

State of Florida



Public Service Commission

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

-M-E-M-O-R-A-N-D-U-M-

DATE: July 31, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (M. Brown) *MCB JSC*
Division of Economics (Ollila) *S.O. ED J.W.D. pd*

RE: Docket No. 140130-EU – Joint petition for approval of amendment to territorial agreement between Florida Power & Light Company and JEA.

AGENDA: 08/12/14 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On June 17, 2014, Florida Power & Light Company (FPL) and JEA filed a joint petition for approval of an amendment (2014 Amendment) to the existing Territorial Agreement between FPL and JEA. The territorial boundary between the two utilities was first approved by the Commission in 1965. The territorial boundary was re-affirmed by the Commission in 1980.¹ In 1996, as the result of a territorial dispute, FPL and JEA entered into a new territorial agreement (1996 Agreement) which replaced the prior agreement.² After the discovery of an inconsistency between the 1996 Agreement and a territorial agreement between JEA and Clay Electric

¹ Order No. 9363, issued May 9, 1980, in Docket No. 790886-EU, In re: Petition of Jacksonville Electric Authority for approval of a territorial agreement between JEA and Florida Power and Light Company.

² Order No. PSC-96-0212-FOF-EU, issued February 14, 1996 and finalized by Order No. PSC-96-0755-FOF-EU, issued June 10, 1996, in Docket No. 950307-EU, In re: Petition of Jacksonville Electric Authority to Resolve a Territorial Dispute With Florida Power & Light Company in St. Johns County.

Cooperative, a new territorial agreement between FPL and JEA was approved by the Commission in 1998.³ In 2012 FPL and JEA agreed to an amendment that altered a segment of the territorial boundaries between the parties so that a single utility could serve the electric needs of a new private development planned for an undeveloped area.⁴

The 2014 Amendment provides for the swap of two land parcels. Attachment A is a copy of the 2014 Amendment. Attachments B and C provide a legal description and map of the two parcels. Pursuant to Rule 25-6.0440(1)(f), Florida Administrative Code (F.A.C.), Attachment D is an official Florida Department of Transportation General Highway County map for St. Johns County depicting boundary lines established by the territorial agreement.

This recommendation addresses the parties' joint petition for approval of the 2014 Amendment. The Commission has jurisdiction over the matter pursuant to Section 366.04, Florida Statutes (F.S.).

³ Order No. PSC-98-1687-FOF-EU, issued December 14, 1998, in Docket No. 980755-EU, In re: Joint petition for approval of new territorial agreement between Florida Power & Light Company and Jacksonville Electric Authority.

⁴ Order No. PSC-12-0561-PAA-EU, issued October 22, 2012, in Docket No. 120171-EU, In re: Joint petition for approval of amendment to territorial agreement in St. Johns County between Florida Power & Light Company, a Florida corporation, and JEA, a Florida municipal corporation.

Discussion of Issues

Issue 1: Should the Commission approve the 2014 Amendment?

Recommendation: Yes, the Commission should approve the 2014 Amendment. (Ollila, M. Brown)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Rule 25-6.0440(2), F.A.C., states that in approving territorial agreements, the Commission may consider the reasonableness of the purchase price of any facilities being transferred, the likelihood that the agreement will not cause a decrease in the reliability of electric service to existing or future ratepayers, and the likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved. Utilities Commission of the City of New Smyrna v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

As noted in the case background, FPL and JEA are parties to a Territorial Agreement, mostly recently amended in 2012. The 2014 Amendment, if approved, would:

- Move Swap Parcel 1, currently in FPL's territory, and place it in JEA's territory; and
- Move Swap Parcel 2, currently in JEA's territory, and place it in FPL's territory.

The current territorial boundary between FPL and JEA traverses an undeveloped area for which a new private development is planned. At present there is no electric infrastructure in place to serve electric needs; however, JEA has existing infrastructure nearby. The 2014 Amendment alters the territory between FPL and JEA so that the new territorial boundary will be more closely aligned with planned road ways and will facilitate the provision of electric service for the new development by one utility. Although there are no current development plans for the area within Swap Parcel 2, FPL and JEA agree that FPL will be in a better position to provide electric service to any future development in this area.

No customers will be transferred when the 2014 Amendment is implemented; therefore, no customers were notified pursuant to Rule 25-6.0440(1), F.A.C. Nor are there any facilities to be transferred and no purchase price will be involved. FPL and JEA state that they entered the 2014 Amendment after consideration of the best interest of electric consumers and the residents of the areas served by both parties. The 2014 Amendment is intended to avoid unnecessary duplication of services in the area. FPL and JEA state that it is their position that the 2014 Amendment is in the best interest of the public.

Staff believes that the 2014 Amendment is in the public interest and will enable FPL and JEA to better serve potential customers. It appears that the proposed amendment eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. As such, staff believes that the 2014 Amendment between FPL and JEA will not cause a detriment to the public interest and should be approved.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (M. Brown)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

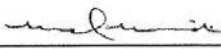
**SECOND AMENDMENT TO TERRITORIAL AGREEMENT
BETWEEN
FLORIDA POWER AND LIGHT COMPANY
AND
JEA**

1. **WHEREAS**, Florida Power and Light Company (FPL) and JEA have an existing Territorial Agreement entered into in 1998, as amended by that certain Amendment to Territorial Agreement Between Florida Power and Light Company and JEA dated May 25, 2012 (Territorial Agreement); and,
2. **WHEREAS**, this Second Amendment to the Territorial Agreement (Second Amendment) entered into by the parties on this 13th day of MARCH, 2014, alters the territory between the parties. In an effort to accommodate new development and align territorial boundaries more closely with planned road ways, the parties have agreed to swap two parcels of property within their respective territories. The first parcel is currently within the territorial boundary of FPL and is located on the south side of Palm Valley Road – County Road 210 bordered on the east by Palm Breeze Drive in St. Johns County and is approximately 2.82 acres (Swap Parcel 1). The second parcel is currently within the territorial boundary of JEA and is located on the north side of Palm Valley Road – County Road 210 at the intersection of the proposed Centervale Drive and proposed Nocatee Village Drive in St. Johns County and is approximately 0.62 acres (Swap Parcel 2); and,
3. **WHEREAS**, the current territorial boundary between FPL and JEA traverses an undeveloped area where new private development is planned but for which there is currently no infrastructure in place to serve electric needs. The new development straddles both the FPL and JEA territory. Swap Parcel 1 lies just south of, and is contiguous with the current territorial boundary between FPL and JEA, within FPL's territory. Due to the current boundary configuration, the proximity of existing JEA infrastructure to this site, and the desire to have the electric needs of the new development served by one utility, FPL and JEA have agreed to modify the territorial boundary to place Swap Parcel 1 within the bounded area to be served by JEA; and,
4. **WHEREAS**, although there is no current development plan for the area within Swap Parcel 2, the parties agree that future development within this area will be better served by FPL in the future and have agreed to modify the territorial boundary to place Swap Parcel 2 within the bounded area to be served by FPL; and,

5. **WHEREAS**, there are currently no existing customers or electric facilities within Swap Parcel 1 or Swap Parcel 2; and,
6. **WHEREAS**, amending the Territorial Agreement to allow JEA and FPL to provide service to the region subject to this Second Amendment will avoid unnecessary duplication of services and will facilitate the provision of electric services by a single utility to all customers within the new development.
7. **NOW THEREFORE**, FPL and JEA agree to amend the territorial boundary between the utilities as provided in Exhibits A, B, and C to this Second Amendment. Exhibit A is a general highway map of St. Johns County, Florida, showing the existing territorial boundaries and area to be transferred. Exhibit B is a more detailed map identifying the existing and new territorial boundary lines. Exhibit C provides the legal descriptions for Swap parcel 1 and Swap parcel 2 and a written description of the new territorial boundary lines pursuant to this Amendment.
8. All other parts of the Territorial Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by FPL in its name by its Vice President, and by JEA in its name by its Chief Executive Officer, on the day and year first written above.

FLORIDA POWER & LIGHT COMPANY

By: 
Name: Manuel A. Miranda
Title: Vice President, Power Delivery

Date: 3/13/14

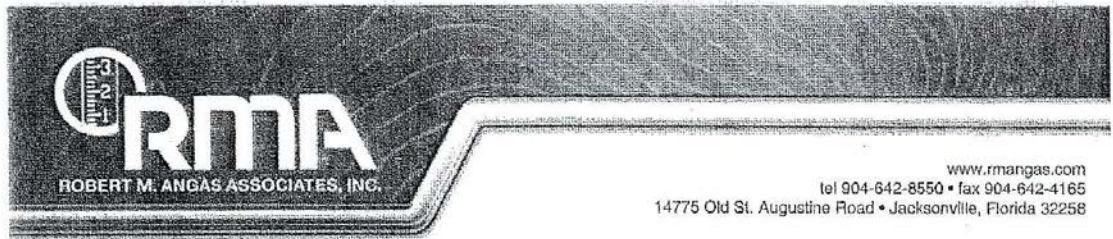
JEA

By: 
Name: Paul E. McElroy
Title: Chief Executive Officer

Date: March 6, 2014

Form Approved:


Office of General Counsel



January 9, 2014
Town Center Central
Page 1 of 2

Work Order No. 14-004.00
File No. 123B-23.00A

Swap Parcel 1

A portion of Section 31, Township 4 South, Range 29 East, St. Johns County, Florida, also being a portion of those lands described and recorded in Official Records Book 3422, page 1351, of the Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of Town Center Roads Phase II, a plat recorded in Map Book 69, pages 44 through 48, of said Public Records; thence Northerly along the Westerly right of way line of Palm Breeze Drive, a variable width right of way as presently established, the following 10 courses: Course 1, thence Northerly along the arc of a curve concave Easterly having a radius of 1204.00 feet; through a central angle of $06^{\circ}10'30''$, an arc length of 129.76 feet to a point on said curve, said arc being subtended by a chord bearing and distance of North $06^{\circ}14'29''$ East, 129.70 feet; Course 2, thence North $23^{\circ}35'20''$ East, 53.46 feet to a point on a curve concave Easterly having a radius of 1092.00 feet; Course 3, thence Northerly along the arc of said curve, through a central angle of $05^{\circ}23'22''$, an arc length of 102.72 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North $14^{\circ}15'55''$ East, 102.68 feet; Course 4, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1180.00 feet, through a central angle of $09^{\circ}03'51''$, an arc length of 186.68 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North $26^{\circ}09'51''$ East, 186.48 feet; Course 5, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1176.00 feet, through a central angle of $03^{\circ}12'37''$, an arc length of 65.89 feet to point of reverse curvature, said arc being subtended by a chord bearing and distance of North $27^{\circ}21'46''$ East, 65.88 feet; Course 6, thence Northerly along the arc of a curve concave Westerly having a radius of 1720.00 feet, through a central angle of $13^{\circ}06'43''$, an arc length of 393.62 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North $22^{\circ}24'42''$ East, 392.76 feet; Course 7, thence North $15^{\circ}51'21''$ East, 404.68 feet to the point of curvature of a curve concave Southwesterly having a radius of 30.00 feet; Course 8, thence Northwesterly along the arc of said curve, through a central angle of $90^{\circ}00'00''$, an arc length of 47.12 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North $29^{\circ}08'39''$ West, 42.43 feet; Course 9, thence North $74^{\circ}08'39''$ West, 15.35 feet; Course 10, thence North $15^{\circ}51'21''$ East, 60.00 feet to the Point of Beginning.

From said Point of Beginning, thence North $74^{\circ}08'39''$ West, departing said Westerly right of way line, 405.15 feet to a point lying on the former centerline of Palm Valley Road (County Road No. 210) a former 100 foot right of way vacated by Resolution No. 2008-13, recorded in Official Records Book 3101, page 739 of said Public Records; thence North $55^{\circ}19'25''$ East, along said former centerline, 708.73 feet to its intersection with said Westerly right of way line of Palm



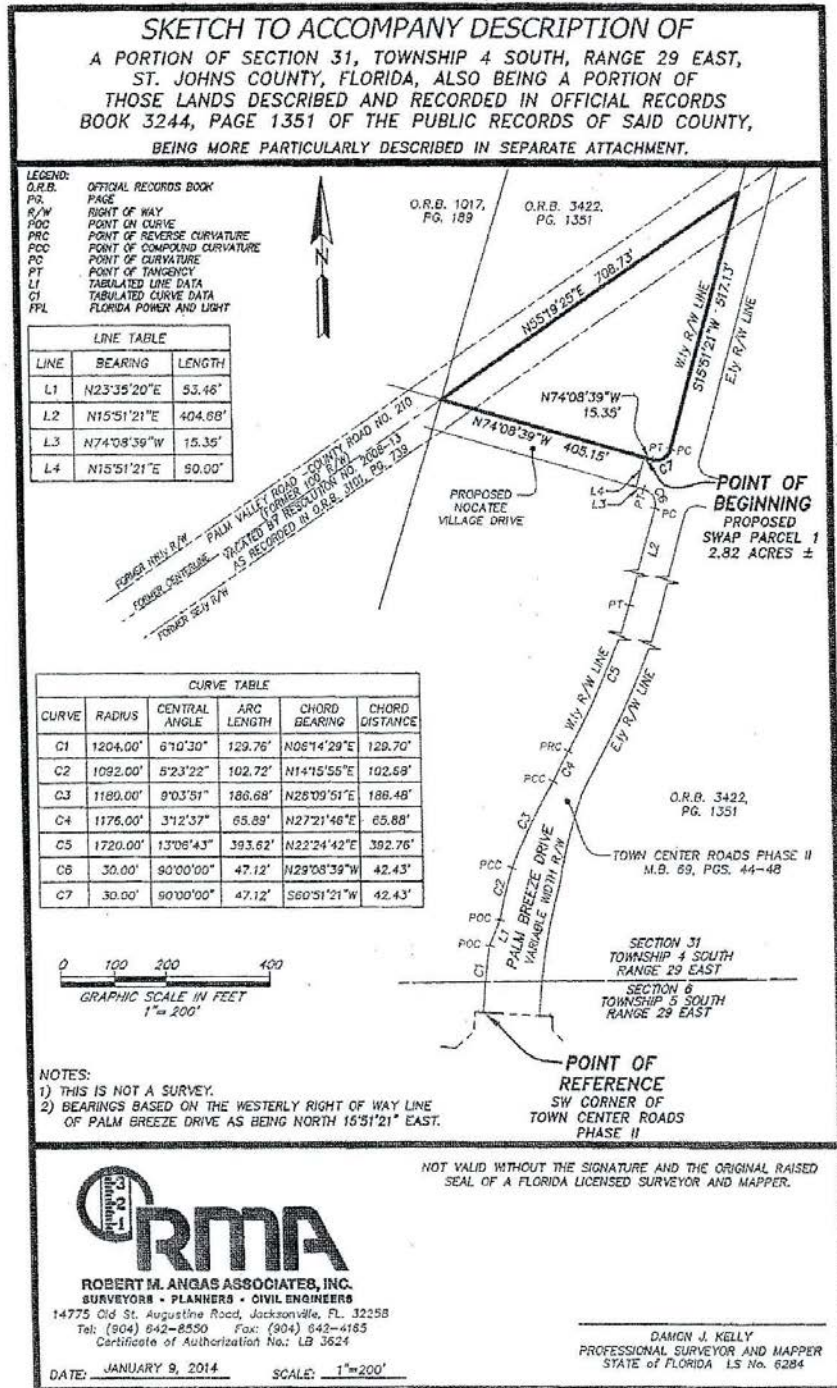
January 9, 2014
Town Center Central
Page 2 of 2

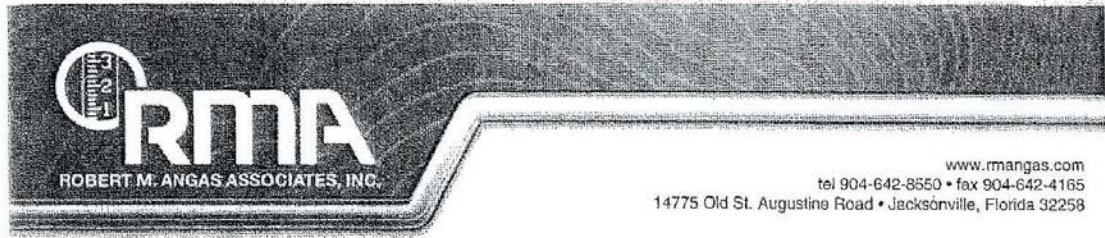
Work Order No. 14-004.00
File No. 123B-23.00A

Swap Parcel 1

Breeze Drive; thence Southerly and Westerly along said Westerly right of way line the following 3 courses: Course 1, thence South $15^{\circ}51'21''$ West, departing said former centerline, 517.13 feet to the point of curvature of a curve concave Northerly having a radius of 30.00 feet; Course 2, thence Westerly along the arc of said curve through a central angle of $90^{\circ}00'00''$, an arc length of 47.12 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $60^{\circ}51'21''$ West, 42.43 feet; Course 3, thence North $74^{\circ}08'39''$ West, 15.35 feet to the Point of Beginning.

Containing 2.82 acres, more or less.





January 9, 2014
Towncenter Central
Page 1 of 2

Work Order No. 14-004.00
File No. 123B-23.00B

Swap Parcel 2

A portion of Section 31, Township 4 South, Range 29 East, St. Johns County, Florida, also being a portion of those lands described and recorded in Official Records Book 1462, page 677, of the Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of Town Center Roads Phase II, a plat recorded in Map Book 69, pages 44 through 48, of said Public Records; thence Northerly along the Westerly right of way line of Palm Breeze Drive, a variable width right of way as presently established, the following 10 courses: Course 1, thence Northerly along the arc of a curve concave Easterly having a radius of 1204.00 feet; through a central angle of 06°10'30", an arc length of 129.76 feet to a point on said curve, said arc being subtended by a chord bearing and distance of North 06°14'29" East, 129.70 feet; Course 2, thence North 23°35'20" East, 53.46 feet to a point on a curve concave Easterly having a radius of 1092.00 feet; Course 3, thence Northerly along the arc of said curve, through a central angle of 05°23'22", an arc length of 102.72 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North 14°15'55" East, 102.68 feet; Course 4, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1180.00 feet, through a central angle of 09°03'51", an arc length of 186.68 feet to a point of compound curvature, said arc being subtended by a chord bearing and distance of North 26°09'51" East, 186.48 feet; Course 5, thence Northeasterly along the arc of a curve concave Southeasterly having a radius of 1176.00 feet, through a central angle of 03°12'37", an arc length of 65.89 feet to point of reverse curvature, said arc being subtended by a chord bearing and distance of North 27°21'46" East, 65.88 feet; Course 6, thence Northerly along the arc of a curve concave Westerly having a radius of 1720.00 feet, through a central angle of 13°06'43", an arc length of 393.62 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 22°24'42" East, 392.76 feet; Course 7, thence North 15°51'21" East, 404.68 feet to the point of curvature of a curve concave Southwesterly having a radius of 30.00 feet; Course 8, thence Northwesterly along the arc of said curve, through a central angle of 90°00'00", an arc length of 47.12 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 29°08'39" West, 42.43 feet; Course 9, thence North 74°08'39" West, 15.35 feet; Course 10, thence North 15°51'21" East, 60.00 feet; thence North 74°08'39" West, departing said Westerly right of way line, 189.15 feet to the point of curvature of a curve concave Northeasterly having a radius of 25.00 feet; thence Northwesterly along the arc of said curve, through a central angle of 89°57'17", an arc length of 39.25 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 29°10'01" West, 35.34 feet; thence North 15°48'38" East, 10.00 feet; thence North 74°11'22" West, 50.00 feet; thence South 15°48'38" West, 9.92 feet to the point of curvature of a curve concave Northwesterly having a radius of 25.00 feet; thence Southwesterly along the arc of said

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January 9, 2014
Towncenter Central
Page 2 of 2

Work Order No. 14-004.00
File No. 123B-23.00B

Swap Parcel 2

curve, through a central angle of $90^{\circ}02'43''$, an arc length of 39.29 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South $60^{\circ}49'59''$ West, 35.37 feet; thence North $74^{\circ}08'39''$ West, 116.00 feet to a point lying on the former centerline of Palm Valley Road (County Road No. 210) a former 100 foot right of way vacated by Resolution No. 2008-13, recorded in Official Records Book 3101, page 739 of said Public Records, said point also being the Point of Beginning.

From said Point of Beginning, thence South $55^{\circ}19'25''$ West, along said former centerline, 354.97 feet; thence North $21^{\circ}32'44''$ East, departing said former centerline, 275.39 feet; thence South $74^{\circ}08'39''$ East, 198.33 feet to the Point of Beginning.

Containing 0.62 acres, more or less.

