

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 100304-EU

DIRECT TESTIMONY AND EXHIBIT
OF
THEODORE S. SPANGENBERG, JR.

COM 5
APA _____
ECR I
GCL 8
RAD _____
SSC _____
ADM _____
OPC _____
CLK G.F.RPR



DOCUMENT NUMBER-DATE
01425 MAR-3 =
FPSC-COMMISSION CLERK

1 GULF POWER COMPANY

2 Before the Florida Public Service Commission
3 Prepared Direct Testimony of
4 Theodore S. Spangenberg, Jr.
5 Docket No. 100304-EU
6 Date of Filing: March 3, 2011

7 Q. Please state your name, business address, and occupation.

8 A. My name is Theodore S. "Ted" Spangenberg, Jr. My business address is
9 One Energy Place, Pensacola, Florida, 32520. I am the Director of
10 Military Affairs and Special Projects at Gulf Power Company.

11 Q. Please summarize your educational and professional background.

12 A. I hold a Bachelor's and Master's Degree in Electrical Engineering from
13 Auburn University and I am a licensed Professional Engineer in the State
14 of Florida. I have been employed by Gulf Power Company (the Company)
15 or its affiliates for 35 years. I have worked in the functions of Load
16 Research, Forecasting, Marketing, Cogeneration, Distribution,
17 Transmission, Division Operations, Executive Services, Substations and
18 Customer Service. I currently serve as the Director of Military Affairs and
19 Special Projects. One of my principal special project areas is territorial
20 matters in which I provide guidance to Gulf Power's district and local
21 management and field personnel with respect to properly competing for,
22 and providing service to, new customers.

23

24

25

1 Q. Do you have any prior experience in Florida Public Service Commission
2 (the Commission) dockets?

3 A. In past energy conservation dockets, I have appeared as a Class B
4 Practitioner before the Commission. I have also served as a witness for
5 Gulf Power Company on both technical and policy matters in a variety of
6 territorial dispute, rate setting, conservation, and cogeneration dockets.

7

8 Q. What is the purpose of your testimony?

9 A. My testimony will address the various elements that I believe the
10 Commission should consider in resolving this territorial dispute and will
11 provide information, data, and Gulf Power's position on the conclusion we
12 believe the Commission should reach on each of those elements.

13

14 Q. Have you prepared an exhibit that contains information to which you will
15 refer in your testimony?

16 A. Yes. I have one exhibit which was prepared under my supervision and
17 direction.

18

Counsel: We ask that Mr. Spangenberg's Exhibit (TSS-1),

19

comprised of six schedules be marked as

20

Exhibit No. ____.

21

22

23

24

25

1 Q. How would you characterize your general experience with respect to
2 territorial matters?

3 A. For over 30 years, I have been a resource within Gulf Power Company to
4 help ensure that new electric customers in Northwest Florida enjoy the
5 benefits of fair and effective competition, particularly those customers who
6 chose to establish service in locations where there were, at that time,
7 limited or no transmission or distribution facilities to adequately provide
8 service. When Gulf Power can economically expand its facilities to
9 provide service to new customers, Gulf's entire body of customers is
10 benefitted through the sharing of the costs of operating and maintaining
11 common distribution, transmission, and/or generating facilities. Costs for
12 all customers are reduced by leveraging the economies of scale that are
13 inherent in a capital intensive industry such as ours. This is particularly
14 true in Northwest Florida where there are still many large geographic
15 regions that have not reached their full economic and community
16 development potential; and the region continues to experience population,
17 infrastructure, community, and job growth. In Northwest Florida, there are
18 literally hundreds of thousands of acres of undeveloped land where there
19 are limited, if any, existing facilities for the transmission and distribution of
20 electric power.

21 Because of these opportunities, but combined with a need to avoid
22 unnecessary territorial disputes with other utilities, Gulf Power has
23 conducted internal training sessions with its field personnel and their
24 management to ensure an adequate understanding of competitive

1 opportunities and uneconomic duplication. I have been the principal
2 instructor in those sessions.

3 As a result of Gulf Power's fair and proper competitive practices,
4 there have been a few occasions, over the years, when adjacent utilities
5 have chosen to disregard a customer's choice of Gulf Power as their
6 service provider and have elected to dispute our right to provide service by
7 filing a territorial dispute with the Commission. I have been either a
8 witness or advisor in most of those few disputes over the last 30 years or
9 so.

10 Finally, I was the Company's principal negotiator on the two
11 existing territorial agreements that Gulf Power has in place with rural
12 electric cooperatives in Northwest Florida. Both of those agreements
13 were developed with a focus on avoiding further uneconomic duplication
14 of facilities in Northwest Florida and on avoiding future disputes.

15

16 Q. What is your belief as to why Gulf Power Company is involved in the
17 territorial dispute which is the subject of this proceeding before the
18 Commission?

19 A. Gulf Power Company is a party to this dispute because Choctawhatchee
20 Electric Cooperative, Inc. (CHELCO) has refused to honor a customer's
21 request for service from Gulf Power Company.

22

23

24

25

1 Q. Generally speaking, what are the principal considerations for the
2 Commission in resolving territorial disputes?

3 A. The Commission must first determine if each of the utilities involved in a
4 dispute has the legal authority to serve the "disputed area." Assuming that
5 the utility possesses the legal authority to serve the customer in dispute,
6 section 366.04(2)(e), Florida Statutes, anticipates two key elements that
7 should be considered. The first is the ability of the utilities to expand
8 services within their own capabilities. The second is the nature of the area
9 involved. The law is clear that the Commission has discretion to consider
10 other factors as well.

11 And, in fact, Rule 25-6.0441, Florida Administrative Code,
12 specifically expands the elements that the Commission may consider in
13 resolving territorial disputes. Those elements are: (i) the cost of each
14 utility to provide facilities, separated between the cost to each utility of
15 extending its facilities to reach the disputed area and the cost of providing
16 service within the area, and (ii) customer preference, should all other
17 factors be substantially equal.

18 Naturally, all of these considerations rest upon an initial
19 determination as to the boundaries of the area that is in dispute. In this
20 case, the disputed area is a planned mixed-use development known as
21 Freedom Walk.

22
23 Q. What are the boundaries of the Freedom Walk development?

24 A. The boundaries of the Freedom Walk development are as depicted and
25 outlined by the bold lines on Exhibit A to CHELCO's petition in this Docket.

1 In its petition, CHELCO identifies Exhibit A as reflecting the location of the
2 disputed area.

3 This identical area is defined as the Freedom Walk Community
4 Development District in the City of Crestview's Ordinance No. 1378
5 enacted by the Crestview City Council on December 10, 2007. This
6 ordinance is more fully discussed by Witness Johnson in his testimony. A
7 copy of the Ordinance is attached to my testimony as Schedule 1. It
8 contains a metes and bounds legal description of the area.

9

10 Q. Does any portion of the Freedom Walk development fall outside of the
11 municipal boundaries of the City of Crestview?

12 A. No. The disputed area defined as Freedom Walk in Exhibit A to
13 CHELCO's petition and as delineated by the legal description in
14 Crestview's Ordinance No. 1378 lies entirely within the incorporated areas
15 of the City of Crestview.

16 After filing its petition, CHELCO has asserted that the Freedom
17 Walk development will also include three contiguous parcels that are
18 surrounded on the south, west, and east by property owned by Emerald
19 Coast Partners LLC – which is the developer of Freedom Walk – and on
20 the north by Old Bethel Road. Those three parcels are owned,
21 respectively – going from east to west – by Shirley Burt, James Moore,
22 and Ruby Hughes. Those three parcels, totaling approximately five acres,
23 are not currently owned by the developer and are not currently within the
24 municipal limits of the City of Crestview, but are depicted on a preliminary
25 plat of the development.

1 Q. What will be the nature of the Freedom Walk development with respect to
2 its population?

3 A. As indicated by Witness Johnson, this extensive development is planned
4 to include 489 single-family dwellings and 272 multi-family dwellings.
5 Using Moody's Analytics' average of 2.60 persons per household for all
6 dwellings in Northwest Florida as an estimate for the single-family
7 dwellings, and one-half of that amount, 1.30 persons per household, for
8 the multi-family dwellings, the total expected population will be 1,625
9 persons. This yields an average density of 9.1 persons per acre, and one
10 home for each 0.24 acres. Freedom Walk will be a heavily and densely
11 populated area, and clearly urban in nature.

12

13 Q. What is the nature of the Freedom Walk development with respect to the
14 type of utilities seeking to serve it?

15 A. The developer has requested that Gulf Power Company provide electric
16 service to Freedom Walk. Gulf Power is an investor-owned public utility.
17 By its petition to the Commission, CHELCO is also seeking to serve
18 Freedom Walk. CHELCO is a rural electric cooperative organized and
19 operating under the auspices of Chapter 425, Florida Statutes.

20

21 Q. What is the nature of the Freedom Walk development with respect to its
22 degree of urbanization and proximity to other urban areas?

23 A. Freedom Walk will be, in and of itself, an urban area. Further, it will be
24 located principally, if not entirely, within the municipal boundaries of the
25 City of Crestview, which is also urban. Designating an area or a

1 community as “urban” can be a subjective exercise; however, the state of
2 Florida has legislation to provide guidance in making that designation.

3 The Commission has previously relied on three legislative
4 definitions as discussed in its final order resolving a territorial dispute
5 between Talquin Electric Cooperative and the Town of Havana. Re
6 Talquin Electric Cooperative Inc., Docket No. 920214-EU, Order No. PSC-
7 92-1474-FOF-EU, Dec. 21, 1992. The three legislative references are the
8 “Florida Transportation Code”, the “Uniform Special District Accountability
9 Act of 1989”, and the “Municipal Annexation or Contraction Act.” By any
10 of the definitions used in all three of those instances, both the Freedom
11 Walk development and the City of Crestview are “urban.”

12 As Witness Johnson elaborates, the Freedom Walk development
13 will be such a major urban development within Crestview that the City has
14 created a “Community Development District” pursuant to Chapter 190,
15 Florida Statutes, just for Freedom Walk.

16

17 Q. What is the nature of the Freedom Walk development with respect to the
18 present and reasonably foreseeable future requirements of the area for
19 other utility services?

20 A. Freedom Walk will require an abundance of other utility services, such as
21 telephone, water, sewer, and others as more fully described by Witness
22 Johnson in his testimony.

23

24

25

1 Q. Will the Freedom Walk development be rural or non-rural in nature?

2 A. As indicated earlier, Freedom Walk and the City of Crestview are urban by
3 any common application of that term, and even more specifically by
4 definitions provided by the Florida legislature. A determination of being
5 "urban" typically leads to a de-facto determination that the area is also "not
6 rural." However in the context of territorial disputes, particularly where one
7 of the utilities seeking to serve a disputed area is a rural electric
8 cooperative, the designation of "rural" or "not rural" takes on special
9 significance beyond just that of being "urban" or not. That is because the
10 term "rural area" is specifically defined in its applicability to rural
11 cooperatives in Chapter 425, Florida Statutes.

12 Section 425.03 (1), Florida Statutes, states that "rural area" means
13 "any area not included within the boundaries of any incorporated or
14 unincorporated city, town, village, or borough having a population in
15 excess of 2,500 persons." Defining the "boundaries" for areas that are not
16 incorporated can become subjective and might rely on things like natural
17 topography and, more certainly, on residential dwelling densities.
18 However, for an incorporated city, the "boundaries" are clearly defined by
19 the incorporated governmental entity in the form of "city limits." Freedom
20 Walk will be, for all practical purposes, if not conclusively by fact, within
21 the boundaries of the City of Crestview.

22 As noted, the only specific metric referenced in the relevant
23 definition of "rural area" is the population within the boundaries. The U.S.
24 Census Bureau determined that on April 1, 2000, the City of Crestview
25 had a population of 14,766 persons. They projected in 2005 that the

1 population had already increased to 17,707 persons. As indicated by
2 Witness Harper, in 2010 that population had increased to 21,321, making
3 it one of the fastest growing cities in Florida. Those populations are many
4 times in excess of the definitive number of 2,500 utilized within Chapter
5 425. Given these facts, it is clear that Freedom Walk will not be "rural" in
6 nature and the land area on which it will be located is not now a "rural
7 area."

8
9 Q. Has CHELCO acknowledged that the Freedom Walk development will not
10 be "rural" in nature?

11 A. Yes, it has. In response to Gulf Power's request for admissions CHELCO
12 has admitted that the Freedom Walk development, or at least the vast
13 majority that will lie within the city limits as they exist today, does not
14 constitute a "rural area" as defined in Chapter 425.

15
16 Q. Should the Commission give preference to service by Gulf Power versus a
17 rural electric cooperative simply based on the non-rural nature of this
18 area?

19 A. Yes, it should, consistent with the long-standing purpose of rural electric
20 cooperatives versus those of other electric utilities. In fact, given the
21 reflections of that purpose as found in the empowerment provisions of
22 Chapter 425, Florida Statutes, if an area is found to not be rural, it is not
23 just a question of preference. If an area is not "rural", a rural electric
24 cooperative is not legally permitted to serve it.

1 Section 425.02, Florida Statutes, clearly states that rural electric
2 cooperatives are organized for the sole purpose of serving “rural” areas.
3 Moreover, section 425.04 (4), Florida Statutes, which delineates the
4 limited powers of cooperatives, provides that cooperatives may only serve
5 members in rural areas, governmental agencies and subdivisions and
6 other persons not in excess of 10 percent of the number of the
7 cooperative’s members. Gulf Power believes that the clear effect of these
8 statutory limitations is to prevent rural electric cooperatives from
9 prospectively serving non-rural areas in most, if not all situations.
10 However, even had Chapter 425, Florida Statutes, not imposed a per se
11 legal prohibition, there is certainly a public policy application that goes to
12 the nature of why various types of utilities exist. In previous orders issued
13 by this Commission, it has even been characterized as “common
14 knowledge that the real purpose to be served in the creation of the REA
15 was to provide electricity to those rural areas which were not being served
16 by any privately or governmentally owned public utility, and it was not
17 intended that REA should be a competitor in those areas in which as a
18 matter of fact electricity is available by application to an existing public
19 utility...” One such order was rendered in a 1977 territorial dispute
20 between Suwannee Valley Electric Cooperative and Florida Power & Light
21 Company. In Re: Complaint of Suwannee Valley Electric Cooperative,
22 Inc. against Florida Power & Light Company, Docket No. 760510-EU,
23 Order No. 7961, Sept. 16, 1977.

24 Even the Commission’s own rules with respect to territorial disputes
25 anticipate an application of the long-standing concept of a difference in

1 purposes between the two types of utilities – or, more precisely, the
2 limitations of the purpose and service of a rural electric cooperative. Rule
3 25-6.0441(2)(b), which references the “nature of the disputed area” is
4 intended to preserve the historic purpose of rural electric cooperatives – to
5 serve rural areas only, and, more accurately, those rural areas that were
6 not, or would not, be served by public utilities. This is plainly evidenced by
7 the language addressing urban characteristics and the “type of utilities
8 seeking to serve [the disputed area].”
9

10 Q. Is there any instance in which the Commission should give preference to
11 service by a rural electric cooperative over a public utility simply based on
12 the rural nature of an area?

13 A. No. An area’s rural nature alone is not a sufficient basis for awarding
14 service to a rural electric cooperative. If it is rural and the cost of providing
15 service by a public utility is far in excess of that of a rural electric
16 cooperative, then the cooperative should serve and the organic, intended
17 purpose of a rural electric cooperative has been achieved. As I noted
18 earlier, it was never intended in the formation of rural electric cooperatives
19 that they should compete with other types of utilities.
20
21
22
23
24
25

1 Q. Since Freedom Walk will not be a "rural area," do you believe CHELCO
2 has any legitimate claim to being the utility that should be awarded the
3 rights to provide service?

4 A. No. It has no legitimate claim. As I indicated earlier, the provisions of
5 Chapter 425, Florida Statutes are plain in this regard. Since Freedom
6 Walk is not rural, CHELCO has no authorization in law to serve the area.

7
8 Q. Are you suggesting that rural electric cooperatives lack authority to serve
9 non-rural areas under all circumstances?

10 A. It is an accepted fact that CHELCO – and other rural electric cooperatives
11 in Florida – currently provide electric service in some limited non-rural
12 areas. To Gulf Power's knowledge, those limited areas were rural in
13 nature at the time service was initially commenced. Areas can change in
14 character over time and those that do typically change from rural to urban.
15 Section 425.04(4), Florida Statutes, has been interpreted to allow
16 cooperatives to continue to serve a number of persons in non-rural areas
17 which does not exceed 10 percent of the cooperative's total membership.
18 The most specific evidence of this can be found in a ruling by the Eleventh
19 Circuit of the United States Court of Appeals in the case of Alabama
20 Electric Cooperative v. First National Bank of Akron, 684 F.2d 789 (11th
21 Cir. 1982).

22 At best, section 425.04(4), Florida Statutes, under the Eleventh
23 Circuit's interpretation, would authorize CHELCO to serve Freedom Walk
24 as long as the number of persons served in Freedom Walk does not
25 cause CHELCO to exceed a 10 percent membership limitation on the

1 number of persons served in non-rural areas. However, even under the
2 Eleventh Circuit's liberal application, CHELCO still must be precluded from
3 providing service to Freedom Walk. CHELCO is already in excess of this
4 10 percent non-rural limitation, even absent service to Freedom Walk.
5

6 Q. How many members does CHELCO presently serve?

7 A. CHELCO has indicated in interrogatory responses that, as of February
8 2011, it serves a total of 34,722 members.
9

10 Q. Are there any areas that are not "rural" in which CHELCO currently
11 provides electric service?

12 A. Yes. There are several general areas that are not "rural" in which
13 CHELCO provides electric service. The non-rural community in which
14 CHELCO provides electric service to the greatest number of persons is
15 Bluewater Bay.

16 Witness Harper provides more detailed information about
17 Bluewater Bay. In 2010, it had a population totaling 10,847 people. The
18 community enjoys a variety of municipal services, with many of these
19 delivered to a majority of the community through a Municipal Services
20 Benefit Unit. It is home to a golf course, a large boat marina, and a large
21 and vibrant commercial district. Bluewater Bay is clearly not a "rural area,"
22 not by the characterization that any logical utility manager would give to it,
23 and not by the specific definition provided in Chapter 425, Florida
24 Statutes.
25

1 Q. Are you suggesting that CHELCO should be required to abandon its
2 service to Bluewater Bay?

3 A. Bluewater Bay's inclusion as a non-rural area in my testimony is in no way
4 intended to suggest that, as part of this Docket, the Commission should
5 reach a finding that CHELCO should abandon its service to Bluewater
6 Bay. Rather, as it is now not a "rural area," the number of "persons" that
7 CHELCO currently serves in Bluewater Bay should properly be included in
8 the total tabulation of persons that CHELCO serves in all non-rural areas
9 to determine whether or not CHELCO has already reached the 10 percent
10 non-rural limitation or, by being allowed to serve Freedom Walk, would
11 exceed that limit.

12

13 Q. How many members does CHELCO presently serve in Bluewater Bay?

14 A. CHELCO has indicated in interrogatory responses that, as of February,
15 2011, it serves 4,741 members in Bluewater Bay, as Gulf Power has
16 defined the boundaries.

17

18 Q. What boundaries did you use for purposes of describing Bluewater Bay?

19 A. I used a conservative definition of that community. I only included what
20 would be categorized as "Bluewater Bay proper" and not the abutting
21 community of Seminole or the Lake Pippin area. The metes and bounds
22 property description of the area I have included in my definition of
23 Bluewater Bay is shown in Schedule 2 to my Exhibit, along with a
24 graphical delineation on a composite of the county Property Appraiser's
25 parcel map.

1 Q. Would CHELCO be at risk of exceeding the 10 percent non-rural limitation
2 if it were allowed to serve Freedom Walk?

3 A. It would not just be at risk to exceed that limit; in fact, CHELCO is already
4 in excess of the 10 percent non-rural limitation. By its service to Bluewater
5 Bay, alone, this limit has already been greatly exceeded by CHELCO.
6

7 Q. Does this fact alone preclude CHELCO from serving the Freedom Walk
8 development?

9 A. Yes. Even if this were the lone point of consideration for resolving this
10 territorial dispute, CHELCO's exceedance of the ten percent non-rural
11 limitation should be ample reason for the Commission to prohibit CHELCO
12 from providing service to Freedom Walk. The number of "persons"
13 CHELCO serves in Bluewater Bay would be the population of 10,847 plus
14 the number of commercial entities they serve, to yield a percentage ratio
15 to total members that is over 30 percent. If a more liberal approach is
16 taken in calculating the percentage level as a ratio of members served in
17 non-rural areas to total membership, that percentage for Bluewater Bay
18 alone is 13.7 percent, still far in excess of the 10 percent non-rural
19 limitation.
20

21 Q. Why do you make specific reference to "persons" served in this non-rural
22 area?

23 A. The term "person[s]" is the term defined in Chapter 425, Florida Statutes,
24 and used in the section of the Chapter on which the 11th Circuit based its
25 10 percent non-rural limit interpretation.

1 Q. If Bluewater Bay was excluded from consideration, do you have evidence
2 to indicate that CHELCO would still be in violation of the 10 percent non-
3 rural limitation?

4 A. Yes, although I know of no legitimate reason for the exclusion of
5 Bluewater Bay in the consideration of that limit. As I noted earlier, there
6 are several non-rural areas in which CHELCO currently serves electric
7 accounts in at least some portion of the area.

8 One of those areas is Crestview. The population just within the City
9 limits, as noted earlier, is in excess of 21,000. Hence this is clearly an
10 area that is not "rural" using the relevant definition of Chapter 425, Florida
11 Statutes.

12 As I define it, Crestview would include both the regions that are
13 inside the municipal limits of the city and those neighborhoods in close
14 proximity to the municipal limits that exist as part of the social, economic,
15 and commercial life of the greater city. In order to avoid confusion, I will
16 refer to it as "Greater Crestview" and the metes and bounds property
17 description of the area, as I define it, is shown in Schedule 3 to my Exhibit.
18 A graphical delineation on a composite of the county Property Appraiser's
19 parcel map is also included in this schedule.

20
21 Q. Why is it appropriate to include both the area inside the city limits and
22 regions outside of those corporate limits in the definition of Greater
23 Crestview?

24 A. For one thing, the expansion of corporate city limits tends to lag behind
25 evolving urban migrations. The city limits only provide a designation of the

1 areas that have already opted to establish formal, local governmental-
2 provided urban services and accompanying taxation via annexation.
3 Whether or not an area is within the city limits is not a true measure of
4 "rural-ness." Additionally, the property owners within some non-rural
5 areas just do not, and might never, desire to have urban services provided
6 by local government. They might opt to have those services provided
7 through private arrangements, or not at all. The choice to forego city
8 government jurisdiction does not mean that those areas are "rural." This
9 is evidenced by the fact that the definition of a "rural area" in section
10 425.03(1), Florida Statutes, includes both "incorporated" and
11 "unincorporated" community areas.

12 Further, the Commission has set a clear and logical precedent that
13 both the areas within the corporate limits of a city and the adjacent
14 populated areas that exist as part of the social, economic, and commercial
15 life of the greater city should be considered as a unified, single area when
16 addressing a characterization of "rural" versus "non-rural." That precedent
17 is most clearly found in the Commission's final order resolving a dispute in
18 the greater Live Oak, Florida area. See, In Re: Complaint of Suwannee
19 Valley Electric Cooperative, Inc. against Florida Power & Light Company,
20 Docket No. 760510-EU, Order No. 7961, Sept. 16, 1977. In that order, the
21 Commission stated that "[a] subdivision located in an unincorporated area
22 of an immediately adjacent urban area does not exist as a social,
23 economic or commercial unit separate and apart from the adjoining
24 municipality. Such an area would normally be considered part of the

1 suburban territory of the municipality and, therefore, not fall within the
2 definition of "rural area" as stated in §425.03(1), F.S."

3

4 Q. To what extent does CHELCO provide electric service in Greater
5 Crestview?

6 A. In response to interrogatory questions that gave the specific definition of
7 Greater Crestview, CHELCO indicates that it serves 2,823 members in
8 Greater Crestview as of February 2011, with eight members being inside
9 the city limits as of July 2010. Based on its member counts, I
10 conservatively estimate that CHELCO provides electric service to at least
11 5,600 persons in the non-rural area of Greater Crestview.

12

13 Q. What other non-rural town, village, or borough should be considered in
14 determining whether CHELCO is in excess of the 10 percent non-rural
15 limitation?

16 A. Another would be DeFuniak Springs, which again, would include both the
17 regions that are inside the municipal limits of the city and those
18 neighborhoods in close proximity to the municipal limits that exist as part
19 of the social, economic, and commercial life of the greater city. The
20 population of DeFuniak Springs, just within the city limits, as of April 2010,
21 was 5,061 people; hence, this is clearly an area that is not "rural."

22 My definition of "Greater DeFuniak Springs" is included as
23 Schedule 4 to my Exhibit. CHELCO's interrogatory responses indicate
24 that it serves 1,302 members in Greater DeFuniak Springs as of February
25 2011, with 319 members being inside the city limits as of October 2010.

1 Based on CHELCO's member counts in the area, I conservatively
2 estimate that it provides electric service to at least 2,600 persons in the
3 non-rural area of Greater DeFuniak Springs.

4 A final town I will mention is Freeport, Florida. My definition of
5 "Greater Freeport" is included as Schedule 5 in my Exhibit. CHELCO's
6 interrogatory responses indicate that it serves 2,256 members Greater
7 Freeport as of February 2011, with 869 members and 1,151 accounts
8 being inside the city limits as of October 2010. I conservatively estimate
9 that the population of Greater Freeport, using a basis of CHELCO's 2,256
10 members, is at least 4,500 people, making it, also, clearly an area that is
11 not "rural" under the definition provided by Chapter 425, Florida Statutes.
12 I estimate that CHELCO serves no less than 4,600 persons in the non-
13 rural area of Greater Freeport.

14
15 Q. What do the statistics of CHELCO's service in these three additional non-
16 rural areas lead you to conclude?

17 A. Schedule 6 of my Exhibit provides a tabulated presentation of the statistics
18 that I have already mentioned. Based on those statistics— whether you
19 include or exclude Bluewater Bay and whether you use "persons" served
20 or the least restrictive method of members served – CHELCO is clearly
21 and conclusively already in excess of the 10 percent non-rural limitation.

22
23
24
25

1 Q. Are there other factors the Commission should consider in resolving a
2 territorial dispute?

3 A. Yes. Section 366.04 (5), Florida Statutes, gives the Commission
4 jurisdiction over a coordinated grid and the "avoidance of further
5 uneconomic duplication." The objective of avoiding uneconomic
6 duplication is specifically why Rule 25.60441(2) (c) provides that the
7 Commission may consider the "cost of each utility to provide ...facilities to
8 the disputed area." This is in addition to the consideration in part (a) of the
9 Rule of costs of providing service "within" the disputed area.

10

11 Q. Under what circumstances should the Commission invoke its jurisdiction
12 with respect to the avoidance of further uneconomic duplication in the
13 context of the resolution of a territorial dispute?

14 A. Avoiding further uneconomic duplication is always a good thing; but in the
15 Commission's pursuit of this goal, it would need to operate within the
16 parameters of other applicable law. In the context of territorial disputes,
17 uneconomic duplication would have relevance only after there has first
18 been a finding that each of the utilities seeking to serve an area in dispute
19 is legally authorized to provide service based on the type of utility in
20 comparison to the types of customers or area to be served.

21

22 Q. In resolving this dispute should the Commission consider the costs of both
23 CHELCO and Gulf Power to provide service within Freedom Walk?

24 A. For this particular dispute, no, it should not. CHELCO has not asserted in
25 its petition or otherwise, nor could it reasonably make any assertion that it

1 already has adequate facilities to serve Freedom Walk within the “disputed
2 area.” Neither does Gulf Power. Neither party currently has adequate
3 facilities within the area. Because each party would have to build an
4 extensive amount of facilities within the development to provide adequate
5 and reliable service, no duplication of facilities would occur within the area
6 of dispute, regardless of which utility was awarded the right to serve.
7

8 Q. In resolving this particular dispute should the Commission consider the
9 costs of both CHELCO and Gulf Power to extend service to Freedom
10 Walk?

11 A. No. There is no need to undertake that consideration. Given that
12 Freedom Walk is not “rural” in nature, there is no need for any further
13 considerations – service must be awarded to Gulf Power. Given the
14 interpretation of the Eleventh Circuit with respect to the 10 percent limit on
15 non-rural customers and CHELCO’s current status with the number of
16 non-rural customers that it is already serving, the resolution that must be
17 reached is even more resoundingly conclusive.

18 However, should the Commission decide to consider the utilities’
19 respective costs to extend service to the Freedom Walk development, the
20 Commission should look at any difference in those costs as just one
21 element of reaching any finding with respect to uneconomic duplication.
22
23
24
25

1 Q. Historically, how has the Commission interpreted the phrase “further
2 uneconomic duplication”?

3 A. The whole concept of “duplication of facilities” arises from the recognition
4 that there are occasions when one utility builds facilities that would not
5 have to be built – or not as much in terms of invested capital – had a
6 different utility served the customer. Because existing facilities may have
7 capacity or voltage limitations or because some expansion of facilities may
8 have been needed regardless of which utility is providing service, this is
9 often not a simple determination. Hence, traditionally “duplication” had
10 been measured by the Commission as any greater amount of costs – as
11 measured by the first cost of the installation of the minimum facilities
12 required – that one utility would have to invest to reach the disputed area
13 over the costs of another utility. Further, until 1996, the Commission
14 interpreted that any amount of duplication under this comparative analysis
15 would be “uneconomic.”

16 In 1996, the Florida Supreme Court concluded that there were
17 some amounts of duplication that could be considered “not uneconomic.”
18 See, Gulf Coast Electric Cooperative, Inc. v. Clark, 674 So.2d 120, 123
19 (Fla. 1996). The specific conclusion at that time was that there were some
20 amounts that could readily be considered as “de minimis.” In a follow-up
21 to the Supreme Court’s determination, the Commission issued its final
22 order in In Re: Petition to Resolve Territorial Dispute with Gulf Coast
23 Electric Cooperative, Inc. by Gulf Power Company, Docket No. 930885-
24 EU, Order No. PSC-98-0174-FOF-EU. In that order, the Commission
25 agreed with evidence presented by Gulf Power that “defines uneconomic

1 duplication in terms of the costs and benefits accruing solely to Gulf Power
2 from serving or not serving a given area, load or customer such as the
3 incremental cost to serve, expected revenues, or other exclusive benefits.
4 Benefits are defined as additional revenues in excess of the cost of
5 building facilities to reach the customer.”
6

7 Q. Based on your business knowledge and experience and your
8 understanding of current Commission rules and prior court rulings, what
9 economic aspects and information should the Commission consider with
10 respect to any determination as to avoiding “uneconomic duplication”?

11 A. As just noted, the initial piece of information that factors into the
12 determination would be the difference in first cost of required facility
13 additions or improvements. A second consideration would be the
14 magnitude of this cost difference between the two utilities in contrast to the
15 total investment to be made. Additionally, information as to the benefit to
16 the investing utility would need to be considered. There may be others,
17 but one additional consideration would certainly be any reasonable
18 prospect that the added facilities would have future use in serving
19 additional customers as part of natural community growth patterns.

20 It is worth noting that there could be instances where the facilities of
21 another utility are duplicated in order to provide service to a customer in
22 an instance where the other utility is not legally permitted to serve the
23 customer. In this type of scenario, while the physical capabilities of the
24 other utility may have been duplicated – uneconomically or not – it could
25 not be legally “avoided.”

1 Q. Will Gulf Power's provision of electric service to Freedom Walk result in
2 any duplication of facilities, whether uneconomic or not?

3 A. No. As indicated by Witness Feazell, it will cost Gulf Power only \$89,738
4 to extend adequate facilities to Freedom Walk. By contrast, because of
5 the need it will have to upgrade portions of its existing 3-phase feeder, it
6 will cost CHELCO at least \$227,404 to extend adequate facilities to
7 Freedom Walk. This does not include the significant costs for CHELCO to
8 make the substation improvements that will also be required, adding
9 additional hundreds of thousands of dollars of costs, if not more. If
10 CHELCO were to be allowed to provide service to Freedom Walk, in fact,
11 Gulf Power's facilities would be duplicated by CHELCO. Specifically,
12 CHELCO would duplicate the existing capacity in Gulf Power's feeder up
13 to the point where Gulf Power provides service to Davidson Middle School
14 on Old Bethel Road.

15 By allowing Gulf Power to honor the customer's choice of service
16 provider, the Commission would be precluding CHELCO's need to
17 upgrade its feeder now, or in the reasonably foreseeable future. Any
18 notion that CHELCO will have to upgrade its feeder even absent service to
19 Freedom Walk or anticipated load growth in any nearby rural area is
20 speculative at best. In other words, by allowing Gulf Power to spend
21 \$89,738 to extend service to the disputed area, the Commission could
22 save CHELCO and its member-owners well in excess of \$227,404 in
23 otherwise needed investment.

24
25

1 Q. From whose perspective should a determination be made by the
2 Commission that any duplication is “uneconomic” or not?

3 A. Any determination of whether duplication is “uneconomic” should be made
4 from the perspective of the entity making the investment. In the instant
5 case, should the Commission determine that Gulf Power is duplicating the
6 facilities of CHELCO, the question for further consideration will then be
7 whether there is sufficient incremental benefit to Gulf Power investors and
8 Gulf’s general body of ratepayers for the Commission to allow Gulf Power
9 to make this investment in spite of any determined duplication. If there is,
10 then this duplication would be “not uneconomic.”

11

12 Q. If the Commission were to set aside CHELCO’s need to make major
13 facility upgrades, would Gulf Power’s cost of \$89,738 to reach the
14 development result in “uneconomic duplication?”

15 A. No. In order for an expenditure to be deemed “uneconomic” it would have
16 to fail every one of the logical types of assessments of whether that
17 perceived duplication would be “not uneconomic.” There are four tests
18 which I applied and, rather than failing every one of them, it passes them
19 all.

20 First, the expenditure of \$89,738 should be analyzed in the context
21 of the total amount of investment that Gulf Power will make to serve
22 Freedom Walk. That total amount is the \$89,738 to extend facilities to the
23 development plus the \$844,935 of investment within the development for a
24 total of \$934,673. In other words, the expense to extend facilities to
25 Freedom Walk – an expense that any party might wish to perceive as

1 duplicative – is only 9.6 percent of the total investment that Gulf Power will
2 make. This is clearly “de minimis” and, therefore, “not uneconomic.”

3 Second, the investment of \$89,738 to extend service to Freedom
4 Walk is only 18.5 percent of the annual non-fuel revenue of \$483,828 that
5 is expected to be received from serving Freedom Walk. Stated another
6 way, the investment of \$89,738 is just slightly more than a two-month pay-
7 back on that portion of the investment. A pay-back that rapid would
8 certainly not be considered “uneconomic.”

9 A third assessment that could be made is the ratio of total
10 investment, including the investment required for facilities within the
11 disputed area, to annual non-fuel revenue the Company will receive. This
12 is the classic Contribution In Aid to Construction (CIAC) calculation that
13 the Commission has approved for analyzing the economy of extensions of
14 facilities. In this case, that ratio is 1.9, which is less than half of the 4.0
15 level which would require a capital contribution by the customer. In other
16 words, this assessment would also show that this perceived duplication is
17 “not uneconomic.”

18 A fourth assessment that could be considered is whether the
19 facilities that might initially be perceived as duplicative would have a
20 reasonable prospect for any other legitimate future use in addition to just
21 serving the area in dispute. This consideration might be undertaken,
22 particularly for a public utility such as Gulf Power, because of the unique
23 obligation to serve that exists in contrast to a rural electric cooperative
24 without that obligation. In the instant case, there are additional
25 undeveloped or underdeveloped parcels along the 2,130 feet of Old

1 Bethel Road on which Gulf Power will construct its feeder extension for
2 reaching Freedom Walk. These parcels total many tens of acres of
3 property that will likely be developed as part of the natural progression of
4 community development that is also giving rise to Freedom Walk. Most of
5 this acreage is also already within the city limits of Crestview. The feeder
6 extension for service to Freedom Walk will also provide the adequate and
7 reliable electric service that the future premises and associated electric
8 load that will locate on these parcels will require. Hence, any perceived
9 duplication would only be temporary and is, therefore, "not uneconomic."

10 While there might be other tests that could be used to determine
11 that any perceived duplication is "not uneconomic," there is no need in this
12 instance, as at least one of the assessments show that any perceived
13 duplication is, indeed, "not uneconomic." In this case, in every one of the
14 considerations – not just a single instance – the perceived duplication
15 would be "not uneconomic."
16

17 Q. Are there any other aspects the Commission should consider in resolving
18 a territorial dispute and should they be applied in this dispute?

19 A. The Commission's rules have one additional aspect that is to be applied
20 when all other factors are "substantially equal," and that is customer
21 preference. As indicated earlier, all other factors are not substantially
22 equal and, in fact, each and every one of them clearly favor Gulf Power as
23 the provider of electric service to Freedom Walk. Gulf Power is also
24 favored in the consideration of customer preference. As Witness Johnson

1 indicates in his testimony, there is conclusive evidence that the customer
2 prefers Gulf Power to provide service.

3

4 Q. Does this conclude your testimony?

5 A. Yes. This concludes my testimony.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

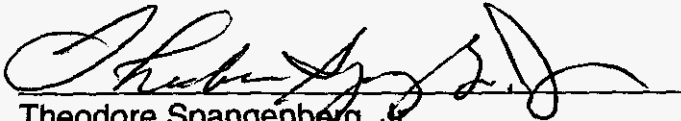
25

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF ESCAMBIA)

Docket No. 100304-EU

BEFORE me, the undersigned authority, personally appeared Theodore Spangenberg, Jr., who being first duly sworn, deposes and says that he is the Director of Military Affairs and Special Projects for Gulf Power Company, a Florida corporation, that the foregoing is true and correct to the best of his knowledge, information and belief. He is personally known to me.


Theodore Spangenberg, Jr.
Director of Military Affairs and Special Projects

Sworn to and subscribed before me
this 1st day of March, 2011.


Notary Public, State of Florida at Large

(SEAL)



Vickie L. Marchman
COMMISSION # DD866249
EXPIRES: JUN. 26, 2013
WWW.AARONNOTARY.com

ORDINANCE NO. 1378

AN ORDINANCE ESTABLISHING THE FREEDOM WALK COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; DESIGNATING PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Emerald Coast Partners, LLC, (hereinafter "Petitioner"), having obtained written consent to the establishment of the District by the owner of one hundred percent (100%) of the real property to be included in the District, petitioned The City of Crestview (the "City") to adopt an ordinance establishing the Freedom Walk Community Development District (the "District") pursuant to Chapter 190, Florida Statutes (2004); and

WHEREAS, Petitioner is a Limited Liability Company authorized to conduct business in the State of Florida and whose address is 4598 Paradise Isles, Destin Florida 32541; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the City on December 10, 2007; and

WHEREAS, upon consideration of the record established at that hearing, The City of Crestview determined that the statements within the Petition were true and correct, that the establishment of the District is not inconsistent with any applicable element or portion of the state comprehensive plan or the local government comprehensive plan, that the land within the District is of sufficient size, is sufficiently compact, and sufficiently contiguous to be developable as a functionally interrelated community, that the District is the best alternative available for delivering community development services and facilities to the area served by the District, that the services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities, and that the area to be served by the District is amenable to separate special-district governance; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the Petition.

NOW THEREFORE BE IT ORDAINED by the City of Crestview, Florida.

SECTION 1. AUTHORITY.

This ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes as amended (the "Act").

SECTION 2. DISTRICT NAME.

There is hereby created a community development district situated entirely within The City limits of Crestview Florida, which District shall be known as "Freedom Walk Community Development District."

SECTION 3. EXTERNAL BOUNDARIES OF THE DISTRICT.

Encompassing approximately 179 acres, the external boundaries of the District are described in Exhibit A attached hereto.

SECTION 4. FUNCTION AND POWERS.

Pursuant to general law, the exclusive charter for each independent community development district established under Chapter 190, Florida Statutes, is the uniform community development district charter (the "Uniform Charter") as set forth in §190.006 through §190.041, Fla. Stat. This Uniform Charter is not subject to modification pursuant to §190.005(2)(d), Fla. Stat. The Uniform Charter grants certain general and special powers among which include the following:

- (A) General Powers. The District and the District's Board of Supervisors are authorized to exercise all powers granted pursuant to the Uniform Charter of the Act as amended through the date hereof and as such may be amended from time to time. Said powers include, but are not limited to the power:
- (1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein, and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
 - (2) To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the District to pay employer contributions into the state retirement fund.
 - (3) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set forth in §190.033, Florida Statutes.
 - (4) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
 - (5) To adopt rules and orders pursuant to provisions of Chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the conduct of the business of the district; the maintenance of records; and form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.

- (6) To maintain an office at such place or places as it may designate within the county in which the district is located or within the boundaries of a development of regional impact or a Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, which includes the district, which office must be reasonably accessible to the landowners. Meetings pursuant to §189.417(3), Florida Statutes, of a district within the boundaries of a development of regional impact of Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, may be held at such office.
- (7)
 - (a) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for any of the purposes authorized by this act.
 - (b) When real property in the district is owned by a governmental entity and subject to a ground lease as described in §190.003(13), Florida Statutes, to collect ground rent from landowners pursuant to a contract with such governmental entity and to contract with the county tax collector for collection of such ground rent using the procedures authorized in §197.3631, Florida Statutes, other than the procedures contained in §197.3632, Florida Statutes.
- (8) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this act.
- (9) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such tax and special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- (10) To raise, by use charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution and not inconsistent with law.
- (11) To exercise within the district, or beyond the district with prior approval by resolution of the governing body of the county, if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of Chapters 73 and 74, Florida Statutes, over any property within the state, except municipal, county, state and federal property, for the uses and purposes of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for

the drainage of the land of one person over and through the land of another.

- (12) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized herein or by the Act.
- (13) To assess and impose upon lands in the district ad valorem taxes as proved by the Act.
- (14) To determine, order, levy, impose, collect, and enforce special assessments pursuant to the act and Chapter 170, Florida Statutes. Such special assessments may, in the discretion of the district, be collected and enforced pursuant to the provisions of §197.3631, 197.3632, and 397.3635, or Chapter 170, Florida Statutes.
- (15) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by the Act.
- (16) To exercise such special powers as may be authorized by this Section and the Act.

(B) Special Powers. The District and the District's Board of Supervisors are authorized to exercise all special powers granted pursuant to the Uniform Charter of the Act as amended through the date hereof and as such may be amended from time to time.

- (1) To finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:
 - (a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.
 - (b) Water supply, sewer and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.
 - (c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.
 - (d) 1. District roads equal to or exceeding the specifications

SCHEDULE I
Page 5 fo 8

of the city in which such district roads are located,
and street lights.

2. Buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.
- (e) Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.
 - (f) Conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.
 - (g) Any other project within or without the boundaries of a district when a local government issued a development order pursuant to §380.06 or §380.061, Florida Statutes, approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.
- (C) Additional Powers. Consent is hereby given to the District and the District's Board of Supervisors to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for parks and facilities for indoor and outdoor recreational, cultural, and educational uses as authorized and described by Section 190.012(2), Florida Statutes.

SECTION 5. BOARD OF SUPERVISORS.

The five [5] persons designated to serve as initial members of the District's Board of Supervisors are as follows: BRUCE HOULE, JAMES MOORE, DAN MARCH, SAM COBB, and KEN WRIGHT. All of the above-listed persons are residents of the State of Florida and citizens of the United States of America.

SECTION 6. SEVERABILITY.


If any provision of this ordinance is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect pursuant to general law.


DONE AND ADOPTED in regular session this 10th day of December, 2007.

THE CITY OF CRESTVIEW, FLORIDA



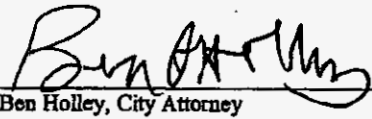
Charles J. Wells, Council President

Attest:



Janice Young, City Clerk

Approved as to form by The City of Crestview Attorney



Ben Holley, City Attorney

Approved as to form by The City of Crestview Mayor



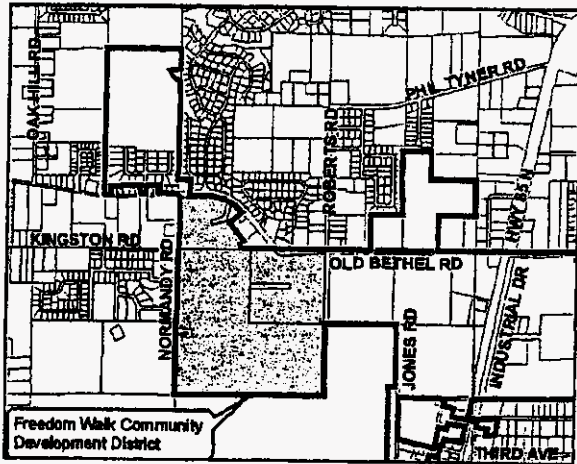
David Cadle, Mayor

EXHIBIT 'A'

LEGAL DESCRIPTION:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 23 WEST; THENCE S 00°15'29" W A DISTANCE OF 2642.79'; THENCE S 89°50'53" E A DISTANCE OF 2628.52'; THENCE N 00°07'46" E A DISTANCE OF 2585.48'; THENCE WITH A CURVE TURNING TO THE LEFT WITH A RADIUS OF 11413.80', WITH A DELTA ANGLE OF 00°11'58", WITH AN ARC LENGTH OF 39.74', WITH A CHORD BEARING OF S 87°30'36" W, WITH A CHORD LENGTH OF 39.74', THENCE S 87°26'46" W A DISTANCE OF 782.02'; THENCE N 39°16'39" W A DISTANCE OF 130.26'; THENCE N 89°59'59" W A DISTANCE OF 523.66'; THENCE N 39°49'00" W A DISTANCE OF 118.40'; THENCE N 50°11'00" E A DISTANCE OF 104.61'; THENCE N 39°49'00" W A DISTANCE OF 430.00'; THENCE N 50°11'00" E A DISTANCE OF 305.93'; THENCE N 39°16'39" W A DISTANCE OF 2.45'; THENCE WITH A CURVE TURNING TO THE LEFT WITH A RADIUS OF 764.31'; WITH A DELTA ANGLE OF 18°11'53, WITH AN ARC LENGTH OF 242.76', WITH A CHORD BEARING OF N 49°09'12 W, WITH A CHORD LENGTH OF 241.74', THENCE S 17°19'58" W A DISTANCE OF 330.91'; THENCE S 72°50'58" W A DISTANCE OF 256.05'; THENCE N 17°09'02" W A DISTANCE OF 80.00'; THENCE N 72°50'58" E A DISTANCE OF 213.95'; THENCE N 17°19'58" E A DISTANCE OF 304.98'; THENCE WITH A CURVE TURNING TO THE LEFT WITH A RADIUS OF 768.40'; WITH A DELTA ANGLE OF 29°11'04", WITH AN ARC LENGTH OF 391.39', WITH A CHORD BEARING OF N 78°51'32" W, WITH A CHORD LENGTH OF 387.17', THENCE S 87°54'29" W A DISTANCE OF 484.47'; THENCE S 00°23'59" W A DISTANCE OF 940.53'; THENCE N 90°00'00" W A DISTANCE OF 33.00'; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 179.06 ACRES.

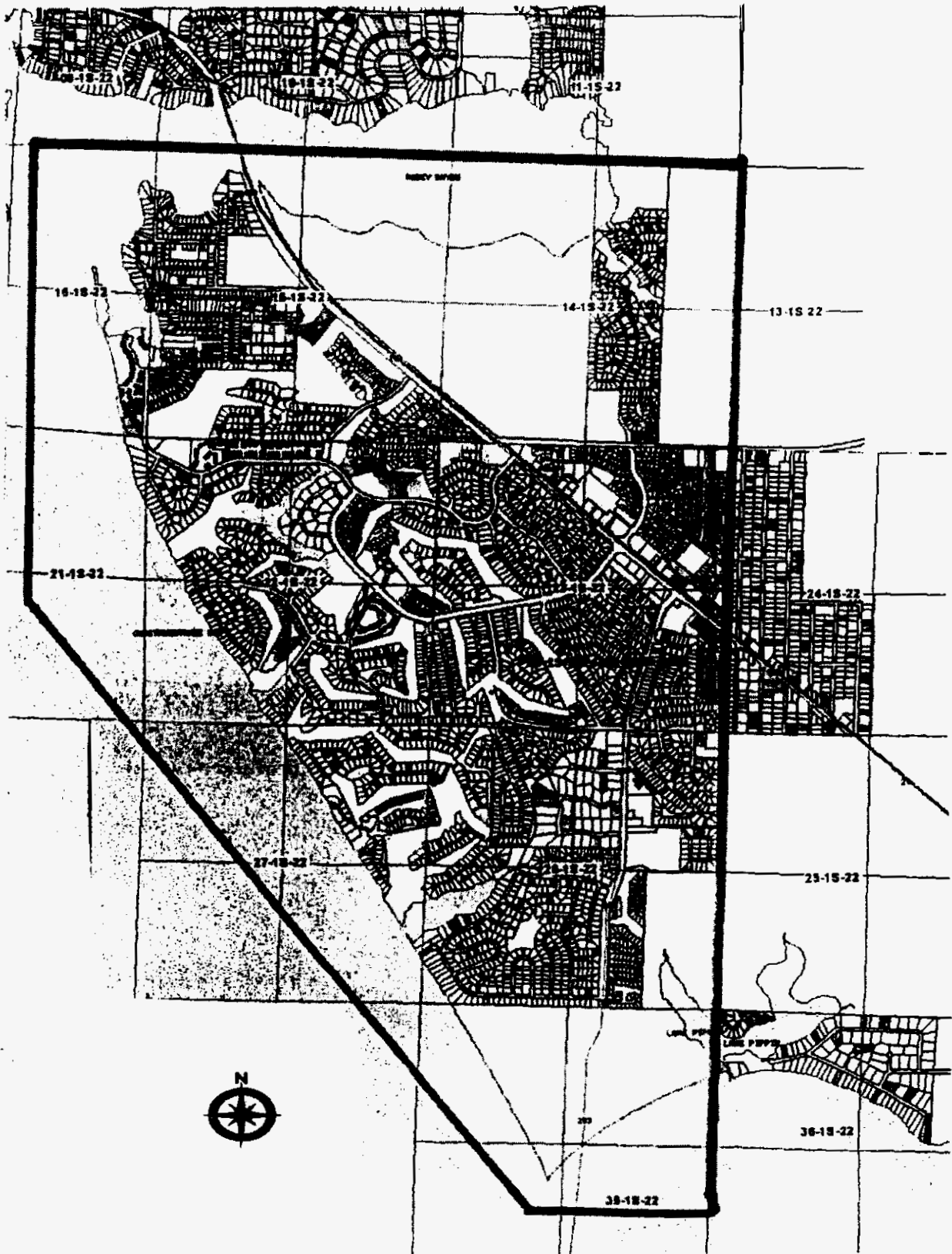
SCHEDULE 1
Page 8 fo 8



DEFINITION OF "BLUEWATER BAY"

"Bluewater Bay" means the unincorporated portion of Okaloosa County principally composed of the Bluewater Bay Development, but more precisely delineated as follows: the contiguous land area in Okaloosa County, Florida bordered on the north by Rocky Bayou, bordered on the west and south by Choctawhatchee Bay, and bordered on the east by the eastern section line of Sections 14, 23, 26 and 35 of Township 1 South, Range 22 West.

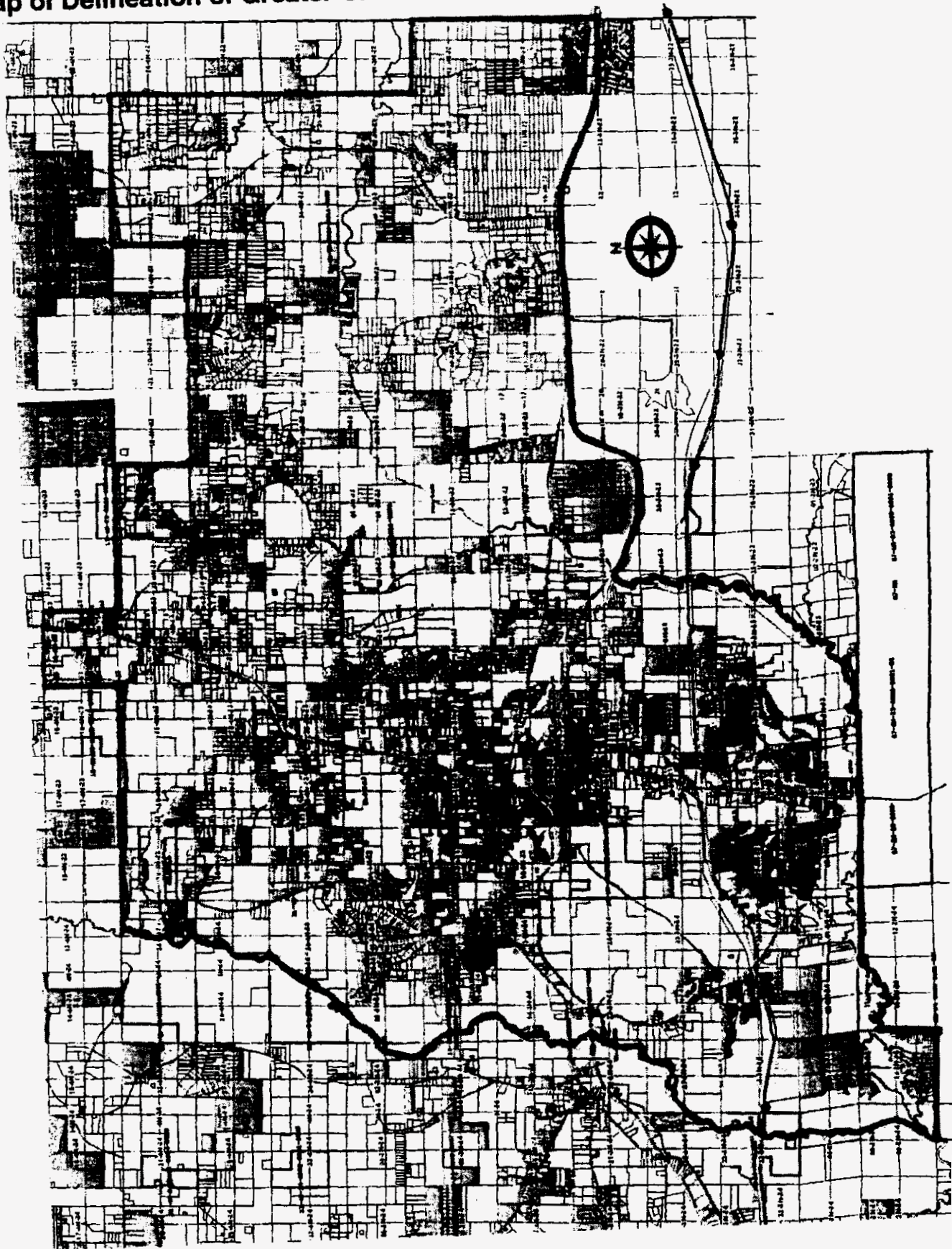
Map of Delineation of Bluewater Bay



DEFINITION OF "GREATER CRESTVIEW"

"Greater Crestview" means those unincorporated areas of Okaloosa County that abut the corporate municipal limits of the City of Crestview and are of the same general non-rural character as those areas within the corporate municipal limits such that they are reasonably considered to be part of the Crestview business and residential community, in addition to the area comprising the corporate municipal limits, all together more precisely delineated as follows: the contiguous land area in Okaloosa County, Florida delineated by a boundary as follows: beginning at the point where State Road 85 south from Crestview first intersects with the northern boundary of Eglin AFB Reservation thence proceeding west along the northern boundary of Eglin AFB to the point where it first intersects with the Yellow River thence generally north following the eastern bank of the Yellow River until reaching Section 24 of Township 4 North, Range 24 West, thence easterly through and including Section 24 of T 4-N, R 24-W and Sections 19, 20, 21, 22, 23, and 24, and including Section 15, all in T 4-N, R 23-W, thence south through Section 25 of T 4-N, R 23-W, then east through Sections 30, 29, 28, and 27, thence north through Section 22, thence east through Section 23, thence south through Sections 26 and 35, all in T 4-N, R 22-W, thence continuing south through Sections 2 and 11, thence east through Section 12, thence south through Sections 12, 13, and 24, all in T 3-N, R 22-W, until it intersects with the L&N (CSX) Railroad, thence westerly along the Railroad until it crosses the Shoal River, thence southerly along the west bank of the Shoal River until it first intersects with Eglin AFB Reservation property and thence westerly along the northern boundary of Eglin AFB to the point of beginning.

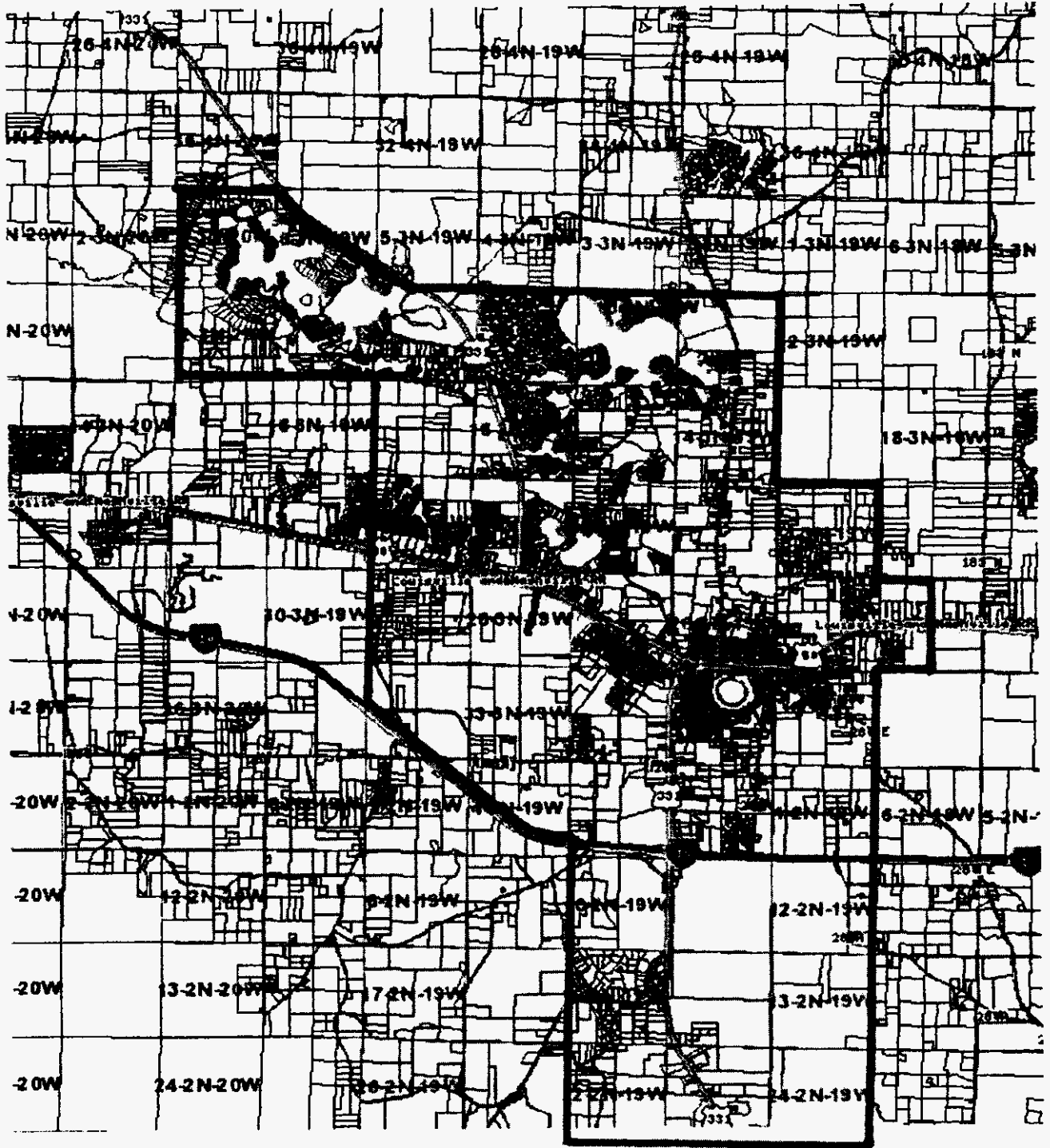
Map of Delineation of Greater Crestview



DEFINITION OF "GREATER DEFUNIAK SPRINGS"

"Greater DeFuniak Springs" means those unincorporated areas of Walton County that abut the corporate municipal limits of the City of DeFuniak Springs and are of the same general non-rural character as those areas within the municipal limits such that they are reasonably considered to be part of the DeFuniak Springs business and residential community, in addition to the area comprising the corporate municipal limits, all together more precisely delineated as follows: the contiguous land area in Walton County, Florida delineated by a boundary as follows: beginning at that portion of the eastern boundary of Section 4, Township 2-N, Range 19-W lying north of Interstate 10, proceed north-westerly through and including those portions of Sections 4 and 5 of T 2-N, R 19-W and Section 32 of T 3-N, R 19-W lying north of Interstate 10; thence north through Sections 29, 20, 17 and 8, thence west through Section 7, all in T 3-N, R 19-W; thence west through Section 12, thence north through Section 1, both in T 3-N, R 20-W; thence east through that portion of Sections 6 and 5 of T 3-N, R 19-W lying west of U.S. Highway 331; thence south through Section 8 and east through Sections 9, 10, and 11 thence south through Sections 14 and 23, thence east through Section 24, thence south through Sections 25 and 36, all in T 3-N, R 19-W; then continuing south through Sections 1, 12, 13, and 24, then west through Sections 23 and 22, then north through Sections 15, 10, and 3, all in T 2-N, R 19-W to the point of beginning; but adding on the West ½ of the West ½ of Section 30, T 3-N, R 18-W.

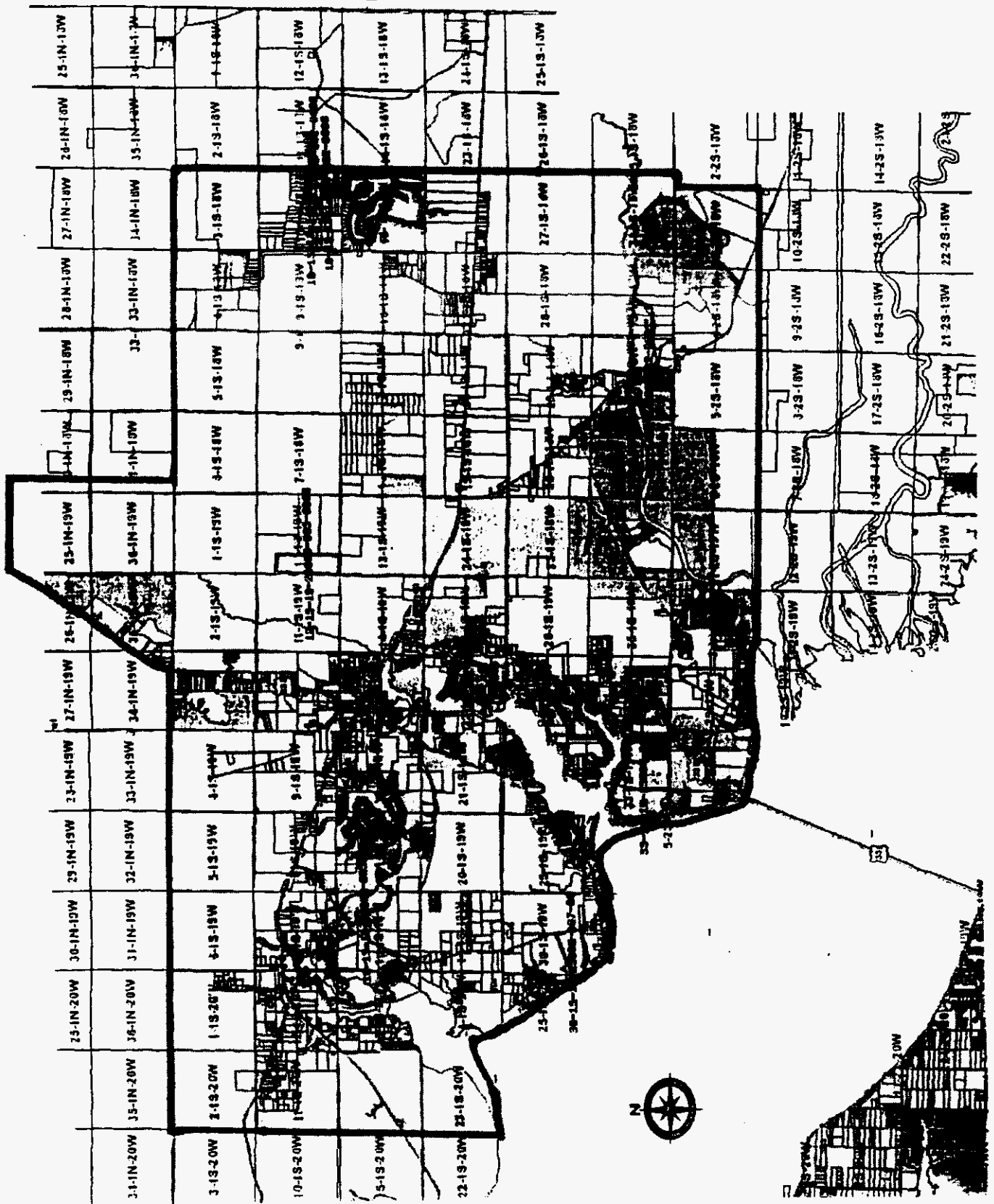
Map of Delineation of Greater DeFuniak Springs



DEFINITION OF GREATER FREEPORT

“Greater Freeport” means those unincorporated areas of Walton County that abut the corporate municipal limits of the City of Freeport and are of the same general non-rural character as those areas within the municipal limits such that they are reasonably considered to be part of the Freeport business and residential community, in addition to the area comprising the corporate municipal limits, all together more precisely delineated as follows: the contiguous land area in Walton County, Florida consisting of the populated land lying generally north of Choctawhatchee Bay and bounded by and inclusive of the land Sections as follows: commencing at the north shore of Choctawhatchee Bay, proceed north through Sections 23, 18, 11 and 2 and then east through Section 1, all in Township 1 South, Range 20 West; then continuing east through Sections 6, 5, 4, and 3 of T 1-S, R 19-W; then northerly through those portions of Sections 34, 35, and 26 lying east of the right-of-way of U.S. Highway 331, then east through Section 25, all in T 1-N, R 19W; then continuing east through that portion of Section 30 of T 1-N, R 18-W lying within the corporate municipal limits of the City of Freeport (approximately the West ½ of the West ½ of the West ½ of Section 30); then south through that portion of Section 31 of T 1-N, R 18-W lying within the corporate municipal limits of the City of Freeport (approximately the West ½ of the West ½ of the West ½ of Section 31); then south through Section 6, then east through Sections 5, 4, and 3, then south through Sections 10, 15, 22, 27, and 34 all in T 1-S, R 18-W; then south through Section 3, and then west through Sections 4, 5, and 6 of T 2-S, R 18-W; then continuing east through Sections 1, 2, and 3 of T 2-S, R 19-W and then continuing along the north shore of Choctawhatchee Bay to the point of beginning.

Map of Delineation of Greater Freeport



SCHEDULE 6

Table 1
Number of Entities in Specific Non-Rural Areas Being Supplied Electric Service by CHELCO

<u>Non-rural Area</u>	<u># Served by CHELCO</u>		
	<u>Persons</u>	<u>Electric Accounts</u>	<u>Members</u>
Bluewater Bay	10,900	5,148	4,741
Crestview	5,600	3,093	2,823
DeFuniak Springs	2,600	1,501	1,302
Freeport	4,600	2,656	2,256
TOTAL ALL	23,700	12,398	11,122
Total as % of CHELCO Membership	68.3%	35.7%	32.0%
TOTAL Excluding Bluewater Bay	12,800	7,250	6,381
As a % of CHELCO Membership	36.9%	20.9%	18.4%
Total Membership of CHELCO =		34,722	