

ORIGINAL
DUNLAP & TOOLE, P.A.
LAWYERS

DAVISSON F. DUNLAP, JR.
DANA G. TOOLE
DAVISSON F. DUNLAP, III

2057 DELTA WAY
TALLHASSEE, FLORIDA 32303-4227
PHONE: 850-385-5000
FACSIMILE: 850-385-7636

Of Counsel:
DAVISSON F. DUNLAP

July 11, 2003

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
& Administrative Services
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-PPSC
JUL 14 AM 11:59
COMMISSION
CLERK

Re: Territorial Dispute Between City of Bartow
and Tampa Electric Company ("TECO")
Case No. 011333-EU

Dear Ms. Bayo:

Enclosed with this letter are the original and sixteen copies of a Protest and Petition for Formal Hearing Regarding Modification of a Territorial Agreement with Tampa Electric Company.

Please file the original pleading in the Commission's file for this matter. Please then stamp one copy with the date and time filed and return it to me in the enclosed stamped, addressed envelope.

Thank you for your assistance.

Sincerely yours,


Davisson F. Dunlap, Jr.

Enclosures
cc Mr. Richard A. Williams

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC _____
OTH _____

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
06176 JUL 14 8

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of City of Bartow, Florida,
Regarding a Territorial Dispute with Tampa
Electric Company, Polk County, Florida.

DOCKET No. 011333-EU

Filed: _____

**PROTEST AND PETITION FOR FORMAL HEARING
REGARDING MODIFICATION OF A TERRITORIAL
AGREEMENT WITH TAMPA ELECTRIC COMPANY**

Petitioner, the City of Bartow, Florida ("Bartow"), by and through undersigned counsel, pursuant to Rules 25-22.029 and 28-106.201 of the *Florida Administrative Code* and Order No. PSC-03-0739-PAA-EU issued by the Florida Public Service Commission ("Commission") on June 23, 2003 ("PAA order"), hereby files this protest and petition for a formal hearing as provided for in section 120.57, Florida Statutes (2002), and in support thereof states as follows:

1. The name, address, and telephone number of Petitioner, Bartow, is as follows:

City of Bartow
c/o Mr. Richard A. Williams
Assistant City Manager
450 North Wilson Avenue (33830)
Post Office Box 1069
Bartow, FL 33831-1069
863-534-0100

2. The names, addresses, and telephone number of Bartow's representative, which shall be the address for service purposes during the course of this proceeding, are as follows:

Mr. Davisson F. Dunlap, Jr.
Dunlap & Toole, P.A.
2507 Delta Way
Tallahassee, FL 32303
850-385-5000
850-385-7636 (facsimile)
Attorneys for Petitioner, City of Bartow

DOCUMENT NUMBER DATE

06176 JUL 14 8

FPSC-COMMISSION CLERK

1. On October 4, 2001, Bartow filed a petition before the Florida Public Service Commission for modification of its territorial agreement with Tampa Electric Company ("TECO").

2. The issue proceeded on an informal basis without being referred to any hearing officer for a formal hearing. Neither side had the opportunity to present evidence. There was an informal meeting between the Florida Public Service Commission staff and representatives from TECO and Bartow. Both sides also responded to requests for documentation and information from the Commission staff.

3. On June 23, 2003, the Commission issued its order adopting the staff recommendations, a copy of which is attached as Exhibit A. This order made a slight modification of the territorial boundary line between the parties, but denied Bartow's request that it be permitted to serve all of the Old Florida Plantation property.

4. The territorial boundary agreement between the parties, which was entered into an April 16, 1985, gave either of the parties the right to initiate unilateral action seeking to obtain a modification of the territorial boundary agreement, which was approved by the Commission.

5. The territorial boundary agreement has a termination and modification clause that appears in section 1.1 and states:

[For] fifteen (15) years from the date above first written, but not before, either of the parties hereto shall have the right to initiate unilateral action before any governmental entity or court with appropriate jurisdiction, seeking to obtain modification or cancellation of this agreement.

6. That 15-year term has now expired and Bartow is seeking to terminate or modify the agreement.

7. At the time that the 1985 agreement was reached, there were no electrical customers in the area and neither utility was providing electrical services to what is now known as the Old Florida Plantation ("OFP") property.

8. The territorial dividing line reached in the 1985 agreement runs from east to west and divides the OFP property.

9. On August 7, 2000, the entire area comprising OFP was annexed into the city of Bartow. This included portions of the areas that lie north of Bartow's territorial boundary line. A copy of Ordinance no. 1923-A, which includes a legal description, is attached as Exhibit B.

10. At the current time, the city of Bartow does provide some electrical services to a location in the OFP development, which is located within Bartow's current territorial boundary.

11. The developer of the property has requested that the city of Bartow provide all of the utility services, including electrical services to the development.

12. The city of Bartow will provide utility services for the development, including garbage pick up, sewer services, potable water and police and fire protection.

13. The city of Bartow will own and operate certain of its own facilities located in that portion of the development lying north of its territorial boundary line, including a fire station, auxiliary police station, sewer lift stations, and street lights, all of which it will serve with its electrical power.

14. Bartow can serve the territory more economically than can TECO. Bartow's distribution substations that would provide power to the site currently have the capacity to accommodate the new development.

15. Bartow currently has distribution lines bordering the property. Bartow is fully capable of providing reliable electric service within the disputed area with its existing facilities. No additional substations or expansion of existing facilities will be necessary to serve the projected load in the OFP development.

16. As described above, the city of Bartow will be providing other utility services within the OFP development as soon as it begins construction of its roads and infrastructure.

17. Not only has the developer, who is the initial customer, requested that Bartow provide electrical service but there are significant advantages to the developer and to future electrical customers, some of which are outlined above, in having Bartow provide the electrical service. The customer would have a single entity to deal with relating to all of its utility needs. The customer would have service centers and utility offices physically located closer to it. Response time for addressing emergencies and electrical power needs would be shortened. Reliability of the system would be superior if Bartow were to serve the area.

18. There is a benefit to the future customers in the development in being able to have all their utilities supplied by the city of Bartow, as opposed to having to deal with two separate entities to receive their utility services.

19. As noted on page three of the Commission's June 23, 2003 order, Bartow's petition is the first instance in which the Commission has addressed a unilateral petition for modification which is specifically authorized by the existing territorial agreement.

20. The parties to the contract and the Commission, in approving the territorial agreement between the parties, provided a vehicle for either party to seek modification of the territorial agreement based on their assessment of conditions that existed after the passage of 15 years.

21. Since the right of the parties to seek this modification was specifically granted by contract and approved, Bartow and TECO come before the Commission with an equal claim to the OFP property that Bartow seeks to serve.

22. Bartow in this protest and petition for formal hearing has outlined significant conditions that currently exist with respect to the OFP property, which places Bartow in a better position to serve OFP, both from an economic and operational standpoint.

23. The issues of fact include: determination of which utility currently has existing facilities sufficient to serve the Old Florida Plantation; which utility can provide the most reliable and economic electric service; and service by which utility will most benefit the customers.

24. Bartow feels that the application of Section 366.104, Florida Statute, and of Rule 25-6.441, Florida Administrative Code, "Territorial Disputes for Electrical Utilities," require that the decision of the Commission be reversed or modified.

25. The Commission order issued by the Commission on June 23, 2003, affects Bartow's substantial interest.

26. Bartow petitions this Commission for a formal hearing.

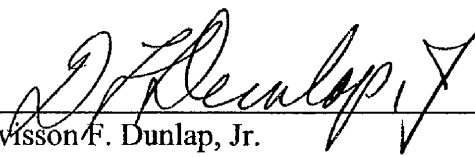
WHEREFORE, Bartow respectfully requests that this Commission:

A. Grant Bartow's petition for a section 120.57 formal hearing and set such formal hearing to be held on a date that will provide adequate opportunity for Bartow to present its case.

B. Determine that Bartow should provide the electric power to the OFP development.

C. Grant such other relief as the Commission deems appropriate.

Respectfully submitted on this 11th day of July, 2003.



Davisson F. Dunlap, Jr.
Florida Bar Number-0136730
DUNLAP & TOOLE, P.A.
2057 Delta Way
Tallahassee, FL 32303-4227
850-385-5000
850-385-7636 Facsimile

Attorneys for Petitioner, City of Bartow

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Protest and Petition for Formal Hearing Regarding Modification of a Territorial ~~Agreement~~ with Tampa Electric Company has been furnished by United States mail on this 11th day of July, 2003, to:

Mr. Harry W. Long, Jr.
Assistant General Counsel
Tampa Electric Company
Post Office Box 111
Tampa, FL 33601

Ms. Adrienne Vining
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0863

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

Attorney for Florida Public Service
Commission

Attorneys for Tampa Electric Company



Attorney

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of City of
Bartow to modify territorial
agreement or, in the
alternative, to resolve
territorial dispute with Tampa
Electric Company in Polk County.

DOCKET NO. 011333-EU
ORDER NO. PSC-03-0739-PAA-EU
ISSUED: June 23, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER MODIFYING TERRITORIAL AGREEMENT BETWEEN
CITY OF BARTOW AND TAMPA ELECTRIC COMPANY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

On October 4, 2001, the City of Bartow, Florida (~~Bartow or~~
City), filed a petition to modify the territorial agreement or, in
the alternative, to resolve a territorial dispute between Bartow
and Tampa Electric Company (TECO or Company). Bartow and TECO
entered into a territorial boundary agreement, on or about April
16, 1985, which contains a clause prohibiting either party from
modifying or cancelling the agreement for a period of fifteen years
from the date first written. See Order No. 15437, issued December

EXHIBIT A

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11, 1985, in Docket No. 850148-EU. Now that the fifteen-year term has expired, Bartow is requesting a modification to the territorial boundary line in order to serve the Old Florida Plantation (OFP) development, which spans the current boundary line. Bartow argues: it can serve OFP more economically than TECO; the developer of OFP has requested that Bartow serve the property; and, its distribution substations have the capacity to accommodate the new development.

By Order No. PSC-02-0422-PCO-EU, issued March 3, 2002, the Commission denied a motion to dismiss filed by TECO, and found that Bartow's petition stated a legally sufficient cause of action. The Order ruled only on the legal sufficiency of Bartow's claim. There was no finding as to the factual support for Bartow's petition.

On April 16, 2002, our staff and the parties held an informal meeting to discuss issues and possibility of settlement. The same day TECO filed an answer to Bartow's petition. In its answer, TECO denies any inference that TECO's facilities are any less appropriately located than those of Bartow to provide electric service to OFP, as well as the existence of a territorial dispute. TECO also disputes that Bartow can serve the territory more economically than TECO, and that there is a benefit to future customers in OFP having all their utilities supplied by Bartow. Finally, TECO states that Bartow has provided no justification for a modification to the territorial agreement, and indeed no basis for any other action by the Commission.

On April 25, 2002, Bartow filed a Motion for Continuance. Bartow requested the continuance because of ongoing litigation between OFP and a natural gas pipeline company, which was set to go to trial in August 2002. The litigation was important to this proceeding because the layout of the OFP development could have changed as a result of the civil case. The Commission granted the continuance by Order PSC-02-0939-PCO-EU, issued July 17, 2002, predicated upon Bartow filing either a status report of the configuration of the Old Florida Plantation once the August 2002 trial was completed, or a revised petition; however, Bartow was not precluded from filing both a status report and a revised petition.

On December 2, 2002, Bartow filed a status report stating that the final configuration of the OFP development had been established

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and that this proceeding could now resume. Bartow did not revise its October 24, 2001, petition.

This Order addresses both the factual and legal matters in Bartow's October 24, 2001, petition. We have jurisdiction to address the petition pursuant to Section 366.04, Florida Statutes.

ANALYSIS

Section 1.1 of the territorial agreement between Bartow and TECO states:

After this AGREEMENT becomes effective . . . it shall continue in effect until termination or until modification shall be mutually agreed upon, or until termination or until modification shall be mandated by governmental entities or courts with appropriate jurisdiction. Fifteen (15) years from the date above first written, but not before, either of the parties hereto shall have the right to initiate unilateral action before any governmental entity or court with appropriate jurisdiction, seeking to obtain modification or cancellation of this AGREEMENT.

More than fifteen years have passed since TECO and Bartow entered into the territorial agreement, allowing either party to petition for modification of the agreement, as Bartow has done in this case. We note that this is the first instance in which the Commission has addressed a unilateral petition for modification which is specifically authorized by the existing territorial agreement.

We have exclusive jurisdiction to modify territorial agreements that are expressly approved by Order of the Commission. Public Service Comm'n v. Fuller, 551 So. 2d 1210 (Fla. 1989). We also have the responsibility to ensure that the territorial agreement "works no detriment to the public interest." Utilities Comm'n of City of New Smyrna Beach v. Florida Public Service Comm'n, 469 So. 2d 731, 732-733 (Fla. 1985). Thus, we may modify a territorial agreement where a demonstrated public interest requires the modification. Absent such a demonstrated need, however, the principle of administrative finality supports our policy of encouraging territorial agreements. Peoples Gas System,

Inc. v. Mason, 187 So. 2d 335 (Fla. 1966). On the basis of these legal principles and policies, and pursuant to Section 1.1, we shall modify the parties' existing agreement only to the extent necessary to ensure reliable electric service to the new development.

Pursuant to Rule 25-6.0440(2) (b), Florida Administrative Code, a territorial agreement should not cause a decrease in the reliability of electrical service to future electric customers. In response to staff data requests, both utilities stated that strict adherence to the current boundary line through OFP would result in a decrease in the reliability of service to future customers, because a radial rather than a loop underground circuit would need to be installed in the proximity of the boundary. A minor boundary modification following the primary entrance road into OFP, and then across a conservation area, would result in improved reliability to future customers because no radial circuits would need to be installed. The modification to the territorial agreement shall follow natural boundaries, allowing better engineering practices and improving the reliability of electric service.

As both parties have indicated, under the existing territorial boundary future customers would receive less reliable electric service, which would not be in the public interest. The boundary modifications suggested by the City's petition are excessive, however, and not required to ensure reliable electric service for future customers. Granting all of OFP to Bartow is not necessary to protect the public from harm, and indeed could lead to uneconomic duplication of facilities. In this proceeding, we must balance the public's interest in receiving reliable electric service with the preservation of existing territorial agreements, which also provides a public benefit. Territorial agreements establishing exclusive service areas are encouraged as a means to avoid the harms resulting from competitive practices. Storey v. Mayo, 217 So. 2d 304 (Fla. 1968); City of Homestead v. Beard, 600 So. 2d 450 (Fla. 1992). Here, a minor modification to the boundary pursuant to Section 1.1 of the agreement would protect the public from harm, while also according the requisite finality to the order approving the current territorial agreement. This action is consistent with our policy of encouraging territorial agreements.

For these reasons, we find that only a minor modification of the boundary through OFP is appropriate, because future customers will have more reliable electric service when the territorial boundary follows natural boundaries, allowing better engineering practices. We also find that the current territorial agreement between TECO and Bartow would result in a decrease in the reliability of electric service to future customers unless modified to address apparent deficiencies. As a result, the new boundary line through OFP shall follow the primary entrance road into OFP and then cross a conservation area. The modification will ensure reliable electric service for future customers, which is in the public interest. By August 4, 2003, the parties shall file a metes and bounds description of the new boundary through OFP, as well as a map delineating the modification to the service areas of TECO and Bartow.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the City of Bartow and Tampa Electric Company shall modify their territorial agreement as set forth in the body of this Order. It is further

ORDERED that, by August 4, 2003, the City of Bartow and Tampa Electric Company shall file a metes and bounds description of the new boundary through Old Florida Plantation, as well as a map delineating the modification to the service areas of the City of Bartow and Tampa Electric Company. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall remain open to allow for the review of the pending territorial modification.

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By ORDER of the Florida Public Service Commission this 23rd
Day of June, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

AEV

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding,

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in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 14, 2003.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

ORDINANCE NO. 1923-A

AN ORDINANCE ANNEXING UPON THE PETITION OF THE OWNER THEREOF CERTAIN LANDS LOCATED IN SECTIONS 9, 10, 15, 16, 19, 20, 21, 22, 28, 29, 30, 32 AND 33, TOWNSHIP 29 SOUTH, RANGE 25 EAST, POLK COUNTY, FLORIDA, KNOWN AS OLD FLORIDA PLANTATION; AND PROVIDING FOR AN EFFECTIVE DATE UPON FINAL PASSAGE.

Whereas, the owner of the hereinafter-described lands, known as Old Florida Plantation, has heretofore petitioned for said lands without the city limits of the City of Bartow, Florida, to be annexed, and

Whereas, said lands are unincorporated and lie contiguous to the present territorial limits of the City of Bartow, Polk County, Florida, and

Whereas, the Planning and Zoning Commission has, after holding a duly noticed public hearing thereon, recommended that said lands be annexed to the City of Bartow, and

Whereas, the City Commission determines that it is in the best interest of the citizens of the City of Bartow to annex the said lands and to redefine the territorial limits of the City accordingly in accordance with the recommendation of the Planning and Zoning Commission;

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF BARTOW, FLORIDA:

Section 1. That the City of Bartow, upon the petition of the owner of certain lands located in Sections 9, 10, 15, 16, 19, 20, 21, 22, 28, 29, 30, 32 and 33, Township 29 South, Range 25 East, Polk County, Florida, known as Old Florida Plantation, as described and depicted on Exhibit "A"

hereto attached, does hereby annex said lands lying contiguous to the present territorial limits of the City of Bartow, Polk County, Florida, in accordance with the provisions of Section 171.044, Florida Statutes, and the territorial limits of the City of Bartow, Florida, are hereby redefined and extended to embrace the said lands.

Section 2. After passage on first reading, at least three correct copies of this ordinance in the form in which it has been passed on first reading shall be made available for public inspection in the office of the City Clerk, and there shall be published once a week for two consecutive weeks in the Polk County Democrat, a newspaper published and of general circulation in the City of Bartow, a notice describing this ordinance in brief and general terms and stating that it is available for public inspection in the office of the City Clerk, together with the time and place when and where it will be considered on second reading at the public hearing, which shall be held approximately ten days after the second publication of said notice. Said notice shall give the ordinance number and a brief, general description of the area proposed to be annexed, and shall include a map clearly showing the said area and a complete legal description thereof. A copy thereof shall be mailed by certified mail to the Board of County Commissioners of Polk County.

Section 3. After final passage, there shall be published in the Polk County Democrat, a newspaper published and of general circulation in the City of Bartow, a notice describing this ordinance in brief and general terms and stating that it is available for public inspection in the office of the City Clerk.

Section 4. Within seven days after the effective date of this ordinance the City Clerk is ordered and directed to file this ordinance with the Clerk of the Circuit Court of Polk County, Florida, the Board of County Commissioners of Polk County, Florida, and with the Department of State of the State of Florida.

PASSED ON FIRST READING July 17, 2000

PASSED AND ENACTED ON SECOND READING August 7, 2000



CITY OF BARTOW

By: Paul A. Scherker
Mayor

ATTEST WITH SEAL:

By: [Signature]
City Clerk

Approved as to correctness and form:

By: [Signature]
City Attorney

Approved as to substance:

By: [Signature]
City Manager

EXHIBIT A

OLD FLORIDA PLANTATION

Legal Description

IN TOWNSHIP 29 SOUTH, RANGE 25 EAST, POLK COUNTY, FLORIDA:

That portion of the west half of Section 28 lying westerly of CSX Railroad right of way and southeasterly of Old Bartow-Winter Haven Road;

AND:

That portion of the southeast quarter of the southeast quarter of Section 29 lying southeasterly of Old Bartow-Winter Haven Road;

AND:

That portion of the northeast quarter of the northeast quarter of Section 32 lying southeasterly of Old Bartow-Winter Haven Road;

AND:

Begin at the NW corner of Section 33, Township 29 South, Range 25 East, then run East along the North boundary line of said Section 33 a distance of 706.71 feet to a point on the West boundary line of the right-of-way of the Seaboard Coast Line Railroad Company, then run South-westerly along said right-of-way line a distance of 1477.74 feet to a point on the West boundary line of said Section 33, then run North along the west boundary line of said Section 33 a distance of 1318.20 feet to the point of beginning.

All lying in Township 29 South, Range 25 East, Polk County, Florida.

AND:

All that portion of CSX Railroad right-of-way according to Right-of-Way and Track Map V-3g-4 and S-4 lying within Section 28, Township 29 South, Range 25 East, Polk County, Florida, less and except road rights-of-ways.

AND:

All that certain portion of Grantor's former operating property line and being near Bartow, Polk County, Florida, situate in the west half of the northwest quarter of Section 33, Township 29 South,

Range 25 East and lying on either side of Grantor's former centerline of railroad track, more particularly described as follows:

Beginning with the intersection of said centerline and the west line of Section 33; extending in a northeasterly direction 1,730 feet, more or less, and ending with the intersection of said centerline and the north line of Section 33, said former operating property being 100 feet wide, 50 feet on either side of said centerline in the southwest quarter of the northwest quarter of said Section 33 and 200 feet wide,

100 feet on either side of said centerline in the northwest quarter of the northwest quarter of said Section 33. Containing 7.25 acres, more or less, and being as shown crosshatched on fragment print of Grantor's Valuation Section V3g Fla. Map 4, marked Exhibit A-1 attached hereto.

LESS AND EXCEPT the portion thereof conveyed to the State of Florida Department of Transportation described in Final Judgment of Civil Action No. 666-81-2637, and recorded among the Official Records of Polk County, Florida in Book 2079, Page 1652.

Leaving a net conveyance of 6.6 acres, more or less.

BEING a portion of the property granted to the Jacksonville, Tampa & Key West Railway Company, a predecessor of Grantor, from the State of Florida pursuant to Section 24 of an Act approved by the Florida Legislative on February 19, 1874 (Chapter 1987, Laws of Florida 1874).

Under foreclosure of April 8, 1893 the Jacksonville, Tampa & Key West Railway Company conveyed its property to the Plant Investment Company. On June 26, 1885, the Plant Investment Company conveyed a portion of its property to the South Florida Railroad Company, which changed its name to the Savannah, Florida and Western Railway Company. The Savannah, Florida and Western Railway Company was merged into the Atlantic Coast Line Railroad Company, effective July 1, 1902. On July 1, 1967 the Atlantic Coast Line Railroad Company merged with the Seaboard Air Line Railroad Company to form the Seaboard Coast Line Railroad Company. On December 29, 1982 the Louisville and Nashville Railroad Company merged into Seaboard Coast Line Railroad Company, and the name of the surveying corporation changed to Seaboard System Railroad, Inc. On July 1, 1986, Seaboard System Railroad, Inc. changed its name to CSX Transportation, Inc.

AND:

That part of the Northeast Quarter (NE 1/4) of Section 28, Township 29 South, Range 25 East, Polk County, Florida, lying northwesterly of the right of way for State Road 555 (U.S. Highway 17) and southeasterly of the right of way for Old Bartow-Winter Haven Road (a/k/a Bartow-Eagle Lake Road), according to Map Book 2, Pages 137-140, public records of Polk County, Florida; less and except that portion of the above-described property lying within the railroad right of way of CSX Transportation, Inc. and less and except that portion lying within the maintained right of way of Crossover Road according to Map Book 5, Pages 243, public records of Polk County, Florida.

AND

Lot 4 lying west of Old Bartow-Winter Haven Road; and that part of Lot 17 lying west of Old Bartow-Winter Haven Road less the South 374 feet thereof; and the North 294 feet of Lot 18; all according to the revised plat of Gordonville according to plat thereof recorded in Plat Book J, Page 43, public records of Polk County, Florida.

In Township 29 South, Range 25 East, Polk County, Florida:

Section 9: the fractional S-1/2.

Section 10: SW-1/4

Section 15: That part of Section 15, lying within a tract described as: Begin at the intersection of the north right-of-way line of the Old Winter Haven-Bartow Road and the west boundary of the E-1/4 of W-1/2 of Section 22, Township 29 South, Range 25 East, Polk County, Florida, run thence north along said west boundary 2743.2 feet, thence deflect right $33^{\circ}15'41''$ and run 1234 feet to the east boundary of the W-1/2 of Section 15, thence north along said east boundary 4854.2 feet, thence West 200 feet, thence south parallel to the east boundary of the W-1/2 of Section 15, 1350 feet, thence West 600 feet, thence South 660.6 feet, thence East 600 feet, thence South 2786.6 feet, thence deflect right $33^{\circ}42'22''$ and run 1234 feet, thence deflect left $33^{\circ}15'41''$ and run 2902.96 feet to the north right-of-way line of the Old Winter Haven-Bartow Road, thence northeasterly along the north right-of-way line 225.96 feet to the point of beginning.

The W-1/2, and the W-1/2 of the NW-1/4 of SE-1/4, and the SW-1/4 of SE-1/4, LESS that part of the E-1/2 of W-1/2 cited above.

That part of the North 1/2 of the Northwest 1/4 of the Northeast 1/4 of Section 15, lying West of Sheffield Road and begin further described as follows: Commence at the Northeast corner of said Northwest 1/4 of the Northeast 1/4 of Section 15; thence North $89^{\circ}41'12''$ West along the North line of said Section 15 a distance of 311.21 feet to the intersection with the North and Westerly right-of-way line of aforesaid Sheffield Road, said point also being the Point of Beginning; thence continue North $89^{\circ}41'12''$ West still along said North section line 1015.00 feet to the northwest corner of aforesaid Northwest 1/4 of the Northeast 1/4; thence South $00^{\circ}09'42''$ West along the west line of said Northwest 1/4 of the Northeast 1/4 a distance of 661.12 feet to the southwest corner of the aforesaid North 1/2 of the Northwest 1/4 of the Northeast 1/4; thence South $89^{\circ}43'24''$ East along the south line of said North 1/2 a distance of 631.58 feet to the aforesaid north and westerly right-of-way line of Sheffield Road; thence North $19^{\circ}24'55''$ East along said right-of-way line 435.95 feet to the point of curvature of a curve concave to the southwesterly having a radius of 411.97 feet and a central angle of $49^{\circ}30'11''$; thence along said curve 355.94 feet to the Point of Beginning. Said tract containing 11.57 acres, more or less.

Section 16: All fractional section.

Section 19 The fractional NE-1/4 LESS the E-1/2 of NE-1/4 of NE-1/4, the fractional SE-1/4 of NW-1/4, the SE-1/4, and that part of the E-1/2 of SW-1/4 lying east of Saddle Creek, LESS that part of the SE-1/4 of SW-1/4 east of Saddle Creek lying within a tract described as: Commence at the southwest corner of Section 19, run thence East 2056.34 feet to the POINT OF BEGINNING, thence deflect to the right 66°35' and run southerly 69.81 feet, thence deflect 90 left and run northeasterly 180 feet, thence deflect 90 left and run northwesterly 100 feet, thence deflect 90 left and run southwesterly 180 feet, thence deflect 90 left and run southeasterly 30.19 feet to the point of beginning.

Section 20: All fractional section.

Section 21: That part of the E-1/2 and of the East 330 feet of the W-1/2 lying north of the Old Bartow-Winter Haven Road (the East 330 feet of the SE-1/4 of NW-1/4 being otherwise described as the East 330 feet of Lots 1 and 5 of A.B. Ferguson's Subdivision, according to the plat thereof recorded in Deed Book 61, Page 36, Polk County.

The fractional W-1/2, LESS the East 330 feet thereof.

Section 22: That part of Section 22, lying within a tract described as: Begin at the intersection of the north right of way line of the Old Winter Haven-Bartow Road and the west boundary of the E-1/4 of W-1/2 of Section 22, run thence north along said west boundary 2743.2 feet, thence deflect right 33°15'41" and run 1234 feet to the east boundary of the W-1/2 of Section 15, Township 29 South, Range 25 East, thence north along said east boundary 4854.2 feet, thence West 200 feet, thence south parallel to the east boundary of the W-1/2 of Section 15, 1350 feet, thence West 600 feet, thence South 660.6 feet, thence East 600 feet, thence South 2786.6 feet, thence deflect right 33°42'22" and run 1234 feet, thence deflect left 33°15'41" and run 2902.96 feet to the north right of way line of the Old Bartow-Winter Haven Road, thence northeasterly along the north right of way line 225.96 feet to the point of beginning.

The N-1/2 of NW-1/4, and the SW-1/4 of NW-1/4, and the W-1/2 of SE-1/4 of NW-1/4, and the W-3/4 of SW-1/4 lying north of the Old Bartow-Winter Haven Road (being otherwise described as Blocks 5 through 12, and Blocks 19 through 24, and Blocks 35 through 37, and that part of Blocks 34, 3B, and 46 lying north of the Old Bartow-Winter Haven Road, of Gordonville, according to the revised plat thereof recorded in Plat Book 3, Page 43, Polk County, Florida), LESS that part of the E-1/2 of W-1/2 described above.

Section 28: That part of the E-1/2 and of the East 330 feet of the W-1/2 lying north of the Old Bartow-Winter Haven Road.

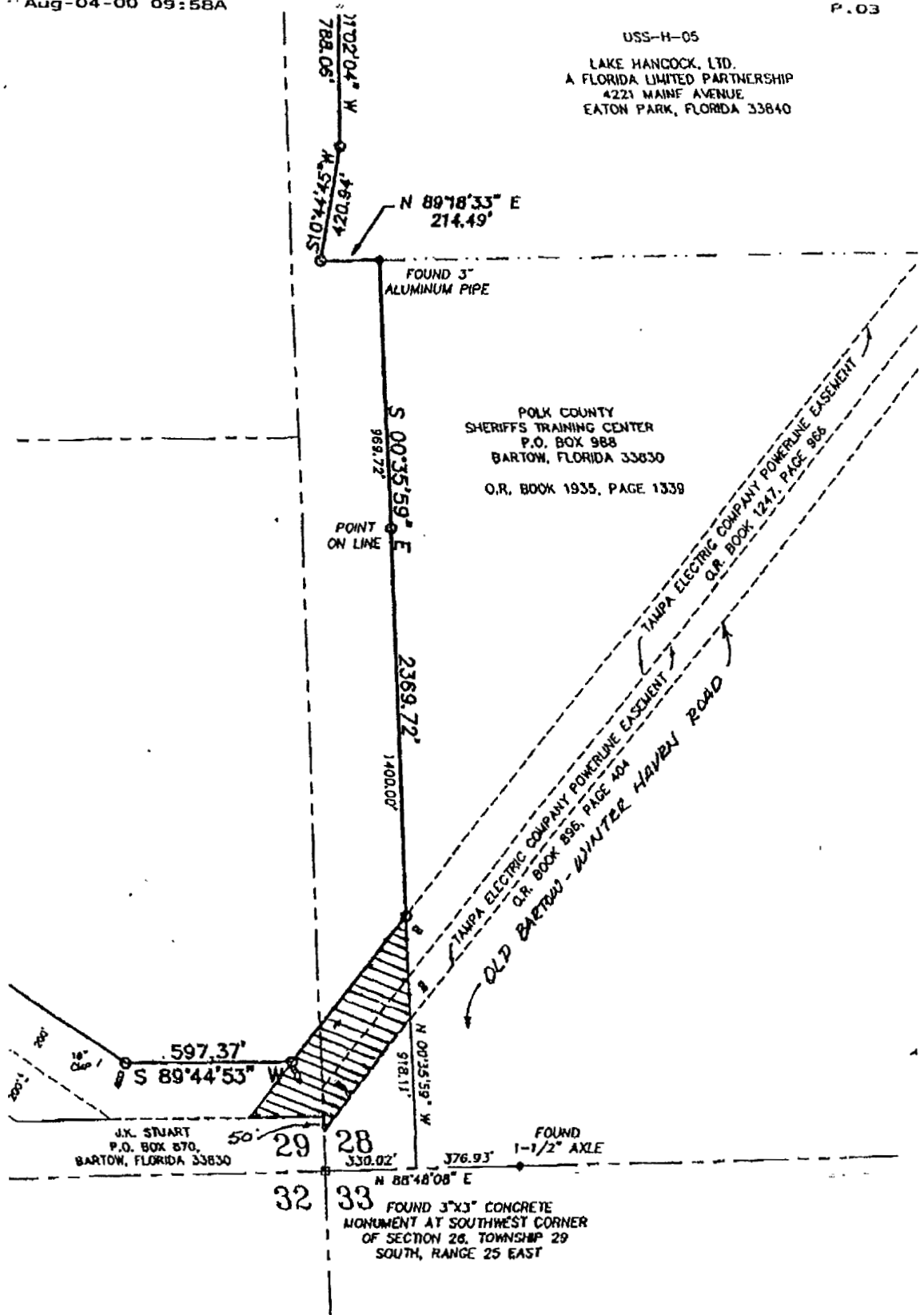
That part of Section 28, described as: Begin on the west boundary of Section 28 at a point 50 feet north of the north right-of-way line of the Old Bartow-Winter Haven Road, run thence north to northwest corner of Section 28, thence east to the northeast corner of the NW-1/4 of NE-1/4 of NW-1/4, thence south to the north right-of-way line of the Old Bartow-Winter Haven Road, thence southwesterly along said north right-of-way line to a point directly east of the point of beginning, thence west to the point of beginning.

LESS AND EXCEPT:

That portion of lands within Tampa Electric Company's power line easements recorded in O.R. Book 1247, Page 966 and O.R. Book 896, Page 404, Public Records of Polk County, Florida; said lands being in Sections 28 & 29, Township 29 South, Range 25 East and lying west of the east line of the west 330 feet of said Section 28 and lying northerly of Old Bartow - Winter Haven Road and lying northeasterly of the following described line; begin at the intersection of the east line of said Section 29 and the northerly right-of-way line of said Old Bartow - Winter Haven Road; thence north along said east line of Section 29 a distance of 50.00 feet; thence west to the northerly line of said Tampa Electric Company Easement as recorded in O.R. Book 1247, Page 966.

USS-H-05

LAKE HANCOCK, LTD.
A FLORIDA LIMITED PARTNERSHIP
4221 MAIN AVENUE
EATON PARK, FLORIDA 33640



DESCRIPTION SKETCH

LEGEND:

- INDICATES SET 5/8" STEEL ROD WITH CAP STAMPED "P&A COR LB 364"
- INDICATES FOUND 4"-4" CONCRETE MONUMENT

SURVEYOR'S

- 1.) The bearings : North 89°36'31" southwest 1/4 29 South, -Rax
- 2.) An abstract c and Associate appear as a c
- 3.) Legal descrip client request

less the following described parcel:

Begin on the west boundary of Section 28, Township 29 South, Range 25 East and run east for 330 feet to the point where the line will intersect with the north boundary of the Old Bartow-Winter Haven Road for a point of beginning; thence run north along a line 330 feet east of the western boundary of Section 28 for a distance of 2770 feet; thence run East 1980 feet to a point which is 330 feet west of the centerline of Section 28; thence run south along a line 330 feet west of said centerline to the north boundary of the Old Bartow-Winter Haven Road; thence southwesterly along the north road boundary to the point of beginning. This parcel all lies in the west half of Section 28, Township 29 South, Range 25 East and north of the Old Bartow-Winter Haven Road in Polk County, Florida.

Section 29: That part of Section 29, described as: Begin on the east boundary of Section 29 at a point 50 feet north of the north right-of-way line of the Old Bartow-Winter Haven Road, run thence west to a point 200 feet northeasterly of, and measured at right angles to, the northeasterly bank of Saddle Creek, thence run northwesterly along a line parallel to and 200 feet northeasterly of (measured at right angles to) said northeasterly bank to the west boundary of Section 29; thence north to the northwest corner of the section, thence east to the northeast corner of the section, thence south to the point of beginning.

Section 30: Those parts of the NE-1/4, and of the NE-1/4 of NW-1/4 lying northeast of Saddle Creek, in Section 30, LESS that part of the NE-1/4 of NW-1/4 east of Saddle Creek lying within a tract described as: Commence at the southwest corner of Section 19, Township 29 South, Range 25 East, run thence East 2056.34 feet to the POINT OF BEGINNING, thence deflect to the right 66° 35' and run southerly 69.81 feet, thence deflect 90 left and run northeasterly 180 feet, thence deflect 90 left and run northwesterly 100 feet, thence deflect 90 left and run southeasterly 30.19 feet to the point of beginning.

