

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CLERK

In re: Joint Petition for Approval)
Of Territorial Agreement Between)
Florida Power & Light Company,)
a Florida corporation, and)
City of Starke, Florida,)
a municipal corporation)
_____)

Docket No. 110099-EU

Filed: April 12, 2011

JOINT PETITION FOR APPROVAL OF TERRITORIAL AGREEMENT

Florida Power & Light Company ("FPL") and the City of Starke, Florida ("CITY") jointly petition the Commission for approval of a Restated Territorial Agreement dated March 21, 2011, (the "Agreement") entered into by and between FPL and CITY. Said Agreement is hereby submitted for approval.

- 1. The names and addresses of the parties are:

Florida Power & Light Company
700 Universe Blvd
DOE/JW
Juno Beach, FL 33408
Attention: George K. Hardy, Vice President, Distribution

and

City of Starke, Florida
Post Office Drawer C
Starke, Florida 32091
Attention: Ricky Thompson, Operations Manager

- 2. All notices and pleadings in connection with this matter are to be served upon the following counsel:

containing petition and 4 copies of maps.

- COM _____
- APA _____
- ECR 10+10
- GCL 1+1 map
- RAD _____
- SSC _____
- ADM _____
- OPC _____
- CLK _____

FOR FLORIDA POWER & LIGHT COMPANY

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FOR CITY OF STARKE, FLORIDA

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3. The Commission has jurisdiction pursuant to Florida Statutes § 366.04(2)(d) to approve territorial agreements between electric utilities. This Petition is filed pursuant to Chapter 25-6.0439 and Chapter 25-6.0440, Florida Administrative Code.

4. FPL is a corporation organized and existing under the laws of the State of Florida and is an electric utility as defined in Florida Statutes §366.02(2). CITY is a municipal corporation organized and existing under the laws of the State of Florida, owns and operates its own electric utility system, and is an electric utility as defined in Florida Statutes §366.02(2).

5. FPL and CITY entered into a Territorial Agreement on February 27, 2009, but did not seek approval by the Commission. FPL and CITY have entered into a Restated Territorial Agreement, subject to the Commission's approval, dated March 21, 2011, a copy of which Agreement is attached hereto as Exhibit 1 and which is incorporated herein by reference.

6. The Commission's approval of the Agreement is a condition precedent to the effectiveness of the Agreement.

7. The Agreement has been entered into by the parties after lengthy deliberation and consideration of the best interests of their electric consumers and the citizens of the areas served by both parties, and is intended to prevent uneconomic, costly and unnecessary duplication of electric facilities in the territorial areas covered by the Agreement. It is, therefore, the parties' position that the Agreement is in the best interests of the public.

8. The Agreement identifies the geographic boundary between the two utilities by the maps attached to the Agreement as Composite Appendix A. Composite Appendix A is comprised of a general highway map of Bradford County, Florida, showing the territorial boundaries as required by Rule 25-6.0440(1)(f) and a more detailed map ("Map Showing a Sketch & Description") identifying the boundary lines and the city limits of City in greater detail and providing a written description of the boundary lines

9. Should the Commission approve the Territorial Agreement, 86 customer accounts will be transferred between the parties. The customer accounts to be transferred from City to FPL are set forth in Appendix B to the Agreement. The customer accounts to be transferred from FPL to City are set forth in Appendix C to the Agreement. Appendices B and C are provided as part of Exhibit 1 in redacted form, as those documents contain confidential information related to sensitive customer information. Copies of Appendices B and C are being separately filed along with a Request for Confidential Classification. The class of customers to be transferred is as follows

City to FPL: 15 residential and 5 commercial

FPL to City: 54 residential and 12 commercial

10. Written notice to all affected customers of the parties has been made and the difference in rates explained. Written notice was originally provided on March 16, 2009, and was again provided on March 29, 2010, and on January 7, 2011. The following is information with respect to the degree of acceptance by the affected customers:

| <u>Notice Date</u> | <u>Customer Accounts to be transferred from City to FPL:</u> | <u>Customer Accounts to be transferred from FPL to City:</u> |
|--------------------|--|---|
| March 16, 2009 | Two responses were received from City customers, neither of whom opposed the transfer. | Nine responses were received from FPL customers, eight of whom opposed the transfer on the basis of rates or reliability issues. |
| March 29, 2010 | Three responses were received from City customers, none of whom opposed the transfer. Of these responses, none were from customers who had also provided responses to the March 16, 2009 notice. | Six responses were received from FPL customers, all of whom opposed the transfer on the basis of rates. Of these responses, three were from customers who had also provided responses to the March 16, 2009 notice. |
| January 7, 2011 | One response was received from a current City customer, who did not oppose the transfer. This customer had not also provided a response to prior notifications. | No responses were received from current FPL customers. |

11. The parties recognize that upon approval of this Agreement, any modifications, changes or amendments must be approved by the Commission.

12. The parties represent that approval of this Agreement will not cause a decrease in the reliability of electrical service to the existing or future members of either utility, and there is a reasonable likelihood that this Agreement will eliminate uneconomic

duplication of facilities and will promote the Commission's stated policy of encouraging territorial agreements between and among Florida's electric utilities.

WHEREFORE, FPL and CITY respectfully request that the Commission enter an order approving the Territorial Agreement between the parties dated *March 21*, 2011.

DATED this *12th* day of *April*, 2011.

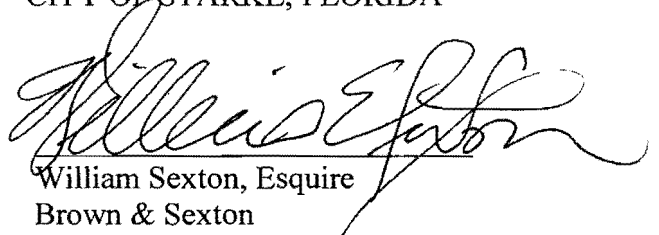
FLORIDA POWER & LIGHT
COMPANY



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EXHIBIT 1

**RESTATED TERRITORIAL AGREEMENT BETWEEN
FLORIDA POWER & LIGHT COMPANY
AND THE CITY OF STARKE**

Section 0.1 THIS AGREEMENT, made and entered into this 21 day of MARCH, 2011, by and between FLORIDA POWER & LIGHT COMPANY, a Florida corporation organized and existing under the laws of the State of Florida (herein called the "FPL"), and the CITY OF STARKE, a municipal corporation created under the laws of the State of Florida (herein called "CITY"); and

Section 0.2 WHEREAS, this Restated Territorial Agreement replaces the Territorial Agreement which FPL and STARKE entered into on February 27, 2009, but did not seek approval by the Florida Public Service Commission (herein called the "COMMISSION"); and

Section 0.3 WHEREAS, STARKE, by virtue of its Charter and the Laws of Florida, is authorized and empowered to furnish electricity and power to persons, firms and corporations, and pursuant to such authority, presently furnishes electricity and power to customers in areas within and without the city limits of Starke, Florida; and

Section 0.4 WHEREAS, FPL, by virtue of its Charter and the Laws of Florida, is authorized and empowered to furnish electricity and power to persons, firms and corporations throughout the State of Florida and pursuant to such authority presently furnishes electricity and power to customers in areas within and without the city limits of Starke, Florida, and elsewhere; and

Section 0.5 WHEREAS, the respective areas of service of the parties hereto are contiguous in many places with the result that in the future duplication of service facilities will occur unless such duplication is precluded by a territorial agreement; and

Section 0.6 WHEREAS, the COMMISSION has previously recognized that any such duplication of said service facilities by the parties results in needless and wasteful expenditures, may create hazardous situations, and fails to provide the most economical cost effective service to the utility customer; and

Section 0.7 WHEREAS, the COMMISSION is empowered by Section 366.04, Florida Statutes, to approval territorial agreements; and

Section 0.8 WHEREAS, the parties hereto desire to avoid and eliminate the circumstances giving rise to the aforesaid possible duplications and possible hazards and to that end desire to establish territorial boundaries.

Section 0.9 NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, the parties hereto, subject to the approval of the COMMISSION, and subject to the terms and conditions herein set forth, do hereby agree as follows:

ARTICLE I

TERRITORIAL BOUNDARY

Section 1.1 Boundary. The territorial boundary to be observed by both parties is depicted on the map attached hereto as Appendix A.

Section 1.2 Allocation. The area labeled in Appendix A as "CITY", is reserved to the City of Starke as its service territory (as it relates to FPL), and the area labeled in Appendix A as "FPL" is reserved to FPL as its service territory (as it relates to the CITY), with respect to service to retail customers.

Section 1.3 Scope. The parties agree that neither party will provide or offer to provide electric service at retail to customers within the territory reserved to the other party except as provided in Section 2.1.

ARTICLE II

ELIMINATION OF OVERLAPPING FACILITIES

Section 2.1 As a result of the establishment of the boundary herein, certain customer accounts and distribution facilities shall be transferred between the parties to comply with Section 1.3. Until such transfers are accomplished pursuant to Section 2.5, each utility is authorized to continue providing service to those identified customer locations.

Section 2.2 Those customer accounts identified in Appendix B shall be transferred from the CITY to FPL.

Section 2.3 Those customer accounts identified in Appendix C shall be transferred from FPL to the CITY.

Section 2.4 Each party is responsible for making the necessary modifications to its facilities to effect the transfers in Sections 2.2 and 2.3

Section 2.5 (a) The distribution facilities necessary to effect the transfers required by Sections 2.2 and 2.3, and the identified customer accounts, shall be transferred to the appropriate party within a reasonable period of time, not to exceed two years, after the COMMISSION's final order approving this Territorial Agreement. Transfers of accounts and facilities shall not require further COMMISSION approval.

(b) Notwithstanding the foregoing, the parties recognize that in certain 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 party in whose territorial area they are located. In such situations, 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. If such temporary service lasts, or is expected to last for more than one year, the parties will seek formal approval of the service from the COMMISSION.

(c) If prior to the transfer major repairs to the facilities to be transferred occur before the transfer due to storm damage, then the party which is to acquire those facilities shall pay, upon presentation of appropriate cost information, all capital costs only of the aforesaid repairs. However, before any major storm damage repairs are made, the acquiring party shall be given the opportunity to do the repairs itself, and effectuate the transfer of those storm damage customers at the time of repair. The parties hereto agree to timely notify each other, by letter, of any governmental mandate to relocate, for road modifications, facilities scheduled for transfer, and coordinate the customer transfers to allow the receiving party to carry out the relocation.

(d) Prior to and after transfer of these facilities, it may be necessary for the parties to jointly use certain facilities and FPL and CITY shall enter into, as necessary, an appropriate joint use agreement for those specific facilities. Facilities are to be transferred in good operating condition. Customer meters are not to be transferred. Upon transfer of any facilities, the receiving utility shall be solely responsible for any maintenance, removal, upgrading or improvements to those facilities.

(e) All electric generating plants, transmission lines, substations, distribution lines and related service facilities now or hereafter constructed and/or used by either party in

conjunction with its respective electric utility systems, and which are directly or indirectly used or useful in serving Customers of either party shall be allowed to remain where situated and shall not be subject to removal hereunder, PROVIDED, HOWEVER, that each party shall operate and maintain said lines and facilities in such a manner as to minimize any interference with the operations of the other party.

(f) Nothing herein shall be construed to prevent or in any way inhibit the right and authority of either Party to serve any of its facilities now or hereafter constructed located in the other Party's territorial area, which facility is used in connection with that Party's business as an electric, waster, wastewater, natural gas or telecommunications utility, where such service is feasible and does not in any way interfere with or hinder the other Party from serving other customers within their service area in a reliable and cost effective way.

Section 2.6 No provision of this Agreement shall be construed as applying to bulk power supply for resale, or to facilities dedicated to such bulk power supply.

Section 2.7 Customers of transferred accounts shall be subject to the deposit policies of the utility receiving the transferred customers.

Section 2.8 All easements and joint use agreements held by either FPL or the CITY necessary or appurtenant to serving customers transferred pursuant to this Agreement are hereby assigned to the utility receiving the transferred customers.

ARTICLE III

PREREQUISITE APPROVAL

Section 3.1 Regulatory Approval. The provisions of this Agreement are subject to the regulatory authority of the COMMISSION whose approval shall be a prerequisite to the validity and applicability of this Agreement.

ARTICLE IV

DURATION

Section 4.1 Duration. This Agreement shall continue and remain in effect until the COMMISSION, by order, modifies or withdraws its approval of this Agreement after proper notice and hearing. Modification or withdrawal of the COMMISSION's order of approval of this Agreement shall be based upon the finding that modification or withdrawal is necessary in the public interest because of changed conditions or other circumstances not present at the time this Agreement was approved by the COMMISSION. Either party to this Agreement may petition the COMMISSION, consistent with the previous sentence, at any time for modification or withdrawal of the COMMISSION's order of approval of this Agreement.

ARTICLE V

CONSTRUCTION OF AGREEMENT

Section 5.1 Intent and Interpretation. It is hereby declared to be the purpose and intent of this Agreement, in accordance with which all provisions of this Agreement shall be interpreted and constructed, to eliminate and avoid needless and wasteful expenditures, and duplication of facilities which would otherwise result from unrestrained competition, between the parties operating in overlapping service areas.

Section 5.2 Annexation. Modification of the boundaries of the City of Starke shall not be grounds for modification of the Agreement under Section 4.1.

Section 5.3 Nothing contained in this Agreement shall preclude the future exercise of any franchise rights the City of Starke may have or hold. Provided, however, that this clause shall not be used as an admission or denial that any such franchise rights exist in the City of Starke.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Negotiations. Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon 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, signed by both parties, and approved by the COMMISSION.

Section 6.2 Other Electric Utilities. Nothing in this Agreement is intended to define, establish or affect in any manner the rights of either party hereto relative to any other electric utility not a party to this Agreement with respect to the furnishing of retail electric service including but not limited to the service territory of either party hereto relative to the service territory of any other electric utility not a party to this Agreement.

Section 6.3 Successors and Assigns. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give to any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and

conditions herein contained shall inure to the sole benefit of and shall be binding only upon the parties hereto and their respective representatives, successors and assigns.

IN WITNESS WHEREOF, this Agreement has been caused to be executed by the City of Starke in its name by its Mayor, and by FPL in its name by its Vice President, on the day and year first above written.

CITY OF STARKE

By: Travis V. Woods
Name: Travis V. Woods
Title: Mayor

Date: March 14, 2011

Approved as to form and legality
[Signature]
Attorney, City of Starke

Attest:
Linda W. Johns
Clerk of the Commission

FLORIDA POWER & LIGHT COMPANY

By: [Signature]
Name: Keith Hardy
Title: V.P. of Distribution

Date: March 21, 2011

COMPOSITE APPENDIX A

maps forwarded to ECR.
4/14/11 -DM

APPENDIX B

A

B

C

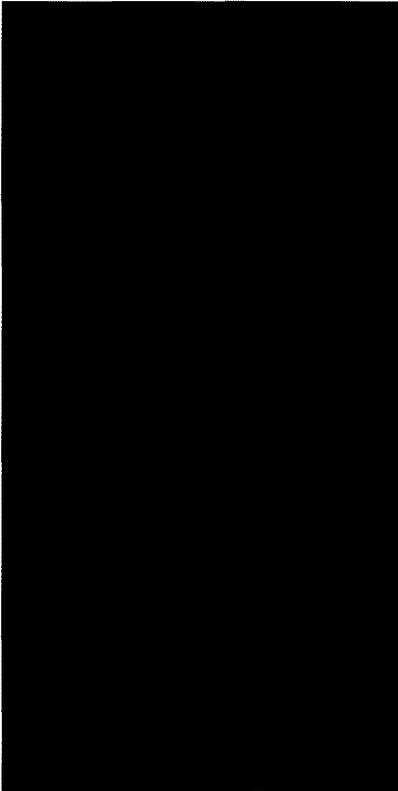
Appendix B

Customer Accounts to be Transferred from the City to FPL

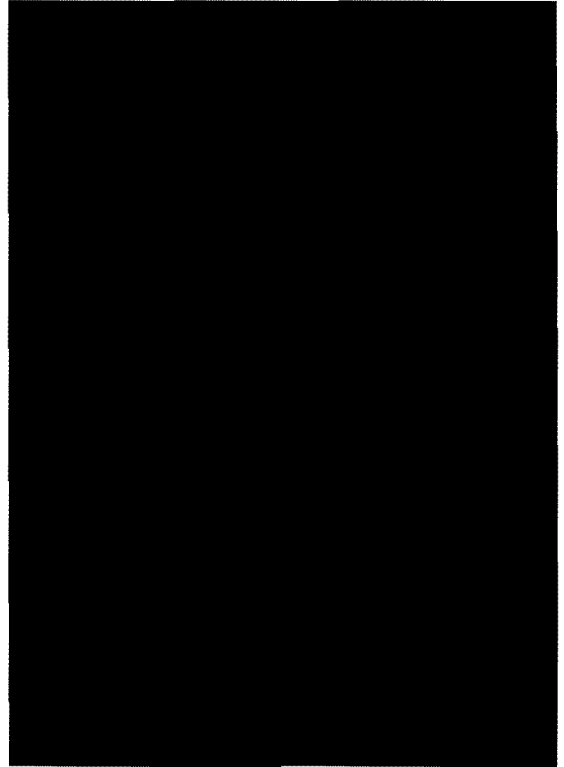
Account Number

Customer Name

Service Address



MORRIS
GRIGGS
TIMBUKTU LIQUOR
COBB-BEHIND STORE
LEWIS TIMBER
KOONS
FAULKNER PLAZA
ST. MATTHEWS
COLEMAN
COLEMAN
HOLLEY
GONZALEZ
MORTIMER
JEAN ROGERS
DAVIS
ADAMS
COLLIER
TROGDON
WILLIAMS
SMITH



APPENDIX C

A

B

C

Appendix C
Customer Accounts to be Transferred from FPL to the City

Premise Number

Customer Name

Service Address

Noegels Auto Sales
William Ambrose
Mamie Neal
Mamie Neal
Deby Ruise
Aaron Rents Inc.
Ismael Torres
Inactive Account
Ant Miss Baptist
Gary Reddish
Alberta Risby
Inactive Account
Inactive Account
Inactive Account
Delux Inn
Delux Inn
Delux Inn
Delux Inn
Delux Inn
Jane Honn
Brenda K Sweat
Doyle M Powell
Buster Clark
Inactive Account
New Hope Baptist Church
New Hope Baptist Church
New Hope Baptist Church
Dee Mays
Inactive Account
Sandra J Chandler
Ethel Singleton Hall
Carson Ealy Jr
Charles L Barnes
Charles L Barnes
Paula McCloud
Drew E Moore
Robert Harrington
Rachael Hatter
Douglas L Conner
Warren Stevenson
Dr H H Adams
Peggy N Kirk
C J Hardenbrook

A

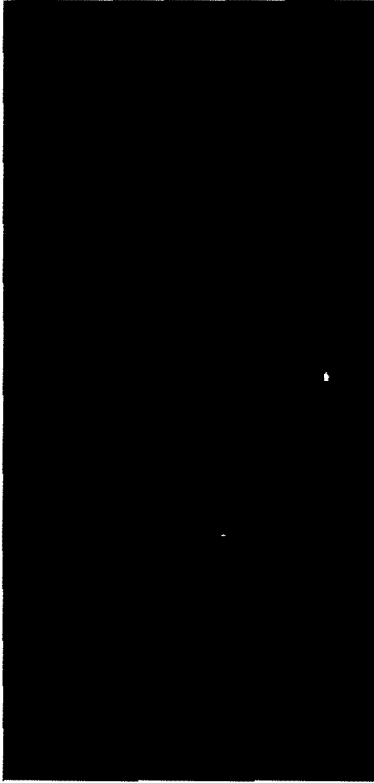
B

C

Premise Number

Customer Name

Service Address



Andrew J Eaves
Delight K Rella
Debra J Henanger
David H Montgomery
Inactive Account
Charles E Jones
David H Montgomery
Lisa R Sculley
Thomas A Hylton
Judy Griffis
Janet B Adams
Inactive Account
Paula Albritton
Paula Albritton
Inactive Account
Inactive Account
Chaney McDougald
Sachin LLC
Louise Stern
Edward E Durden
Lewis Timber Company Inc
Starke Transmission & Auto Repair
Inactive Account

