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July 8, 1994

**ORIGINAL
FILE COPY**

Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, Florida 32301

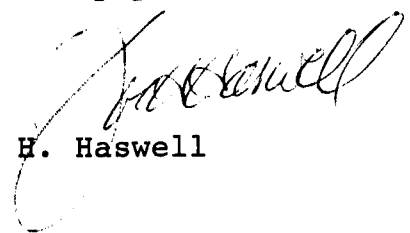
RE: DOCKET NUMBER: 93 ~~XXXXXXXXXX~~

Dear Ms. Bayo:

Enclosed herewith please find the original and fifteen copies of **PRE-HEARING STATEMENT OF GULF COAST ELECTRIC COOPERATIVE, INC.**

We would appreciate your filing these and distributing the copies as appropriate.

Very truly yours,



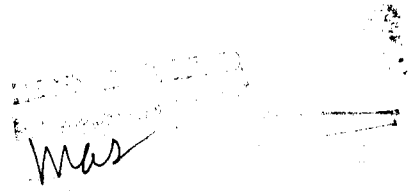
John H. Haswell

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Only
Encl

P.S.: The original was faxed to your office this date at 4:30pm.

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DOCUMENT NUMBER-DATE
06862 JUL 11 8
FPOB-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve)
Territorial Dispute With Gulf)
Coast Electric Cooperative)
Inc. by Gulf Power Company)
_____)

DOCKET NO.: 930885-EU

PRE-HEARING STATEMENT OF GULF COAST ELECTRIC COOPERATIVE, INC.

Pursuant to the Order Establishing Procedure, Order Number PSC-93-1830-PCO-EU, Gulf Coast Electric Cooperative, Inc. (Gulf Coast) submits herewith its Pre-hearing Statement:

A. WITNESSES

1. H. W. Norris - General Manager of Gulf Coast to testify on all issues.

2. William S. Dykes - to testify on issues relating to costs, location of facilities, adequacy and reliability, construction of facilities, service areas, customers served, disputed areas, historical service.

3. Archie Gordon - to testify in issues relating to costs, location of facilities, adequacy and reliability, construction of facilities, service areas, customers served, the extent of the disputed areas, historical service, transmission facilities.

4. Jeff Parish - transmission facilities, sub-stations, cost of wholesale power, Gulf Power's participation in the Southern Company pool, historic service by Alabama Electric Cooperative, cost comparisons between AEC and Gulf Power.

DOCUMENT NUMBER-DATE

06862 JUL 11 83

FPSC-RECORDS/REPORTING 093

B. EXHIBITS

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>WITNESS</u>
HN-1	Letter of 5/26/93 from DOC to Hagan	Norris
HN-2	Letter of 6/7/93 from Corbin to Norris	Norris
HN-3	Letter of 9/28/93 from Corbin to Norris	Norris
HN-4	Map of facilities in South Washington County	Norris
HN-5	Letter from Morris to Bowden	Norris
WSD-1	Map of facilities in general area of SR 77 and CR 279	Dykes
WSD-2	Map showing correctional facility property and utility facilities	Dykes
AWG-1	System diagram of general area around SR 77 and CR 279	Gordon
AWG-2	Alabama Electric Cooperative facilities serving Gulf Coast	Gordon
AWG-3	Sub-station and main feeder switching diagram	Gordon
AWG-4	One line distribution diagram - Crystal Lake	Gordon
AWG-5	Estimated electrical load for proposed correctional facility	Gordon
AWG-6	Utility facilities in Bay County	Gordon
AWG-7	Utility facilities in South	Gordon

Washington County

JP-1

Southern System monthly
estimated load capacity
comparison

Parish

C. STATEMENT OF BASIC POSITION

Gulf Coast's basic position in this docket is that it has historically provided service to the area surrounding the correctional facility and has maintained service facilities on the property itself. Facilities by Gulf Coast were established long before Gulf Power built any service in the area. Gulf Power's service on CR 279 and SR 77 was built to serve Sunny Hills, a residential subdivision that has not developed as initially claimed by the developer, over Gulf Coast's objections and resulting litigation. South Washington County has been disputed by both utilities as evidenced by several formal complaints by both utilities including Sunny Hills and Leisure Lakes. Gulf Coast was asked by the Department of Corrections, through the Washington County Commission to provide service to the correctional facility. Gulf Coast can provide adequate and reliable service to the site. The location of the correctional facility in South Washington County would not have occurred without Gulf Coast's development grant to Washington County of \$45,000.00 to assist the county in acquiring the property. Gulf Power refused to make such a similar offer. Gulf Coast's grant to Washington County was part of its policy of encouraging rural development, to help the economy of Washington County in keeping with national and state policies on rural development. If Gulf Power had been awarded the service, its

cost would be equal to or greater than the cost to Gulf Coast due to the location of Gulf Coast existing facilities on the property. Gulf Coast should not be forced to remove its own facilities to allow another utility to provide competing service. Overriding all issues in this case is the necessity that Gulf Coast continue its efforts and goal of improving load balancing and density for the benefit of its members. There will be a significant negative impact on the rate payers of Gulf Coast if it is not allowed to provide service to the correctional facility. The "disputed area" includes not only the correctional facility site, but virtually all areas of South Washington County and Bay County as apparent from Archie W. Gordon's Exhibits Numbers 6 and 7.

D. **A STATEMENT OF POSITION ON FACTUAL ISSUES**

1. What is the geographical description of the disputed area?

Answer:

This is a rural area with no distinguishing geographical features other than the location of the CR 279 and SR 77.

2. What is the expected customer load, energy, and population growth in the disputed area?

Answer:

Gulf Coast incorporates its answer to staff request for production of documents, requests 3A and 4B. On the site of the of the correctional facility itself, there will be one customer, the Department of Corrections.

3. Which utility has historically served the disputed area?

Answer:

Gulf Coast Electric Cooperative, Inc. on the site of the correctional facility. Both utilities have historically served areas in Washington and Bay Counties.

4. Gulf Coast incorporates its answer to staff interrogatories and production of documents for the details on this issue. Generally, the Cooperative maintained electric distribution facilities on the property itself with a line referred to as the "Red Sapp Road facility" tranversing the property from East to West connecting the cooperatives facilities on SR 77 and CR 279.

5. What additional facilities would each party have to construct in order to provide service to the correctional facility?

Answer:

Gulf Coast was required to relocate its Red Sapp Road line from the property itself to CR 279 and to upgrade those facilities from single phase to three phase, and to provide temporary construction service from its existing Red Sapp Road line at various locations required by the Department of Corrections. Such facilities are further discussed and identified in the direct testimony of Gulf Coast witnesses and exhibits attached to their testimony, as well as answers to production of document requests and interrogatories. Gulf

Power would be required to first either condemn the facilities of Gulf Coast on the property, or reach an agreement with Gulf Coast on compensation for those facilities and the relocation of those facilities to CR 279. In addition, Gulf Power will be required to provide temporary construction service to the DOC in accordance with DOC's specifications and requirements.

6. Is each utility capable of providing adequate and reliable service to the disputed area?

Answer:

Yes.

7. Which party is capable of providing more reliable electrical service to the correctional facility site?

Answer:

Gulf Coast.

8. What will be the cost to each utility to provide service to the correctional facility?

Answer:

Gulf Coast's position is that the cost is the difference between relocating the Red Sapp line to CR 279 at single phase and the cost of constructing three phase service on CR 279. The difference between those two figures is \$14,582.54 as Gulf Coast has stated in its answers to staff interrogatories.

Gulf Coast disputes Gulf Power's statement of its costs of \$1,252.00 as being wholly inadequate for acquiring or condemning Gulf Coast's existing facilities on the property and providing the primary service to the point of service requested by the Department of Corrections. Until Gulf Power answers Gulf Coast's second set of interrogatories Gulf Coast does not have a reasonable estimate of Gulf Power's cost.

9. What would be the effect on each utility rate payers if it were not permitted to serve the correctional facility?

Answer:

There will be no effect on Gulf Power. Gulf Coast, however, will suffer a negative effect because of the opportunity for load balancing and improved load factor that will result from service to this particular facility.

10. Which party is capable of providing electric service to the correctional facility site at the lowest rate to the Department of Corrections?

Answer:

Although Gulf Power currently has lower rates than Gulf Coast, that is a situation that can change over time. It is Gulf Coast's position in this case, which it has stated from the beginning, that the rates charged by a utility should not be a determining factor in the outcome of a territorial dispute. The rate structures of both utilities have been approved by

the Florida Public Service Commission and it would be incongruent for the Commission to then use a rate differential based on rate structures it has approved to award territory in dispute.

11. What is the customer preference for electric service to the correctional facility?

Answer:

The Department of Corrections, through its agent, the Washington County Commission, preferred service from Gulf Coast Electric Cooperative, Inc.

12. Does unnecessary and uneconomic duplication of electric facilities exist in the disputed area?

Answer:

Yes and no. The construction by Gulf Power of its facilities on 279 constituted an uneconomic and unnecessary duplication of Gulf Coast's facilities when Gulf Power constructed the service to Sunny Hills. In addition, numerous other areas of uneconomic and unnecessary duplication have occurred in South Washington County and in Bay County as is readily apparent from the exhibits filed in this case. Gulf Power has refused to remove facilities previously found by the Commission to be part of an attempt to serve the Leisure Lakes area when Gulf Coast had facilities in place to provide such service. As to the correctional facility site itself, the facilities constructed by Gulf Coast were both necessary and economic to

provide service to the site.

13. Do the parties have a formal territorial agreement that covers the disputed area?

Answer:

No. Although the parties have been negotiating, those negotiating proceedings are taking a back seat to preparation for this disputed hearing. These two utilities have no territorial agreement in either South Washington County or in Bay County.

14. Which party should be permitted to serve the disputed area?

Answer:

Gulf Coast Electric Cooperative, Inc. Gulf Coast also believes that the Commission's decision should include a requirement that the parties be required to file a report within a one hundred eighty days (180 days) following the hearing identifying all other areas of duplication and potential conflict in South Washington County and in Bay County. Such order should also include all other effected utilities in the area.

15. Should this Docket be closed?

Answer:

Only after final resolution.

E. A STATEMENT OF EACH QUESTION OF LAW

1. Does the Commission have the legal authority to consider all areas of potential dispute between these two utilities in Washington and Bay County, or is the Commission limited to the correctional facility site itself?

Answer:

Gulf Coast position is that the Commission has the jurisdiction to consider any and all areas of potential dispute between the parties. In the interest of economy in resolving potential disputes, in a timely and reasonable fashion, all such matters should be considered when feasible in one hearing rather than multiple hearings.

2. Should rates of utilities involved in the territorial dispute be determinative when awarding the disputed area?

Answer:

Gulf Coast's position is that rates should never be considered in resolving a territorial dispute unless the Commission were to first determine that a utility's rate or rate structure was unduly discriminatory and unjust.

3. Is the Commission limited to the statutory criteria identified in Chapter 366, and in Commission Rules, or may the Commission consider any other criteria in resolving a territorial dispute?

Answer:

Gulf Coast's position is that the Commission may consider the

statutory issues as well as any other issue it determines to be relevant, including issues in this Docket raised by Gulf Coast regarding rural area development, density, the difference between rural electric cooperatives and investor owned utilities on a historical basis, and national and state policies encouraging rural area development.

F. **A STATEMENT OF EACH POLICY QUESTION:**

1. None identified at this time.

G. **A STATEMENT OF ISSUES THAT HAVE BEEN STIPULATED TO:**

1. None identified at this time, although Gulf Coast believes that Gulf Power has no issue or dispute with the fact that the correctional facility site is located in a rural area of South Washington County. Gulf Coast does not believe that either party disputes the expected customer load, energy, and population growth in the disputed area.


H. **A STATEMENT OF ALL PENDING MOTIONS OR OTHER MATTERS:**

1. Gulf Coast initially filed a Motion to Strike both portions of the Gulf Power Petition regarding rate comparisons and seeks a ruling from the Commission that such issues are irrelevant in the resolution of a territorial dispute.
2. Gulf Power has filed a Motion to Limit the Issues and the Disputed Area to only the physical boundaries of the correctional facility itself and in the alternative has asked

the Commission to enlarge the time for this proceeding to allow it to file additional testimony.

- I. A statement of any requirement set forth in this Order that cannot be complied with.
1. Although the Order Establishing Procedure is presumed to have been amended by the stay orders subsequently issued and the amended CASR, Gulf Coast believes it is unreasonable to expect that this matter could be decided even if the issues were narrowed in a hearing of only one-half day. Even if the disputed area were confined to the physical boundaries of the correctional facility site, the cost figures and other issues raised will require the testimony of at least four witnesses from Gulf Coast and one or two from Gulf Power. It is unreasonable to expect that the parties can comply with an Order allowing only one-half day for such a hearing. Gulf Coast respectfully suggests that a minimum of two days will be reasonable.

RESPECTFULLY SUBMITTED,




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Port St. Joe, FL 32456

I HEREBY CERTIFY that a copy of the **PRE-HEARING STATEMENT OF GULF COAST ELECTRIC COOPERATIVE, INC.** has been furnished this 8th day of July, 8, 1994 by U.S. Mail.

Ed Holland, Jr., Esquire
Jeffrey A. Stone, Esquire
Teresa E. Liles, Esquire
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