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April 14, 2000

James Breman, Engineer IV
Bureau of Electric Regulation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 930885-EU; response to staff data request dated 03/06/00

Dear Mr. Breman:

This letter is in response to your letter dated March 6, 2000 addressed to Mr. F. M. Fisher, Jr., Gulf Power Company's Vice President of Power Delivery and Customer Operations.¹ As explained later in this letter, Gulf Power strongly opposes the draft territorial policy statement submitted by Gulf Coast Electric Cooperative, Inc. ("GCEC") in their letter dated March 1, 2000. GCEC's first proposal is submitted this late in the proceeding in an attempt to resurrect the "lines on the ground" concept that was clearly rejected by the Florida Public Service Commission ("Commission") and the Florida Supreme Court because it is contrary to the public interest in this case. Gulf Power urges the Commission staff to reject GCEC's proposal on these grounds.

Your letter acknowledged that Gulf Power and GCEC have each provided proposed policy statements for staff's review. Your letter further indicated that the two statements "... are

¹Your March 6 letter sought answers to a list of questions in a data request included with your letter. The original deadline for these responses was to be April 3, 2000. Pursuant to our request on behalf of Gulf Power, the deadline was extended until April 17, 2000. We appreciate this extension of time which allowed Gulf Power to avoid having to prepare its responses during the same period of time the Company was actively engaged in other regulatory matters before the Commission including (among other things): attendance at the Commission agenda conference on March 28; participation in an issue identification meeting with the FPSC staff on March 29; preparation of the annual Ten Year Site Plan filing due April 3; and preparation of the true-up testimony and filings for the fuel cost and environmental cost recovery clauses also due April 3. The additional time provided by your extension of the deadline for responding to your letter has allowed us to provide more thoughtful and meaningful responses to your questions.

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FPSC-RECORDS/REPORTING

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very similar suggesting agreement may be possible." Although there are indeed similarities in the language used in the two proposals, the differences in approach are so significant that Gulf Power cannot accept and will not agree with the language proposed by GCEC. In order to facilitate review of these differences, we have enclosed a version of GCEC's 03/01/00 draft proposal that has been marked to show the additions and deletions that have been made when compared to Gulf Power's 01/26/00 draft policy statement. Further detail about the differences in approach between the two proposals is provided both in this letter and in Gulf Power's attached responses to the questions contained in your data request. Given these fundamental differences in approach, and based on the results of Gulf Power's past efforts to establish a dialogue with GCEC as required by Commission Order No. PSC-98-0174-FOF-EU, we do not have the same degree of optimism about the possibility of agreement as is implied by your letter.

Gulf Power's original report pursuant to Order No. PSC-98-0174-FOF-EU was made by letter to Blanca S. Bayo dated September 2, 1999. A copy of that letter is enclosed.² In Order No. PSC-98-0174-FOF-EU, the Commission required ". . . that the companies shall establish detailed procedures and guidelines addressing subtransmission, distribution, and requests for new service which are enforceable with the respective company. The procedures and guidelines shall take into account Commission precedent on resolving territorial disputes and shall be submitted to the Commission for review on or before July 31, 1998." Order No. PSC 98-0793-PCO-EU modified that deadline to be ". . . no later than six months following the date the final order of the Supreme Court of Florida in Case No. 92,479 is rendered." The Supreme Court's decision was rendered March 5, 1999 and therefore the deadline for submitting procedures and guidelines to the Commission for review was changed by Order No. PSC-98-0793-PCO-EU to be no later than September 5, 1999.

The parties had not reached complete agreement by the September 5 deadline established by the Commission. In fact, GCEC had refused to meet with Gulf Power representatives despite several attempts by Gulf Power to set a date for such a meeting. As noted in Gulf Power's September 2, 1999 letter, based on correspondence between GCEC and Gulf Power, both companies were then willing to notify the Commission that the two utilities are now in agreement with the principle that the present system has worked well and should be continued. However, mindful of the specific directions set forth by the Commission in Order No. PSC-98-

²As discussed at a December 17, 1999 meeting between staff, GCEC and Gulf Power, a portion of the text from Gulf Power's September 2 letter was inadvertently omitted from the copy that had been previously sent to Ms. Bayo and the parties. The enclosed copy contains the full text of the original (including that portion omitted from the version sent to Ms. Bayo for filing on September 2, 1999) and is the same as the copy that was provided to GCEC and staff at the December 17, 1999 meeting. Gulf Power apologizes for any confusion the earlier error may have caused.

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0174-FOF-EU, and in order to be in full compliance with that order, Gulf Power submitted the refinements to the Commission's existing guidelines and policies set forth in Exhibit GEH-3 as proposed procedures and guidelines for Commission review.

GCEC objected to Gulf Power's proposal that the Commission accept and adopt the procedures and guidelines in GEH-3, but did not offer an alternative agreement. Gulf Power maintains that adoption of guidelines and procedures set forth in GEH-3 for these two utilities would be entirely consistent with the recent decisions of the Commission and the Florida Supreme Court in this case. Gulf Power also continues to believe that the refinements to the Commission's existing guidelines and policies set forth in Exhibit GEH-3 are consistent with the expectations and directions of the Commission set forth in Order No. PSC-98-0174-FOF-EU.

The September 2, 1999 letter from Gulf Power and subsequent correspondence from GCEC became the subject of a discussion between the two utilities and the FPSC staff at a meeting held on December 17, 1999. At that meeting, it was decided that Gulf Power and GCEC would once again undertake to reach an agreement on procedures and guidelines as required by the Commission in Order No. PSC-98-0174-FOF-EU. The new deadline for submitting such an agreement was to be March 1, 2000.

In light of GCEC's continuing objection to GEH-3 as the basis for an agreement, and in an effort to reach an agreement acceptable to both parties that was responsive to the Commission's directions in Order No. PSC-98-0174-FOF-EU, Gulf Power once again drafted yet another version of a proposed territorial policy statement. Gulf Power's 1/26/00 draft policy statement was submitted to GCEC by letter dated January 28, 2000 (copy enclosed) for its consideration along with a list of four possible meeting dates for further discussions. As noted in the letter from Gulf Power to Blanca S. Bayo dated February 25, 2000, GCEC never responded to Gulf Power about the proposed meeting dates, nor did GCEC voice any objections regarding the newly proposed document prior to the March 1, 2000 deadline established at the December 17, 1999 meeting. Nevertheless, in a good faith effort to comply with the directions by the Commission and the request by the staff, Gulf Power submitted its new draft as our proposed territorial guidelines for Commission review required by Order No. PSC-98-0174-FOF-EU.

As stated earlier, the substantive differences between Gulf Power's draft policy statement dated 1/26/00 and GCEC's draft policy statement dated 3/1/00 are significant. Gulf Power's recent proposal is a modification of GEH-3 which was previously endorsed by the Commission

in Order No. PSC-98-0174-FOF-EU³ and by the Florida Supreme Court in Gulf Coast Electric Cooperative vs. Johnson, 727 So. 2d 259 (Fla. 1999). Gulf Power's newest proposal not only follows the essential concepts expressed in GEH-3, but also incorporates the substantive decisions of the Florida Supreme Court and the Commission made previously in this docket. On the other hand, GCEC's proposal does not accurately reflect the controlling decisions of the Florida Supreme Court or of the Commission. Those decisions, unlike GCEC's proposal, recognize the right of the affected customers to make the initial choice as to which utility will serve the electric load for a new premises (or in the case of a new project by a developer, group of new premises) when the respective costs of the two utilities are essentially equal or when the difference in costs between the two utilities is *de minimus*.

GCEC's proposal repeatedly states that the utility with the least initial cost of construction will be entitled to serve the new customer's load, even during the pendency of a dispute brought about because the parties disagree as to which utility will bear the least initial cost or because of a disagreement as to whether the cost differential is "negligible." The absurdity of GCEC's position is clear when one attempts to apply their proposed policy to the dispute over the prison that initiated this docketed proceeding. Under GCEC's proposal, Gulf Power would have been entitled to serve the Washington County Correctional Center while the original dispute was pending before the Commission and the Florida Supreme Court. Gulf Power's entitlement to serve the prison during the pendency of the dispute under GCEC's proposal despite the fact that DOC, the customer, requested service from GCEC is based on Gulf Power having the least initial cost of service.

Given the prior controlling decisions of the Florida Supreme Court and the Commission in this docket, GCEC's proposal places undue emphasis on favoring the utility with the "least cost of new construction." This emphasis on "least cost" rather than customer preference under

³The territorial policy statement set forth in GEH-3 was endorsed by the Commission at page 4 of Order No. PSC-98-0174-FOF-EU:

Based on the foregoing, we find that further uneconomic duplication of the electric facilities in the 27 identified areas where the facilities of Gulf Power and Gulf Coast are commingled will not occur because of the negligible cost of incremental service expansion. In addition, future uneconomic duplication between these two utilities will be precluded through the application of and compliance with criteria for resolving territorial disputes previously established by this Commission and through refinements to those guidelines set forth in Gulf Power's Composite Exhibit 5. (emphasis added)

GEH-3 was part of Gulf Power's Composite Exhibit 5. The Supreme Court decision in Gulf Coast Electric Cooperative vs. Johnson noted approvingly the Commission's order endorsing Gulf Power's proposed guidelines and summarized the essential components the guidelines in Footnote 6 of the Court's decision.

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the circumstances found in south Washington or Bay counties implies a territorial boundary "line on the ground" that is essentially equidistant between the existing facilities of the two utilities. Such an implied territorial boundary line is clearly contrary to Order No. PSC-98-0174-FOF-EU⁴ and the decision of the Florida Supreme Court in Gulf Coast Electric Cooperative vs. Johnson.⁵ Based on the evidence considered by the Commission, such a boundary line would be contrary to the public interest in this case. The Supreme Court stated in Gulf Coast Electric Cooperative vs. Johnson:

As the PSC concluded, establishing a fixed boundary for service in these areas would "eliminate the flexibility the utilities need to determine which one is in the most economic position to extend service."

We understand from your letter that it is staff's intent to meet with the parties after you have the utilities' respective responses to your data request. The purpose of such a meeting would be to resolve the differences that appear in the respective draft policy statements ". . . and determine whether a consensus recommendation is practical." Gulf Power is certainly willing to meet with staff and with GCEC representatives for such a purpose. In order to ensure that the proper people are available to meet with staff, we ask that possible dates be coordinated with the parties rather than setting such a meeting without consideration of existing calendars.

⁴At page 9 of Order No. PSC-98-0174-FOF-EU, the Commission stated:

Upon consideration of all the evidence, we find that a territorial boundary should not be established in south Washington or Bay Counties between Gulf Power and Gulf Coast. There is no assurance that a territorial boundary is going to be the most economic way of providing service.

At page 11 of the Order, the Commission further stated:

ORDERED that a territorial boundary shall not be established in the 27 identified areas of south Washington and Bay Counties between Gulf Power Company and Gulf Coast Electric Cooperative, Inc. and that territorial disputes will be resolved on a case-by-case basis.

⁵In Gulf Coast Electric Cooperative vs. Johnson, the Supreme Court stated:

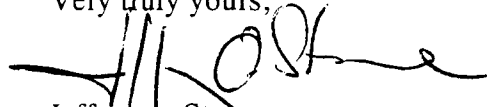
The PSC has determined that requiring the parties to establish guidelines for resolving future service disputes is the better solution in this case and has made it clear that it will exercise its jurisdiction to resolve future disputes on a case-by-case basis. Under these circumstances, the PSC should not be placed in a judicial straight-jacket and forced by this Court to establish territorial boundaries in the absence of an existing dispute over service to current or future identifiable customers. We hold that the PSC has not departed from the essential requirements of law and that its order is supported by competent substantial evidence.

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As noted above, Gulf Power is certainly willing to meet with staff and with GCEC representatives for the purposes outlined in your letter. However, GCEC's past unwillingness to even meet with Gulf Power on this subject strongly suggests that there need not be any further delay in this docket beyond the date of such a meeting for the sole purpose of obtaining agreement between the parties. Therefore, absent significant progress towards a mutual agreement at such a meeting, if further action by the Commission is needed to close this docket then efforts to bring this matter back before the Commission should be initiated without delay.

We look forward to hearing from you with regard to possible meeting dates. If anything further is required, please let us know.

Very truly yours,



Jeffrey A. Stone
For the Firm

Enclosures

cc: Florida Public Service Commission
Blanca S. Bayo, Director
Division of Records and Reporting
Robert V. Elias, Esquire
Division of Legal Services

Gulf Coast Electric Cooperative, Inc.
John Haswell, Esquire
Patrick Floyd, Esquire
Roy Barnes

Letter to Jim Breman, Engineer IV
Florida Public Service Commission
April 14, 2000

ATTACHMENT "A"

Copy of GCEC draft territorial policy statement dated 3/1/00 coded to show changes when compared to Gulf Power draft territorial policy statement dated 1/26/00.

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**PROPOSED
TERRITORIAL POLICY STATEMENT
OF
GULF COAST ELECTRIC COOPERATIVE, INC.**

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THIS POLICY STATEMENT is jointly submitted this _____ day of _____, 2000, by Gulf Power Company, a Maine corporation qualified to do business in Florida (hereinafter referred to as "Gulf Power") and Gulf Coast Electric Cooperative, Inc., a Florida not for profit corporation (hereinafter referred to as "Gulf Coast") for review and adoption by the Florida Public Service Commission (hereinafter referred to as the "Commission") in order to govern the relationship between Gulf Power and Gulf Coast. Gulf Power and Gulf Coast shall collectively be referred to herein as "the Parties".

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WITNESSETH:

WHEREAS, Gulf Power is an electric utility subject to regulation as a public utility by the Florida Public Service Commission pursuant to the provisions of Chapter 366 of the Florida Statutes; and

WHEREAS, Gulf Coast is a rural electric cooperative organized under Chapter 425 of the Florida Statutes and is an electric utility subject to the jurisdiction of the Commission pursuant to Chapter 366 of the Florida Statutes; and

WHEREAS, the ~~Parties~~ parties each own and operate electric facilities in northwest Florida; and

WHEREAS, the ~~Parties~~ Commission ~~desires to avoid further unnecessary and uneconomic duplication of electric facilities by the Parties in the areas they serve;~~ and

WHEREAS, the ~~Parties~~ Commission ~~desires to avoid future disputes regarding the territorial right to serve particular premises or contiguous groups of premises~~ service to new customers; and

WHEREAS, the Commission has authority pursuant to Chapter 366 of the Florida Statutes to resolve territorial disputes between electric utilities as part of the Commission's jurisdiction to assure the avoidance of further uneconomic duplication of generation, transmission and distribution facilities;

NOW THEREFORE, the Commission orders and directs the Parties to comply with the following provisions:

(1) Neither of the Parties shall in the future uneconomically duplicate the other's electric facilities. As noted in Order No. PSC-98-0174-FOF-EU issued January 28, 1998 in Docket No. 930885-EU, the Commission has determined that further

46 ~~uneconomic duplication of the electric facilities will not occur where the Parties facilities~~
47 ~~are already commingled in the 27 identified areas within south Washington and Bay~~
48 ~~Counties, the negligible cost of incremental service expansion (such as a service drop)~~
49 ~~by either party in such areas (negligible cost areas) will not result in further uneconomic~~
50 ~~duplication because both parties already have service where the Parties have~~
51 ~~commingled facilities because of the negligible cost of incremental service expansion~~
52 ~~from facilities already in place. In this situation the negligible cost areas, customer~~
53 ~~choice preference will be the determining factor for determinative of future electric~~
54 ~~service by the parties. As further noted in Order No. PSC-98-0174-FOF-EU, there is a~~
55 ~~body of decisional law of the Commission and of the Florida Supreme Court~~
56 ~~establishing the criteria to be applied in resolving territorial disputes. The Parties will~~
57 ~~use these criteria and this policy statement in a cooperative effort under the supervision~~
58 ~~of the Commission to resolve determine the manner in which they will expand their~~
59 ~~respective facilities in the future, in those areas where conflicts and disputes may arise.~~

60
61 (2) The Parties shall construct or extend distribution lines only when immediately
62 necessary to serve new a new premises or a contiguous group of premises customers
63 pursuant to a bona fide and documented request for such service from a customer or
64 developer, and shall not construct or extend distribution lines to serve future,
65 speculative growth in the absence of a bona fide and documented request for such
66 construction or extension by a customer or developer. Nothing in this paragraph shall
67 prevent a party from constructing facilities necessary in order to transmit electrical
68 energy between unconnected points on a party's lines when ~~such is necessary for~~
69 reliability purposes. When sSuch "point to point" facilities are constructed may be used
70 to serve and improve service to, new and existing customers of the party who
71 constructed the "point to point" facilities, provided, however, that no existing customers
72 served by the existing facilities of the other party nor any prospective customers
73 immediately adjacent to the existing facilities of the other party may be served by the
74 "point to point" facilities.

75
76 (3) ~~Except where otherwise provided in this policy statement, n~~Neither of the
77 Parties shall construct or maintain electric distribution lines for the provision of retail
78 electric service to any premises customer who is then currently being provided retail
79 electric service by the other party.

80
81 (4) Except as specified in paragraph one (1) of this policy statement, customer
82 preference least cost of new construction shall determine which party shall provide the
83 initial retail electric service to a premises new customer, unless there is negligible
84 difference in new cost of construction, in which case the Party receiving the request for
85 service shall provide the service. Nothing herein shall be construed to allow a party to
86 commence electric service to a customer who at the time such service is to commence
87 is already receiving adequate central station electric service from the other party.

88
89 (5) When a party receives a request for electric service that is governed by
90 paragraph four (4) of this policy statement and the ~~new premises or contiguous group of~~

91 ~~premises is not located~~ location is not within one thousand feet (1000') of facilities
92 belonging to the party receiving the request for service but is located within one
93 thousand feet (1000') of the other party's facilities, ~~the party receiving such a request for~~
94 ~~service shall give to the other party notice in writing within five (5) working days of~~
95 ~~receipt of said~~ the request for electric service. Such notice must The notice shall set
96 forth the type of electric service requested, the date service is requested to commence,
97 as well as the location of the new premises or contiguous group of premises service.
98

99 (6) The notice required by paragraph five (5) to this policy statement begins a
100 suspension period in which the following procedures shall control:

101
102 (a) No new construction or extension of electrical facilities to provide
103 permanent retail electric service to the new ~~premises or contiguous group of~~
104 ~~premises is to commence~~ customer's location shall be undertaken during the
105 suspension period.
106

107 (b) The party receiving notice pursuant to paragraph five (5) of this policy
108 statement may request a meeting regarding the proposed electric service in
109 which case such meeting shall be held within ten (10) working days of receipt of
110 such notice. Any request for a meeting pursuant to this paragraph shall be
111 submitted to the other party in writing. Failure of the party receiving notice
112 pursuant to paragraph five (5) to request such a meeting within five (5) working
113 days of receiving the notice shall constitute a waiver of all rights to serve the new
114 ~~premises or contiguous group of premises~~ location by that party, and the
115 suspension period shall thereupon be terminated.
116

117 (c) At the meeting provided for in paragraph (6)(b) or within ten (10)
118 working days thereafter, the Parties shall make a good faith attempt to resolve
119 any dispute regarding which party shall provide electric service to the new
120 ~~premises or contiguous group of premises~~ location. The sole issue for resolution
121 at the meeting shall be which Party can provide service to the location at the
122 least cost of new construction. The suspension period shall end upon the
123 resolution of the dispute or upon the expiration of the tenth (10th) working day
124 following the meeting provided for in paragraph (6)(b). If the dispute has not
125 been resolved within the suspension period, then the matter shall be submitted to
126 mediation as provided for in paragraph (6)(d), and the ~~The party receiving the~~
127 ~~request with the least cost of new construction for electric service may provide~~
128 electric service to the requesting customer unless there is only a negligible
129 difference in cost of new construction, in which case the Party receiving the
130 request for service shall provide such service after the termination of the
131 suspension period pending the ultimate resolution of the dispute either through
132 mediation or through a hearing before the Commission.
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134 (d) Unresolved disputes shall be submitted to mediation before the
135 Commission Staff and, if necessary, ~~expedited to a hearing before the~~

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Commission. ~~The issues to be resolved in such disputes shall be limited to whether the right to serve the new premises or contiguous group of premises location is governed by paragraph one (1) hereof, relating to customer preference, or in all other cases, least cost or only negligible difference in cost of new construction to serve the location is governed by customer preference as provided in paragraph four (4) of this policy statement. In the event mediation of the dispute has failed and as a result a contested dispute is presented to the Commission for its resolution, the losing party shall pay the prevailing party's costs of litigation including reasonable attorney's fees.~~

~~(7.)~~ This policy statement shall be effective for an initial period of fifteen years from the date this policy statement is issued by the Commission and shall continue thereafter from year to year unless terminated by the Commission with twelve (12) months prior written notice to the Parties. Notwithstanding the foregoing, if "retail access" or "retail wheeling" is adopted as a matter of public policy mandated at either the federal or state level, then the Commission may terminate this policy statement upon three (3) months prior written notice to the Parties. Either party may request that the Commission terminate this policy statement ~~upon~~ for good cause having been shown at any time.

8. This policy statement shall have no legal force or effect, and shall not constitute an agreement between the parties unless it is first approved by the Florida Public Service Commission.

Respectfully submitted the _____ day of _____, 2000.

Gulf Coast Electric Cooperative, Inc.

Gulf Power Company

By: _____

By: _____

CODING: Words ~~stricken~~ are deletions to Gulf Power's proposed policy statement dated 1/26/00; words underlined are additions to Gulf Power's proposed policy statement dated 1/26/00.

Letter to Jim Breman, Engineer IV
Florida Public Service Commission
April 14, 2000

ATTACHMENT "B"

Gulf Power Company's responses to staff's 3/6/00 data request.

1. Please define "unnecessary and uneconomic duplication of electric facilities" as used in your proposed draft of a territorial policy statement.

ANSWER:

Gulf's intention behind the use of the phrase "unnecessary and uneconomic duplication of electric facilities" in its proposed draft of a territorial policy statement was to draw in the definition of "uneconomic duplication of electric facilities" followed by the Florida Supreme Court in its review of Florida Public Service Commission orders on territorial questions, particularly the decision of the court following the hearing and order of the FPSC in the first phase of this docket. As noted in Gulf Power's response to Item No. 27 in GCEC's First Set of Interrogatories, Gulf Power believes that the court's definition can be interpreted as follows:

"...the duplication of one utility's facilities by another utility at a cost that is significantly above any corresponding exclusive benefit."

"Duplication of one utility's facilities by another facility" generally means a utility's construction of facilities that are essentially equal in terms of location, voltage level, capacity, serviceability, operational characteristics, functionality in providing customer service, etc., to the already existing facilities of another utility. The "cost" referenced in this definition would be the initial installed cost of facilities, including all associated engineering and construction labor, equipment, materials, and overheads, per the Commission's historical practice of establishing costs in territorial disputes.

"Significantly above" means that which is not *de minimus* and would include a consideration of both the nominal dollar amount of cost difference and the proportional cost difference between the duplicating utility's costs and the exclusive benefit it would receive as a result of constructing those facilities.

"Exclusive benefit" means those benefits expected to accrue to the duplicating utility as a result of constructing the subject facilities, which would not necessarily accrue to the other utility. These benefits would include, but not limited to, future revenues and associated profit and reduced costs through economies of scale and greater utilization of generation, transmission, and distribution facilities and accounting, billing, and other types of administrative resources.

2. Please identify the criteria to be applied in resolving territorial disputes contained in the "body of decisional law of the Commission and the Florida Supreme Court" which you refer to in Paragraph (1) of your proposed draft of a territorial policy statement.

ANSWER:

The criteria to be applied in resolving territorial disputes will continue to be those found in the rules and controlling orders of the Florida Public Service Commission and the decisions of the Florida Supreme Court. For example, rule 25-6.0441 of the Florida Administrative Code (Rules of the Florida Public Service Commission) states:

- (2) In resolving territorial disputes, the Commission may consider, but not be limited to consideration of:
 - (a) the capability of each utility to provide reliable electric service within the disputed area with its existing facilities and the extent to which additional facilities are needed;
 - (b) the nature of the disputed area including population and the type of utilities seeking to serve it, and degree of urbanization of the area and its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services;
 - (c) the cost of each utility to provide distribution and subtransmission facilities to the disputed area presently and in the future; and
 - (d) customer preference if all other factors are substantially equal.

The Florida Supreme Court's decision in Gulf Coast Electric Cooperative vs. Clark, 674 So.2d 120 (Fla. 1996) found that the relatively small cost (\$14,583) of one utility of upgrading its single phase line to three-phase to serve a new load was not sufficient to characterize the upgrade as uneconomic, even though another utility already had a three-phase line in place available to serve the new load. Based on the *de minimus* cost differential involved in Clark, the Supreme Court ruled that ". . . customer preference should have been considered as a significant factor in this case. See rule 25-6.0441(d) (Commission to consider customer preference if all other factors are substantially equal)."

3. Please define "point to point" as used in Paragraph (2) of your proposed draft of a territorial policy statement. Include in your response all examples of point to point facilities which is Paragraph (2) is intended to address.

ANSWER:

The term "point to point" is used in Gulf Power's proposed draft of a territorial policy statement to describe facilities that are constructed to transmit electrical energy between points not directly electrically connected on that utility's electrical system. This is done to improve current, voltage or other reliability related conditions.

Examples of point to point facilities are as follows:

1. A distribution line connecting a distribution line to a distribution line;
2. A distribution line connecting a substation distribution breaker to a distribution line.

4. Please define "unconnected points" as used in Paragraph (2) of your proposed draft of a territorial policy statement. Include in your response all examples of unconnected facilities which Paragraph (2) is intended to address.

ANSWER:

The term "unconnected points" is used in Gulf Power's proposed draft of a territorial policy statement to describe any points in that utility's electrical system which are not directly electrically connected. Such unconnected points may include two unconnected distribution lines or a distribution line that is previously unconnected to a particular substation distribution breaker (see response to item 3 above). These "unconnected points" could already be indirectly connected electrically but the construction of a more direct connection could be made to improve reliability.

5. Does Paragraph (2) allow both parties to box in an exclusive service area by first constructing a line deemed necessary for reliability reasons then attaching new customers to the same line because of the proximity and cost requirements specified in other paragraphs of your proposed draft of a territorial policy statement?

ANSWER:

No, however a different answer would appear to apply under Gulf Coast's draft policy statement because it fails to follow the Florida Supreme Court's decision in Gulf Coast Electric Cooperative vs. Clark, 674 So.2d 120 (Fla. 1996).

Under Gulf Power's proposed draft of a territorial policy statement, the construction of point to point is allowed only when necessary for reliability purposes. Otherwise, the general rule of paragraph (2) applies. Under the general rule of paragraph 2, distribution lines are to be built only when immediately necessary to serve a new premises (or a new contiguous group of premises) and only in response to a bona fide and documented request for service from the customer or the developer controlling the parcel on which the new premises or contiguous group of new premises is located. The general rule of paragraph 2 goes on to specifically prohibit expansion of distribution facilities without such a bona fide and documented request for such construction or extension from the customer or developer.

Gulf Coast's proposal, which is based on least initial cost, would allow either utility to box in exclusive service areas and service new customers by first building "point to point" facilities. In fact, Gulf Coast's Paragraph (2) specifically allows "point to point" facilities to "serve, and to improve service to, new and existing customers." Gulf Coast's Paragraph (2) taken in conjunction with their Paragraph (4) would allow their facilities to effectively establish territorial boundary lines based on least initial cost of "new construction" only and establish exclusive service areas without consideration of overall long term cost or customer choice. Gulf Coast's proposal would encourage a "race to serve" unserved areas by building point to point facilities across undeveloped land, thereby staking a claim to being able to serve such areas in the event of future development based on their "least initial cost to serve" philosophy. It is such wasteful and premature construction that Gulf Power seeks to avoid through its proposal in general and through paragraph 2 in particular.

6. Does Paragraph (2) anticipate that lines originally built exclusively for reliability reasons will someday become central station electric service feeders?

ANSWER:

Although not necessarily anticipated, lines constructed for reliability reasons could become service feeders if the other terms of either proposal are met.

7. Please define "adequate central station electric services" as used in Paragraph (4) of your proposed draft of a territorial policy statement.

ANSWER:

The phrase "adequate central station electric service" has been adapted from Section 425.04(4) of the Florida Statutes which states:

425.04 Powers.--A cooperative shall have power:

(4) To generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply, and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other persons not in excess of 10 percent of the number of its members; . . . However, no cooperative shall distribute or sell any electricity, or electric energy to any person residing within any town, city or area which person is receiving adequate central station service or who at the time of commencing such service, or offer to serve, by a cooperative, is receiving adequate central station service from any utility agency, privately or municipally owned individual partnership or corporation.

The type of electric service the statute references is service with a source originating from a central electric generating station that is sufficient to meet the customer's electrical needs. The converse of adequate central station electric service would be a customer's self-service electric generator exclusively serving at least a portion of the customer's electric service requirements.

8. Does Paragraph (4) of your proposed draft of a territorial policy statement apply to the case where a customers' location is already receiving electric service but there is either a change in ownership and /or a change in rate class or schedule?

ANSWER:

Yes, Paragraph (4) of Gulf Power's proposed draft of a territorial policy statement is intended to preclude a change in electric supplier to a particular premises based merely on a change in ownership and/or a change in rate class or schedule.

9. Please explain the terms and conditions for providing interim service whenever a suspension period is initiated pursuant to Paragraph (6) of your proposed draft of a territorial policy statement.

ANSWER:

The purpose of the limited duration suspension period provided for in paragraph (6) of Gulf Power's proposed draft of a territorial policy statement is to allow the two utilities an opportunity to resolve this matter before either side incurs any unnecessary costs. The suspension period is of limited duration in order to ensure that the customer is not significantly disadvantaged due to the possibility of a dispute. If the suspension period ends without resolution of the dispute, the customer will be served by the utility receiving the customer's original request for service pending the ultimate resolution. Such service by Gulf Power will be under the terms and conditions for providing new service as provided in Gulf Power's Tariff for Retail Electric Service on file with and approved by the Florida Public Service Commission.

10. Paragraph (6) of your proposed draft of a territorial policy statement provides for an evidentiary hearing before the Commission. Please provide the following:
- a) Why all such proceedings should be scheduled on an expedited bases?
 - b) Why all such proceedings should not be scheduled on an expedited bases?
 - c) If, by agreement both parties request a hearing, which party will carry the burden of proof?
 - d) What is the Commission's authority to require one party to pay any portion of the other party's litigation costs?

ANSWER:

Gulf Power's proposed draft of a territorial policy statement provides for an expedited hearing before the Commission if a dispute between the two utilities remains after the mediation process has concluded. The rationale for an expedited hearing process is to ensure that neither utility is disadvantaged by a lengthy loss of revenues during the interim service period. Under Gulf Power's proposal, the customer is not disadvantaged since the utility that is allowed to serve the customer from the conclusion of the suspension period until the dispute is ultimately resolved will be the utility the customer has requested. This rationale is applicable to all cases. The utility disputing the customer's choice of electric supplier will have the burden of proof. The provision calling for the losing party to pay the prevailing party's costs of litigation including reasonable attorney's fees is intended to provide a disincentive for pursuing frivolous claims that are contrary to customer choice. Without the consent of the parties, the Commission's authority to award such compensation would have to be found in its implied authority under its authorizing statutes.

11. Under what law and conditions can the Commission terminate the territorial policy statement once it is in effect?

ANSWER:

If the Commission concludes that the policy considerations that led to the Commission's adoption of the territorial policy statement have changed such that it is no longer appropriate, it may give notice to the utilities that the application of the policy statement shall terminate after twelve months. The notice period is shortened to three months if the notice is given as a result of the adoption of "retail access" or "retail wheeling" as a matter of public policy at either the federal or state level. The utilities themselves are also given the opportunity to petition for early termination. In such a case, the utility making the request must make a showing of good cause. In all such cases of possible early termination, the decision is left solely within the sound discretion of the Commission.

Letter to Jim Breman, Engineer IV
Florida Public Service Commission
April 14, 2000

ATTACHMENT "C"

Copy of letter from Gulf Power Company to Blanca S. Bayo dated 9/2/00, including text inadvertently omitted from version previously filed.

One Energy Place
Pensacola, Florida 32520

850.444.6111



September 2, 1999

Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 930885-EU

Dear Ms. Bayo:

This letter is Gulf Power Company's report due under Commission Order No. PSC-98-0174-FOF-EU as modified by Order No. PSC-98-0793-PCO-EU. Specifically, the Commission found in Order No. PSC-98-0174-FOF-EU "... that the companies shall establish detailed procedures and guidelines addressing subtransmission, distribution, and requests for new service which are enforceable with the respective company. The procedures and guidelines shall take into account Commission precedent on resolving territorial disputes and shall be submitted to the Commission for review on or before July 31, 1998." Order No. PSC 98-0793-PCO-EU modified that deadline to be "... no later than six months following the date the final order of the Supreme Court of Florida in Case No. 92,479 is rendered." According to the applicable rules, the Supreme Court's decision was rendered March 5, 1999 when the period for filing a request for rehearing expired. Accordingly, the deadline for submitting procedures and guidelines to the Commission for review was changed by Order No. PSC-98-0793-PCO-EU to be no later than September 5, 1999.

Attached hereto are copies of two letters. The first is a letter from Gulf Power Company to Gulf Coast Electric Cooperative dated August 9, 1999. The second is Gulf Coast Electric Cooperative's response dated August 25, 1999. These letters summarize the results of efforts to reach agreement on "... detailed procedures and guidelines addressing subtransmission, distribution, and requests for new service ..." required by Order No. PSC-98-0174-FOF-EU. The parties have not been able to reach complete agreement. Although both companies are willing to notify the Commission that the two utilities are now in agreement with the principle that the present system has worked well and should be continued, Gulf Power is mindful of the direction the Commission gave in Order No. PSC-98-0174-FOF-EU. Therefore, in order to be in full compliance with the Commission's order, Gulf Power submits the refinements to the Commission's existing guidelines and policies set forth in Exhibit GEH-3 as proposed procedures and guidelines for Commission review as required by Order No. PSC-98-0174-FOF-EU.

As indicated in its August 25, 1999 letter, Gulf Coast Electric Cooperative apparently objects to the refinements set forth in GEH-3 on the basis that they would constitute a significant change to current rules and policy "... that would necessarily require the input of all the electric utilities in Florida if such policy statements or procedures were used." Gulf Power disagrees with this characterization. Adoption of guidelines and procedures set forth in GEH-3 for these two utilities would not affect other electric utilities and would be entirely consistent with the recent decisions of the Commission and the Florida Supreme Court in this case.

If anything further is required, please let us know.

Sincerely,



Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

Cc: Robert V. Elias, Esquire
Jim Breman
John Haswell, Esquire
Patrick Floyd, Esquire
Roy Barnes

F.M. (Dusty) Fisher, Jr.
Vice President Power Delivery
and Customer Operations

Energy Place
Pensacola, Florida 32520-0100
Tel 850 444 6380



August 9, 1999

Mr. Roy Barnes, C.E.O./General Manager
Gulf Coast Electric Cooperative, Inc.
Post Office Box 220
Wewahitchka, FL 32465

Dear Mr. Barnes:

Re: Docket No. 930885-EU

Thank you for your letter of July 21, 1999, which was in response to my letter dated July 6, 1999. I had written to you in a further effort to schedule a meeting to begin the process to establish procedures and guidelines addressing subtransmission, distribution, and requests for new electric service as required by the Florida Public Service Commission in Order No. PSC-98-0174-FOF-EU. As noted in my letter, because the stay pending appeal granted by Order No. PSC-98-0793-PCO-EU expired by its own terms on March 5, 1999, we believe that the deadline for submitting the detailed procedures and guidelines to the Commission for review is now no later than September 5, 1999. I understand from your letter (copy attached) that GCEC now wishes to report to the Commission that it defers to the position taken by Gulf Power at the hearing that the Commission's existing guidelines for resolving territorial issues are adequate and should continue.

Throughout this proceeding, we have consistently expressed as our position that the Commission should decline to establish territorial boundaries between these two utilities because drawing "lines on the ground" is not in the public interest and is not necessary to prevent further uneconomic duplication of electric facilities. In fact, "lines on the ground" could actually lead to and compel the further uneconomic duplication of electric facilities, contrary to the specific statutory mandate the Commission is charged with enforcing. Our position has been and continues to be that future uneconomic duplication of electric facilities can be easily avoided by these two utilities through the application of and compliance with guidelines previously established by the Commission or through refinements such as those set forth in Exhibit GEH-3 or Exhibit GEH-4. As noted in your letter, the Commission's decision in this case as affirmed by the Florida Supreme Court rejected GCEC's position that a fixed territorial boundary is in the best interests of both utilities and the ratepayers of Northwest Florida. Specifically, the Commission stated:

Upon consideration of all the evidence, we find that a territorial boundary should not be established in south Washington or Bay Counties between Gulf Power and Gulf Coast. There is no assurance that a territorial boundary is going to be the most economic way of providing service. We have established that the facilities are commingled and that the incremental cost to serve additional customers is negligible. Thus, in the congested areas, a 'line on the ground' will cure neither past nor future duplication. In the undeveloped areas, a line on the ground will eliminate the flexibility the utilities need to determine which one is in the most economic position to extend service. That flexibility will result in the least cost service provision. It is inappropriate for us to draw lines in undeveloped areas in south Washington and Bay Counties where we do not know what the expansion patterns are going to be. The utilities are the entities with the best evidence of what their long-range plans are, what their systems are, and what is the most economic way of providing additional service.

Later in Order No. PSC-98-0174-FOF-EU the Commission stated:

Order No. PSC-95-0913-FOF-EU also stated that "[a] boundary is not necessarily required in areas where there is no conflict and none is reasonably foreseeable." (Order page 4, emphasis in original) In those areas, the utilities were encouraged to consider a wide range of solutions to accommodate future growth. Gulf Power has suggested criteria for the delineation of service territory in south Washington and Bay Counties. Gulf Power's guidelines, along with the established Commission precedent for determining service areas, can provide the utilities with the flexibility they need to address growth and it will result in the most economic method of providing service. Carving up the two counties, in this instance, will not result in the most economic provision of electric service. Rather, drawing lines on the ground would result in centralized planning by this Commission which is not the most economic way to determine the service areas because it does not take into account market forces which will dictate the manner in which some of the expansion of facilities is going to take place.

Based on the forgoing, we find that the companies shall establish detailed procedures and guidelines addressing subtransmission, distribution, and requests for new service which are enforceable with the respective company. The procedures and guidelines shall take into account Commission precedent on resolving territorial disputes and shall be submitted to the Commission for review on or before July 31, 1998.

As noted earlier, the deadline for submitting procedures and guidelines to the Commission for review was changed by Order No. PSC-98-0793-PCO-EU to be no later than September 5, 1999.

Mr. Roy Barnes, C.E.O./General Manager

Gulf Coast Electric Cooperative, Inc.

August 9, 1999

Page 3

Although we are willing to notify the Commission that our two utilities are now in agreement with the principle that the present system has worked well and should be continued, we are mindful of the direction provided by the Commission in Order No. PSC-98-0174-FOF-EU. Therefore, to be in full compliance with the Commission's order, we also propose that the refinements to the Commission's existing guidelines and policies set forth in Exhibit GEH-3 (copy attached) be submitted as proposed procedures and guidelines for Commission review as required by Order No. PSC-98-0174-FOF-EU.

If you are prepared to join us in the foregoing, I will notify the Commission and trust this will satisfy any remaining requirements of their order.

Sincerely,



jsa

Attachments (2)

cc: Florida Public Service Commission
Robert V. Elias, Esq.
Mr. Jim Breman



GULF COAST ELECTRIC COOPERATIVE, INC.

A Touchstone EnergySM Partner
July 21, 1999



Gulf Power Company
Dusty Fisher
One Energy Place
Pensacola, Florida 32520-0100

Dear Mr. Fisher:

Since we talked on May 17, I have reviewed some of the testimony from Gulf Power Company (G.P.C.) witnesses in our docket. Mr. Holland stated "It is our sincere belief that the method adopted by the legislature and this commission some 24 years ago for resolving such disputes has worked extremely well and should be continued." Mr. Weintritt stated "Furthermore, during the 24 years in which the Public Service Commission has had jurisdiction, there have been only six disputes, four of which were filed during a brief 27-month period ending in 1985." Throughout the testimony, it was G.P.C.'s position that the Public Service Commission (Commission) guidelines have served us well and should be continued.

Gulf Coast Electric Cooperative's position continues to be that a fixed territorial boundary is in the best interest of both utilities and the ratepayers of northwest Florida. Territorial agreements in place with other utility companies around the state are working very well.

The Commission entered several orders compelling the parties to reach an agreement fixing a boundary line on the ground in certain areas and that absent that agreement it would set those boundary lines. After a lengthy attempt to reach an agreement in which Gulf Power refused to agree to or set any boundary line on the ground, the hearing was conducted pursuant to the Commission's order. The Commission decided that it would not under the case presented fix a territorial boundary between the utilities. Upon appeal, the Supreme Court affirmed the decision of the Commission not to exercise its authority.

Even though our position has not changed, in the absence of a territorial agreement containing fixed boundaries, we would have to defer to Gulf Power's position that the previous method of resolving disputes continue until the Commission decides to utilize its authority and fix boundaries on the ground. As always, we trust that the disputes will be few and the guidelines honored and will continue to work on that direction. Since Gulf Power's testimony suggests that the method for resolving disputes is not "broken", no repair should be necessary.

If you continue to be in agreement with this, I will notify the Commission and trust this will satisfy any remaining requirements of their order.

Sincerely,

A handwritten signature in cursive script that reads "Roy Barnes".

Roy Barnes
C.E.O./General Manager

TERRITORIAL POLICY STATEMENT

1 THIS POLICY STATEMENT is adopted by the Florida Public Service Commission,
2 hereinafter referred to as the "Commission," this ____ day of _____, 19 ____
3 in order to govern the relationship between Gulf Power Company, a Maine corporation
4 qualified to do business in Florida, hereinafter referred to as "Gulf Power"; and Gulf Coast
5 Electric Cooperative, Inc., a Florida corporation, hereinafter referred to as "Gulf Coast".
6 Gulf Power and Gulf Coast shall collectively be referred to herein as "the Parties".

7 WITNESSETH:

8 WHEREAS, Gulf Power is an electric utility subject to regulation as a public utility by
9 the Florida Public Service Commission pursuant to the provisions of Chapter 366 of the Florida
10 Statutes; and

11 WHEREAS, Gulf Coast is a rural electric cooperative organized under Chapter 425 of the
12 Florida Statutes and is an electric utility pursuant to Chapter 366 of the Florida Statutes; and

13 WHEREAS, the Parties each own and operate electric facilities in Northwest Florida; and

14 WHEREAS, the Commission desires to avoid further unnecessary and uneconomic
15 duplication of electric facilities by the parties; and

16 WHEREAS, the Commission desires to avoid future disputes regarding the territorial
17 right to serve particular premises or contiguous groups of premises; and

18 WHEREAS, the Commission has authority pursuant to Chapter 366 of the Florida
19 Statutes to resolve territorial disputes between electric utilities as part of the Commission's
20 jurisdiction to assure the avoidance of further uneconomic duplication of generation,
21 transmission and distribution facilities;

22 NOW THEREFORE, the Commission orders and directs the parties to comply with the
23 following provisions:

24 (1) Neither of the Parties shall uneconomically duplicate the other's electric facilities.

25 (2) The Parties shall construct or extend distribution lines only when immediately
26 necessary to serve a new premises or a contiguous group of premises pursuant to a bona fide and
27 documented request for such service from a customer or developer, and shall not construct or
28 extend distribution lines to serve future, speculative growth in the absence of a bona fide and
29 documented request for such construction or extension by a customer or developer. Nothing in

30 this paragraph shall prevent a party from constructing facilities necessary in order to transmit
31 electrical energy between unconnected points on a party's lines when such is necessary for
32 reliability purposes. When such "point to point" facilities are constructed, no existing customers
33 served by the existing facilities of the other party nor any prospective customers immediately
34 adjacent to the existing facilities of the other party may be served by the "point to point"
facilities.

35 (3) Except where otherwise provided in this policy statement, neither of the Parties shall
36 construct or maintain electric distribution lines for the provision of retail electric service to any
37 premises then currently being provided retail electric service by the other party.

38 (4) Except as specified in paragraph five (5) of this policy statement, a new premises or
39 contiguous group of premises located within one thousand feet (1,000') of an existing electric
40 distribution line belonging to only one of the Parties, which electric distribution line and
41 associated electrical facilities are adequate and capable of providing the retail electric service
42 required by the new premises or contiguous group of premises, shall be served by the Party that
43 has such existing electric distribution line and associated electrical facilities. Under such
44 circumstances, said Party shall be the electrical supplier for such particular new premises or
45 contiguous group of premises and shall have an obligation to provide retail electric service
46 thereto. Except as specified in paragraph five (5) of this policy statement, the other party shall
47 not render retail electric service to such premises.

48 (5) Notwithstanding paragraphs three (3) and four (4), where a new premises or
49 contiguous group of premises require a combined electric load equal to or greater than 300 KVA,
50 under normal operations and within a five (5) year growth period from the date of initial service,
51 a written request to either Party by the owner or developer of certain new premises or contiguous
52 group of premises shall determine which Party shall be the retail electric supplier responsible for
53 providing electric service to such new premises or contiguous group of premises. The Party
54 requested by the owner or developer to provide retail electric service to the new premises or
55 contiguous group of premises may construct, operate and maintain facilities for the provision of
56 such electric service when the premises or contiguous group of premises are not, at the time the
57 request is made, being served by the other Party, or if being served by the other Party, are not
58 being served by electrical facilities and capabilities in place and belonging to the other Party that
59 are adequate for the service and capacity being requested by the owner or developer.

60 (6) Except as specified in paragraphs one (1), three (3) and four (4) of this policy
61 statement, customer preference shall determine which Party shall provide the initial retail electric
62 service to a premises. Nothing herein shall be construed to allow a party to commence electric
63 service to a customer who at the time such service is to commence is already receiving adequate
64 central station electric service from the other Party.

65 (7) When a Party receives a request for electric service that is governed by paragraph five
66 (5) of this policy statement and the new premises or contiguous group of premises is not located
67 within one thousand feet (1,000') of facilities belonging to the Party receiving the request for
68 service but is located within one thousand feet (1,000') of the other Party's facilities, the Party
69 receiving such a request for service shall give to the other Party notice in writing within five (5)
70 working days of receipt of said request for electric service. Such notice must set forth the type of
71 electric service requested, the date service is requested to commence, as well as the location of
72 the new premises or contiguous group of premises.

73 (8) The notice required by paragraph seven (7) to this policy statement begins a
74 suspension period in which the following procedures shall control:

75 (a) No new construction or extension of electrical facilities to provide permanent retail
76 electric service to the new premises or contiguous group of premises is to commence during the
77 suspension period.

78 (b) The party receiving notice pursuant to paragraph seven (7) of this policy statement
79 may request a meeting regarding the proposed electric service in which case such meeting shall
80 be held within ten (10) days of receipt of such notice. Any request for a meeting pursuant to this
81 paragraph shall be submitted to the other Party in writing. Failure of the Party receiving notice
82 pursuant to paragraph seven (7) to request such a meeting within five (5) working days of
83 receiving the notice shall constitute a waiver of all rights to serve the new premises or contiguous
84 group of premises by that Party, and the suspension period shall thereupon be terminated.


85 (c) At the meeting provided for in paragraph (8) (b) or within ten (10) days thereafter,
86 the Parties shall make a good faith attempt to resolve any dispute regarding which Party shall
87 provide electric service to the new premises or contiguous group of premises. Unresolved
88 disputes shall be submitted to mediation before the Commission Staff and, if necessary,
89 expedited hearing before the Commission. The issue to be resolved shall be limited to whether
90 the right to serve the new premises or contiguous group of premises is governed by paragraphs
91 one (1), three (3) or four (4) of this policy statement or is governed by customer preference as
92 provided in paragraphs five (5) and six (6) of this policy statement. In the event mediation of
93 the dispute has failed and as a result a contested dispute is presented to the Commission for its
94 resolution, the losing party shall pay the prevailing Party's costs of litigation including reasonable
95 attorney's fees.

96 (9) This policy statement shall be effective for an initial period of fifteen years from the
97 date this policy statement is issued by the Commission and shall continue thereafter from year to
98 year unless terminated by the Commission with twelve (12) months prior written notice to the
99 Parties. Notwithstanding the foregoing, if "retail access" or "retail wheeling" is adopted as a
100 matter of public policy at either the federal or state level, then the Commission may terminate this
101 policy statement upon three (3) months prior written notice to the Parties. Either Party may
102 request that the Commission terminate this policy statement upon good cause having been shown.

DONE AND ORDERED by the Florida Public Service Commission this
_____ day of _____, 19_____.



GULF COAST ELECTRIC COOPERATIVE, INC.

A Touchstone Energy® Partner 

August 25, 1999

F. M. Fisher, Jr., Vice President
Power Delivery and Customer Operations
Gulf Power Company
One Energy Place
Pensacola, FL 32520-1011

RE: Docket No. 930885-EU, Commission Order No. 98-0174

Dear Mr. Fisher:

This will acknowledge your letter of August 9, 1999. While Gulf Coast Electric Cooperative, Inc. (GCEC) continues to maintain the position that the establishment of a territorial boundary between our two utilities is in the best interests of the rate payers of our two utilities, we again defer to the finding of the Florida Public Service Commission (Commission), which was upheld by the Supreme Court, that there was no need to draw any boundaries at this time. Hence, we agree to a joint response to the Commission's Order (98-0174) that the application of and compliance with the historical guidelines and procedures of the Commission which are currently in effect will avoid the further uneconomic duplication of electric facilities, as stated in the second paragraph of your letter. It is Gulf Power's position that the present system (existing guidelines and procedures of the Commission) of resolving disputes and the avoidance of further uneconomic duplication works well. Consequently, we do not see the need to complicate the resolution of this matter by suggesting new guidelines and procedures that are referenced in GEH-3 or 4. It is our view that GEH-3 and 4 are not simply refinements of current rules and policy, but represent significant changes that would necessarily require the input of all the electric utilities in Florida if such policy statements or procedures were proposed.

Both our utilities have incurred significant expenses in arriving at the point where we are now. As mandated by the Supreme Court, decided by the Commission, and stated by Gulf Power, (1) there is no present need for a boundary; and (2) the existing system of resolving disputes works well. We suggest that we agree to leave it at that and represent to the Commission that since the Commission has found that there is no need to draw a boundary and that since prior disputes were

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The Power of Human Connections

F. M. Fisher, Jr., Vice President
August 25, 1999
Page 2

adequately resolved using the current system of policies, guidelines, and procedures, that Gulf Power and GCEC do not propose any changes to that system. We will be happy to draft a joint report for your review to be submitted to the Commission by September 5th.

Very truly yours,

A handwritten signature in cursive script that reads "Roy Barnes".

Roy Barnes
CEO and General Manager

RB/ps