

DOCKET 100304-EU

DIRECT TESTIMONY OF

LEIGH V. GRANTHAM

ON BEHALF OF CHOCTAWHATCHEE ELECTRIC COOPERATIVE, INC.

1 Q. PLEASE STATE YOUR NAME AND ADDRESS.

2 A. Leigh V. Grantham and my business address is 1350 West Baldwin  
3 Avenue, DeFuniak Springs, FL 32435.

4 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

5 A. I am the Chief Executive Officer of Choctawhatchee Electric Cooperative  
6 (CHELCO).

7 Q. PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE WITH  
8 CHELCO.

9 A. I earned a Bachelor's Degree in Public Relations/Journalism from Auburn  
10 University and a Master's Degree in Personnel Management from Troy  
11 University. Additionally, I have completed the University of Nebraska/National  
12 Rural Electric Cooperative Association's Management Internship Program. I  
13 became the CEO of CHELCO on January 1, 2010, after 19 years of  
14 progressively responsible experience at CHELCO.

15 Q. HAVE YOU TESTIFIED BEFORE THIS COMMISSION BEFORE?

16 A. No.

COM 5  
APA  
ECR 1  
GCL 8  
RAD  
SSC  
ADM  
OFC  
CLK FARR

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 A. I will provide some background and history of CHELCO and our operations.

3 I'll also provide a description of the Freedom Walk development that is at

4 dispute in this case and some of the history of the dispute.

5 **Q. WOULD YOU PROVIDE A BRIEF OVERVIEW OF CHELCO?**

6 A. Yes. CHELCO is a member-owned not-for-profit electric cooperative that was

7 formed in 1940 by leaders in the community to provide central station electric

8 service to themselves since they lived in areas that other utilities chose not to

9 serve. CHELCO began delivering power to its members in the summer of 1941

10 and has provided electric service ever since. Presently, we serve members in

11 Walton, Okaloosa, Holmes and Santa Rosa Counties. Our headquarters are in

12 DeFuniak Springs, and we also have six (6) area offices to serve our members.

13 **Q. WHAT IS AN ELECTRIC COOPERATIVE?**

14 A. An electric cooperative is a member-owned utility operated on a non-profit

15 basis for the mutual benefit of its members. It is this mutual benefit that

16 differentiates electric cooperatives from other electric utilities and drives our

17 strategic direction. Instead of charging customers for service based upon a stated

18 rate of return, electric cooperatives charge rates that recover costs and provide a

19 reasonable margin for future contingencies. Electric cooperatives invest their

20 capital into infrastructure that produces the lowest cost to all its members, as

21 opposed to investing capital into infrastructure that maximizes the return to

22 stockholders, as other utilities may.

1 Q. HOW DO YOU ACHIEVE THIS MANDATE OF MUTUAL BENEFIT?

2 A. Through being good stewards of our members' resources – by maximizing their  
3 investment in infrastructure by achieving the lowest cost service.

4 Q. HOW DOES THIS OBLIGATION TO PROVIDE MUTUAL BENEFIT  
5 RELATE TO THIS DISPUTE?

6 A. Our members have made an investment to serve this area, and we filed this  
7 dispute in an effort to protect that investment.

8 Q. HOW WOULD GULF POWER COMPANY BEING ALLOWED TO  
9 SERVE THIS AREA HURT THE MEMBERS' INVESTMENT?

10 A. CHELCO has made a substantial investment in serving electric consumers in  
11 the Freedom Walk Development area for the previous 60 years. The area has  
12 low customer density yet CHELCO provided service when no other electric  
13 provider showed interest. Now, once a high density, high revenue development  
14 is proposed, Gulf Power claims the right to displace CHELCO as the electric  
15 provider in the area. Not only will CHELCO not be able to maximize the  
16 investment in its current facilities, it will be precluded from taking advantage of  
17 the higher customer density and higher revenue per capital investment return  
18 that developments like Freedom Walk produce. In essence, CHELCO's other  
19 members are precluded from the opportunity to average down the cost of service  
20 from a high density area. If Gulf Power continues to claim the right to serve  
21 future high density areas because they are "urban", then CHELCO's traditional  
22 customers are relegated to always have a higher cost of service.

1 **Q. HOW IS CHELCO GOVERNED?**

2 A. The members elect a Board of Trustees to govern the Cooperative. Those  
3 Trustees must be members of the Cooperative and they collectively set the basic  
4 policies and strategic plans for the operation of the cooperative. As Chief  
5 Executive Officer of CHELCO, I report to the Trustees. I have responsibility  
6 for the day-to-day operation of the cooperative and make recommendations to  
7 the Trustees on plans, policies, and budgets.

8 **Q. HOW MANY MEMBERS DOES CHELCO HAVE?**

9 A. 34,727

10 **Q. YOU IDENTIFIED THE COUNTIES WHERE YOU SERVE. ARE YOU**  
11 **THE ONLY PROVIDER OF ELECTRIC SERVICE IN THESE AREAS?**

12 A. No, we are not. Other providers include Escambia River Electric Cooperative,  
13 Gulf Coast Electric Cooperative, Gulf Power Company and West Florida  
14 Electric Cooperative.

15 **Q. HAVE YOU HAD OTHER FORMAL DISPUTES WITH ANY OF THOSE**  
16 **OTHER PROVIDERS?**

17 A. Only with Gulf Power.

18 **Q. WHY ONLY GULF POWER?**

19 A. We've always been able to resolve our disputes with others.

20 **Q. HAVE YOU HAD ANY OTHER FORMAL DISPUTES BEFORE THE**  
21 **PUBLIC SERVICE COMMISSION?**

22 A. Yes. In August 1974, CHELCO filed a petition with the PSC involving a  
23 dispute with Gulf Power over serving a tract of land that became known as

1 Bluewater Bay. The PSC issued a ruling in CHELCO's favor in November  
2 1976. That initial ruling was confirmed by the FPSC and ultimately , the Florida  
3 Supreme Court, upheld the PSC's findings by denying Gulf Power's Petition for  
4 writ of certiorari.

5 **Q. DO YOU HAVE ANY TERRITORIAL AGREEMENTS WITH ANY OF**  
6 **THESE OTHER PROVIDERS?**

7 A. Yes. We have one (1) with Gulf Power

8 **Q. COULD YOU DESCRIBE THAT AGREEMENT?**

9 A. Yes. In June 2000, CHELCO and Gulf Power entered into an agreement with  
10 respect to service areas in south Walton County. This agreement was filed with  
11 and approved by the Commission in Docket No. 000805-EU.

12 **Q. DO YOU GENERATE THE POWER THAT YOU SELL TO YOUR**  
13 **MEMBERS?**

14 A. No. We are not a generating utility. We obtain power from PowerSouth Energy  
15 Cooperative through an agreement with them, and we distribute the power.

16 **Q. WHO IS POWERSOUTH?**

17 A. PowerSouth is a generation and transmission electric cooperative formed in  
18 1941, formerly known as Alabama Electric Cooperative ("AEC"). CHELCO is  
19 one of the twelve original members of PowerSouth. PowerSouth has a  
20 generating capacity of more than 2000 megawatts and is rated A- by all three  
21 major credit rating agencies.

1 Q. THIS DISPUTE INVOLVES A DEVELOPMENT KNOWN AS  
2 FREEDOM WALK AND SERVICE TO THAT DEVELOPMENT AND  
3 ULTIMATELY CONSUMERS WITHIN THAT DEVELOPMENT.  
4 COULD YOU DESCRIBE WHERE FREEDOM WALK IS LOCATED?

5 A. Yes. The planned Freedom Walk development is on the north side of the City of  
6 Crestview, approximately 1 mile west of Highway 85 North. The planned  
7 development is bounded by Old Bethel Road, Jones Road and Normandy.  
8 Exhibit LVG-1 shows the location of the planned development

9 Q. WHAT DOES CHELCO CONSIDER THE FREEDOM WALK  
10 DEVELOPMENT TO BE?

11 A. We consider the development, and the area in dispute, to be the area depicted on  
12 the development plat we received from the consultant for Freedom Walk. This  
13 area is shown as an overlay to the property on Exhibit LVG-2.

14 Q. ARE YOU AWARE THAT GULF POWER DOES NOT CONSIDER THE  
15 AREA SOUTH OF OLD BETHEL THAT IS NOT WITHIN THE CITY  
16 TO BE PART OF THE FREEDOM WALK DEVELOPMENT?

17 A. I am. We believe the plat given to us by the developer's consultant is the  
18 appropriate reference on this matter.

19 Q. IS THE PLANNED FREEDOM WALK DEVELOPMENT WITHIN THE  
20 CITY LIMITS OF CRESTVIEW?

21 A. Part of it is, and part of it is not.

22 Q. WHEN WAS THE PORTION WITHIN THE CITY LIMITS ANNEXED?

23 A. April, 2006.

1 Q. DO YOU SERVE MEMBERS IN THE AREA PLANNED FOR THE  
2 FREEDOM WALK DEVELOPMENT?

3 A. Yes.

4 Q. ARE THESE MEMBERS WITHIN THE CITY LIMITS?

5 A. Not at the present time.

6 Q. DO YOU SERVE MEMBERS WITHIN THE CRESTVIEW CITY  
7 LIMITS?

8 A. Yes, we do.

9 Q. WERE THEY IN THE CITY LIMITS WHEN YOU BEGAN SERVING  
10 THEM?

11 A. As of today, CHELCO has active accounts at seven (7) locations within the  
12 Crestview City Limits. Four (4) of those locations were being served prior to  
13 annexation; three (3) locations have received service since annexation.

14 Q. SINCE YOU HAVE MEMBERS NOW WITHIN THE CITY LIMITS, DO  
15 YOU HAVE A FRANCHISE AGREEMENT WITH THE CITY?

16 A. Yes, we do. Exhibit LVG- 3 is a copy of that franchise.

17 Q. WHEN DID YOU BEGIN SERVING THIS AREA OF THE PLANNED  
18 FREEDOM WALK DEVELOPMENT?

19 A. The first meter was set in 1965. We built a line to a home in the interior of the  
20 property in 1967. I would add that CHELCO had a single-phase line along Old  
21 Bethel Road in 1946 (which is the north boundary of the development), and a  
22 single-phase line along Normandy Road on the west by 1967. The single phase

1 service along Old Bethel was upgraded to three-phase service sometime before  
2 1983.

3 **Q. PRIOR TO THE DECISION TO DEVELOP FREEDOM WALK, HAD**  
4 **GULF POWER MADE ANY ATTEMPT TO SERVE ANY CUSTOMERS**  
5 **IN THE PROJECTED FREEDOM WALK DEVELOPMENT?**

6 A. Not to my knowledge.

7 **Q. COULD YOU DESCRIBE THE NATURE OF THE FREEDOM WALK**  
8 **AREA?**

9 A. Yes. It is an undeveloped wooded tract. There are no roads other than trails on  
10 the property. There are no water or sewer services on the property although  
11 there are water lines along Old Bethel. Except for our lines on the property and  
12 the service to the members we serve, there is no other electric utility service.

13 **Q. DO YOU HAVE ANY EXHIBITS DEMONSTRATING THE NATURE OF**  
14 **THE PROPOSED FREEDOM WALK DEVELOPMENT AREA?**

15 A. Yes. Exhibit LVG-1 is an aerial view of Freedom Walk, and you can see it is  
16 heavily wooded and rural in nature. Exhibit LVG-4 is a composite exhibit of  
17 photographs of the property from the ground.

18 **Q. DO YOU HAVE LINES ON THE PROPERTY PLATTED AS FREEDOM**  
19 **WALK?**

20 A. Yes, we also currently provide electricity to four services that are within the plat  
21 of the development.

22 **Q. IS THE LINE TO THE CENTER OF THE PROPERTY STILL THERE?**

23 A. Yes.



1 Q. **WOULD YOU USE THAT LINE TO SERVE FREEDOM WALK?**

2 A. I would refer questions as to how we would serve the area to Mr. Avery.  
3 However, I would simply state that we are not looking to move into an area new  
4 to CHELCO; we are there now and we have had a presence on and around this  
5 very property for 60 years.

6 Q. **DO YOU SERVE MEMBERS IN THE GENERAL VICINITY OF THE  
7 FREEDOM WALK PROPERTY, AND IF SO, HOW MANY?**

8 A. Yes, we have 810 accounts within a one-mile radius and 139 active accounts  
9 within a quarter of a mile of the property.

10 Q. **ARE THESE WITHIN THE CITY LIMITS?**

11 A. Some are and some are not.

12 Q. **WHEN DID YOU FIRST LEARN OF PLANS TO DEVELOP THIS  
13 PROPERTY?**

14 A. I believe it was in early 2009.

15 Q. **DID CHELCO HAVE ANY DISCUSSIONS WITH THE DEVELOPER  
16 REGARDING THE SERVICE TO THE PROPERTY?**

17 A. Yes, we did. Matthew Avery is more familiar with those discussions, and I  
18 would refer questions to him.

19 Q. **BUT THE DEVELOPER WAS AWARE OF YOUR PRESENCE IN THE  
20 AREA?**

21 A. Yes, I believe so.

1 Q. IS THERE A MONETARY INCENTIVE FOR THE DEVELOPER TO  
2 CHOOSE GULF?

3 A. I don't know. Gulf Power Company has yet to provide their cost estimate.

4 Q. TYPICALLY, WOULD CHELCO AND GULF POWER'S COSTS TO A  
5 DEVELOPER BE ABOUT THE SAME FOR CONSTRUCTION OF  
6 FACILITIES WITHIN THE DEVELOPMENT?

7 A. Mr. Avery can address the construction that would be needed, but the costs to  
8 build out the necessary facilities within the development should be generally the  
9 same. There may be a difference in what the developer would pay the  
10 respective utilities because of a difference in line extension policies.

11 Q. WHY WOULD THE LINE EXTENSION POLICY MAKE A  
12 DIFFERENCE?

13 A. At CHELCO, our line extension policy is written with the intent of protecting  
14 the membership from investing in developments upon which there is no—or  
15 slow—return. We strive to be good stewards of our members' resources, so  
16 consequently, the developer pays upfront costs, and receives a rebate as each lot  
17 is developed. In this way, we protect the members from paying for the  
18 infrastructure of an abandoned or minimally-occupied subdivision through  
19 increased rates. Since we are owned by the members we serve, our  
20 responsibility and allegiance is toward them—the end users of our service—not  
21 the developer.

22 Remember, CHELCO's goal is the mutual benefit of the members, not a  
23 profit. To us this means providing reliable service at a competitive value,

1 something that is much more challenging to do when you have 11 members per  
2 mile of line versus 55 ratepayers per mile of line. Consequently, CHELCO's  
3 Line Extension Policy varies from Gulf Power's Line Extension Policy, since  
4 they are guaranteed a rate of return and strive to provide value to stockholders.  
5 In short, CHELCO charges the developer more for underground or electric  
6 infrastructure cost which is not pooled and recovered from other CHELCO  
7 members. Gulf Power, on the other hand, pays more of the up-front  
8 infrastructure cost and does not charge the developer those costs. Of course, the  
9 developer likes that arrangement because it means less out-of-pocket  
10 expenditures in the development that he will have to recover. However, all of  
11 Gulf Power's other customers will suffer incrementally higher electric rates to  
12 cover the costs the developer did not pay. I should also point out here that the  
13 developer is not the electric customer at Freedom Walk. The people that buy the  
14 lots and houses from the developer are the customers. Their interests may not be  
15 served if the developer chooses to keep the reduced infrastructure costs as profit  
16 on the development. The ultimate customers, who are not at all known now, may  
17 well benefit, as well as all other Gulf Power customers, if the developer pays the  
18 additional infrastructure costs.

19 **Q. WHEN DID YOU LEARN THAT GULF POWER INTENDED TO**  
20 **SERVE FREEDOM WALK?**

21 **A.** At about the same time as we learned of the development.

1 Q. TO YOUR KNOWLEDGE, WAS GULF POWER AWARE THAT YOU  
2 HAD SERVICE AND MEMBERS AT OR ON THE PROPERTY?

3 A. I believe so. Their responses to our discovery requests indicate they knew we  
4 had service to the property (Exhibit LVG-5).

5 Q. PRIOR TO FILING THIS PETITION, DID YOU COMMUNICATE  
6 WITH GULF POWER REGARDING THE POTENTIAL DISPUTE?

7 A. Yes, we did. There were a series of phone calls, meetings, and letters, and we  
8 did attempt to resolve the dispute, but with no resolution.

9 Q. YOU EARLIER TESTIFIED THAT YOU HAD A FORMAL DISPUTE  
10 WITH GULF POWER IN 1976 AND NO OTHER FORMAL DISPUTES  
11 UNTIL THIS ONE. WHY DID YOU FILE THIS DISPUTE?

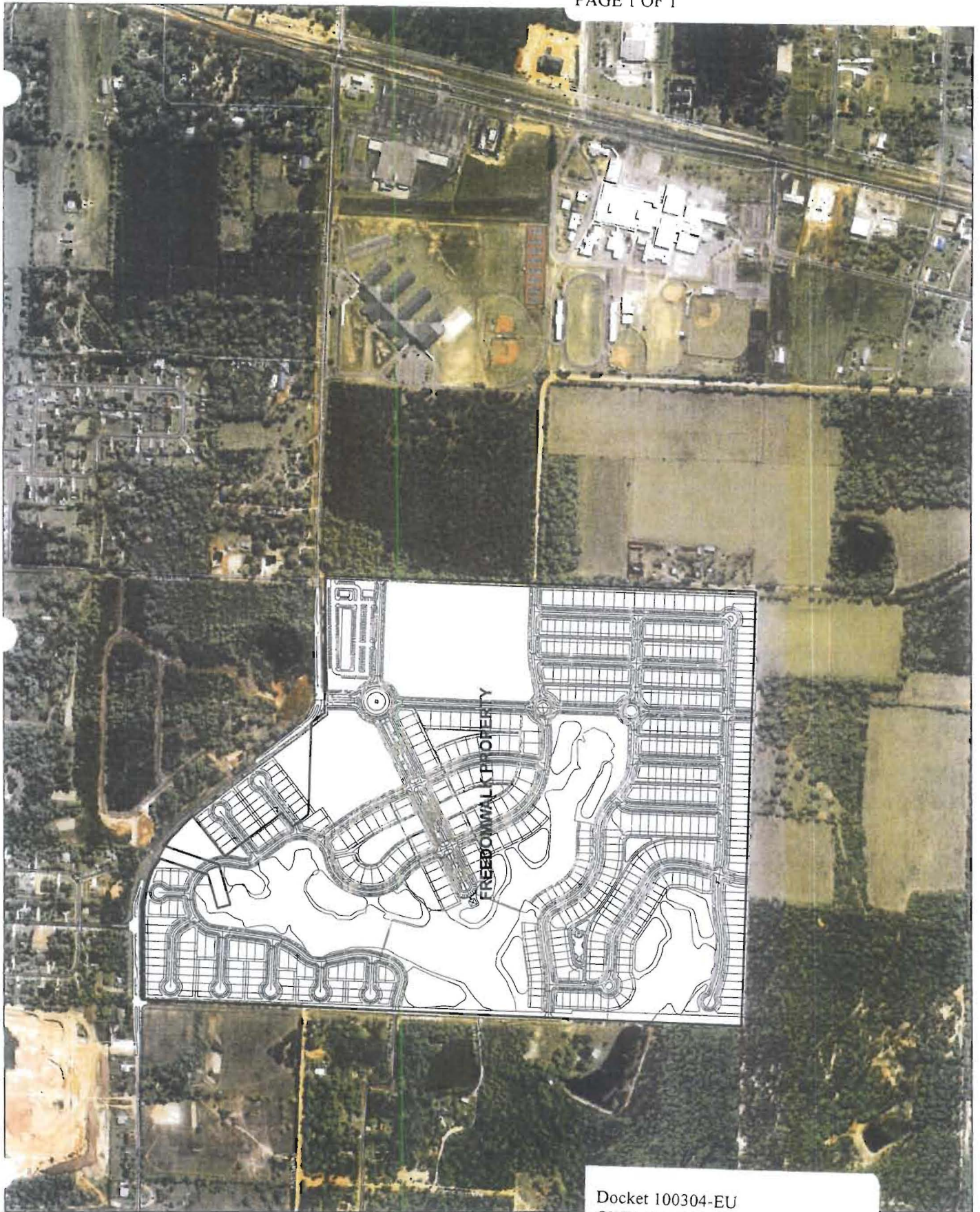
12 A. Because Gulf Power is trying to move into an area we have been serving for  
13 over 60 years. Until the planned development, Gulf was content with CHELCO  
14 serving the area. But as soon the possibility of a development arose, they  
15 showed interest in serving the area. CHELCO has made an investment to serve  
16 consumers in many areas that Gulf chose not to serve. There is nothing that we  
17 see in any rule or law that states that once a co-op is serving an area, and the  
18 area is annexed into a city or becomes urbanized due to growth, that a  
19 Cooperative must leave or be denied the right to serve future developments in  
20 the area. As an example, four of the largest ten co-ops in the United States are in  
21 Florida. They grew to their size as the areas grew. If those co-ops had to stop  
22 serving their areas, the duplication of infrastructure and the cost of stranded  
23 investment would be great. CHELCO develops its work plans with the

1           stewardship of our members' resources in mind. We rely on agencies like the  
2           PSC to make sure that existing investments are protected from territorial threats  
3           which will result in duplication of service and will adversely affect the rate  
4           payers (our members).

5   **Q.    DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

6   **A.    Yes.**





Freedom Walk Proper

4% 15YR  
2024

ORDINANCE NO. 1433

AN ORDINANCE GRANTING TO CHOCTAWHATCHEE ELECTRIC COOPERATIVE, INC., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO MAINTAIN AND OPERATE AN ELECTRIC PLANT AND AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF CRESTVIEW AND TO CONSTRUCT, MAINTAIN, OPERATE AND EXTEND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN THE STREETS AND PUBLIC PLACES OF SAID CITY; AND PROVIDING THE TERMS AND CONDITIONS OF SUCH GRANT, SEVERABILITY CLAUSE, REPEALING CLAUSE AND PROVIDING AN EFFECTIVE DATE.

SECTION 1. Granted of Franchise Privilege. In consideration of the benefits that will accrue to the City of Crestview and the inhabitants thereof, Choctawhatchee Electric Cooperative, a corporation under the laws of the State of Florida, its successors and assigns, hereinafter sometimes referred to as the Grantee, is hereby given, granted and vested with the right, authority, easement, privilege, and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in said City of Crestview a plant or plants and system for the generation, transmission and distribution of electric energy for all purposes whatsoever.

SECTION 2. Rights to Operate. The Grantee, its successors and assigns, is hereby further given, granted and vested with the exclusive right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in the City of Crestview, a system of poles, towers, conduits, cables, conductors, transforming stations, fittings, appliances and appurtenances necessary or desirable to the transmission, distribution or sale of electric energy for all purposes whatsoever in, over, under, along, upon and across all streets, avenues, alleys, ways, bridges and public places in said City of Crestview, as they now exist or as they may hereafter be laid out or extended within the present and future limits of the City, together with the further right, privilege and franchise to construct, erect, suspend, install, extend, renew, repair and maintain and operate a system of poles, towers, conduits, cables, wires, conductors, transforming stations, generating stations, fittings and all appliances and appurtenances necessary or desirable to the generation and transmission within, unto, through, over and beyond the City of Crestview and to the furnishing, supplying and distributing to the City and the inhabitants and corporations both within and beyond the limits thereof, of electric energy for lighting, heating, power and all other purposes for which electric energy may be used now or hereafter, and for the purpose of extending its lines and furnishing electric energy beyond the limits of the City. Grantor retains the right to purchase or generate electric power for its own use but not for sale. The electric system, facilities and associated equipment and vehicles shall be located or relocated, erected or operated so as to interfere as little as possible with vehicular and pedestrian traffic over, along and across said public rights-of-way, streets, alleys, bridges, and public places and with reasonable egress and ingress to abutting and adjoining property.



**SECTION 3. Franchise Area and Franchise Fee.**

- (a) The franchise area shall include all customers of the Grantee located within the municipal boundaries of the City as now exist or any future annexation of additional unincorporated area within the municipal boundaries. The Grantor shall notify Grantee in writing within 30 days of the adoption of any ordinance annexing additional unincorporated areas within the municipal boundaries.
- (b) As a further consideration for the granting of the rights, privileges and franchises hereby granted, the Grantee, its successors and assigns, shall pay to the City within thirty (30) days after the first day of each month a franchise fee of four percent (4%) of grantee's revenue from the furnishing of electric service to customers served under all of its rate schedules within the corporate limits of the City collected during the preceding month. The percentage of such revenue to be collected by Grantee and paid to the City as a franchise fee may be changed by the City from time to time by ordinance at intervals of no less than five (5) years, provided that the percentage shall in no event exceed that permitted by law, The City may grant such exemptions from payment of the fee as it may provide by ordinance from time to time, at intervals of no less than five (5) years, within the limits allowed by law.

**SECTION 4. Proper Operations.** The poles, towers, conduits, cables, conductors, transforming stations, generating stations, fittings, appliances and appurtenances shall be constructed in accordance with good engineering practices and so as not to unreasonably interfere with the proper use and appearance of streets, avenues, alleys, ways, bridges, and public places in the City and shall be maintained in reasonably good condition and repair.

**SECTION 5. Excavation Maintenance and Restoration.** Whenever the Grantee shall cause any opening or alteration to be made in any of the streets, avenues, alleys, ways, bridges or public places of the City for the purpose of installing, maintaining, operating or repairing any poles, towers, conduits, cables or other appliances, the work shall be completed at Grantee's expense within a reasonable time and the Grantee shall upon the completion of such work restore such portions of the streets, avenues, alleys, ways or other public places to as good condition as it was before the opening or alteration was so made and will promptly remove any debris.

**SECTION 6, Hold Harmless.** The Grantor shall in no way be liable or responsible for any accident or damage which may occur due to the construction, location, relocation, operation or maintenance by the Grantee of said poles, towers, conduits, wires, cables and other appliances, equipment and vehicles subject to the terms and conditions of this franchise. The Grantee hereby agrees to indemnify the Grantor and to hold it harmless against any and all liability, loss, cost, damage or any expense connected therewith including a reasonable attorney's fee incurred in the defense of any

type of court action related hereto, which may accrue to the Grantor by reason of negligence, default or other misconduct of the Grantee in its construction, location, relocation, operating or maintenance of the facilities, vehicles, or equipment of the electric system subject to this franchise.

**SECTION 7. LIABILITY INSURANCE.** Grantee shall at all times during the franchise term maintain, at Grantee's cost, a commercial general liability insurance policy protecting Grantor against all claims or demands that may arise or be claimed on account of Grantee's use of Grantor's streets and rights of way as provided herein. The minimum limits of liability for the policy shall be Three Million Dollars (\$3,000,000) for injuries to persons in one accident, One Million Dollars (\$1,000,000) for any one person, and Two Hundred Fifty Thousand Dollars (\$250,000) for damages to property. Grantee shall furnish Grantor proof such insurance is in effect and remains in effect.

**SECTION 8. Rates, Rules and Regulations.**

- (a) All rates for electrical service and the rules and regulations governing the receipt of said service within the Grantor's limits, established by the Grantee from time to time, shall be reasonable and shall at all times be subject to such public regulation as may be provided by law. The Grantee recognizes its obligations to provide electric energy and power service within the City on reasonable terms and conditions at just, reasonable and nondiscriminatory rates to all who request said service during the term of this franchise and thereafter, as required by law or by duly constituted public regulatory body.
- (b) The Grantee agrees to file with the appropriate official of the City upon the request of the governing body of the City a complete set of rules and regulations and a complete set of tariffs or rate schedules under which electric service is provided within the City. Upon request from the governing body of the City, Grantee shall also furnish any revisions of rules, regulations, and rates that have been adopted since the last previous filing.
- (c) Grantor may, at its option and at its expense, and upon reasonable notice to Grantee, at any time within ninety (90) days after each anniversary date of this franchise examine the records of operations and accounting files, books and records as such records relate to the calculation of the franchise fee payments to the Grantor, as provided herein. The examination of such books, accounts, records or other materials necessary for determination of compliance with the terms, provisions and requirements of this franchise shall be during regular hours of business of the Grantee and at the corporate offices of the Grantee,

**SECTION 9, Interruption of Service.** In the event the supply of electric energy should be interrupted or fail by reason of accident or any cause beyond the

control of the Grantee, the Grantee shall, at its own expense, restore the service within a reasonable time and such interruption shall not constitute a breach of this franchise nor shall the Grantee be liable for any loss or damages by reason of such interruption or failure.

**SECTION 10. Metering of Service.** The Grantee shall install and maintain, free of charge, meters for measuring current, and shall have free access to the premises of the consumer, from time to time, for the purpose of reading repairing, testing and maintaining the meters and appurtenances. Such meters shall remain the property of the Grantee.

**SECTION 11. Term of Franchise.** The franchise granted by this ordinance shall exist and continue for a period of fifteen (15) years. The franchise granted by this ordinance is also subject to the terms and conditions of all applicable provisions of the Code of the City of Crestview.

**SECTION 12. Forfeiture of this Franchise.** Failure by the Grantee to comply in any substantial respect with any of the provisions, terms, or requirements of this Ordinance, shall be grounds for forfeiture of this franchise, but no such forfeiture shall take effect if the reasonableness and propriety thereof is timely protested and satisfactorily addressed or until a court of competent jurisdiction shall have found that the Grantee has failed to comply in a substantial respect with any of the provisions, terms, or requirements of this Ordinance. Both the Grantor and Grantee reserve the right of appeal of such court findings. The Grantee shall have six (6) months after the final determination of the question to make restitution or make good the default or failure before forfeiture shall result. The Grantor, at its discretion, may grant additional time to the Grantee for restitution and compliance as the necessities of the case may require.

**SECTION 13. Review and Revision of Franchise Provisions.** With the exception of the provisions of Section 10 concerning the term of this franchise and of Section 3 concerning periodic revision of the franchise fee, the City and Grantee may from time to time at the request of either party review any or all of the other provisions of this Ordinance and by mutual agreement revise any such provision, or add any additional provisions that may be appropriate. During the 120 days immediately proceeding each fifth anniversary date of this ordinance during the term that this franchise is in effect, representatives of the City and Grantee shall meet to decide whether any such revisions or additions are necessary.

**SECTION 14. Other Franchises.** Upon the request of the governing body of the City, Grantee shall furnish City a copy of all other municipal franchises that it is granted from time to time during the life of this franchise.

**SECTION 15. Monitoring Performance and Compliance.** In order to fully implement the revisions of this franchise, Grantee agrees that, upon request from Grantor, Grantee's representative will meet with the representative of Grantor in order to review the quality of services provided for under this franchise. For the purpose of this function, "service" shall be defined as the performance of such other duties, tasks and obligations as are generally and reasonably regarded as incident to the safe and satisfactory discharge of responsibilities in the electric utility industry.

**SECTION 16. Electrical Interference.** It will be the responsibility of the Grantee to locate, monitor, and eliminate or repair any of its equipment that may be causing

(RFI, TVI) electrical interference with the radio or television facilities in the City. Should the Grantor discover interference problems, the Grantee will be notified, in which case the Grantee will have reasonable time to correct the problem. Further, the Grantee shall not install or replace existing equipment with new or novel equipment which will have an adverse effect on the performance of the cable television system in the City.

SECTION 17. Tree Trimming. The Grantee shall be responsible for all tree trimming duties that are necessary to keep its power lines from being obstructed by limbs or branches. Reasonable care shall be exercised to preclude damage to City property. In the event of damage, Grantee will immediately inform the City of the extent and location of damage and be liable for said damages. The Grantee shall be expected to perform periodic inspections of its power lines within the City limits to assure that its lines are clear from the above-mentioned obstructions.

SECTION 18, Exclusivity of Ordinance Sections. Should any section or provision of this Ordinance or any portion hereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder, as a whole or any part hereof, other than the part declared to be invalid.

SECTION 19. Successors and Assigns. Whenever in this Ordinance either the City of Crestview or the Grantee is named or referred to, it shall be deemed to include the respective successor, successors or assigns of either, and all rights, privileges and obligations herein conferred shall bind and inure to the benefit of such successor, successors or assigns of the Grantor or the Grantee.

SECTION 20. Repealing Clause. All ordinances or parts of ordinances in conflict herewith be and the same hereby repealed to the extent of such conflict.

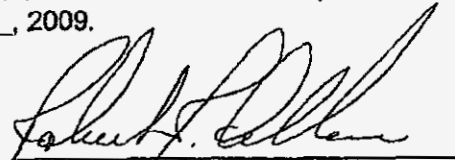
SECTION 21. Surrender of Rights. As a further consideration for the granting of the rights, privileges and franchises granted hereby, the Grantee surrenders all rights, privileges and franchises heretofore granted by the City of Crestview or the State of Florida for any of the purposes stated in Section 1 and 2 of this Ordinance and now enjoyed by Grantee in the City of Crestview. Provided, however, that such surrender shall not be effective unless and until this Ordinance shall be finally adopted and in effect and the rights, privileges and franchises granted hereby shall be validly in force and effect.

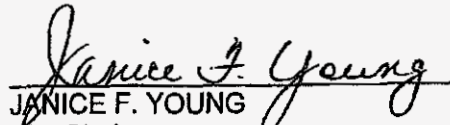
SECTION 22. Written Acceptance by Grantee. The Grantee, its successors or assigns, shall, within thirty (30) days after this Ordinance shall take effect, file a written acceptance of the Ordinance with the City Clerk of Crestview.

SECTION 23. Effective Date. This ordinance shall take effect upon passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF CRESTVIEW, FLORIDA ON  
THIS 26<sup>th</sup> DAY OF October, 2009.

ATTEST:

  
\_\_\_\_\_  
ROBERT J. ALLEN  
Council President

  
\_\_\_\_\_  
JANICE F. YOUNG  
City Clerk

APPROVED BY ME THIS 26<sup>th</sup> DAY OF October, 2009.

  
\_\_\_\_\_  
DAVID CADLE  
Mayor



DOCKET NO. 100304-EU  
EXHIBIT (LVG-4)  
PHOTOS OF PROPERTY FROM THE GROUND  
PAGE 1 OF 7



DOCKET NO. 100304-EU  
EXHIBIT (LVG-4)  
PHOTOS OF PROPERTY FROM THE GROUND  
PAGE 2 OF 7







DOCKET NO. 100304-EU  
EXHIBIT (LVG-4)  
PHOTOS OF PROPERTY FROM THE GROUND  
PAGE 4 OF 7

**NO TRESPASSING**  
THIS AREA IS A DESIGNATED CONSTRUCTION SITE.  
ANYONE TRESPASSING ON THIS PROPERTY,  
UPON COMPLETION, IS SUBJECT TO A FINE OF UP TO  
\$500.00 PER VIOLATION. VIOLATIONS OF UP TO 10 YEARS IMPROBABILITY  
AND FINES OF UP TO \$500.00 PER DAY.  
FOR STATUTES GO TO 49 CFR 110.004

DOCKET NO. 100304-EU  
EXHIBIT (LVG-4)  
PHOTOS OF PROPERTY FROM THE GROUND  
PAGE 5 OF 7



DOCKET NO. 100304-EU  
EXHIBIT \_\_\_\_\_ (LVG-4)  
PHOTOS OF PROPERTY FROM THE GROUND  
PAGE 6 OF 7



**Spangenberg, Ted S.**

---

**From:** Sims, Sandra F. (GULF)  
**Sent:** Monday, June 19, 2006 2:39 PM  
**To:** Spangenberg, Ted S.  
**Subject:** FW: Electric Service

Please call me when you get a minute about my next steps with this. Thanks!

---

**From:** Feazell, W. Mike  
**Sent:** Monday, June 19, 2006 9:49 AM  
**To:** Sims, Sandra F. (GULF); Mullins, Walter D.; Mandes, Rich J.  
**Cc:** Spangenberg, Ted S.  
**Subject:** RE: Electric Service

I spoke with Scott and just to let you know, Chelco has a line running through the proposed site now. Gulf would have to do additional work to serve the subdivision.