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August 2, 2023

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1939-2012
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Clerk, Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

In re: Joint Petition of Florida Keys Electric Cooperative Association, Inc.
And the Utility Board of the City of Key West for Renewal of their
original Territorial Agreement and Approval of Amendment No. 1
in Monroe County, Florida

Dear Sir:

Enclosed is the above-referenced Joint Petition for filing. Please let us know if you need any further information.

Very truly yours,



John H. Haswell

JHH/bh

Enclosure

cc: Nick Batty, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Florida Keys Electric)
Cooperative Association, Inc. and the Utility Board) Docket No.
of the City of Key West for Renewal of their)
original Territorial Agreement, and Approval of) Filed:
Amendment No. 1 in Monroe County, Florida)
_____)

**JOINT PETITION FOR RENEWAL OF TERRITORIAL AGREEMENT
AND APPROVAL OF A FIRST AMENDMENT**

Florida Keys Electric Cooperative Association, Inc. ("FKEC"), a rural electric cooperative organized and existing under Chapter 425, *Florida Statutes*, and the Utility Board of the City of Key West, Florida d/b/a Keys Energy Services ("KEYS"), an electric utility as defined in §366.02(2), *Florida Statutes*, organized and existing under the laws of the State of Florida and an electric utility as defined in §366.02(2), *Florida Statutes*, by and through their undersigned attorneys, hereby request the Florida Public Service Commission ("Commission") to approve the renewal of the Territorial Agreement ("the Agreement") approved by the Commission in Order No. 25127, Docket No. 910765-BU (1991), which will allow the Petitioners to continue to provide electric service to their customers as they have under the Agreement since 1991 and to approve the First Amendment to Territorial Agreement ("First Amendment") attached hereto as Exhibit 1. In support of this Joint Petition, FKEC and KEYS state as follows:

1. The names and mailing addresses of Petitioners are:

Florida Keys Electric Cooperative Association, Inc.
P.O. Box 377
Tavernier, FL 33070-0377

Keys Energy Services
1001 James Street
Key West, FL 33040

2. All notices, communications, pleadings and orders should be directed to:

FOR FKEC:

John H. Haswell, Esq.
Chandler, Lang, Haswell & Cole, P.A.
Post Office Box 5877
Gainesville, FL 32627-5877
Telephone: (352) 376-5226
Fax: (352) 372-8858
Email: clhpalaw@aol.com

WITH A COPY TO:

Scott Newberry, General Manager and CEO
Florida Keys Electric Cooperative Association, Inc.
Post Office Box 377
Tavernier, FL 33070-0377
Telephone: (305) 522-0599
Email: scott.newberry@fkec.com

FOR KEYS:

Nick Batty, Esq., Director of Legal & Regulatory Services
Keys Energy Services
1001 James Street
Key West, FL 33040
Telephone: (305) 295-1191
Email: nick.batty@KeysEnergy.com

WITH A COPY TO:

Lynne Tejeda, General Manager and CEO
Keys Energy Services
1001 James Street
Key West, FL 33040
Telephone: (305) 295-1020
Email: Lynne.Tejeda@KeysEnergy.com

3. FKEC is an electric cooperative organized and existing under Chapter 425, *Fla. Stat.*, and is an electric utility as defined in §366.02(2), *Fla. Stat.*
4. KEYS is a municipal electric utility organized and existing under the laws of the State of Florida operated by the Utility Board of the City of Key West, and is an electric utility as defined in §366.02(2), *Fla. Stat.*

RENEWAL OF TERRITORIAL AGREEMENT

5. On June 17, 1991, FKEC and KEYS (then known as CES or City Electric System) entered into the Agreement as previously noted as Appendix A to Order No. 25127, defining the parties' respective service areas, which essentially is the northeastern terminus of the Seven Mile Bridge. The original boundary line is on file with the Commission.

6. Article 5 "Duration" of the Agreement provides for an initial term of 30 years from the date of the Commission's Order approving it, which was September 27, 1991. The Agreement, then, was set to expire on September 26, 2021, provided, however, that the Agreement would automatically renew for additional 30-year periods unless either party gave written notice to the other not to renew. Neither party gave such notice and, hence, the auto-renewal is effective for another 30 years, subject nonetheless to Commission approval of the renewal.

7. Renewal of the term of the Agreement represents a continuing effort by the parties to minimize the costs of service to their respective customers by avoiding uneconomic and unnecessary duplication of the respective electric distribution facilities, and the parties deem it to be in the continuing public interest that the Agreement be renewed.

APPROVAL OF AMENDMENT NO. 1 TO THE TERRITORIAL AGREEMENT

8. Pigeon Key Foundation, Inc. ("Foundation"), a not-for-profit corporation, is the only prospective customer on Pigeon Key, a small island adjacent to the old Seven Mile Bridge, approximately 2 miles southwest of Marathon, within KEYS' currently delineated service territory. The Foundation has requested Central Station Electric Service in lieu of the self-serviced generators the Foundation has been using for years. Prior to the Foundation's request, neither KEYS nor FKEC provided any electric service to the island. The provision of Central

Station Electric Service by KEYS to the Foundation, and to the Island, poses a significant engineering and economic challenge due to its location in the Gulf of Mexico, approximately 4.9 miles from KEYS' nearest upland distribution facility. While KEYS owns transmission poles within approximately 350 feet of the island, the transmission poles do not currently carry distribution lines, and KEYS has no means to step the 138kV voltage down to user-required voltage directly from the transmission lines.

9. Provision of service by KEYS to the Foundation could theoretically be accomplished by any of three line extension methods, each of which involve extending distribution facilities approximately 4.9 miles Northward to the Foundation. Identified methods, and the respective challenges posed by each, are summarized briefly below:

A. Attach distribution lines to existing in-water 138kV transmission poles, extending distribution Northeastward from Veterans Memorial Park to Pigeon Key. This method would require attachment of approximately 4.9 miles of distribution lines to approximately 58 existing in-water poles, the installation of a new in-water structures to span the final 350 feet from the last existing pole to Pigeon Key, and the installation of one new upland pole and pole-mounted transformer on Pigeon Key. This method would require the existing transmission poles, which were not contemplated for distribution use, to be drilled to accommodate distribution insulators. Engineering would be necessary to ensure pole integrity as the transmission line is the only route for electricity to reach the lower Keys from mainland Florida. Distribution required minimum clearance from transmission infrastructure may require violation of minimum water crossing heights for vessel traffic. Placement of the new in-water structure would necessarily entail disturbance of the seafloor within the Florida Keys National Marine Sanctuary, requiring coordination and permitting (if permitting could be obtained).

B. Attach distribution lines to the Seven Mile Bridge, extending Northeastward from Veterans Memorial Park to Pigeon Key. This method would require attachment of approximately 4.95 miles of distribution conduit to the Seven Mile Bridge, installation of two new in-water structures to span the last approximately 420 feet from the bridge to Pigeon Key, and installation of one new upland pole and pole-mounted transformer on Pigeon Key. This method would require the mounting of insulators to (potentially under) the Seven Mile Bridge, which may not be feasible and would require extensive coordination and approvals from the Florida Department of Transportation. Placement of the two new in-water structures would necessarily entail disturbance of the seafloor within the Florida Keys National Marine Sanctuary, requiring coordination and permitting (if permitting could be obtained).

C. Install underwater distribution lines extending Northeastward from Veterans Park to Pigeon Key. This method would require directional boring in order to pull approximately 4.9 miles of distribution conduit beneath the seafloor. Because the Florida Keys National Marine Sanctuary will not permit anchoring of conduit to the seafloor, this would require a 4.9 mile directional bore. This method is not economically or practically feasible for obvious reasons.

10. The total cost estimate for KEYS to most economically provide service to Pigeon Key (method 9(A) above) is approximately \$6 million. Keep in mind, this would be to provide service to one customer.

11. The Foundation's point of service on the island is only two miles from FKEC's connection point in Marathon (within the boundary lines of FKEC's territory as it currently exists). The total cost incurred by FKEC to add facilities within FKEC's current service area to connect to the Foundation's facilities was \$6,011.53. The Foundation built the facilities

referenced in paragraph 2 of the First Amendment to the Territorial Agreement at a cost of approximately \$500,000.00.

12. Because the \$6,000,000.00 cost to KEYS is so much greater than the \$506,011.53 incurred by the Foundation and FKEC and that the service facilities constructed only serve one customer, it makes economic sense to transfer service to the island under the current Territorial Agreement to FKEC. This will avoid unnecessary high costs to KEYS to provide the service that KEYS may never fully recover and avoid passing on a portion of those costs to the Foundation. Consequently, FKEC and KEYS have agreed, subject to the Commission's approval, to modify the current boundary line, depicted on the Territorial Boundary Line Map previously filed with the Commission in the 1991 docket, to describe an amended boundary line depicted in Exhibit 1 to the First Amendment. The proposed amendment to the boundary is the narrow shaded area depicted on Exhibit 1 to the First Amendment going westerly from the current connection point with the Foundation inside FKEC's current service area to Pigeon Key. This is a very narrow strip designed to preclude service to any other location other than Pigeon Key by FKEC.

13. The granting of an order approving the Amendment and the renewal of the Agreement will not cause any decrease in the reliability of electric services of either KES or FKEC.


14. The Foundation has been provided with the difference in the applicable electric service rates of the two utilities.

15. No electric service facilities or assets of either party will be exchanged or transferred between the parties as a result of the Agreement.


WHEREFORE, FKEC and KEYS respectfully request that the Commission enter an order approving this Joint Petition for Renewal of Territorial Agreement and approving the First Amendment.

DATED this 2nd day of August, 2023.

Respectfully submitted,



John H. Haswell, Esq.
Chandler, Lang, Haswell & Cole, P.A.
P.O. Box 5877
Gainesville, FL 32627-5877
Telephone: (352) 376-5226
Email: clhpalaw@aol.com
For Florida Keys Electric Cooperative
Association, Inc.



Nick Batty, Esq.
Keys Energy Services
1001 James Street
Key West, FL 33040
Telephone: (305) 295-1191
Email: nick.batty@KeysEnergy.com
For Keys Energy Services

**FIRST AMENDMENT TO
TERRITORIAL AGREEMENT BETWEEN
FLORIDA KEYS ELECTRIC COOPERATIVE ASSOCIATION, INC.
AND THE UTILITY BOARD OF THE CITY OF KEY WEST,
A/K/A KEYS ENERGY SERVICES**

This is the First Amendment ("First Amendment") to that certain Territorial Agreement ("Agreement") dated June 17, 1991, between Florida Keys Electric Cooperative Association, Inc. ("FKEC") and the Utility Board of the City of Key West f/k/a City Electric System, now d/b/a "Keys Energy Services" ("KEYS"). The Agreement was approved by the Florida Public Service Commission on September 27, 1991, in Document No. 910765-EU and Order No. 25127 (Order).

1. The existing territorial boundary line, approved by the Florida Public Service Commission, is shown on page 16 of the Order. The parties hereto desire to modify that boundary to allow FKEC to provide electric service to Pigeon Key which currently lies in KEYS' territory. The rationale for entering into this First Amendment is set forth in the parties' Joint Petition for Approval of this First Amendment, which is incorporated herein. The revised territorial boundary line ("Revised Boundary") is attached hereto as Exhibit 1.

2. Pigeon Key Foundation, Inc. ("Foundation") initially requested service from FKEC, which declined to provide such service because Pigeon Key is currently in KEYS' service territory. Foundation then arranged for the construction and installation of electric service facilities (conduit, wire, labor, engineering fees, constructing underground on the island, transformers and a power pole), with the approval of the Florida DOT to run from the island, across a portion of the old 7-mile Bridge to a point of service inside FKEC's assigned territory. The facilities constructed by the Foundation are wholly owned by the Foundation. FKEC has constructed no facilities outside of its current service area. Because of the Florida Supreme Court's decision in *Lee County vs. Marks*, the parties deem it appropriate to obtain the approval of the Florida Public Service Commission for this unique situation.

3. The Revised Boundary is hereby agreed to and adopted by the parties, and shall be deemed incorporated into the Agreement, as of the effective date hereof. Except as otherwise stated herein, the parties ratify and confirm the terms and conditions of the Agreement dated June 17, 1991. The effective date of this agreement shall be the date that the last of the parties signs this First Amendment, or the date the Florida Public Service Commission approves the parties' Joint Petition for Renewal of Territorial Agreement, or any agreed successor petition, whichever is later. The terms hereof shall have no effect unless approved by the Florida Public Service Commission.

IN WITNESS WHEREOF, this First Amendment to the Agreement has been caused to be executed by FKEC in its name by its President and its corporate seal hereto affixed, and attested by the Secretary of FKEC, and by KEYS in its name by its Utility Board Chair, and its corporate seal hereto affixed and attested by its Clerk on the dates set forth by their signatures, and each acknowledges receipt of a signed duplicate original hereof.

FLORIDA KEYS ELECTRIC COOPERATIVE ASSOCIATION, INC.

By: *Karl Wagner*
Karl Wagner, President

Attest: *Gretchen Holland*
Gretchen Holland, Secretary

Dated: 6/26/2023

THE UTILITY BOARD OF THE CITY OF KEY WEST, D/B/A KEYS ENERGY SERVICES

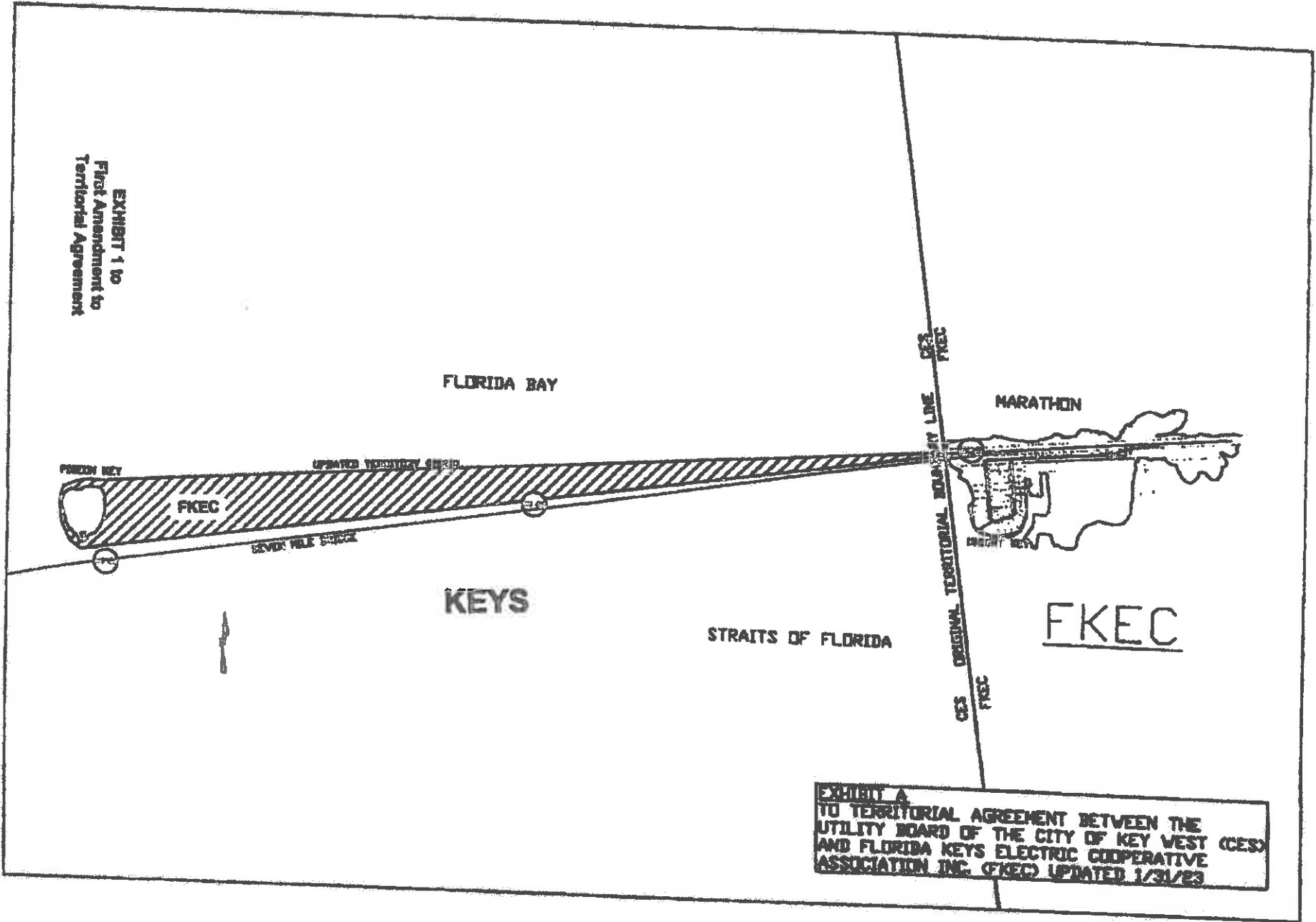
By: *Timothy Root*
Timothy Root, Utility Board Chair

Attest: *Lynne Tejeda*
Lynne Tejeda, Clerk

Dated: 07/26/2023



**EXHIBIT 1 to
First Amendment to
Territorial Agreement**



**EXHIBIT A
TO TERRITORIAL AGREEMENT BETWEEN THE
UTILITY BOARD OF THE CITY OF KEY WEST (CES)
AND FLORIDA KEYS ELECTRIC COOPERATIVE
ASSOCIATION INC. (FKEC) UPDATED 1/31/23**