert L. Jennings
Account Manager
Tampa Electric Company

Enclosure

cc: John W. McWhirter Jr.
Richard Krakowski