

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial agreement in Santa Rosa County, by the City of Gulf Breeze and the Okaloosa Gas District.

DOCKET NO. 20220158-GU
ORDER NO. PSC-2023-0061-PAA-GU
ISSUED: January 23, 2023

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING TERRITORIAL AGREEMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

On September 9, 2022, the City of Gulf Breeze (Gulf Breeze) and the Okaloosa Gas District (District), collectively the parties, filed a joint petition seeking our approval of a new Territorial Agreement (Agreement) delineating their respective portions of service boundaries in southern Santa Rosa County. Presently, both Gulf Breeze and the Gas District provide retail natural gas service to customers in contiguous areas of southern Santa Rosa County.

The parties currently do not have a Commission-approved territorial agreement. The purpose of the proposed Agreement is to define the parties' respective service areas in southern Santa Rosa County pursuant to amended Chapter 2021-262, Laws of Florida, and to comply with the legislative directive that the Disputed Area be determined by a final Order by us. The Agreement and composite maps depicting the dividing line between Gulf Breeze and the District service areas in southern Santa Rosa County are shown in Attachment A and Chapter 2021-262, Laws of Florida, is shown in Attachment B to this Order.

The redrawing of the subject boundary will transfer one Gulf Breeze residential customer and associated infrastructure to the District. The customer has been notified of the transfer.

Commission staff issued a data request to the parties for which the responses were received on November 22, 2022. We have jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Decision

Pursuant to Section 366.04(3)(a), F.S., and Rule 25-7.0471, F.A.C., we have jurisdiction to approve territorial agreements between natural gas utilities. For purposes of this subsection, Section 366.04(3)(c), F.S., defines natural gas utility to include municipalities and gas districts. Unless we determine that the Agreement will cause a detriment to the public interest, it should be approved.¹ Gulf Breeze is a Florida municipal corporation which owns and operates a natural gas distribution system and has been providing natural gas service since 1964. Its service area includes portions of Escambia and Santa Rosa counties and currently provides retail natural gas service to 4,780 customers in Santa Rosa County.

The District is an independent special district created by the Florida Legislature in 1953 to own and operate natural gas transmission and distribution systems in Okaloosa County.² In 2000, the Legislature expanded in Chapter 2000-443, Laws of Florida, the District's service area to include portions of Santa Rosa and Walton counties. The District provides natural gas service to 50,994 residential, commercial, and industrial customers, as well as military installations, within its entire service area.³ As stated in paragraph 4 of the petition, the District currently serves 4,798 customers in Santa Rosa County. The District's member municipalities are Crestview, Niceville, Valparaiso, and Fort Walton Beach.

In 2021, the Florida Legislature again expanded the service area of the District to include all of Santa Rosa County with two defined areas excluded. The first excluded area is:

The area within the corporate limits of the City of Gulf Breeze and the area from the eastern boundary of the corporate limits of the City of Gulf Breeze extending easterly approximately 11 miles to the line defined as the eastern boundary of Sections 4, 9, 16, 21, and 28 of Township 2 South, Range 27 West, which extends north and south from Santa Rosa Sound to East Bay.

The second excluded area (Disputed Area) is:

The area from the line defined as the eastern boundary of Sections 4, 9, 16, 21, and 28 of Township 2 South, Range 27 West, which extend north and south from Santa Rosa Sound to East Bay, and extending easterly to the line starting at the intersection of US Highway 98 and Shannon Drive, going due south to Santa Rosa Sound, thence turning due north continuing to Manatee Road; thence turning west until the intersection of Basswood Drive; thence turning north until intersecting the Tom King Bayou tributary south of Cove Road; thence following

¹ *Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission*, 469 So. 2d 731 (Fla. 1985).

² Chapter 29334, Laws of Florida.

³ Response 2 in Staff's First Data Request, Document No. 11563-2022.

this branch northwest to Tom King Bayou, thence north to East Bay is presently claimed as a service area by the District and by the City of Gulf Breeze and shall not be deemed to be included or excluded as a service area for the District. The service rights for this area shall be determined by a final nonappealable order of the Florida Public Service Commission or any successor agency.

Chapter 2021-262, Laws of Florida 2021 (emphasis added).

In response to our staff's data request, the joint petitioners explained that historically the service areas of the two parties have been geographically dispersed such that an agreement was not necessary.⁴ However, over the years, as a consequence of natural growth, portions of the parties' service areas have begun to converge in southern Santa Rosa County near the Dividing Line as defined in the proposed Agreement (separating Gulf Breeze and the District's service area).

With respect to the Disputed Area referenced in Chapter 2021-262, Laws of Florida, the parties explained that after discussions among the parties and members of the local legislative delegation, the Disputed Area was excluded from the service area determination in recognition of the fact that the City and the District both provided service to the area and claimed certain rights. Therefore, resolution of service rights was reserved for determination by us.⁵

A. Proposed Territorial Agreement

The proposed Agreement defines the Parties' respective service territories in the Disputed Area by establishing a "Dividing Line" that transects the Disputed Area. The Dividing Line is shown on composite Exhibit B of Attachment A to this order (page 10 of 10 of Attachment A). The joint petitioners assert that the proposed new Agreement will formalize the Dividing Line, comply with the legislative directive, eliminate duplication of service and expenditures, and avoid the potential for future disputes. The joint petitioners also assert that the proposed boundary modification will not decrease service reliability to their existing or future customers.

The proposed Agreement will become effective on the day this Order becomes final and will continue in effect until termination or modification is approved by us or mandated by a government entity. In response to Commission staff's data request, the parties confirmed that there is no specified termination date for the proposed Agreement.⁶

B. Infrastructure and Customer Transfer and Notification

The Parties explained in the petition that the Dividing Line in the Agreement has been drawn to avoid the need to transfer any customers or utility facilities, with the exception of one residential customer of Gulf Breeze. Pursuant to Section 4(b) of the Agreement, the customer will be transferred following the effective date of this Agreement and upon written notification

⁴ Response No. 3 in Staff's First Data Request, Document No. 11563-2022.

⁵ Response No. 6 in Staff's First Data Request, Document No. 11563-2022.

⁶ Response No. 4 in Staff's First Data Request, Document No. 11563-2022.

from the District stating it is prepared to provide service to the transferred customer. On August 17, 2022, Gulf Breeze notified the customer of the transfer and provided rate comparisons. Pursuant to the customer notification, the District will waive the \$55 service activation fee and Gulf Breeze will credit the customer's \$50 deposit towards any outstanding amounts due and refund the remainder.⁷ The parties assert that they have not received a response or objections from the customer.

Along with the customer transfer, approximately 1,200 feet of pipeline and associated infrastructure will be transferred to the District. The District will pay \$24,163.05, representing the depreciated value of the infrastructure to Gulf Breeze.

C. Conclusion

After review of the joint petition and the petitioners' joint responses to staff's data request, we find that the proposed Agreement is in the public interest and will enable Gulf Breeze and the District to serve their current and future customers efficiently. The proposed Agreement will define the parties' respective service areas in southern Santa Rosa County pursuant to the amended Chapter 2021-262, Laws of Florida, and comply with the legislative directive that the Disputed Area be determined by a final order by us. Additionally, the proposed Agreement will avoid duplication of service and mitigate the potential for future disputes. Therefore, we shall approve the proposed Territorial Agreement between the City Gulf Breeze and the Okaloosa Gas District in southern Santa Rosa County.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the proposed territorial agreement in Santa Rosa County by the City of Gulf Breeze and the Okaloosa Gas District is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

⁷ Response No. 5 in Staff's First Data Request, Document No. 11563-2022.

By ORDER of the Florida Public Service Commission this 23rd day of January, 2023.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

DD

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 13, 2023.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

TERRITORIAL AGREEMENT

31 THIS TERRITORIAL AGREEMENT (this "Agreement") is made and entered into this day of August 2022 by and between the City of Gulf Breeze, a municipal corporation organized and existing under the laws of the State of Florida ("City") and the Okaloosa Gas District, a public body corporate and Independent Special District of the State of Florida ("District"). City and District are hereinafter sometimes referred to singularly as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, City is a "natural gas utility" as defined in Section 366.04(3)(c), Florida Statutes and is subject to the Florida Public Service Commission's jurisdiction to resolve territorial disputes and approve territorial agreements pursuant to Section 366.04(3), Florida Statutes; and

WHEREAS, District is a "natural gas utility" as defined in Section 366.04(3)(c), Florida Statutes and is subject to the Florida Public Service Commission's jurisdiction to resolve territorial disputes and approve territorial agreements pursuant to Section 366.04(3), Florida Statutes; and

WHEREAS, both District and City are presently providing retail natural gas service to customers in contiguous portions of South Santa Rosa County, Florida; and

WHEREAS, the Parties desire to avoid future unnecessary and uneconomic duplication of natural gas distribution facilities in South Santa Rosa County, which would be contrary to Florida Public Service Commission policies and detrimental to the interests of their customers and the general public, and to expedite the handling of applications for service by future gas customers near such locations; and

WHEREAS, the Florida Public Service Commission is empowered by the legislature of the State of Florida, pursuant to Section 366.04(3)(a), Florida Statutes, to approve and supervise territorial agreements between and among natural gas utilities.

NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the Parties, subject to and upon the terms and conditions herein set forth, agree as follows:

Section 1. Retail Natural Gas Service Areas

(a) This Agreement governs the Parties' furnishing of gas by pipeline for consumption to one or more members of the public in portions of South Santa Rosa County, Florida, inclusive of natural gas, manufactured gas, liquified gas with air mixture, or similar gaseous substances ("Retail Natural Gas Service"). The map attached hereto and incorporated herein as **Exhibit "A"** depicts boundary lines in portions of South Santa Rosa County delineating the natural gas service area reserved to City and the natural gas service area reserved to District. City's service area is depicted in orange on **Exhibit A** and consists of all areas within the Fairpoint Peninsula lying west of the Dividing Line as defined below (the "City's Service Area"). District's service area is

depicted in purple on **Exhibit A** and consists of all areas within Santa Rosa County east of the Dividing Line that are bordered to the south by Santa Rosa Sound, to the north by East Bay and East Bay River, and to the east by Highway 87 (the "District's Service Area").

City's Service Area and District's Service Area are separated by a dividing line (the "Dividing Line") which Dividing Line is more particularly identified in **Exhibit "B"** and described as follows:

POINT OF BEGINNING of the "Dividing Line" herein described, also being the northwest corner of Parcel ID 032S270000001050000, said point being at the Mean High Tide of East Bay, in Santa Rosa County, Florida.

From said POINT OF BEGINNING (POB); Thence, running in a southeasterly direction, along the westerly property line to the southwest corner of the of the aforementioned Parcel ID 032S270000001050000; Thence crossing over East Bay Blvd to a point at the northwest corner of Lot 16 Block 110 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a southeasterly direction to a point at the northwest corner of Lot 15 Block 110 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a southeasterly direction to a point at the southwest corner of Lot 15 Block 110 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a northeasterly direction along the boundary of Block 110 as recorded in First Corrected and Amended Plat of Holley-by the Sea Plat Book C, Page 166 to a point at the westerly Right-of-Way of Desoto St. (a.k.a. Candlewood St per First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166, said point being further described as the southeast corner of Lot 8 Block 110 as recorded in First Corrected and Amended Plat of Holley-by the Sea Plat Book C, Page 166; Thence running in a northwesterly direction along the Westerly Right-of-Way of Desoto St. (a.k.a. Candlewood St per First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166), to a point at the northeast corner of Lot 8 Block 110 as recorded in First Corrected and Amended Plat of Holley-by the Sea Plat Book C, Page 166; Thence running in a northeasterly direction to a point at the northwest corner of Lot 1A Block 111 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a southeasterly direction along the northerly boundary of Lot 1A Block 111 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166 to a point at the northeast corner of Lot 1A Block 111 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a southwesterly direction along the easterly boundary of Block 111 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166 to a breakpoint for Tract 1 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a southeasterly direction along the northern boundary of Block 111 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166 to a point at the northeast corner of Lot 1-A Block 118 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a southwesterly direction along the eastern boundary of Block 118 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166, to a point at the southeast corner of Lot 39 Block 118 First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running in a southwesterly direction to a point at the northeast corner of Lot 40 Block 118 Holley-by the Sea as recorded in Plat Book B, Page 155; Thence running in a southeasterly direction to a point at the northeast corner of Lot 41 Block 118 Holley-by the Sea as recorded in Plat Book B, Page 155; Thence running in a southwesterly direction to a point at the northwest corner of Lot 41 Block 118 Holley-by the Sea as recorded in Plat Book B, Page 155, said

point being on the easterly Right-of-Way of Sherwood Dr.; Thence running in a southwesterly direction along the east Right-of-Way of Sherwood Dr. to a point parallel to the South Right-of-Way of Bellingham St. (a.k.a. Flagler St. as recorded in Plat Book C, Page 166); Thence running in a northwesterly direction along the southern Right-of-Way of Bellingham St. (a.k.a. Flagler St. as recorded in Plat Book C, Page 166) until the said southerly Right-of-Way intersects with the easterly Right-of-Way of Edgewood Dr. as recorded in Plat Book C, Page 166; Thence running in a southwesterly direction along the easterly Right-of-Way of Edgewood Dr. as recorded in Plat Book C, Page 166 to a point at the northwest corner of Lot 13 Block 49 Holley-by the Sea as recorded in Plat Book B, Page 155; Thence running in a southeasterly direction to a point at the northeast corner of Lot 6 Block 49 Holley-by the Sea as recorded in Plat Book B, Page 155; Thence running in a southwesterly direction to a point on the southerly Right-of-Way of Lansford St. (a.k.a. Center St as recorded in Plat Book C, Page 166); Thence running along said southerly Right-of-Way of Lansford St. (a.k.a. Center St as recorded in Plat Book C, Page 166) in a northwesterly direction to a point at the easterly Right-of-Way of Edgewood Dr. as recorded in Plat Book C, Page 166; Thence running along said easterly Right-of-Way of Edgewood Dr. as recorded in Plat Book C, Page 166 to a point at the southwest corner of Tract V-V First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166; Thence running along the southern boundary lines of Tract V-V First Corrected and Amended Plat of Holley-by the Sea as recorded in Plat Book C, Page 166 until it intersects with the easterly Right-of-Way of Sunrise Dr. as recorded in Plat Book C, Page 166; Thence running in a southwesterly direction along the easterly Right-of-Way of Sunrise Dr. and extending to the southern Right-of-Way of US Highway 98 (a.k.a. Navarre Pkwy); Thence running in a northwest direction along the southern Right-of-Way of US Hwy 98 (a.k.a. Navarre Pkwy) to the northwest corner of Parcel ID 222S270000001000000; Thence running in a southwesterly direction to the NW corner of Lot 5 Sea Lark Landing as recorded in Plat Book E, Page 8; Thence running along the western boundary of Sea Lark Landing as recorded in Plat Book E, Page 8 in a southwesterly direction to the Mean High Tide of Santa Rosa Sound, said point being the "Point of Commencement" (POC) of the "Dividing Line" as shown on Exhibit "B".

(b) As between the Parties, and except as otherwise expressly provided in Section 2 of this Agreement, City shall have the exclusive authority to furnish Retail Natural Gas Service to all existing and future customers in City's Service Area and District shall have the exclusive authority to furnish Retail Natural Gas Service to existing and future customers in District's Service Area. If a customer's end-use natural gas facilities ("Point of Use") is located in one Party's Service Area and such customer's point connection or point of metering is located in the other Party's Service Area, such customer shall be deemed a customer of the Party in whose Service Area the Point of Use is located.

(c) Except as otherwise expressly provided in Section 2 of this Agreement, City agrees that it will not knowingly provide or offer to provide Retail Natural Gas Service to existing or potential customers within District's Service Area and District agrees that it will not knowingly provide or offer to provide Retail Natural Gas Service to existing or potential customers within City's Service Area. If a prospective customer requests service from a Party in whose Service Area the customer is not located, the Party receiving such request shall promptly refer the prospective customer to the other Party with citation to this Agreement and provide email notification in accordance with the notice provisions hereof to the other Party of such request.

(d) Nothing in this Agreement is intended to affect the gate stations, regulators, gas transmission mains, or other appurtenances related to the supply and transmission of gas of one

Party which are now, or which may in the future be, located in the Service Area of the other Party, it being understood that both Parties may continue to construct, own, operate and maintain such facilities in the Service Area of the other Party and elsewhere as permissible under applicable law and as necessary or convenient in connection with their operations; provided, however that each Party shall abide by its obligation to refrain from furnishing Retail Natural Gas Service to customers in the other Party's Service Area.

(c) Both Parties provide Retail Natural Gas Service outside of the City Service Area and District Service Area depicted on **Exhibit A**. The terms of this Agreement are expressly limited to the Parties' provision of Retail Natural Gas Service within the City Service Area and District Service Area and this Agreement shall have no effect whatsoever on either Party's rights, obligations or ability to provide natural gas service outside of the boundaries of the City Service Area and District Service Area.

Section 2. Exceptions to Exclusive Service Rights

(a) The Parties recognize that in exceptional circumstances, economic constraints or good engineering practices may indicate that a customer within one Party's Service Area either cannot or should not be immediately served by the Party in whose Service Area the customer is located. In such instances, upon written request by the Party in whose Service Area the customer is located, to the other Party, the other Party has the right, but not the obligation, to agree in writing to temporarily provide service to such customer. Any such agreement for temporary service that is anticipated to last more than one (1) year shall be jointly submitted by the Parties to the Florida Public Service Commission (the "**Commission**") for approval; provided, however, that the Party providing temporary service hereunder shall not be required to pay the other Party for any loss of revenue associated with the provision of temporary service.

(b) The Parties further recognize that economic constraints or good engineering practices may indicate that District is better positioned to provide transmission-level Retail Natural Gas Service to one or more future industrial or institutional customers in City's Service Area. Therefore, upon mutual agreement of City and District, District may provide Retail Natural Gas Service to one or more future transmission-level industrial and institutional customers not presently receiving natural gas services from City. Such agreement, if any, shall be in written form and duly executed by authorized signatories for City and County with citation to this Agreement. For avoidance of doubt, either Party may withhold its consent to such an agreement in such Party's sole discretion.

Section 3. Bulk Gas Supply

This Agreement governs the Parties' provision of Retail Natural Gas Service to end-use customers in their respective Service Areas. Nothing in this Agreement shall be construed to prevent either Party from providing bulk/wholesale gas supply for resale purposes, regardless of where the purchaser for resale may be located. Further, no provision of this Agreement shall be construed as applying to a bulk/wholesale gas supply for resale purposes.

Section 4. Transfer of Gas Infrastructure and Customers

(a) With the limited exception of the customer and associated distribution infrastructure identified in Section 4(b) below, no customers or natural gas infrastructure shall be subject to transfer or removal under this Agreement, it being understood that, except as provided in Section 4(b) below, each Party will retain its existing customers and existing infrastructure.

(b) Following the Effective Date of this Agreement and upon receipt of written notice from District that District is prepared to provide service, City shall promptly transfer to District natural gas service to a single customer located at 7095 Webster Street, Navarre, FL 32566 and bearing City Account No. 52265-023534. Contemporaneously therewith, City shall transfer to District ownership of approximately 1,200 feet of two-inch diameter polyethylene piping and fittings (the "Transferred Infrastructure") via a bill of sale or similar document evidencing transfer of title in exchange for the payment by District to City of \$24,163.05 representing the depreciated value of the Transferred Infrastructure. District acknowledges and agrees that City makes no representations or warranties regarding the Transferred Infrastructure and that such transfer is being made on an "as is" "with all faults" basis. District further agrees that continuity and reliability of natural gas service to the transferred customer will not be impaired as a consequence of this transfer.

Section 5. Regulatory Approval and Term

This Agreement, after execution by the Parties, shall be submitted jointly by the Parties to the Commission for approval. It shall become effective on the date that a Commission order approving it becomes final and effective (the "Effective Date"), and continue in effect until termination or modification shall be approved by the Commission, or until termination or modification shall be mandated by a governmental entity or court with appropriate jurisdiction. If the Commission declines to approve this Agreement, the same shall be of no force or effect, and neither Party shall have any claim against the other arising out of this Agreement.

Section 6. Non-Waiver

The failure of either Party to enforce any provision of this Agreement in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

Section 7. Termination of Commission Jurisdiction

This Agreement shall become void and unenforceable if the Commission's jurisdiction with respect to approval and supervision of territorial agreements between natural gas utilities is terminated by statute or ruled invalid by a court of final appellate jurisdiction.

Section 8. Governing Law/Venue

This Agreement shall be interpreted and governed by the laws of the State of Florida and all disputes between the Parties relating to the interpretation, breach, or enforcement of this Agreement shall be submitted to the Commission for resolution.

Section 9. Notices

All notices under this Agreement shall be in writing and must be sent by (i) electronic mail, with an electronic mail delivery receipt, and with the following subject line (in all caps and bold print): **NOTICE UNDER TERRITORIAL AGREEMENT; TIME SENSITIVE**; (ii) certified mail, return receipt requested, (iii) a nationally recognized overnight courier service, with delivery receipt requested, or (iv) hand delivery, to the parties at the addresses set forth below:

To City:

City Manager
City of Gulf Breeze
1070 Shoreline Drive
Gulf Breeze, Florida 32561
Emails: sabell@gulfbreezefl.gov;
cityclerks@gulfbreezefl.gov

To District:

Chief Executive Officer
Okaloosa Gas District
364 Valparaiso Parkway
Valparaiso, Florida 32580
Email: GordonKing@okaloosagas.com

Notices shall be deemed given when received on a business day by the addressee. In the absence of proof of the actual receipt date, the following presumptions shall apply. Notices sent by electronic mail shall be deemed to have been received upon the sending party's receipt of an electronic mail delivery receipt. If the day on which such receipt is received is not a business day or, if the receipt is after 5:00 p.m. on a business day, then such notice shall be deemed to have been received on the next succeeding business day. Notice by overnight mail or courier shall be deemed to have been received on the next business day after it was sent or such earlier time as is confirmed by the receiving party. Notice by certified mail shall be deemed to have been received on the third business day following deposit in the mail. A party may from time to time change the address to which notice hereunder is to be sent by providing notice to the other party pursuant to this section.

Section 10. Successors and Assigns

This Agreement, on and after the Effective Date, shall be binding in accordance with its terms upon the Parties hereto and their respective successors and assigns with regard to the retail distribution of natural gas.

Section 11. Counterparts

This Agreement may be executed in one or more counterparts and by original, facsimile or electronic signatures, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

Section 12. Interpretation/Presumptions

Each of the Parties acknowledges that it has been represented by independent counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed

ambiguities in this Agreement against the drafting party has no application and is expressly waived.

Section 13. Entire Agreement

This Agreement supersedes any other agreements, whether written or oral, that may have been made or entered into between the Parties concerning the subject matter of this Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and there are no other agreements or commitments with respect such subject matter except as set forth herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date and year first above stated.

CITY OF GULF BREEZE,
A Florida municipal corporation

By: *Cherry Fitch*
Cherry Fitch, Mayor

(AFFIX CITY SEAL)



ATTEST:
Leslie A. Guyer
Leslie A. Guyer, CMC, City Clerk

OKALOOSA GAS DISTRICT,
By: *[Signature]*
Chief Executive Officer

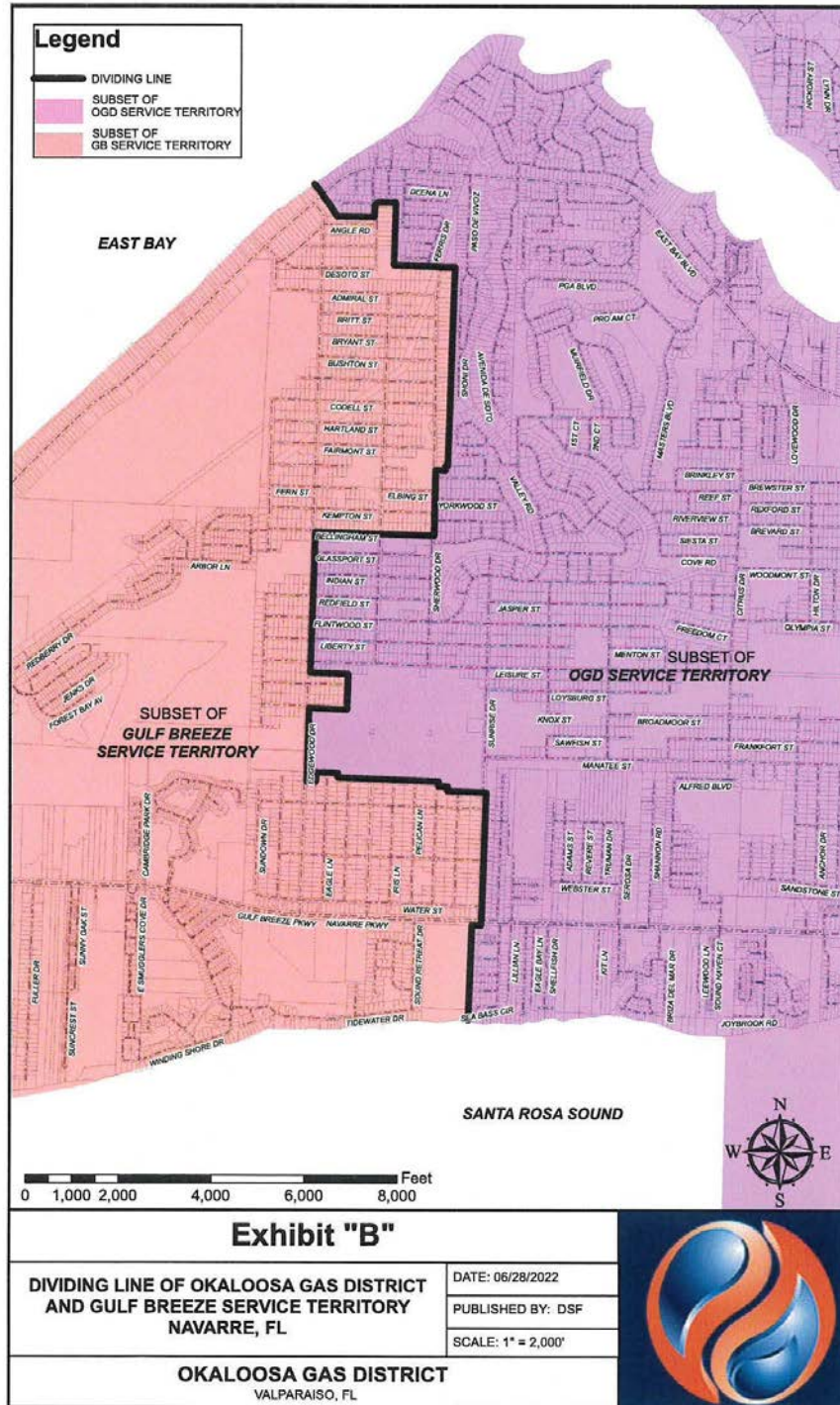
Countersigned
By: *[Signature]*
Chairman Board of Directors,
Okaloosa Gas District

Approved as to Legality of Form
By: *[Signature]*
Attorney, Okaloosa Gas District



EXHIBIT A - TERRITORIAL MAP





CHAPTER 2021-262

Committee Substitute for House Bill No. 1633

An act relating to Okaloosa Gas District, Okaloosa, Santa Rosa, and Walton Counties; amending ch. 2000-443, Laws of Florida; revising the territorial limits and area of service of the district to include all of Santa Rosa County and all of Walton County; providing exceptions; revising the membership of the Board of Directors to include one member appointed by each of the Board of County Commissioners of Santa Rosa and Walton Counties; revising the director's fee for each meeting attended by a member of the Board of Directors; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 3 and 8 of section 2 of chapter 2000-443, Laws of Florida, are amended to read:

Section 3. Area of service.—The territorial limits and area of service of the District shall be Okaloosa County, Florida, and the following described areas in Santa Rosa County, Florida, and Walton County, Florida, to-wit:

(1) In Santa Rosa County, all of Santa Rosa County an area 20 miles wide, extending from the eastern boundary of Santa Rosa County, to the western boundary of said county, the center line of which shall be the presently existing transmission line of the District, excepting, however, from the above described area of Santa Rosa County:

(a) The area within the corporate limits of the City Town of Milton and the surrounding territory presently served by the gas distribution system of said city town; however, nothing in this act shall be construed to restrict or limit the City of Milton's right to serve gas customers within its territorial grants and in all areas where the district territories overlap with territories of the City of Milton authorized by chapter 61-2489 and chapter 71-773, Laws of Florida;

(b) The area adjacent to State Highway 87 (Brewton Highway) from the intersection of said highway and the transmission line of the District northerly along said highway for a distance of 2 miles;

(c) The area adjacent to the New Chumuckla Highway from the intersection of said highway and State Highway 87 (Brewton Highway) westerly along said New Chumuckla Highway for a distance of 2 miles; ~~and~~

(d) The area adjacent to said Highway and the transmission line of the District east of Milton, in a westerly direction along said Highway 90 to the corporate limits of the City Town of Milton;:-

(e) The area within the corporate limits of the City of Gulf Breeze and the area from the eastern boundary of the corporate limits of the City of Gulf

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Breeze extending easterly approximately 11 miles to the line defined as the eastern boundary of Sections 4, 9, 16, 21 and 28 of Township 2 South, Range 27 West, which extends north and south from Santa Rosa Sound to East Bay;

(f) The area from the line defined as the eastern boundary of Sections 4, 9, 16, 21 and 28 of Township 2 South, Range 27 West, which extends north and south from Santa Rosa Sound to East Bay, and extending easterly to the line starting at the intersection US Highway 98 and Shannon Drive, going due south to Santa Rosa Sound, thence turning due north continuing to Manatee Road; thence turning west until the intersection of Basswood Drive; thence turning north until intersecting the Tom King Bayou tributary south of Cove Road; thence following this branch northwest to Tom King Bayou, thence north to East Bay is presently claimed as a service area by the District and by the City of Gulf Breeze and shall not be deemed to be included or excluded as a service area for the District. The service rights for this area shall be determined by a final nonappealable order of the Florida Public Service Commission or any successor agency; and

(g) The area within the corporate limits of the Town of Jay and the existing customers presently served by the gas distribution system of said town.

(2) In Walton County, all of Walton County extending from the eastern boundary of Walton County to the western boundary of said county, excepting, however, from the above described area of Walton County, that area lying south of the section lines commencing at the Western Boundary of Walton County at the Northwest corner of Section 31, Township 4 North, Range 21 West and running easterly along the northern section lines of Sections 31, 32, 33, 34, 35, and 36 of Township 4 North, Range 21 West, Sections 31, 32, 33, 34, 35, and 36 of Township 4 North, Range 20 West, Sections 31, 32, 33, 34, 35, and 36 of Township 4 North, Range 19 West, and Section 31, 32, and 33 of Township 4 North, Range 18 West, ending at the Eastern Boundary of Walton County located at the Northeast corner of Section 33, Township 4 North, Range 18, south to the current gas distribution system of the City of DeFuniak Springs, the area within the corporate limits of the City of DeFuniak Springs and the customers served by the gas distribution system of said city. However, should the District request in writing to the city and the city agrees through written agreement, the District is authorized to serve any mutually agreed portion of the ~~excepted area above~~ the area shall be all of that portion of Walton County lying south of Highway 20 and 10 miles north of Highway 20.

The District may acquire a supply of gas either within or without the District's territorial limits and area of service and may transport and transmit gas from the point of such acquisition to the system or systems of the District. The District may also sell and transport gas for delivery beyond the territorial limits and area of service of the District and acquire, finance, operate, maintain, extend, and improve gas transmission lines, laterals, and facilities beyond the territorial limits and area of service of the District for such purposes and also for the purpose of making direct sales to industrial

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and institutional users and to line tap commercial and residential users, but the District shall not acquire, construct, own, or operate any gas distribution system in any area other than within Santa Rosa, Okaloosa, or Walton Counties ~~the territorial limits and area of service of the District~~ as provided in this section, unless authorized by special act of the Legislature to do so.

Section 8. The Board of Directors.—The District shall have a Board of Directors, consisting of one member of each member municipality and one member appointed by the Board of County Commissioners of Okaloosa, Santa Rosa, and Walton Counties ~~County~~, to represent the interest of the unincorporated areas and the interest of the nonmember cities. The member for each member municipality shall be appointed by the governing body of such member municipality and the Board of County Commissioners of the respective counties ~~Okaloosa County~~ shall appoint one member from each county. The member shall serve for a term of 4 years and until his or her successor is appointed in like manner and qualified. Appointments to fill a vacancy shall be for the unexpired term. The representative of each municipality may, but need not be, the mayor or chief executive officer of such municipality and the member appointed by the Board of County Commissioners of ~~Okaloosa County~~ may, but need not be, an elected official, except and provided that no member of the Board of County Commissioners of ~~Okaloosa County~~ shall serve in such capacity. The members of the Board of Directors shall serve without compensation, except that they shall be reimbursed for actual expenses incurred in and about the performance of their duties thereunder and, at the discretion of the Board of Directors, they may be paid a director's fee of not exceeding \$244 ~~\$25~~ for each directors' meeting attended by them, not exceeding one meeting during each calendar month. The appointing authority may remove any member of the Board of Directors within the term for which such member shall have been appointed for malfeasance or misfeasance in office or other just cause after giving to such member a copy of the charges against him or her and an opportunity to be heard in his or her defense.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.