

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSIONER
&
CLERK

DATE: MAY 22, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (JAEGGER)
DIVISION OF ECONOMIC REGULATION (D. LEE, BREMAN)

RE: DOCKET NO. 030330-EU - JOINT PETITION FOR APPROVAL OF
ADDENDUM TO 1995 TERRITORIAL AGREEMENT BETWEEN ORLANDO
UTILITIES COMMISSION AND PROGRESS ENERGY FLORIDA, INC. TO
MODIFY TERRITORIAL BOUNDARY LINE IN CERTAIN AREAS OF
ORANGE COUNTY.

AGENDA: 06/03/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\030330.RCM

CASE BACKGROUND

On April 8, 2003, the Orlando Utilities Commission (OUC) and Progress Energy Florida, Inc., formerly known as Florida Power Corporation (Progress Energy), filed a Joint Petition for approval of an Addendum to the Joint Petitioners' Commission-approved territorial agreement. The territorial agreement currently in effect between the Joint Petitioners was approved by Commission Order No. PSC-95-0440-FOF-EU, issued April 5, 1995 in Docket No. 940656-EU. The 1995 territorial agreement establishes the respective service territories of OUC and Progress Energy in Orange County and elsewhere.

The Addendum to 1995 Territorial Agreement dated March 31, 2003 (Attachment 1, the Addendum) provides for five specific modifications to the territorial boundary line in Orange County.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The Addendum expressly provides that its effectiveness is contingent upon approval in its entirety by the Commission. Pursuant to Section 366.04(2)(d), Florida Statutes, and Rule 25-6.0440, Florida Administrative Code, territorial agreements by and between electric utilities are under the Commission's jurisdiction.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the joint petition for approval of the Addendum to 1995 Territorial Agreement?

RECOMMENDATION: Yes, the Addendum is in the public interest and should be approved, effective upon the issuance of a Consummating Order.

STAFF ANALYSIS: Section 2 of the Addendum provides for five specific modifications. The need for the modifications arises because the existing boundary line now bisects the five properties undergoing development described in the Addendum as a result of reconfiguration, consolidation, and other changes in the layout of properties over the years. This has resulted in uncertainty and the potential for disputes as to which of the Joint Petitioners should serve the five properties. The Addendum reflects the agreement negotiated by the Joint Petitioners to resolve the problematic situation by relocating the territorial boundary line to go around, rather than through, the five properties in question. As modified, the territorial boundary line will place three of the previously bisected properties in the service territory of OUC and two of the properties in Progress Energy's service territory.

The Joint Petitioners believe that the transfer of the properties, as specified in Section 1, paragraphs A through E of the Addendum, will result in service being provided by the most appropriate party under the circumstances; will promote operational safety and efficiency; will benefit the developers and occupants of these properties by having a single electric service provider; and will avoid the uneconomic duplication of facilities and prevent the occurrence of undesirable and costly territorial disputes.

Based on staff's review of documents provided by the Joint Petitioners, staff believes the Addendum meets the requirements set forth in Rule 25-6.0440(2), Florida Administrative Code. The specific modifications of territorial boundaries in the Addendum will help avoid potential uneconomic duplication of facilities. No existing customers or facilities of the Joint Petitioners will be transferred pursuant to the Addendum. There is no reasonable likelihood that the Addendum will cause a decrease in the reliability of electric service to the existing or future ratepayers of OUC and Progress Energy.

The proposed territory modification in the new Orange County Convention Center (OCCC) area, which is one of the developments at issue, demonstrates the benefits of the Addendum. The existing boundary bisects the OCCC and places a corner of the OCCC within the service territory of Progress Energy, while the rest of OCCC is placed within the service territory of OUC. The Addendum will place all of the OCCC within the OUC service territory. Therefore, potential uneconomic duplication of facilities will be avoided and operational safety and efficiency of electric service provided by the two utilities in the area will likely improve. In addition, developers and occupants will have the convenience of having a single electric service provider.

In conclusion, staff believes the Addendum is in the public interest and should be approved, effective upon the issuance of a Consummating Order.

DOCKET NO. 030330-EU

DATE: May 22, 2003

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of the Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest and request for hearing within 21 days of the issuance of the Proposed Agency Action Order.

STAFF ANALYSIS: As no further action will be required, this docket should be closed upon issuance of the Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest and request for hearing within 21 days of the issuance of the Proposed Agency Action Order.

ADDENDUM TO 1995 TERRITORIAL AGREEMENT

THIS ADDENDUM to their 1995 Territorial Agreement, made and entered into this 31st day of March, 2003, by and between ORLANDO UTILITIES COMMISSION (herein called "OUC") and PROGRESS ENERGY FLORIDA, INC., formerly known as Florida Power Corporation, (herein called "Progress Energy"), which entities are herein collectively called the "PARTIES".

WITNESSETH:

WHEREAS, each of the Parties is authorized by its charter and the Laws of the State of Florida to furnish, and do furnish, retail electric service to persons within their respective service areas; and

WHEREAS, the current service areas of each of the Parties were established pursuant to a territorial agreement between the Parties approved by the Florida Public Service Commission (herein called "FPSC") in Order No. PSC-95-0440-FOF-EU, issued April 5, 1995 in Docket No. 940656-EU (herein called the "1995 Territorial Agreement"); and

WHEREAS, there are presently several properties subject to immediate or near-term development that are bisected by the territorial boundary line set forth in the 1995 Territorial Agreement, resulting in uncertainty and potential disputes as to which of the Parties should serve the developed properties; and

WHEREAS, the FPSC has jurisdiction to resolve territorial disputes and approve territorial agreements; and

WHEREAS, the Parties desire to settle their potential disputes through agreement, instead of through adversarial territorial dispute proceedings before the FPSC, in an effort to minimize costs to their respective ratepayers, avoid uneconomic duplication of facilities, and quickly resolve these service issues.

DOCUMENT NUMBER DATE

03281 APR-88

NOW THEREFORE, in consideration of the premises aforesaid and the mutual covenants and agreements herein set forth, the Parties hereby agree to modify their 1995 Territorial Agreement, as follows:

Section 1. For the reasons set forth below, the service territories of the Parties shall be reallocated and the territorial boundary line shall be realigned in the following manner:

- A. Lake Nona Planned Urban Development (PUD). Progress Energy shall transfer to OUC certain territory in Section 18, Township 24 South, Range 31 East, as shown on and described in Exhibit A attached hereto and made a part hereof.
- B. Vista Lakes PUD. OUC shall transfer to Progress Energy certain territory in Section 25, Township 23 South, Range 30 East, as shown on and described in Exhibit B, attached hereto and made a part hereof.
- C. Hyatt Hotel. Progress Energy shall transfer to OUC certain territory in the vicinity of International Drive in Section 36, Township 23 South, Range 28 East and Section 1, Township 24 South, Range 28 East, as shown on and described in Exhibit C, attached hereto and made a part hereof.
- D. Rosen Golf Resort. Progress Energy shall transfer to OUC certain territory in Section 32, Township 23 South, Range 29 East, and Section 5, Township 24 South, Range 29 East, as shown on and described in Exhibit D, attached hereto and made a part hereof.
- E. University Boulevard (Republic Boulevard). OUC shall transfer to Progress Energy certain territory in Section 36, Township 23 South, Range 28 East, as shown on and described in Exhibit E, attached hereto and made a part hereof.

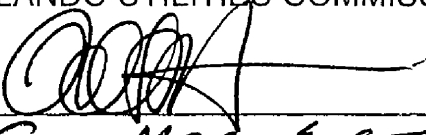
The Parties agree that the transfer of the properties as specified in paragraphs A through E above will result in service being provided by the most appropriate Party under the circumstances; that operational safety and efficiency will be promoted; that the developers and occupants of these properties will benefit by having a single electric service provider; and that the transfer will avoid the uneconomic duplication of facilities and prevent the occurrence of undesirable and costly territorial disputes.

Section 2. Except as modified herein, all other terms and conditions of the 1995 Territorial Agreement shall remain in full force and effect.

Section 3. The effectiveness of this Addendum is expressly conditioned upon and subject to approval in its entirety through a final order issued by the FPSC.

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

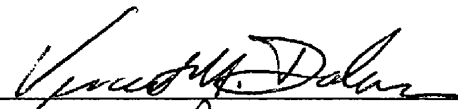
ORLANDO UTILITIES COMMISSION

By: 
Its: Gen. Mgr. & CEO

ATTEST:

Billy J. Perrow
Asst. Secretary

PROGRESS ENERGY FLORIDA, INC.
formerly known as Florida Power Corporation

By: 
Its: VICE PRESIDENT

ATTEST:

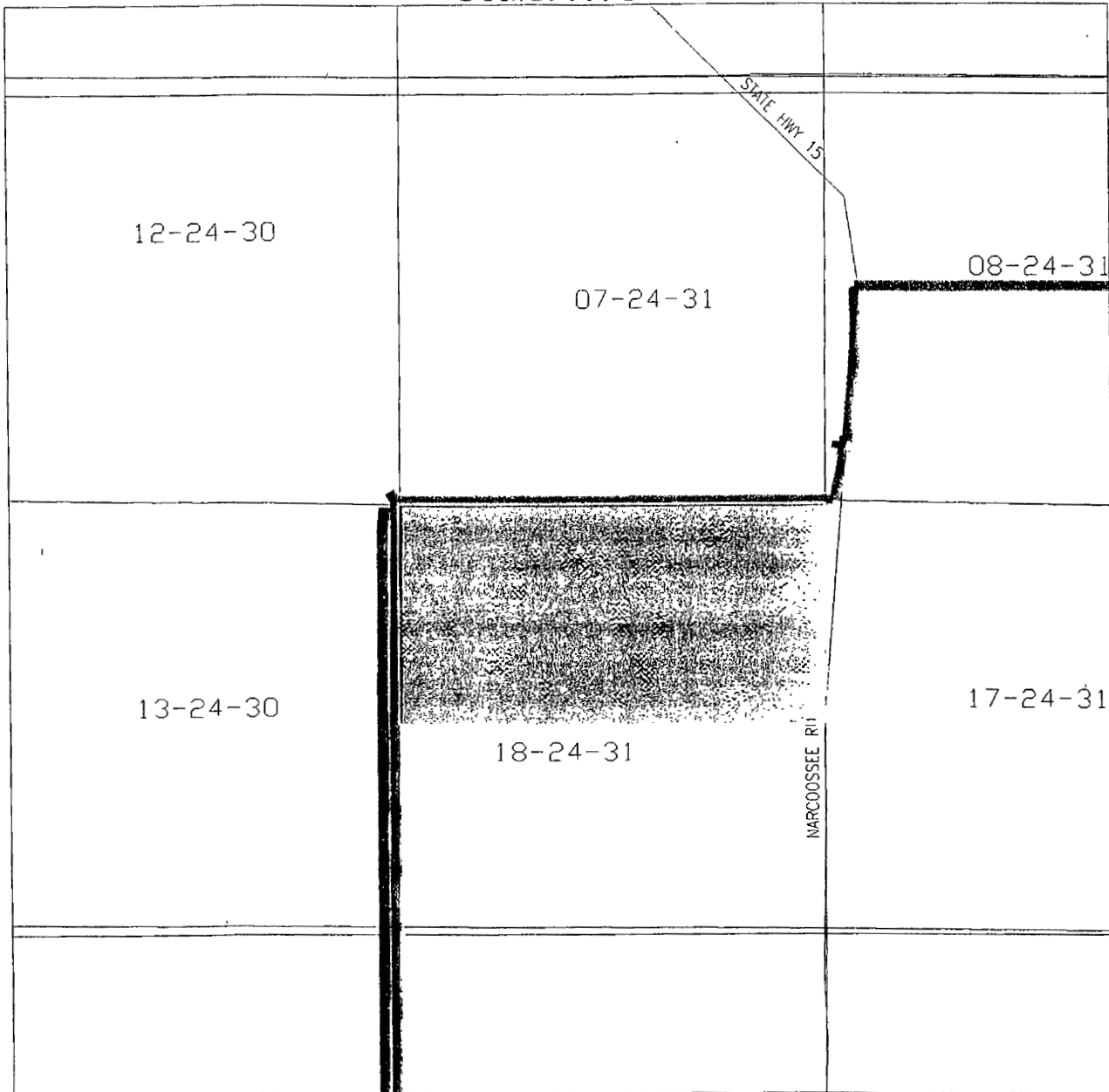
R. A. [Signature]
Asst. Secretary

DOCKET NO. 030330-EU
DATE: MAY 22, 2003



Lake Nona PUD
Exhibit A

The north 1/2 of Section 18, Township 24 South, Range 31 East lying west of Narcoossee Road (SR 15).

Scale: NTS



Territorial Agreement

-  = New to OUC
-  = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "A" **Lake Nona PUD**

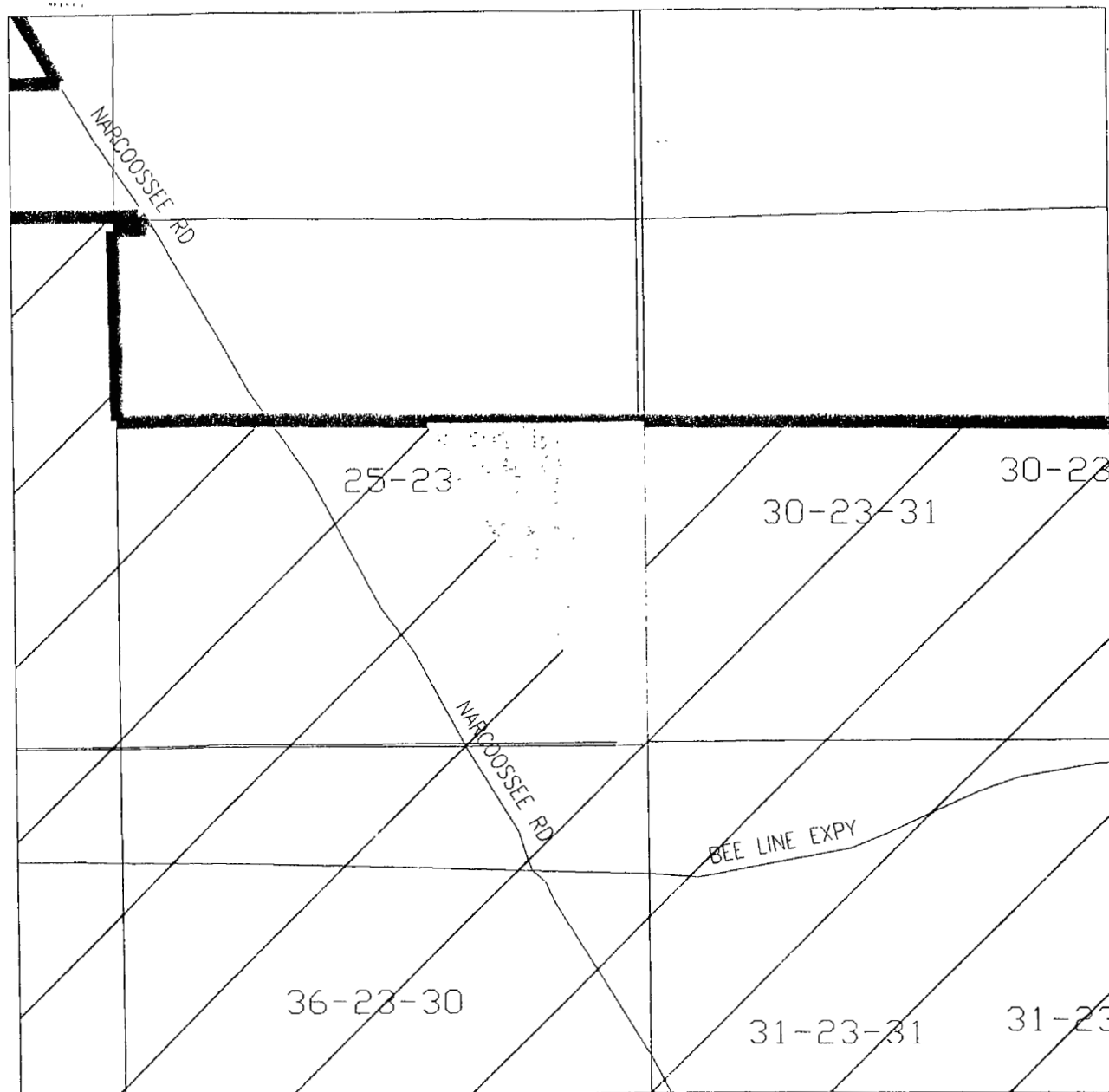
DOCKET NO. 030330-EU
DATE: MAY 22, 2003

Vista Lakes PUD
Exhibit B



A portion of Parcels 25-23-30-0000-008 and 24-23-30-0000-00-018 being more particularly described as follows:




BEGIN at the Northeast corner of the Southeast 1/4 of Section 25, Township 23 South, Range 30 East; thence run South along the East line of the Southeast 1/4 of Section 25 to the Southeast corner of the Southeast 1/4 of said Section 25; thence run West \pm 347.00 feet along the South line of the Southeast 1/4 of Section 25; thence run N30°08'53"W to the North line of the Southeast 1/4 of Section 25; thence run East along the North line of the Southeast 1/4 of Section 25 to the Northeast corner of the Southeast 1/4 of Section 25, also being the POINT OF BEGINNING.

Scale: NTS



Territorial Agreement

 = OUC
 = FPC

 = New to FPC
 = New to OUC
 = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "B" Vista Lakes PUD

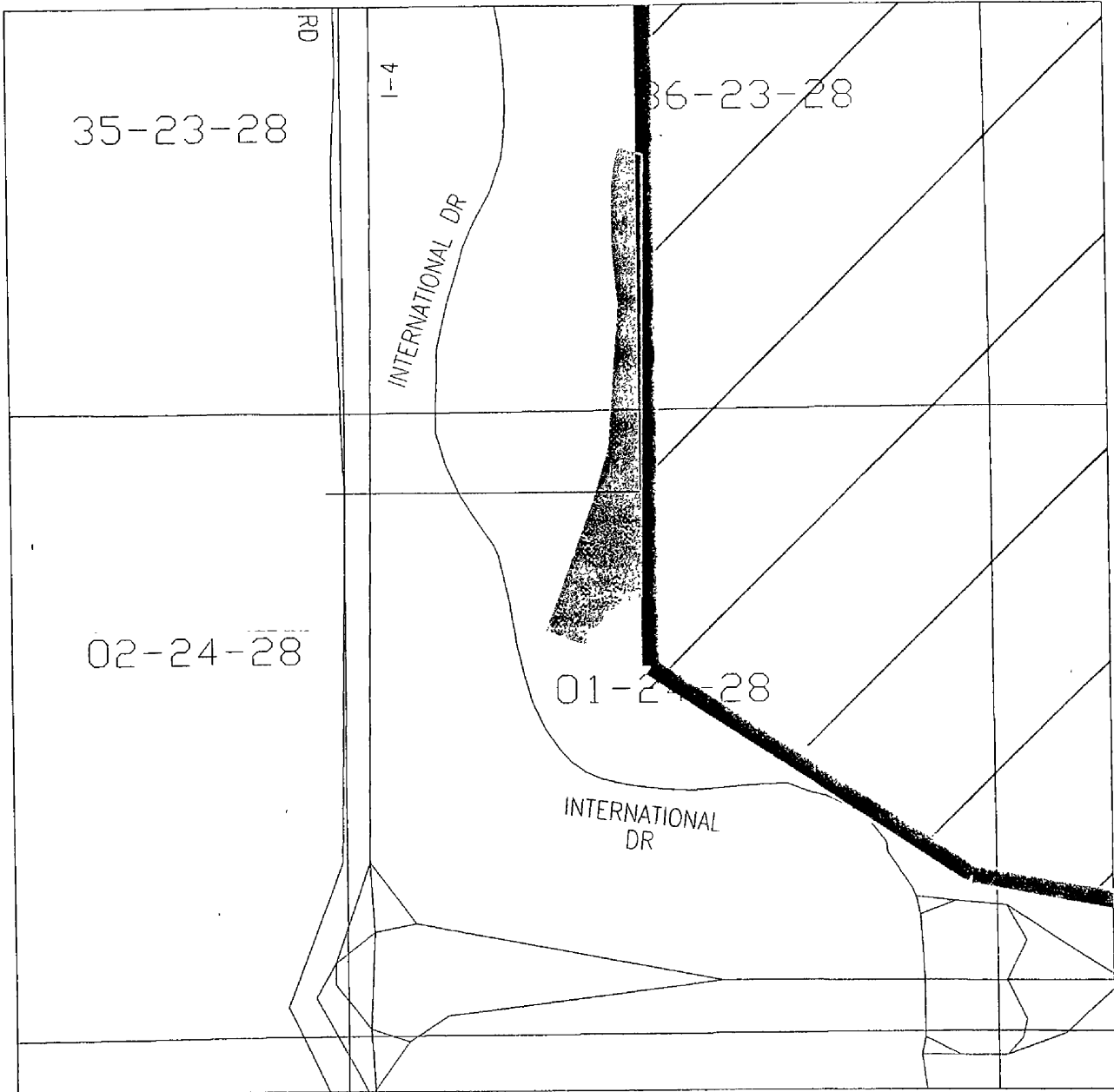
Hyatt Area

Exhibit C



Starting at the Southwest corner of Lot 2, OVERSTREET REPUBLIC DRIVE PROPERTY, according to the plat thereof; as recorded in Plat Book 31, Page 69, of the Public Records of Orange County, Florida, run $S89^{\circ}22'54''W$ for a distance of 167.17 feet to the West line of the East 1/2 of said Section 36, Township 23 South, Range 28 East; thence run $S00^{\circ}07'59''E$ along said West line for a distance of 280.55 feet to the Westerly projection of the North line of lands described in Official Records Book 5638, Page 3517, of said Public Records; thence run $N89^{\circ}04'41''E$ along said Westerly projection and said North line for a distance of 501.03 feet; thence run $S47^{\circ}46'37''E$ along said North line for a distance of 394.51 feet; thence run $S42^{\circ}13'23''W$ along said North line for a distance of 366.84 feet to the point of curvature of a curve concave Easterly having a radius of 832.00 feet; thence run Southerly along the arc of said curve through a central angle of $42^{\circ}58'08''$ for a distance of 623.96 feet to a non-tangent line; thence, departing said North line, run $N90^{\circ}00'00''W$ to the West line of the East 1/2 of Section 36, Township 23 South, Range 28 East, being the Point of Beginning; thence run $N90^{\circ}00'00''W$ to the Easterly right-of-way line of Universal Boulevard (formerly known as Republic Drive) and to a point on a non-tangent curve concave Southeasterly having a radius of 3256.07 feet and a chord bearing of $S17^{\circ}35'27''W$; thence run Southwesterly along said right-of-way line and along the arc of said curve through a central angle of $06^{\circ}17'01''$ for a distance of 357.10 feet to a point of compound curvature of a curve concave Easterly having a radius of 2732.50 feet and a central angle of $22^{\circ}14'20''$; thence run Southerly along the arc of said curve and said right-of-way line for a distance of 1060.60 feet to the point of reverse curvature of a curve concave Westerly having a radius of 3191.80 feet and a central angle of $06^{\circ}17'27''$; thence run Southerly along the arc of said curve and said right-of-way line for a distance of 350.45 feet to a point of non-tangency; thence run the following four (4) courses and distances along the boundary lines of Block C, PLAZA INTERNA



TIONAL UNIT TEN, according to the plat thereof as recorded in Plat Book 17, Pages 63 and 64, of said Public Records: N88°30'00"E, 24.31 feet; S01°32'03"E, 94.70 feet; S05°26'35"E, 25.90 feet; S85°19'22"W, 28.37 feet to a point on a non-tangent curve concave Northwesterly having a radius of 6067.50 feet, a central angle of 22°41'52" and a chord bearing of S11°39'04"W; thence run Southwesterly along the arc of said curve and said Easterly right-of-way line for a distance of 2403.66 feet to the point of tangency; thence run S22°59'57"W along said Easterly right-of-way line for a distance of 304.06 feet; thence, departing said Easterly right-of-way line, run S67°24'38"E along the South line of Lot 1, USI- SOUTH CAMPUS UNIT ONE, according to the plat thereof as recorded on Plat Book 46, Pages 13 through 16, of the Public Records of Orange County, Florida, for a distance of 381.50 feet to a point on a non-tangent curve concave Southeasterly having a radius of 795.00 feet and a chord bearing of N49°26'26"E; thence run Northeasterly along said South line of Lot 1 and along the arc of said curve through a central angle of 53°42'14" for a distance of 745.16 feet to a non-tangent line; thence run S19°33'30"E for a distance of 181.32 feet to the West line of the East 1/2 of the Section 1, Township 24 South, Range 28 East; thence run north along the West line of the East 1/2 of Section 1 and the West line of the East 1/2 of Section 36, Township 23 South, Range 28 East to the Point of Beginning.

Scale: NTS



Territorial Agreement

 = OUC
 = FPC

 = New to FPC
 = New to OUC

 = Current OUC/FPC Service Boundary

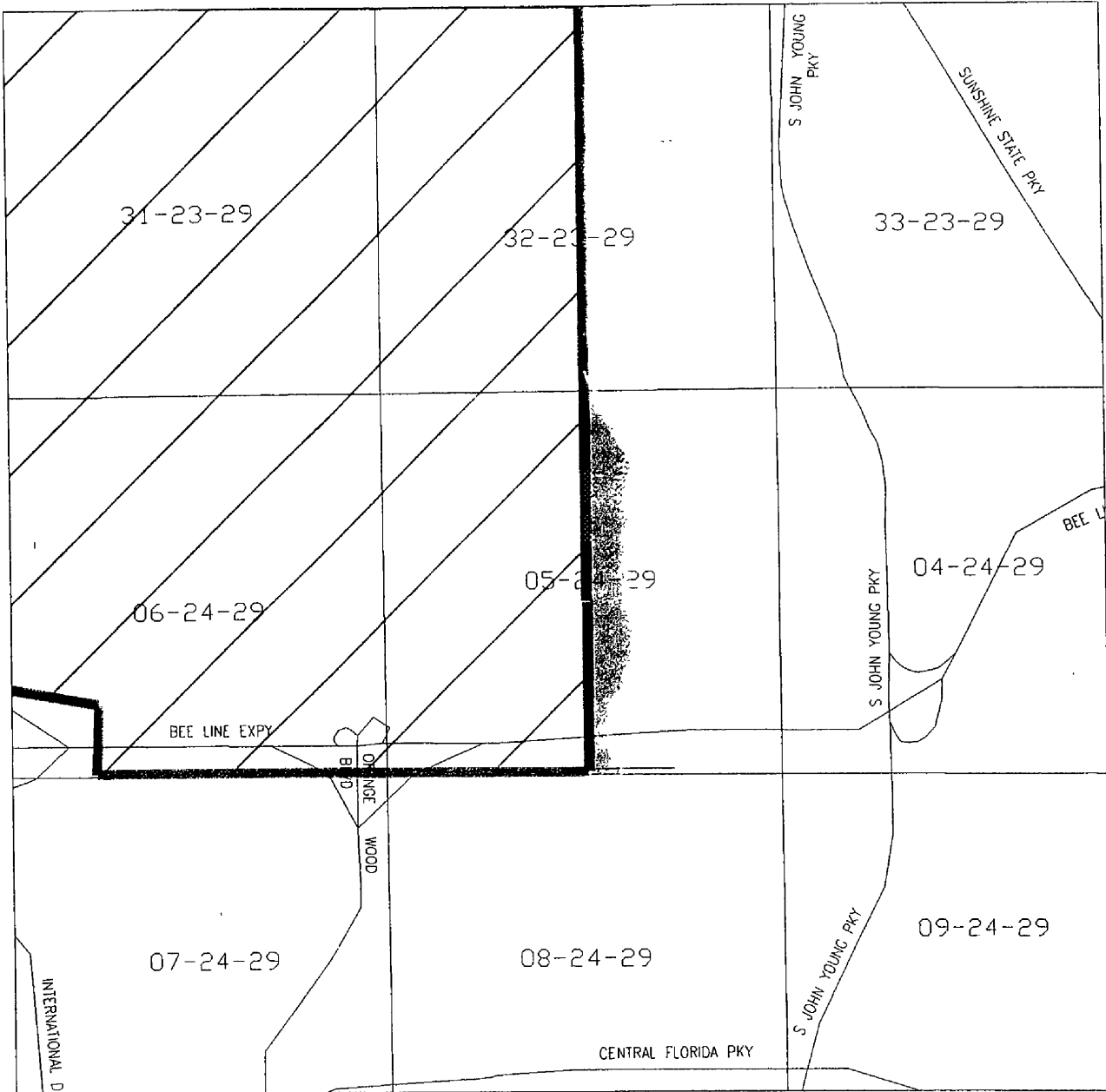
Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "C" Hyatt Area

Rosen Golf Resort



Exhibit D



Begin at the Southeast corner of the Southwest 1/4 of Section 5, Township 24 South, Range 29 East; thence run N89°27'31 "E along the South line of the Southeast 1/4 of said Section 5 for a distance of 384.88 feet; thence, departing said South line, run N00°26'39"W for a distance of 292.07 feet; thence run N44°39'12"W for a distance of 69.94 feet; thence run N68°23'29"W for a distance of 179.21 feet; thence run N22°27'15"E for a distance of 172.34 feet to the Southeast corner of lands described in Official Records Book 6262, Page 4996, of said Public Records; thence run the following eighteen (18) courses and distances along the East line of said lands: N22°27'15"E, 388.98 feet; N20°10'28"E, 264.53 feet; N16°55'58"E, 430.96 feet; N091°3'41"E, 215.50 feet; N07°35'20"W, 185.98 feet; N05°30'41"W, 126.34 feet; N15°50'12"W, 304.44 feet; N05°05'48"W, 244.77 feet; N05°27'06"E, 200.88 feet; N04°39'51"E 575.62 feet; N0411'5,3"W, 195.55 feet; N00°54'01"W 120.58 feet; N11°01'08"E, 346.07 feet; N22°08'10"E, 110.52 feet; N02°55'27"E, 56.49 feet; N18°43'11"W 78.69 feet; N33°40'59"W, 592.88 feet; N25°52'34"W, 255.92 feet to the Northernmost corner of said lands; thence run N25°52'34"W for a distance of 529.92 feet to the East line of the West 1/2 of the aforesaid Section 32, Township 23 South, Range 29 East; thence run south along the East line of the West 1/2 of said Section 32; thence continue south along the East line of the West 1/2 of said Section 5 to the Point of Beginning.

Scale: NTS



Territorial Agreement

-  = OUC
-  = FPC

-  = New to FPC
-  = New to OUC

-  = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "D" Rosen Golf Resort

DOCKET NO. 030330-EU
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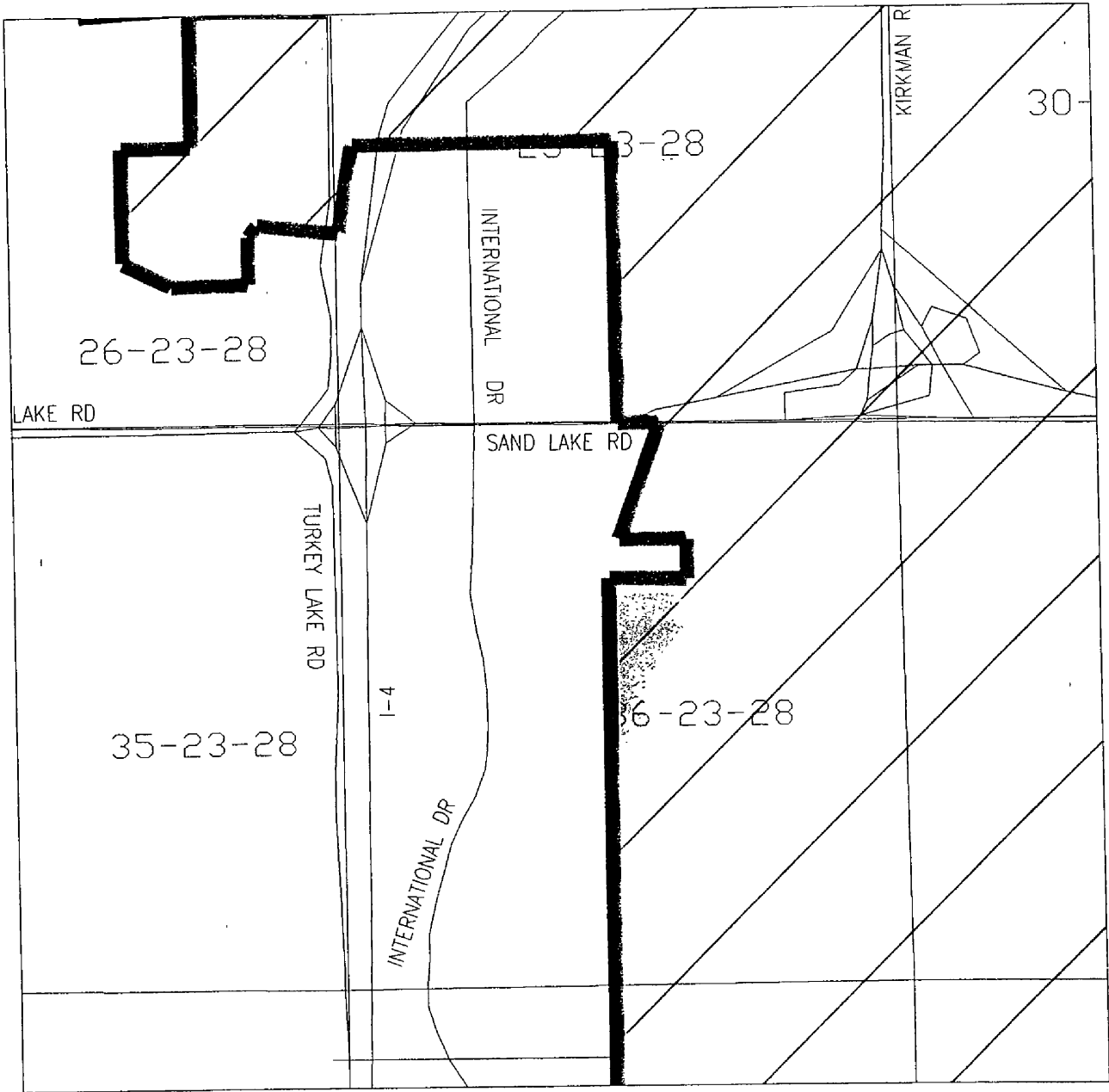
Universal Boulevard Area

(previously Republic Drive)

Exhibit E

Starting at the Southwest corner of Lot 2, OVERSTREET REPUBLIC DRIVE PROPERTY, according to the plat thereof; as recorded in Plat Book 31, Page 69, of the Public Records of Orange County, Florida, run S89°22'54"W for a distance of 167.17 feet to the West line of the East 1/2 of said Section 36, Township 23 South, Range 28 East; thence run S00°07'59"E along said West line for a distance of 280.55 feet to the Westerly projection of the North line of lands described in Official Records Book 5638, Page 3517, of said Public Records, being the Point of Beginning; thence run N89°04'41"E along said Westerly projection and said North line for a distance of 501.03 feet; thence run S47°46'37"E along said North line for a distance of 394.51 feet; thence run S42°13'23"W along said North line for a distance of 366.84 feet to the point of curvature of a curve concave Easterly having a radius of 832.00 feet; thence run Southerly along the arc of said curve through a central angle of 42°58'08" for a distance of 623.96 feet to a non-tangent line; thence, departing said North line, run N90°00'00"W to the West line of the East 1/2 of Section 36, Township 23 South, Range 28 East; thence run north along said West line of the East 1/2 Section 36 to the Point of Beginning.

Scale: NTS



Territorial Agreement

- = OUC
- = FPC

- = New to FPC
- = New to OUC

- = Current OUC/FPC Service Boundary

Between
Orlando Utilities Commission and Florida Power Corporation
Exhibit "E" Universal Boulevard Area
(Formally Republic Drive Area)