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November 24, 1999

UKIGINAL

RECC. US AND REPORTING 95 NOV 24 PM 2: 38

Blanca S. Bayo'
Director of Records and Reporting
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

991758-60

RE: Joint Petition for Approval of territorial boundary agreement between Peoples Gas System and Clearwater Gas System

Dear Ms. Bayo':

Enclosed for filing is an original Joint Petition for Approval of Territorial Agreement between Peoples Gas System and Clearwater Gas System and sixteen copies.

Please date stamp and return one of the enclosed copies.

Thank you for your assistance in this matter.

Sincerely,

William J. Peebles

/kjv

Enclosures

MUY

FORCEUREALL OF RECORDS

DOCUMENT NUMBER-DATE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition for approval of: territorial boundary agreement in: Pinellas County by Peoples Gas: System and Clearwater Gas System,: a department of the City of: Clearwater:

DOCKET NO. 991758-65 Submitted for Filing: 11-24-99

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JOINT PETITION

Petitioners, Peoples Gas System ("Peoples") and Clearwater Gas System, a department of the City of Clearwater ("Clearwater Gas"), by their undersigned attorneys and pursuant to Section 366.04(3)(a), *Florida Statutes*, and Rule 25-7.0471, *Florida Administrative Code*, jointly file this petition for an order approving the territorial boundary agreement between Peoples and Clearwater attached hereto as Exhibit 1, and in support thereof state as follows:

1. The names and mailing addresses of the petitioners are:

Peoples Gas System P. O. Box 2562 Tampa, Florida 33601-2562 Clearwater Gas System 400 North Myrtle Avenue Clearwater, Florida 33755

2. The names and mailing addresses of the persons authorized to receive notices and communications with respect to this petition are:

Ansley Watson, Jr., Esq.
Macfarlane Ferguson & McMullen
P. O. Box 1531
Tampa, Florida 33601-1531

William J. Peebles, Esq. P. O. Box 10930 Tallahassee, Florida 32302 Angela Llewellyn Peoples Gas System P. O. Box 2562 Tampa, Florida 33601-2562

Chuck Warrington General Manager Clearwater Gas System 400 North Myrtle Avenue Clearwater, Florida 33755

LLCENED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

14486 NOV 24 8

FPSC-RECORDS/REPORTING

BACKGROUND

- 3. Clearwater Gas presently provides natural gas service to customers in portions of Pinellas County (both within and outside the corporate limits of the City of Clearwater) and in portions of Pasco County. Peoples presently provides natural gas service throughout portions of the State of Florida, including portions of Pinellas and Pasco Counties.
- 4. A potential dispute has arisen between Clearwater Gas and Peoples with respect to which of them should serve potential natural gas customers located in Pinellas County. In order to resolve that potential dispute, the petitioners have entered into an Agreement (the "Pinellas Territorial Boundary Agreement"), a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference. The Pinellas Territorial Boundary Agreement defines the territorial service areas of each petitioner within Pinellas County.
- 5. By its Order No. PSC-95-0620-AS-GU, issued on May 22, 1995 in Docket No. 940660-GU, the Commission approved a territorial agreement between Clearwater and Peoples resolving an earlier dispute and defining the service areas of the petitioners within Pasco County. The Commission's approval of the Pinellas Territorial Boundary Agreement will complete the delineation of the boundaries between the service areas of the petitioners, thereby avoiding future conflicts between them.

RELIEF REQUESTED

6. Petitioners seek the Commission's approval, pursuant to Section 366.04(3)(a), *Florida Statutes*, and Rule 25-7.0471, *Florida Administrative Code*, of the Pinellas Territorial Boundary Agreement, such approval being a condition precedent to the effectiveness of the agreement and the territorial boundaries set forth therein. Any modification of the agreement, once approved by the

Commission, would also require the Commission's approval prior to such modification's becoming effective. A written description of the Territorial Boundary Line (as defined in the agreement) is set forth in Section 1.8 of the Pinellas Territorial Boundary Agreement, and such line (as well as the service areas of each petitioner within Pinellas County) are depicted on the map attached as Exhibit A to the agreement.

- 7. All terms and conditions pertaining to the Pinellas Territorial Boundary Agreement, and the implementation thereof, are set forth in such agreement.
- 8. Attached hereto as Exhibit 2 is a summary of existing customers to be transferred from each petitioner to the other within 90 days following the effective date of the Pinellas Territorial Boundary Agreement. Each customer which will be transferred from one petitioner to the other pursuant to the agreement has been contacted, and has been provided an explanation of the difference between the rates currently applicable to service and the service rates which would apply following consummation of the transfer from one petitioner to the other.
- 9. In connection with the transfers of customers for which the agreement provides, Section 2.2 of the agreement requires that all lateral gas mains, service lines and appurtenances thereto, previously used by the transferring party in providing service to the customers to be transferred, also be transferred to the party which will provide service following the transfer. The agreement provides that the price to be paid by the transferee party to the transferring party shall be "mutually agreed." Petitioners have agreed that the price to be paid by Clearwater Gas to Peoples for such facilities will be up to \$26,157.29 (depending on whether facilities currently used by Peoples to provide service to two customers receiving transportation service under Peoples' Rider FTA are transferred to Clearwater Gas), and that the price to be paid by Peoples to Clearwater Gas

for such facilities will be \$7,091.90. Petitioners submit that each of such purchase prices is

reasonable.

10. Each of Peoples and Clearwater Gas represents that approval and implementation of

the Pinellas Territorial Boundary Agreement will not cause a decrease in the availability or reliability

of natural gas service to existing or future ratepayers of either Peoples or Clearwater Gas.

11. Absent the Commission's approval of the agreement, the plans of Clearwater Gas and

Peoples for providing retail natural gas service in portions of Pinellas County would overlap.

Petitioners submit that approval of the agreement by the Commission will avoid the future

uneconomic duplication of facilities by Peoples and Clearwater Gas, will expedite the handling of

applications for service by future potential customers, and is therefore in the public interest.

WHEREFORE, Clearwater Gas and Peoples respectfully request that the Commission enter

its order approving and adopting the Pinellas Territorial Boundary Agreement.

DATED this 24th day of November, 1999.

PEOPLES GAS SYSTEM,

a division of Tampa Electric Company

ANSLEY WATŚON, JR.

SCOTT C. DAVIS

Macfarlane Ferguson & McMullen

P. O. Box 1531

Tampa, Florida 33601-1531

(813) 273-4200

CLEARWATER GAS SYSTEM a department of the City of Clearwater

WILLIAM J. PEEBLES, ESQ.

P. O. Box 10930

Tallahassee, Florida 32302

(850) 681-7383

AGREEMENT

Section 0.1 This AGREEMENT is made and entered into this 24 day of Section 0.1 This AGREEMENT is made and entered into this 24 day of Section 0.1 1999, by and between the CLEARWATER GAS SYSTEM, a department of the CITY OF CLEARWATER, a municipal corporation organized and existing under the laws of the State of Florida ("Clearwater"), and PEOPLES GAS SYSTEM, a division of Tampa Electric Company, a corporation organized and existing under the laws of the State of Florida ("PGS"). Clearwater and PGS are hereinafter sometimes referred to singularly as "Party" and collectively referred to as "Parties."

WITNESSETH:

Section 0.2 WHEREAS, Clearwater is presently providing natural gas service to private individuals, firms, corporations and governmental entities in portions of Pinellas County, both within and without the corporate limits of the City of Clearwater, and in portions of Pasco County; and

Section 0.3 WHEREAS, PGS is presently providing natural gas service to persons, firms, corporations and governmental entities throughout portions of the State of Florida, including portions of both Pinellas and Pasco Counties, Florida; and

Section 0.4 WHEREAS, a potential dispute has arisen between Clearwater and PGS regarding service to potential natural gas customers located in Pinellas County; and

Section 0.5 WHEREAS, Clearwater and PGS desire to resolve the potential dispute between them in order that present and future applicants for natural gas service may expeditiously obtain such service from one or the other of them; and

Section 0.6 WHEREAS, the respective areas of retail service of the Parties are contiguous in certain places with the result that duplication of service facilities may occur in the future unless

such duplication is precluded by virtue of this Agreement; and

Section 0.7 WHEREAS, the Parties recognize that any duplication of said service facilities may result in needless and wasteful expenditures that are detrimental to the public interest; and

Section 0.8 WHEREAS, the Parties desire to avoid and eliminate the circumstances giving rise to the aforesaid potential duplications and toward that end have established a Territorial Boundary Line to delineate their respective retail territorial areas in Pinellas County; and

Section 0.9 WHEREAS, the Florida Public Service Commission ("PSC") is empowered by the legislature of the State of Florida, pursuant to section 366.04(3)(a), Florida Statutes, to approve and to supervise territorial agreements between natural gas utilities; and

Section 0.10 WHEREAS, there already exists a territorial agreement approved by the PSC for Pasco County, and this Agreement will complete the delineation of the territorial boundaries between Clearwater and PGS, avoiding future conflicts of this nature; and

Section 0.11 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, do hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Natural Gas As used herein, the term "Natural Gas" shall mean: natural gas, manufactured gas, liquefied gas with air admixture, or a similar gaseous substance furnished to the public by pipeline.

Section 1.2 Clearwater Territorial Area As used herein, the term "Clearwater Territorial Area" shall mean the area labeled Clearwater Gas System Pinellas County Service Area on Exhibit "A" to this Agreement.

Section 1.3 PGS Territorial Area As used herein, the term "PGS Territorial Area" shall mean the area labeled Peoples Gas System Pinellas County Service Area on Exhibit "A" to this Agreement.

Section 1.4 Existing Customers As used herein, the term "Existing Customers" shall mean those natural gas customers of either Party taking service from that Party on the effective date of this Agreement.

Section 1.5 Point of Use As used herein, the term "Point of Use" shall mean the end-use natural gas facilities of a customer, as distinct from the point of connection or point of metering.

Section 1.6 New Customers As used herein, the term "New Customers" shall mean those consumers applying for natural gas service for a Point of Use in the Territorial Area of either Party during the term of this Agreement.

Section 1.7 Territorial Area As used herein, the term "Territorial Area" shall mean either or both, where appropriate, the Clearwater Territorial Area or the PGS Territorial Area.

Section 1.8 Territorial Boundary Line As used herein, the term "Territorial Boundary Line" shall mean the boundary line so labeled, designating the dividing line between the areas shown on Exhibit "A" of this Agreement, which dividing line is further described as follows:

From the Point of Beginning (P.O.B.) At the northeast corner of Section 2, Township 27 South, Range 17 East proceed generally south along the east line of Section 2, Township 27 South, Range 17 East to the point of intersect with the Hillsborough County boundary line, then generally west along the Pasco County/Hillsborough County boundary line to the point of intersect with the Pinellas County boundary line, then generally south along the Pinellas County/Hillsborough County boundary

line to the point of intersect with State Road 60 (Courtney Campbell Causeway), then generally west along the irregular southerly shoreline of State Road 60 (Courtney Campbell Causeway) to the point of intersect with the Bayside Bridge (County Road 593), then generally south along the Bayside Bridge (County Road 593) and continuing generally south along the centerline of 49th Street North (County Road 593) to the point of intersect with the centerline of State Road 686 (Roosevelt Boulevard), then generally west along the centerline of State Road 686 (Roosevelt Boulevard) to the point of intersect with the centerline of 58th Street North, then generally south along the centerline of 58th Street North to the point of intersect with the projection of 146th Avenue North, then generally west along the projection of 146th Avenue North to the point of intersect with the centerline of 62nd Street North and the centerline of 146th Avenue North, and continuing generally west along the centerline of 146th Avenue North to the point of intersect with the centerline of 66th Street North, then generally south along the centerline of 66th Street North to the point of intersect with the centerline of 142nd Avenue North, then generally west along the centerline of 142nd Avenue North to the point of intersect with the centerline of Belcher Road, then generally south along the centerline of Belcher Road to the point of intersect with the centerline of Ulmerton Road, then generally west along the centerline of Ulmerton Road to the point of intersect with the centerline of 113th Street North, then generally south along the centerline of 113th Street North to the point of intersect with the centerline of Walsingham Road, then generally west along the centerline of Walsingham Road to the point of intersect with State Road 688 (Walsingham Road/Ulmerton Road), then generally west along the centerline of State Road 688 (Walsingham Road) to the centerline of the intracoastal waterway then generally south along the center line of the intracoastal waterway to the point of intersect with the southernmost boundary of the Town of Redington Beach then generally southwesterly along the southernmost boundary of the Town of Redington Beach to the point of intersect with the shoreline of the Gulf of Mexico.

The following additional territory is hereby granted to Peoples Gas System:

- A. Those properties abutting the north side of 142nd Avenue North from 66th Street North to Belcher Road.
- B. Those properties abutting the north side of Walsingham Road from 113th Street North to State Road 688 (Walsingham Road/Ulmerton Road).

The following additional territory is hereby granted to Clearwater Gas System:

C. Those properties abutting the south side of State Road 688 (Walsingham Road) from 146th Street North to the centerline of the Intracoastal Waterway.

ARTICLE II RETAIL NATURAL GAS SERVICE

Section 2.1 In General Except as otherwise specifically provided herein, Clearwater shall have the exclusive authority to furnish retail natural gas service to all New Customers within the Clearwater Territorial Area, and PGS shall have the exclusive authority to furnish retail natural gas service to all its Existing Customers and all New Customers in the PGS Territorial Area.

Section 2.2 Existing Customer Transfer The Parties are currently serving certain Existing Customers within the Territorial Area of the other Party. Within 90 days of the effective date of this Agreement, as provided for in Section 4.1, each Party shall convey to such other Party such Existing Customers, together with such lateral gas mains, service lines, and appurtenances thereto previously used by the Party in providing service in the territory of the Party which will provide service thereafter. Such facilities shall be transferred whether or not they are necessary for the provision of service by the acquiring Party. The acquiring Party shall pay to the transferring Party a price to be mutually agreed between the Parties. If the Parties are unable to agree upon a price, the price shall be replacement cost less depreciation. Notwithstanding the foregoing, existing customers within the Clearwater Territorial area currently being served by PGS under its Rider FTA may remain with PGS if they request, in writing, to do so. Any such customer will be allowed to remain with PGS as long as the customer maintains continuous service. If service to such a customer is terminated for any reason, including change of ownership/tenant, or if such a customer desires to be transferred to Clearwater at a future date, PGS and Clearwater will effect the transfer of such customer and such gas mains, service lines, and appurtenances thereto previously used by PGS in providing service to such customer according to the terms of Section 2.5.

Section 2.3 Service to New Customers The Parties agree that neither of them will serve or attempt to serve any New Customer whose Point of Use is located within the Territorial Area of the other Party, except as provided in Section 2.5.

If a New Customer or prospective New Customer requests or applies for service from either Party, but such Customer's Point of Use is located in the Territorial Area of the other Party, the Party receiving such a request or application shall refer such New Customer or prospective New Customer to the other Party with citation to this Agreement as approved by the PSC.

Section 2.4 <u>Boundary Modifications</u> The Parties recognize that, in specific instances, good engineering practices or economic constraints on one of the Parties may from time-to-time indicate that small service areas and/or New Customers should not be served by the Party in whose territory such areas or Customers are then located under Section 2.1. In such instances, the Parties agree to jointly and expeditiously seek approval of the PSC for modification of this Agreement in order to permit the appropriate Party to provide service to such small service areas and/or New Customers.

Section 2.5 Temporary Service To help facilitate the provision of natural gas service to Customers and to minimize costs and delays in providing such service, a Party which has a gas main installed on its side of the Territorial Boundary Line may temporarily serve Customers located on the other side of such Territorial Boundary Line in territory herein reserved to the other Party only (a) if requested by such other Party or (b) if such other Party is unable to provide such service within a reasonable time; provided, however, that when such temporary service is contemplated by a Party, it shall give written notice, setting forth the details of such contemplated service, to the Party in whose territory the Customer is located under Section 2.1 of this Agreement, and to the PSC, before

installing any additional facilities needed for the provision of such temporary service. At such time as the Party in whose territory such Customers are located under Section 2.1 has a gas main available for providing, or is otherwise able to provide, natural gas service to such Customers, the Party providing temporary service pursuant to this section shall surrender any such Customers upon the request of the Party in whose territory such Customers are located, and shall convey to such other Party, at a price to be mutually agreed between the Parties, such gas mains, service lines, and appurtenances thereto previously used by the Party in providing temporary service, whether or not such facilities are necessary for the provision of service by the acquiring Party, and located in the territory of the Party which will provide service thereafter. If the Parties are unable to agree upon a price, the price shall be replacement cost less depreciation. Any Customer who receives temporary natural gas service under the provisions of this section shall be notified in advance that when service becomes available from the Party in whose territory such Customer is located, the Customer will be required to receive service from such Party at such Party's then-current rates, and that such temporary service is provided only as a temporary convenience to the Customer.

ARTICLE III OPERATION AND MAINTENANCE

Section 3.1 Facilities to Remain Nothing in this Agreement is intended to affect the gate stations, regulators, or gas mains of either Party which are now or which may in the future be located in the service area of the other Party; provided, however, that each Party shall operate and maintain said lines and facilities in such manner as to minimize any interferences with the operations of the other Party. No such facilities shall be used by either Party to provide retail natural gas service to Customers located in the Territorial Area of the other Party except as may be necessary to implement the provisions of Section 2.4 or 2.5 hereof.

ARTICLE IV PREREQUISITE APPROVAL

Section 4.1 PSC Approval The provisions and the Parties' performance of this Agreement are subject to the regulatory authority of the PSC, and appropriate approval by that body of the provisions of this Agreement shall be an absolute condition precedent to the validity, enforceability and applicability hereof. This Agreement shall have no effect whatsoever until that approval has been obtained, and the date of expiration of the appeal period following issuance of the Order granting PSC approval of this Agreement shall be deemed to be the effective date of this Agreement. Any proposed modification to this Agreement shall be submitted to the PSC for approval. In addition, the Parties agree to jointly petition the PSC to resolve any dispute concerning the provisions of this Agreement or the Parties' performance of this Agreement.

Section 4.2 <u>Liability in the Event of Disapproval</u> In the event approval pursuant to Section 4.1 is not obtained, neither Party will have any claim against the other arising under this Agreement.

ARTICLE V DURATION

Section 5.1 Review and Term of Agreement Prior to the second anniversary of the effective date of this Agreement and no more than every fifth anniversary thereafter, the Parties shall meet to review the status of this Agreement and shall submit a joint status report to the Commission.

After this Agreement becomes effective pursuant to Section 4.1 hereof, it shall continue in effect until modification shall be mutually agreed upon and approved by the PSC, or until termination shall be mandated by a governmental entity or court having jurisdiction to mandate such termination or modification.

ARTICLE VI MISCELLANEOUS

Section 6.1 Negotiations Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement shall be binding upon either of the Parties hereto unless the same shall be in writing, signed by both Parties, and approved by the PSC.

Section 6.2 Successors and Assigns Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give to any person or entity, other than the Parties hereto, any right, remedy or claim under or by reason of this Agreement or any provision or condition hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of, and shall be binding only upon, the Parties hereto and their respective representatives, successors and assigns.

Section 6.3 Notices Notices given hereunder shall be deemed to have been given to Clearwater if mailed by certified mail to: Managing Director, Clearwater Gas System, 400 N. Myrtle Avenue, Clearwater, Florida 33755, and to PGS if mailed by certified mail to: Manager of Regulatory Coordination, Peoples Gas System, P.O. Box 2562, Tampa, Florida 33601-2562. Such address to which such notice shall be mailed may be, at any time, changed by designating such new address and giving notice thereof in writing in the manner herein provided.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate in their respective corporate names and their corporate seals affixed by their duly

authorized officers on the day and year first written above.

PEOPLES GAS SYSTEM a division of Tampa Electric Company

By:

Bruce Christmas

Vice President-Operations

Countersigned:

CITY OF CLEARWATER, FLORIDA

Brian J. Aung

Mayor-Commissioner

By: Michael J. Roberto

City Manager

Approved as to form and legal sufficiency:

Pamela K. Akin

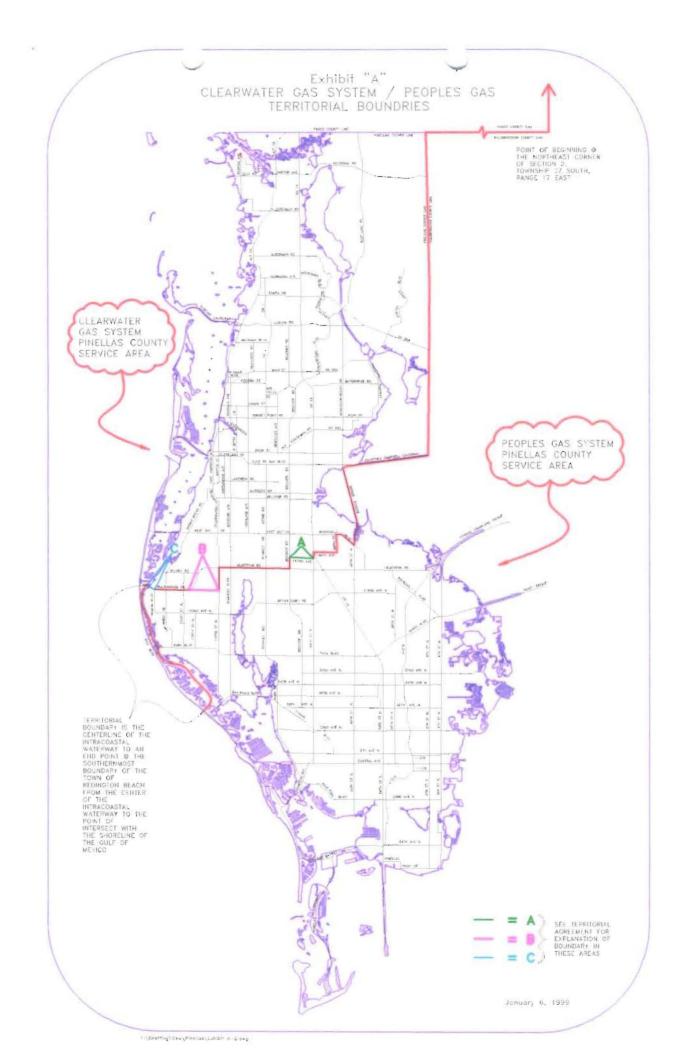
City Attorney

Attest:

Cynthia E. Goudeau

City Clerk

I hereby certify that this is a true and correct copy of the original as it appears in the files of the City of Clearwater. Witness my hand and



Customers moving from Peoples to Clearwater				
Name	Service Address	City	State	Zip
Long John Silver's	12881 Walsingham Rd.	Largo	FL	33774
Maria's Kitchen Two, Inc	12931 Walsingham Rd.	Largo	FL	34644
Denny's	12933 Walsingham Rd.	Seminole	FL	33774
Village Inn	13105 Walsingham Rd.	Largo	FL	33774
KFC National Management Co.	13677 Walsingham Rd.	Largo	FL	34644
Angelino's	13883 Walsingham Rd.	Largo	FL	33774
Miami Subs	8651 Ulmerton Rd.	Clearwater	FL	34622
Taco Bell	8671 Ulmerton Rd.	Largo	FL	33771

Customers moving from Clearwater to Peoples				
Name	Service Address	City	State	Zip
Castillian Lake Club Apartments	11444 137th St. N.	Largo	FL	33774

Customers who may remain with Peoples as FTA Participants				
Name	Service Address	City	State	Zip
Hanson Cleaners	12963 Walsingham Rd. #206	Largo	FL	34664
Albertsons	13031 Walsingham Rd.	St. Petersburg	FL	34664

Customers remaining with Peoples until availability of Clearwater service					
Name	Service Address	City	State	Zip	
Word of Faith Church	1550 Belcher Rd. S.	Largo.	FL	33771	
Vacant	2300 Belcher Rd. S.	Largo	FL	33771	