

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

August 9, 2011

Docket No. 100304-EU – Petition to resolve territorial dispute with Gulf Power Company in Okaloosa County by Choctawhatchee Electric Cooperative, Inc.

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

Recommendation: The boundaries of the disputed area should be the metes and bounds description of the Freedom Walk CDD as depicted within the bold black lines on Exhibit A to CHELCO's Petition.

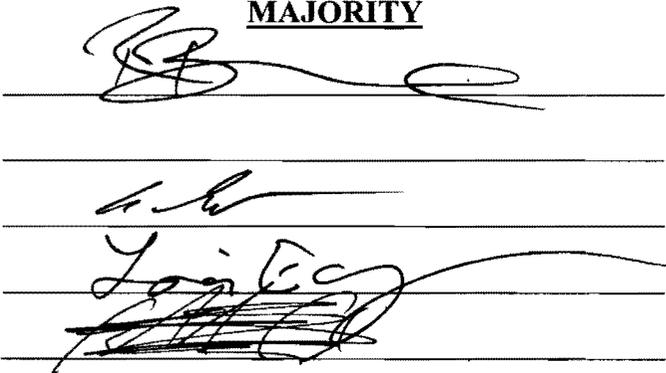
APPROVED

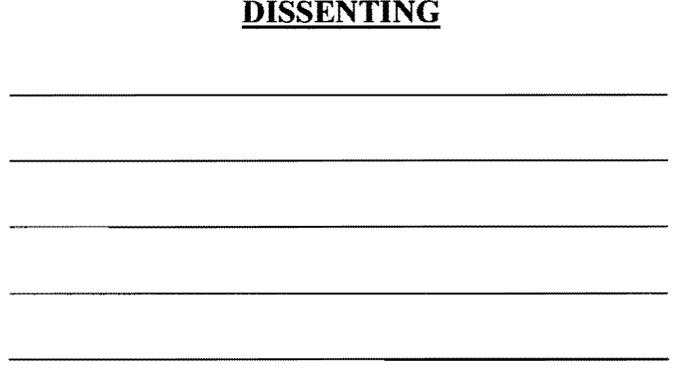
COMMISSIONERS ASSIGNED: Graham, Edgar, Brisé

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING





REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

05609 AUG-9 =

FPSC-COMMISSION CLERK

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

Recommendation: The Commission has only those powers granted by the Legislature. The Commission's powers, authority, and jurisdiction over territorial disputes are set forth in Sections 366.04(2)(e) and 366.04(5), F.S. While there is nothing in these sections or Chapter 425, F.S., that gives the Commission the authority or jurisdiction to enforce Chapter 425, F.S., in prior territorial disputes, the Commission has repeatedly considered the provisions of Chapter 425, F.S., and has stated that its provisions should be strongly considered. Therefore, staff does not believe that the Commission has the jurisdiction to enforce or apply the provisions of Chapter 425, F.S., but should consider those provisions in carrying out its duties under Sections 366.04(2)(e) and (5), F.S. If the Commission agrees that it should consider the provisions of Chapter 425, F.S., it should address Issues 2B and 2C.

APPROVED

Issue 2B: 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?

Recommendation: In Issue 2A above, staff recommends that the Commission does not have the jurisdiction to enforce or apply the provisions of Chapter 425, F.S. However, if the Commission determines that it has jurisdiction to enforce or apply provisions of Chapter 425, F.S., or determines that it should consider Chapter 425, F.S., staff recommends that the evidence shows that the Freedom Walk development is entirely within the city limits of Crestview, a city with a population greater than 2,500, and the disputed area would not meet the definition of "rural area" as found in Section 425.03(1), F.S.

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Issue 2C: 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?

Recommendation: In Issue 2A, staff recommends that the Commission does not have the jurisdiction to enforce or apply the provisions of Chapter 425, F.S. However, if the Commission determines that it has jurisdiction to enforce or apply provisions of Chapter 425, F.S., or if it agrees that it should consider that chapter, staff believes that neither Section 425.02 nor Section 425.04, F.S., preclude CHELCO from serving a non-rural area. Further, in resolving any territorial dispute, the Commission should consider the provisions of Sections 366.04(2)(e) and (5), F.S.

APPROVED

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?

Recommendation: The area in dispute currently has urban characteristics and urbanization would increase if built out.

APPROVED

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

Recommendation: There is no existing load for the Freedom Walk development. The planned load for the Freedom Walk development is approximately 4,700 kW.

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Issue 5A: What are the necessary facilities and associated costs for CHELCO to extend adequate and reliable service to the Freedom Walk Development?

Recommendation: CHELCO's existing facilities together with its planned upgrades, which are independent of projected demand from Freedom Walk, are sufficient to provide adequate and reliable service to the Freedom Walk development, and there are no associated additional costs attributable to CHELCO.

APPROVED

Issue 5B: What are the necessary facilities and associated costs for Gulf to extend adequate and reliable service to the Freedom Walk Development?

Recommendation: In order to extend adequate and reliable service to the Freedom Walk Development, Gulf would need to extend its existing three-phase line 2,130 feet along Old Bethel Road at a cost of \$89,738.

APPROVED

Issue 5C: What are the necessary facilities and associated costs for CHELCO to provide adequate and reliable service within the Freedom Walk Development?

Recommendation: The Commission approved the parties' stipulation that the total cost estimate for CHELCO to provide adequate and reliable underground service within the development is \$1,052,598.

APPROVED

Issue 5D: What are the necessary facilities and associated costs for Gulf to provide adequate and reliable service within the Freedom Walk Development?

Recommendation: The Commission approved the parties' stipulation that the total cost estimate for Gulf to provide adequate and reliable underground service within the development is \$1,152,515.

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

Recommendation: The provision of service to the Freedom Walk development by either CHELCO or Gulf will not result in uneconomic duplication of any existing facilities.

APPROVED

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

Recommendation: Yes. Each utility is capable of providing adequate and reliable electric service to the Freedom Walk development.

APPROVED

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

Recommendation: The developer of Freedom Walk, as the only reasonable proxy for future residents of the development, has indicated a preference that Gulf serve the development.

APPROVED

Issue 9: Which utility should be awarded the right to serve the Freedom Walk development?

Recommendation: Gulf should be awarded the right to serve the Freedom Walk development.

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Issue 10: Should this docket be closed?

Recommendation: Yes, if there is no timely appeal or petition for reconsideration, this docket should be closed within 35 days from the issuance of the final agency action on the issues in this recommendation.

APPROVED