

SERVICE AGREEMENT NO. 486

POLE ATTACHMENT AGREEMENT

BETWEEN

CITY OF OCALA, FLORIDA

AND

DUKE ENERGY FLORIDA, LLC

POLE ATTACHMENT AGREEMENT

This Pole Attachment Agreement ("Agreement") is entered into between Duke Energy Florida, LLC, a Florida limited liability company ("DEF" or "Licensor") and the City of Ocala, Florida, a political subdivision of the state of Florida ("Ocala" or "Licensee"). Each of Licensor and Licensee is a Party and are Parties to the Agreement.

WITNESSETH:

WHEREAS, Ocala is selling to DEF under a separate purchase agreement (a) 230 kV transmission lines and associated equipment attached to poles from Ocala's Shaw Substation to Seminole Electric Cooperative, Inc.'s Silver Springs North Substation and (b) a portion of Ocala's 230 kV Shaw Substation located entirely within Marion County, Florida;

WHEREAS, Ocala desires to retain ownership of 13 kV and 69 kV distribution lines, line post insulators, fittings and assemblies, associated hardware, conductors, and other equipment located on the transmission poles being purchased by DEF to support the 230 kV transmission line and associated equipment from Ocala's Shaw Substation to Seminole Electric Cooperative, Inc.'s Silver Springs North Substation as more further described in Attachment A (the "Attachments"); and

WHEREAS, DEF is willing to grant to Ocala the right to continue to own, operate, and maintain said Attachments, at Ocala's expense and in accordance with prudent utility practice, without a pole rental charge from DEF so long as such poles are owned and operated by DEF.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein, the parties hereto agree as follows:

1. The foregoing recitals are true and correct and incorporated into this Agreement by this reference.
2. Licensee warrants that: All Attachments hereunder have been installed and at all times will be utilized and maintained in accordance with the National Electrical Safety Code in its current form or as subsequently revised, amended, or superseded, with applicable state laws and local ordinances, and shall at all times comply with generally accepted safety practices of the electric utility industry. It is further understood and agreed that Licensee shall be fully responsible for the installation, utilization and maintenance of said Attachments, and that the installation, construction and maintenance of said Attachments shall be at the sole risk, cost and expense of Licensee.
 - a. Each party shall exercise, and shall require that its contractors, subcontractors, agents, or representatives exercise, proper precautions to avoid damage to the facilities of the other party and any third parties supported on the poles. Each

party shall remain responsible for any and all loss or damage caused by itself or its contractors, agents, or representatives. Each party shall promptly report to the other the occurrence of any damage and agrees to reimburse the other party for any reasonable expense incurred in making repairs resulting from such damage. Each party assumes full responsibility for any and all damages to its facilities and damages to any equipment arising from accidental contact with the other party's energized conductors.

- b. Each party assumes all risks of loss, damage, or injury of any kind which may result from its use of the other party's poles, and to the extent permitted by law, shall indemnify, defend, save, and hold harmless the other party and its officers, agents, and employees from all liabilities, claims, damages, losses, and costs of whatever kind or nature to the extent arising out of or relating to such use, except to the extent such liabilities, claims, damages, losses, and costs are due to the negligent or otherwise wrongful conduct of the indemnified party.
 - c. Notwithstanding anything in this Agreement to the contrary, neither Party shall be liable to the other for, nor shall either Party collect, any indirect, consequential, special, exemplary or incidental losses or damages or any loss of use, cost of capital, loss of goodwill, lost revenues or lost profit, arising from or in connection with this Agreement or the respective performance or non-performance of obligations herewith.
 - d. Licensee shall obtain for itself such easements or licenses as *may* be appropriate for the placement and maintenance of its Attachments to Licensor's poles located on public or private property.
 - e. Licensee shall identify all Attachments of Licensee installed on Licensor's poles by tagging, marking, etc., in accordance with the latest requirements of Licensor.
3. Licensee covenants and agrees that nothing herein contained or contemplated is intended to increase Licensor's risk or liability for personal injury or death or for property damage and it is hereby expressly understood and agreed that Licensor does not assume any such additional risk other than for its own negligent or otherwise wrongful conduct; and, subject to this limitation, Licensee, for itself and its successors and assigns, agrees that it does hereby relieve Licensor of and absolve it from all such risk and liability arising or growing out of the use of, or entry upon, or occupancy of Licensor's poles and facilities as provided herein. This shall not be construed as waiving any defense or limitation which the Licensee *may* have against any claim or cause of action by any persons not a party to this Agreement nor shall it be construed as a waiver of the Licensee's sovereign immunity. This limitation shall not be construed to limit Licensee's indemnification of Licensor for actions other than tort claims.

4. If any member of the public, or of the Licensee and its contractors is injured or killed, or if any property including Licensor's or the public is damaged in the course of work being performed under the provisions of this Agreement, Licensee shall notify Licensor's Claims Department at (727) 820-5787. Such notification shall be made immediately upon knowledge of such an event, either in person or by telephone, and promptly confirmed in writing within 24-hours, and shall include all pertinent data, including but not limited to, name of injured party, location of accident, description of accident, nature of injuries, names of witnesses, disposition status of injured or deceased person(s).
5. During the term of this Agreement and for a period of two years subsequent to its termination, Licensee shall maintain and shall require of its contractors, subcontractors, agents or representatives who perform work under this Agreement for the benefit of Licensee to maintain the following minimum levels of insurance on forms and with insurers acceptable to Licensor:
 - (1) Worker's Compensation Insurance - Statutory limits.
 - (2) Employer's Liability Insurance - \$1,000,000 each occurrence and \$1,000,000 each employee as respects disease claims.
 - (3) Commercial General Liability Insurance, including blanket contractual liability - \$5,000,000 combined single limit per occurrence.
 - (4) Automobile Liability Insurance - \$5,000,000 combined single limit per accident.

The parties agree that Licensee shall be allowed to satisfy all its insurance requirements by self-insurance. Prior to commencement of any attachment of facilities or any work hereunder, Licensee and its contractors shall furnish Licensor with certificates of insurance evidencing the required insurance coverage, which shall include a provision that such insurance shall not be canceled without thirty (30) days written notice to Licensor. The contractual liability coverage shall insure the performance of all obligations assumed hereunder, including specifically, but without limitation, the indemnity provisions in this Agreement. All policies, except the worker's compensation policy, shall name Licensor as an additional insured. All policies of Licensee and its contractors, subcontractors, agents or representatives shall include a waiver of subrogation in favor of Licensor.

6. Beginning with the commencement date of this Agreement, Licensee shall only be permitted to attach those Attachments specifically identified on Exhibit A to Licensor's poles. No additional attachment shall be made by Licensee. Further, Licensee shall not be permitted to increase or upgrade the attachments, wires, or voltage without Licensor's prior written consent.
7. Any additional support of poles, including but not limited to, guying required to accommodate the Attachments of Licensee shall be provided at the expense of

Licensee.

8. Licensors shall have the right, but not the obligation, to conduct an inspection of all Attachments and locations. Licensors' inspections shall not excuse Licensee's obligations under this Agreement.
9. This Agreement shall remain in effect for so long as the Licensee maintains its Attachments on Licensors' poles. Licensors may terminate this Agreement if, after written notice to Licensee specifying a default or breach of this Agreement, the Licensee fails to cure the default or breach within forty-five days after receipt of said notice.

DANGER! NOTICE TO LICENSEE AND ITS CONTRACTORS

10. *Electricity is a Natural Hazard:* Licensee and its contractors are hereby advised that the generation, transmission and/or distribution of electrical energy involve the handling of a natural force which, when uncontrolled, is inherently hazardous to life and property. Licensee and its contractors are further hereby advised that, due to the nature of the work of attaching its facilities to Licensors' poles hereunder, other hazardous or dangerous conditions (not necessarily related to the inherent danger of electricity) may also be involved in the work. Accordingly, prior to the commencement of the attachment of any Licensee facilities to Licensors' poles, Licensee and its contractors shall inspect the work area on or near Licensors' poles specifically to ascertain the actual and potential existence and extent of any hazardous or dangerous conditions. It shall be the sole and exclusive duty of the Licensee and its contractors to instruct its supervisors and employees, with respect to any such conditions and the safety measures to be taken in connection therewith; and during the course of the work, Licensee and its contractors shall take all such measures as may be deemed necessary or prudent to protect and safeguard the person and property of their employees and of the general public against all hazardous and dangerous conditions as the same may arise.
11. *Precautions Before Commencing Work:* Licensee and its contractors shall, before climbing poles or structures, exercise their best efforts to make certain that the poles or structures are strong enough to safely sustain workmen's weight in the performance of the required work on the poles or structures. Licensee and its contractors shall have the affirmative duty to identify and comply with pole marking or badging procedures required by Licensors (or its contractors) or any governmental authority, which procedures may indicate a hazardous pole condition prohibiting any work on such poles. All work designated in any application and permit under this Agreement to be performed near energized electrical conductors shall be performed under the conditions and at the place as stated, but only with the specific understanding that if Licensee and its contractors in their sole discretion regard the location where such work is to be performed, or where such work is being performed, as an unsafe place to work, Licensee and its contractors shall immediately cease and desist from performing all work in such hazardous area and immediately notify Licensors in writing.

12. *Bonding to Electric Company Ground:*

- a. Definitions: For this Section 12, the following terms, when used herein, shall have the following meaning:

"Vertical ground wire" shall mean a wire conductor of Licensor attached vertically to the pole and extended from Licensor's multi-grounded neutral (defined below) to the base of the pole where it may be either butt wrapped on the pole or attached to a grounded electrode.

"Multi-grounded neutral" shall mean Licensor's conductor which is bonded to all Licensor's vertical ground wires.

"Bonding wire" shall mean a number 6 AWG copper wire conductor connecting equipment of Licensee and Licensor to the vertical ground wire.

- b. Installation of Bonding Wire: Licensee shall install a bonding wire on every pole where a vertical ground wire exists, in accordance with NESC. Any piece of Licensee equipment attached to Licensor's pole which does not have a vertical ground wire shall be bonded to Licensee cable support wire and property grounded.
- c. Absolute Grounding Requirement: Under no condition may Licensor's vertical ground wire be broken, cut, disconnected, severed, removed, unbonded or damaged. If Licensor's vertical ground wire is broken, cut, disconnected, severed, removed, unbonded or damaged, no work shall be allowed on Licensor's poles until Licensor is notified, in writing, and the condition is corrected. Licensee and its contractors shall assure that Licensee's facilities constantly remain property grounded, either to Licensor's vertical ground wire or through the use of jumper cables or temporary grounds until such permanent ground is affixed.
- d. Additional Bonding Precautions: Licensor reserves the right, but is not obligated, to install, at Licensee's expense, a bonding wire to any piece of Licensee equipment where, in the opinion of Licensor, a safety hazard exists or may exist in the future.
- e. Licensee's Duty to Warn: It shall be the responsibility of Licensee and its contractors to warn and instruct its personnel working on Licensor's poles of the requirement of bonding its wires to Licensor's vertical ground wire and the dangers associated with ungrounded and unbonded facilities and to furnish adequate protective equipment to protect its personnel from bodily harm during work on its communications facilities. Licensor assumes no responsibility for warning, instructing, for furnishing equipment to, or for the training or job qualifications of Licensee and its contractors or their personnel, including supervisor or employees working on Licensor's poles.

13. Licensee shall contact Licensor when work is to be performed by the Licensee on Licensor's poles or Licensee's Attachments and the Licensee may request a clearance on Licensor's line if the work to be performed is considered hazardous due to the close proximity of Licensor's transmission line conductors. Licensor may request from Licensee clearance on its lines in the performance of transmission construction and maintenance if Licensee's Attachments create a hazard which cannot reasonably be managed by construction methods while the work is in progress.
14. Neither this Agreement nor any part or rights thereunder shall be assigned by Licensee without the prior written consent of Licensor.
15. Any notice or request made to or by either Party regarding this Agreement shall be made to the representative of the other Party as indicated below.

Licensor:

Duke Energy Florida, LLC
6565 38th Avenue North
St Petersburg, Florida 33710
Attention: Director of Transmission Planning

With copies to:

Shantel W. Ocampo, Counsel
Duke Energy Corporation
452 E Crown Point Road
Winter Garden, FL 34787
Phone: (407) 905-3380
Email: Shantel.Ocampo@Duke-Energy.com

Ann Warren
Associate General Counsel
Duke Energy Corporation
525 S. Tryon Street
Charlotte, NC 28202
Phone: (704) 382-2108
Email: Ann.Warren@duke-energy.com

Licensee:

City of Ocala, Florida (d/b/a Ocala Electric Utility)
1805 NE 30th Ave Bldg. 400,
Ocala, FL 34470
352-351-6641
Attention: Director of Electric Utilities

With a copy to:

William E. Sexton, City Attorney
City of Ocala, Florida (d/b/a Ocala Electric Utility)
110 SE Watula Avenue
Ocala, FL 34471
Phone: (352) 401-3972
Email: wsexton@ocalafl.gov

16. Subcontractors. Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

The obligations in this section will not be limited in any way by any limitation of subcontractor's insurance.

17. Governing Law. The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of Florida, without regard to its conflicts of law principles.
18. Waiver. The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Any waiver of this Agreement shall, if requested, be provided in writing.
19. Amendment. The Parties may by mutual agreement amend and restate this Agreement which then must be filed with and accepted for filing by the Federal Energy Regulatory Commission prior to becoming effective.
20. Severability. If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other governmental authority

having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement.

21. Binding Effect. This Agreement and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.
22. No Third Party Beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.
23. No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
24. Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

[Signatures on the following pages.]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective representatives thereunto duly authorized.

LICENSOR: DUKE ENERGY FLORIDA, LLC

By: _____

Name: _____

Title: _____

Date: _____

LICENSEE: CITY OF OCALA, FLORIDA

By: _____

Name: _____

Title: _____

Date: _____

ATTACHMENT A

Ocala's existing attachments to transmission poles T1048 and T1047 consist of line post insulators and associated hardware, fittings and assemblies for the 954 ACSR phase conductors (3 total) as well as post top insulators on tabbed cross arms, fittings and assemblies for 795 AAC distribution conductors and 4/0 AAC neutral conductor.

Ocala's existing attachments to transmission poles T1030 consist of line post insulators and suspension insulators and associated hardware, deadend fittings and assemblies for the 954 ACSR phase conductors (3 total) as well as post top insulators on tabbed cross arms, fittings and assemblies for 795 AAC distribution conductors and 4/0 AAC neutral conductor.

Ocala's existing attachments to transmission poles T1046, T1044A, T1043, T1042, T1041, T1040, T1039, T1038, T1037, T1036, T1035, T1034, T1033, T1032, and T1031 consist of line post insulators and associated hardware, fittings and assemblies for 954 ACSR phase conductor (3 total).

Drawings of these attachments are set forth on the following pages.



