

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition to resolve territorial dispute with
Gulf Power Company in Okaloosa County by
Choctawhatchee Electric Cooperative, Inc.

DOCKET NO. 100304-EU

DATED: April 29, 2011

COMMISSION
CLERK

COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-10-0615-PCO-EU, filed October 13, 2010, and as modified by Order Nos. PSC-10-0708-PCO-EU, issued November 29, 2010, and PSC-11-0186-PCO-EU, issued April 6, 2011, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

Witness

None

b. All Known Exhibits

Exhibit

Title

Staff's Composite Exhibit	CHELCO's ¹ and Gulf Power Company's Responses to Staff's Interrogatories 1-4 and Production of Documents No. 1; ² Deposition Exhibit 2 to Leigh Grantham deposition concerning CHELCO's residential rates for the years 2009, 2010, and 2011; and Deposition Exhibit to Ted Spangenberg's deposition concerning Gulf's residential rates for the years 2009, 2010, and 2011.
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c. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

¹ Choctawhatchee Electric Cooperative, Inc.

² Staff sent almost identical interrogatories and production of documents requests to CHELCO and Gulf.

DOCUMENT NUMBER-DATE

02936 APR 29 =

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d. Staff's Position on the Issues

ISSUE 1: What are the boundaries of the area that is the subject of this territorial dispute known as Freedom Walk Development?

POSITION: No position pending further development of the record.

ISSUE 2(a): Does the Commission have jurisdiction to enforce or apply provisions of Chapter 425, Florida Statutes, in the context of the instant territorial dispute?

POSITION: Staff notes that in Order No. 12324, issued August 4, 1983, in Docket No. 830271-EU, In re: Petition of Suwannee Valley Electric Cooperative, Inc. for settlement of a territorial dispute with Florida Power Corporation, an area located in Lafayette County, the Commission stated that Chapter 425, Florida Statutes (F.S.), should be strongly considered. Staff further notes that Section 366.04(2)(e), F.S., gives the Commission jurisdiction over territorial disputes, and that Section 366.04(5), F.S., gives the Commission jurisdiction over the planning, development, and maintenance of a coordinated electric power grid. However, pending further development of the record, staff takes no position on this issue.

ISSUE 2(b): If the Commission determines that it has jurisdiction to enforce or apply provisions of Chapter 425, Florida Statutes, is the Freedom Walk Development a "rural area" as defined in section 425.03(1), Florida Statutes?

POSITION: Because it appears that either all of Freedom Walk or substantially all of Freedom Walk is within the city limits of Crestview, an incorporated town with a population in excess of 2,500 persons, it would appear that Freedom Walk would not fit the definition of "rural area" found in Section 425.03(1), Florida Statutes. However, at this time, staff takes no position pending further development of the record.

ISSUE 2(c): If the Commission determines that it has jurisdiction to enforce or apply provisions of Chapter 425, Florida Statutes, and if the Freedom Walk Development is not found to be "rural" in nature, is CHELCO prohibited from serving the Freedom Walk Development by virtue of section 425.02 or 425.04, Florida Statutes?

POSITION: While the Commission may strongly consider Chapter 425, Florida Statutes, the statutes which give the Commission jurisdiction and under which the Commission receives its powers and authority are Sections 366.04(2)(e) and 366.04(5), Florida Statutes. No position pending further development of the record.

ISSUE 3: What is the nature of the Freedom Walk Development with respect to its population, the type of utilities seeking to serve it, degree of urbanization, proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services?

POSITION: No position pending further development of the record.

ISSUE 4: What is the existing and planned load to be served in the Freedom Walk Development?

POSITION: It appears that there is no existing load as development has not yet begun. It appears that the projected load is 4.7 MW, with 1.1 of that being commercial. However, pending further development of the record, staff takes no position.

ISSUE 5(a): What are the necessary facilities and associated costs for CHELCO to extend adequate and reliable service to the Freedom Walk Development?

POSITION: No position pending further development of the record.

ISSUE 5(b): What are the necessary facilities and associated costs for Gulf to extend adequate and reliable service to the Freedom Walk Development?

POSITION: No position pending further development of the record.

ISSUE 5(c): What are the necessary facilities and associated costs for CHELCO to provide adequate and reliable service within the Freedom Walk Development?

POSITION: No position pending further development of the record.

ISSUE 5(d): What are the necessary facilities and associated costs for Gulf to provide adequate and reliable service within the Freedom Walk Development?

POSITION: No position pending further development of the record.

ISSUE 6: Will the provision of service to the Freedom Walk Development by CHELCO or Gulf result in uneconomic duplication of any existing facilities?

POSITION: No position pending further development of the record.

ISSUE 7: Is each utility capable of providing adequate and reliable electric service to the Freedom Walk Development?

POSITION: No position pending further development of the record.

ISSUE 8: What utility does the customer prefer to serve the Freedom Walk Development?

POSITION: No position pending further development of the record.

ISSUE 9: Which utility should be awarded the right to serve the Freedom Walk Development?

POSITION: No position pending further development of the record.

e. Stipulated Issues

Staff is not aware of any stipulations.

f. Pending Motions

Staff is not aware of any pending motions at this time.³

g. Pending Confidentiality Claims or Requests

Staff is not aware of any pending confidentiality claims or requests.


h. Objections to Witness Qualifications as an Expert

Staff has no objections to witness' qualifications as an expert.

i. Compliance with Order Nos. PSC-10-0615-PCO-EU, PSC-10-0708-PCO-EU and PSC-11-0186-PCO-EU.

Staff has complied with all requirements of the Order Establishing Procedure and the Orders Revising the Order Establishing Procedure entered in this docket.

Respectfully submitted this 29th day of April, 2011.



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³ Gulf withdrew its Motion for Summary Final Order on April 25, 2011, but reserved its right to refile another Motion for Summary Final Order when discovery is complete in this proceeding.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of STAFF'S PREHEARING STATEMENT has been filed with Office of Commission Clerk and one copy has been furnished to the following by electronic and U.S. Mail, on this 29th day of April, 2011:

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