

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FILED

In re: Petition to Resolve)
territorial dispute with Gulf) Docket No. [REDACTED]
Coast Electric Cooperative, Inc.) Filed: Nov. 22, 1994
by Gulf Power Company.)
_____)

GULF POWER COMPANY'S PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

Gulf Power Company ["Gulf Power", "Gulf", or "the Company"], by and through its undersigned attorneys, and pursuant to Rule 25-22.056(2), Florida Administrative Code, files the following Proposed Findings of Fact and Conclusions of Law.

PROPOSED FINDINGS OF FACT

1. The dispute between Gulf Power and Gulf Coast Electrical Cooperative, Inc. ["the Coop"] over service to the Washington County correctional facility is the only active dispute between the parties in South Washington County or Bay County that is the subject of litigation before the Commission. [R. 65, 66-68, 79]

2. Gulf Power first began serving Washington County in 1926. [R. 68]

3. Gulf Power provided all electric service, either at the retail or wholesale level, in Washington County from 1926 until 1981 when the Coop began purchasing wholesale power exclusively from Alabama Electric Cooperative. [R. 68, 596, 604]

4. Prior to 1981, the Coop purchased all of its electric power from Gulf Power. [68, 596, 604]

5. Gulf Power, since 1971, has had 25kv, three-phase distribution lines in place along Highway 279 and Highway 77, on

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the highway right-of-way immediately adjacent to two sides of property which is the site of the correctional facility. [R. 66, 69, 167]

6. Gulf Power's three-phase distribution lines along Highway 279 and Highway 77 can be fed from either the Sunny Hills or the Vernon substations. [R. 69, 71, 173, 658-659]

7. Prior to 1993, the Coop's distribution facilities in the disputed area consisted of a radial three-phase line along Highway 77 and across the road from the site of the correctional facility and a single phase line crossing over the site of the correctional facility. [R. 70-72]

8. In order to be able to provide the required permanent service to the Washington County Correctional Facility, the Coop constructed a three-phase line up Highway 279 from the intersection with Highway 77. These newly constructed three phase distribution facilities are parallel to and opposite the highway from the existing three phase facilities of Gulf Power Company that extend along Highway 279. [R. 70-72, 78, 166-168, 336, 398]

9. The Coop would not have had to upgrade its existing facilities from single-phase to three-phase in order to serve its existing customers, if not for the correctional facility. [R. 80, 261]

10. The Coop's cost for constructing three-phase service to the primary metering point was at least \$18,540.92. [Exh. 10; Exh. 38]

11. The Coop's cost of relocation along CR 279, three-phase equivalent, was at least \$36,996.74. [Exh. 10; Exh. 38]

12. The Coop's total cost of constructing the new three-phase line along Highway 279 in order to serve the correctional facility was at least \$55,557.66 (\$18,540.92 + 36,996.74). [Exh. 10; Exh. 38]

13. Gulf Power's existing three-phase line along Highway 279 was adequate to serve the facility with no new construction other than a service drop. [R. 66, 69, 73, 78, 95-96]

14. Gulf Power's estimated cost to provide three phase service to the primary metering point from its existing facilities was approximately \$7,436. [R. 97; Exh. 10; Exh. 38]

15. The cost that the Department of Corrections would have to pay to Gulf Power for electric service, on an annual basis, is lower than the cost that the Department would have to pay the Coop. [R. 73, 81, 148, 219, 229, 292, 483; Exh. 2; Exh. 7; Exh. 11; Exh. 13]

PROPOSED CONCLUSIONS OF LAW

1. The Coop's construction of an additional 4,000 feet of three-phase distribution line along Highway 279, parallel to Gulf Power's existing line, constitutes uneconomic duplication of facilities. In re: Petition of Gulf Power Company involving a territorial dispute with Gulf Coast Electric Cooperative, Docket No. 830154-EU, Order No. 12858, issued January 10, 1984.

2. Investor owned utilities are obligated and have the right to serve customers within their service areas. Section

366.03, Fla. Stat. (1993); In re: Petition of Peace River Electric Cooperative, Inc. against Florida Power and Light Company for resolution of a Territorial Dispute, Docket No. 840293-EU, Order No. 15210, issued October 8, 1985.

3. When all relevant factors are substantially equal, a territorial dispute is properly resolved in favor of the investor owned utility. Tampa Electric Co. v. Withlacoochee River Electric Cooperative, Inc., 122 So.2d 471 (Fla. 1960); Escambia River Electric Cooperative, Inc. v. Florida Public Service Commission, 421 So. 2d 1384 (Fla. 1982).

4. Congress, in enacting the Rural Electrification Act, did not intend that rural electric cooperatives compete with investor owned utilities in those areas where electric service is in fact available from an existing public utility. Tampa Electric Co. v. Withlacoochee River Electric Cooperative, Inc., 122 So.2d 471 (Fla. 1960); Escambia River Electric Cooperative, Inc. v. Florida Public Service Commission, 421 So. 2d 1384 (Fla. 1982).

Respectfully submitted this 22nd day of November, 1994.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Resolve)
territorial dispute with Gulf) Docket No. 930885-EU
Coast Electric Cooperative, Inc.) Filed: Nov. 22, 1994
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CERTIFICATE OF SERVICE

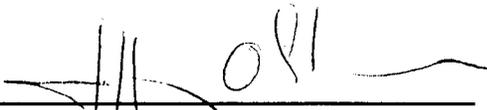
I HEREBY CERTIFY that a true copy of the foregoing was furnished by hand delivery or U.S. Mail the 22nd day of November, 1994, to the following:

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