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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of :
Petition to resolve territorial :
dispute with Gulf Coast :
Electric Cooperative, Inc. by :
Gulf Power Company. :



FIRST DAY - MORNING SESSION

VOLUME 1

Pages 1 through 200

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK

DATE: Tuesday, April 29, 1997

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
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FPSC-RECORDS/REPORTING

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6 **Electric Cooperative, Inc.**

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P R O C E E D I N G S

(Hearing convened at 9:37 a m.)

COMMISSIONER DEASON: Call the hearing to order. Notice read, please.

MS. JOHNSON: By notice issued April 2, 1997, this hearing has been set in Docket 930885-EU, petition to resolve territorial dispute with Gulf Coast Electric Cooperative, Inc. by Gulf Power Company. The purpose of the hearing is set out in the notice.

COMMISSIONER DEASON: Appearances.

MR. HASWELL: My name is John Haswell, I'm here on behalf of Gulf Coast Electric Cooperative, Inc., and I am a member of the firm Chandler Lang & Haswell, 211 N.E. First Street, Gainesville, Florida.

MR. FLOYD: Patrick Floyd, co-counsel for Gulf Coast Electric Cooperative, Inc., Port St. Joe, Florida.

MR. STONE: Commissioner, I'm Jeffrey A. Stone of the law firm Beggs & Lane. With me today from Beggs & Lane is Russell A. Badders. Also appearing today on behalf of Gulf Power Company is Mr. Joe Cresse, a Class B practitioner.

MS. JOHNSON: Vicki Johnson representing the Commission Staff.

1 **COMMISSIONER DEASON:** Preliminary matters.

2 **MS. JOHNSON:** Yes, Commissioner, there are
3 some corrections to the prehearing order. On Page 6
4 in Gulf's basic position, the seventh line, the first
5 word is shown as "could," that word should be "would."

6 And on Page 8 of the Prehearing Order, Gulf
7 Power's position that's shown at the top of the page,
8 the second line, which is the end of the first
9 sentence, we should add on Bay County has provided
10 that fixed boundaries are not mandated.

11 And the final correction is at Page 19 in
12 the section --

13 **COMMISSIONER DEASON:** Hold on.

14 Okay.

15 **MS. JOHNSON:** The final correction is on
16 Page 19 in the section that's entitled "Rulings." The
17 last sentence of the first paragraph indicates that
18 ruling on the motion to compel as to Interrogatory
19 Nos. 31 and 42 is reserved. That motion of compel as
20 to those interrogatories has been addressed in an
21 order issued by the Prehearing Officer on April 15,
22 1997.

23 **COMMISSIONER DEASON:** So that matter has
24 been resolved?

25 **MS. JOHNSON:** That's correct.

1 **COMMISSIONER DEASON:** Okay. Any other
2 preliminary matters?

3 **MS. JOHNSON:** Yes. The only other
4 preliminary matter that Staff is aware of is Gulf
5 Coast's motion to strike testimony. I'll note that
6 portions of the testimony that's the subject of the
7 motion have been withdrawn, but I'll defer to
8 Mr. Haswell to discuss it further.

9 **MR. HASWELL:** Thank you.

10 Mr. Commissioner, Gulf Coast also wishes to
11 withdraw portions of its motion to strike. And
12 specifically, as to Paragraph 1 of the motion, we
13 withdraw our motion to strike the portion of direct
14 testimony of Theodore S. Spangenberg.

15 Regarding Mr. Holland's testimony, by
16 stipulation a certain portion of his has already been
17 withdrawn starting on Page 4, Line 25 through Line 4
18 on Page 4.

19 And we also wish to withdraw our objection
20 to -- or withdraw our motion as listed in Paragraph
21 2B, 2C, 2D. And as far as 2E, we withdraw our
22 objection for purposes of the motion to strike to
23 Lines 4 through 21 on Page 12. We also withdraw it as
24 to our motion --

25 **COMMISSIONER DEASON:** Just one second. With

1 regard to Paragraph E, you are modifying it to exclude
2 or -- how do you want Paragraph E to read?

3 MR. HASWELL: It would say, Page 11, Lines
4 13 to 25, continuing to Page 12, Lines 1 and 2.

5 COMMISSIONER DEASON: Okay.

6 MR. HASWELL: Also withdrawing 2F and 2G.
7 In Paragraph 2H, we withdraw our objection for
8 purposes of the motion to strike to Exhibit GEH-1.
9 And we also withdraw our motion to strike as to
10 Mr. Weintritt's testimony in 3A and 3B. And the
11 matters addressed in Paragraph 4 of our motion have
12 already been determined by the withdrawal of
13 Mr. Klepper's direct testimony.

14 COMMISSIONER DEASON: So you no longer --

15 COMMISSIONER CLARK: Mr. Chairman --

16 COMMISSIONER DEASON: Let me ask one
17 question quick. Nothing is pending then concerning
18 Mr. Weintritt; is that correct?

19 MR. HASWELL: That's correct.

20 COMMISSIONER DEASON: Commissioner Clark.

21 COMMISSIONER CLARK: I was just going to
22 suggest he refile the motion telling us exactly what
23 he wants to strike now.

24 MR. HASWELL: Okay, good. Consequently,
25 what we propose to strike is Page 4, Lines 23 through

1 25 of Mr. Holland's testimony. On Page 11, Lines 13
2 to 25, and continuing to Page 12, Lines 1 and 2. And
3 then exhibits GEH-2 and GEH-5.

4 MS. JOHNSON: Commissioner Deason, if I
5 understood Mr. Haswell correctly, he indicated that he
6 was withdrawing Page 4, Lines 23 to 25. Those have
7 already been -- excuse me, that the motion to strike
8 was as to Page 4, Lines 23 to 25?

9 MR. HASWELL: That's correct.

10 MS. JOHNSON: Those lines have already
11 been --

12 MR. HASWELL: No.

13 MS. JOHNSON: Thank you for the correction.

14 MR. HASWELL: What was stricken was Line 25
15 starting with Gulf Power's witness.

16 MS. JOHNSON: You're right.

17 MR. HASWELL: And then going on to the next
18 page, into that next page paragraph. That wasn't
19 stricken, it was withdrawn.

20 COMMISSIONER DEASON: So the only thing
21 pending concerning your motion to strike is in
22 reference to certain portions of the Witness Holland?

23 MR. HASWELL: Correct.

24 COMMISSIONER DEASON: Mr. Stone, when do you
25 plan to address this motion?

1 MR. STONE: At your pleasure, Commissioner.

2 COMMISSIONER DEASON: Was there a written
3 response?

4 MR. STONE: We had oral argument at the
5 prehearing conference.

6 COMMISSIONER DEASON: Is your microphone on?

7 MR. STONE: No, sir. I apologize.

8 We had some oral argument at the prehearing
9 conference and it was reserved and we would like to
10 present further discussion as far as addressing the
11 motion.

12 I believe we did file a motion -- a written
13 response to the motion to strike. However, that was
14 back in January.

15 MR. BADDERS: January 23rd.

16 COMMISSIONER DEASON: Mr. Haswell.

17 MR. HASWELL: Thank you, sir. Regarding
18 Page 4, Lines 23 to 25, that sentence, in our
19 judgment, clearly has nothing to do with any of the
20 seven issues stated in the Prehearing Order. The
21 statement that this is clearly --

22 COMMISSIONER CLARK: Mr. Haswell, just so
23 the record is clear, you are asking for the sentence
24 that begins on 23 and ends on 25 --

25 MR. HASWELL: Correct.

1 **COMMISSIONER CLARK:** -- stricken, not the
2 word "cost," nor Gulf Power's witnesses, right?

3 **MR. HASWELL:** Correct. In other words,
4 starting with "This is clearly contrary to the public
5 policy considerations which brought about the creation
6 and existence of such cooperatives," in our view, is
7 totally irrelevant and immaterial to the issues in
8 this case.

9 Regarding Page 11, Lines 13 to 25, and
10 continuing to Page 12, Lines 1 and 2, speculation by
11 Gulf Power's witness Mr. Holland regarding what might
12 happen in the future -- presumably he's referring to
13 retail wheeling or perhaps anything -- again, is
14 irrelevant and immaterial because none of that
15 speculative concern or the changing regulatory climate
16 or tremendous uncertainty, that has not occurred in
17 terms of what this Commission's rules and order are
18 and what we are here for today. And, again, does not
19 relate to any of the seven issues in the case.

20 Regarding GEH-2, and our view of that,
21 again, is irrelevant and immaterial to the issues in
22 this case. That appears to be a law review article
23 that was written by Richard Bellak and Martha Carter
24 Brown. I think, if I'm not mistaken, that was the FSU
25 Law Review?

1 **MR. BADDERS:** Correct.

2 **MR. HASWELL:** And neither tends to support
3 or defend or establish any of the issues in the case.

4 And, lastly, GEH-5 is the Supreme Court
5 order entered in the first phase of this case which,
6 of course, is already in the record as a mandate and
7 does not need to be attached as an exhibit by a
8 witness. Essentially, that's our argument.

9 **COMMISSIONER DEASON:** Okay. I understand
10 the motion. I'm not going to deal with that anymore
11 at this present time. When Mr. Holland takes the
12 stand, we will address these specifics. And we will
13 make a ruling at the appropriate time.

14 In the meantime, I need to see the written
15 response filed by Gulf. I have the motion, but I do
16 not have the written response. (Tendered document)

17 I have it now.

18 **MR. HASWELL:** Also, Commissioner Deason, the
19 parties -- correct me if I'm wrong, Russell -- we have
20 agreed that we will not do opening statements and
21 reserve those for our posthearing brief, any
22 statements we have.

23 **MR. BADDERS:** We have so agreed.

24 **COMMISSIONER DEASON:** Very well. Any other
25 preliminary matters? Nothing?

1 **MR. STONE:** None for Gulf.

2 **COMMISSIONER DEASON:** I am going to ask all
3 witnesses who are present at this time and who have
4 prefiled testimony and will be testifying in this
5 proceeding to please stand and raise your right hand.

6 (Witnesses sworn collectively)

7 **COMMISSIONER DEASON:** Please be seated.

8 Mr. Haswell.

9 **MR. HASWELL:** Commissioner, we would like to
10 call our first witness, Archie W. Gordon.

11 - - - - -

12 **ARCHIE W. GORDON**

13 was called as a witness on behalf of Gulf Coast
14 Electric Cooperative, Inc., and, having been duly
15 sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 **BY MR. HASWELL:**

18 **Q** Mr. Gordon, could you state your full name
19 for the record, please, sir?

20 **A** Archie W. Gordon.

21 **Q** Are you the same Archie W. Gordon who has
22 filed direct testimony and Exhibits AWG-2 through
23 AWG-8 in this cause?

24 **A** Yes, sir, I am.

25 **Q** Do you have any additions, deletions or

1 corrections to make to your testimony?

2 **A** Yes, I have one page of errata that has been
3 prepared.

4 **MR. HASWELL:** Commissioner Deason,
5 Mr. Gordon has a lot of little typos, that it might be
6 easier while he refers to them we hand out an errata
7 sheet.

8 **COMMISSIONER DEASON:** Very well.

9 I take it these are not substantive changes?

10 **Q** **(By Mr. Haswell)** Mr. Gordon, these are not
11 substantive changes, are they?

12 **A** I didn't understand you.

13 **Q** These are not substantive changes?

14 **A** No, sir.

15 **Q** These are typographical errors and
16 corrections?

17 **A** Typographical errors and duplication errors.

18 **COMMISSIONER DEASON:** To save time, instead
19 of going through this, let's identify this as an
20 exhibit. And I assume there will be no objection to
21 having this identified as an exhibit and entered into
22 the record?

23 **MR. STONE:** Commissioner, we have no
24 objection, but we would like a few minutes to go
25 through it to confirm in our own minds --

1 **COMMISSIONER DEASON:** We'll identify this
2 as -- have there been any exhibits already numbered in
3 this proceeding?

4 **MS. JOHNSON:** No, there have not.

5 **COMMISSIONER DEASON:** Not in this phase
6 anyway.

7 **MS. JOHNSON:** That's correct.

8 **COMMISSIONER DEASON:** This will be
9 identified as Exhibit No. 1.

10 And Mr. Stone you can review that, and
11 before it is admitted, you can have an opportunity to
12 ask any clarifying questions concerning it. But this
13 will remove the necessity of going through each one of
14 these items.

15 (Exhibit 1 marked for identification.)

16 **MR. HASWELL:** Thank you, sir.

17 **Q** **(By Mr. Haswell)** Now, Mr. Gordon, with
18 those corrections, if I were to ask you -- and you are
19 under oath -- if I were to ask you the same questions
20 today, would your answers be the same?

21 **A** Yes, sir.

22 **MR. HASWELL:** At this point in time we would
23 respectfully request that the direct prefiled
24 testimony of Archie W. Gordon be entered into the
25 record as though read with the correction.

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COMMISSIONER DEASON: Without objection, it shall be so inserted.

- 1 Q. State your name.
- 2 A. Archie W. Gordon.
- 3 Q. State your address.
- 4 A. Post Office Box 877, street address 1815 Northeast Jacksonville Road,
5 Ocala, Florida 34478-0877.
- 6 Q. State your profession.
- 7 A. I am a professional engineer certified to practice in the States of Florida and
8 Georgia.
- 9 Q. State your educational background.
- 10 A. I graduated from local schools in Ocala, Florida, and then attended the
11 University of Miami in Coral Gables, Florida; Miami University at Oxford,
12 Ohio; and the University of Florida at Gainesville, Florida. I received a
13 Bachelor of Electrical Engineering degree from the University of Florida which
14 was bestowed "with honors" on June 7, 1948.
- 15 Q. State your professional and employment background.
- 16 A. I was employed in September, 1948, by Marion Engineering Associates Inc.,
17 of Ocala, Florida. That firm was engaged in engineering and surveying and
18 had ongoing contracts with various rural electrification projects over the State
19 of Florida. I was placed in charge of electrical engineering and finally, the
20 total engineering department of that firm. After approximately five (5) years
21 of professional experience, I became a Registered Professional Engineer.
22 I left that firm in September, 1966, to form Gordon Engineering Associates,
23 Inc., of which I am now president.
- 24 Q. Are you associated with Gulf Coast Electric Cooperative?
- 25 A. Yes.

- 1 Q. What is Gulf Coast Electric Cooperative, Inc.
- 2 A. It is a rural electric cooperative organized pursuant to Chapter 425, Florida Statutes.
- 3 Q. How long have you been associated with Gulf Coast Electric Cooperative?
- 4 A. Since July 9, 1949, when Marion Engineering Associates was named system
5 engineer. Gordon Engineering was subsequently selected during the fall of
6 1966 to succeed the prior firm.
- 7 Q. In what capacity have you been associated with Gulf Coast?
- 8 A. I served as resident engineer, both in person for Gulf Coast and as representative
9 of the professional companies which employed me. I have served as engineer of
10 record, advisor, consultant, supervisor, foreman, assistant, etc., on various matters
11 affecting the Cooperative during the past forty-seven (47) years.
- 12 Q. What has been the scope of your duties or responsibilities with Gulf Coast?
- 13 A. I have represented Gulf Coast on projects of long range planning, area coverage
14 surveys, preparation of plans and specifications, supervision of contractors and force
15 account construction, financial forecasting, preparation of current work plans,
16 feasibility reports, loan applications, power requirement studies, rate studies, etc.
17 I have also been invited and designated by various board of trustees and managers
18 to represent Gulf Coast in negotiations and deliberations concerning power supply,
19 service areas, service reliability, maintenance programs, etc. As a result, I have
20 become the individual with the longest tenure of service who can provide a complete
21 historical chronology of events and details concerning Gulf Coast.
- 22 Q. Are you familiar with Gulf Coast's distribution system and its facilities?
- 23 A. Yes, I have been so familiar for the past forty-seven (47) years.
- 24 Q. How did you become familiar with Gulf Coast's distribution system and facilities?
- 25 A. By physically riding the many roads through the service area, mapping the electric

1 facility, both existing and proposed; periodically updating construction records,
2 examining historical records of the Cooperative, attending formal and informal
3 meetings of the Board of Trustees and its committees, attending other meetings and
4 projects assigned to me, such as law suits, consumer complaints, consumer affairs,
5 hearings, service negotiations, etc.

6 Q. When you first became associated with the Cooperative in 1949, what, if anything,
7 did you have to do with the design and long range planning of Gulf Coast's
8 distribution facilities?

9 A. Both were under my direct control and responsibility. The results today reflect my
10 methodology, thinking and recommendation.

11 Q. Are you familiar with the eastern area of Bay County, Florida, generally from the
12 North Bay Bridge on State Road 77 and then northeasterly to Washington County,
13 easterly to Calhoun and Gulf counties and southeasterly to East Bay at Laird Bayou
14 and State Road 22?

15 A. Yes.

16 Q. Are you also familiar with the area of South Washington County, Florida, generally
17 from the Bay - Washington county line and including the lands south of Vernon,
18 Florida, thence easterly to the south of Wausau community and east to the Bay-
19 Calhoun county line?

20 A. Yes

21 Q. How did you first become familiar with these areas?

22 A. During the years 1949 and 1950, I traveled all the established roads in both the
23 referenced areas in order to locate and identify unelectrified residences and farms.
24 At the same time I ^{Corrected} ~~constructed~~ a set of system maps which were provided to me by
25 Gulf Coast. These maps indicated that electrical construction had occurred prior to

1 my presence on the project. My first assignment was to accomplish field mapping
2 so that the maps could be updated and/or revised so as to reflect the "as built"
3 electrical distribution system as I found it in the 1949-1950 era.

4 Q. At that time, how many paved roads were there in rural eastern Bay County?

5 A. Briefly, very few. US 231 was a paved two lane from Panama City to Youngstown,
6 Fountain, Compass Lake and beyond. State Road 22 was paved to Wewahitchka.
7 State Road 77 was paved from Lynn Haven through Southport to Crystal Lake,
8 Wausau and Chipley in Washington County. What was notable was the number of
9 unpaved roads. Most rural roads were unstabilized sand and ~~roads~~^{trails}. An "improved"
10 road had a sand-clay base and perhaps periodical grading to smooth out the
11 potholes.

12 Q. How many paved roads were there in south Washington County?

13 A. There was State Road 77 which extended from Crystal Lake to Wausau and Chipley.
14 State Road 79 was paved from West Bay to Ebro and then on to Vernon and
15 Chipley. State Road 275 was paved from Vernon to Wausau.

16 Q. Where were the electric distribution power lines located in these rural areas?

17 A. The lines of the various rural electric cooperatives were constructed along the
18 graded roads, beside the trails, through the fields and woods.

19 Q. Where were Gulf Power's distribution power lines located?

20 A. In the rural areas these were scarce. One rural area extension that I vividly recall
21 was built by Gulf Power along the northwest side of US 231 from College Station to
22 Youngstown. This distance was approximately fourteen (14) miles. It served the
23 load which was located adjacent to the traveled way of the road and served a limited
24 number of consumers.

25 Q. Mr. Gordon, how can you be so specific about all of this?

- 1 A. The detail of the original maps in this vicinity, the previous construction and the
2 previous construction mapping accomplished prior to my arrival on project Florida
3 34 Bay (Gulf Coast Electric Cooperative, Inc.) was badly at odds with the actual
4 topography and the recorded location of the electrical distribution facilities. The
5 situation in this respect required that I totally revise the base maps. I requested and
6 received final construction inventory staking sheets of previous projects that were
7 a matter of record in the files of Southern Engineering Company of Atlanta, Georgia.
8 The original key and detail maps, circuit diagrams, acquisition maps, etc. were
9 among these records. Many of these are still in my personal possession.
- 10 Q. Are you qualified at this time to discuss the development and operating history of the
11 activity of Gulf Coast in East Bay and South Washington counties so far as the
12 availability of electric service is concerned?
- 13 A. Yes.
- 14 Q. Are there areas in Bay and Washington Counties where the facilities of Gulf Power
15 Company and Gulf Coast are in close proximity, commingled, or where further
16 uneconomic duplication is likely to occur?
- 17 A. Yes.
- 18 Q. How long has this situation been ongoing?
- 19 A. It existed prior to my presence on the Gulf Coast project. I would estimate the
20 date to be approximate to 1947.
- 21 Q. How do you arrive at that date?
- 22 A. I have reviewed records indicating that the demand for rural electric service included
23 the more densely populated but unelectrified rural communities of Fountain and
24 Southport. Gulf Power constructed the College Station to Youngstown electric line
25 just prior to 1947 when the first part of the Gulf Coast project was being staked for

1 construction. Gulf Power also sent construction crews over and into Southport while
2 the Gulf Coast construction was in progress. Conflicting poles, conductors and other
3 electric facilities were installed even though Gulf Power had no ready source of
4 power to serve the customers they were connecting.

5 Q. How do you know of this condition?

6 A. My new client Gulf Coast was required to purchase the de-energized facilities of Gulf
7 Power. One of my first services was to integrate the two facilities on the ground
8 using a joint map that had been previously prepared.

9 Q. Have there been disputes concerning the offering of retail electric service by one of
10 the two parties in an area where the other party claimed to have provided historic
11 retail electric service?

12 A. Yes.

13 Q. How frequently?

14 A. To the extent that I would describe it as continuous.

15 Q. Mr. Gordon, have you rendered professional services to other REA financed
16 projects?

17 A. Yes.

18 Q. Did these services include your representation during territorial disputes?

19 A. Yes.

20 Q. Please state a few instances if you would please.

21 A. I assisted Sumter Electric Cooperative with some problems with territorial
22 misunderstandings with both Florida Power Corporation and the City of Ocala.
23 I also assisted Withlacoochee River Electric Cooperative in disputes with both
24 Florida Power Corporation and Tampa Electric Company. I also provided some
25 assistance to Peace River Electric Cooperative in disputes with Florida Power

1 Corporation, the City of Wauchula, Tampa Electric Company and Florida Power and
2 Light Company. I was retained to assist Glades Electric Cooperative in field
3 negotiations with Florida Power Corporation and the City of Moorehaven. I
4 represented Clay Electric Cooperative in eminent domain proceedings brought by
5 the City of ^{Green Cove Springs} ~~Palatka~~.

6 Q. You are no stranger to territorial disputes?

7 A. No.

8 Q. What are the areas of Bay County where the electric facilities of Gulf Power and Gulf
9 Coast are commingled, in close proximity or where further uneconomic duplication
10 is likely to occur?

11 A. That question is best answered by reference to specific maps which I have
12 assembled and submitted as exhibits to my direct testimony. A Department of
13 Transportation map of Bay County, Florida (scale 1"=1 mile) has been modified to
14 reflect the electric facilities of Gulf Power and Gulf Coast thereon. I shall refer to this
15 map and any reduced sized reproductions thereof as my Exhibit ^{COMP} 2 (AWG-2).
16 Fifteen (15) copies of Gulf Power system detail maps (scale 1" = 400') have been
17 modified to reflect the electric facilities of Gulf Power and Gulf Coast thereon. I shall
18 refer to these maps and any reduced sized reproductions thereof as my Exhibits ^{COMP} 2
19 (AWG-3) followed by the Gulf Power Company assigned map number. The areas
20 in Bay County which can be described as containing electric facilities commingled,
21 and in close proximity is set forth (as a minimum) in Exhibit ^{COMP} 2 (AWG-3), maps 2639,
22 2634, 2633, 2733, 2731, 2830SW, 2830NW, 2830NE, 2828SE, 2828NW, 2632,
23 2533 and 2534.

24 Q. What are the areas of Bay County where further uneconomic duplication of electric
25 facilities is likely to occur?

- 1 A. Those areas shown on Exhibit ^{COMP}2 (AWG-3), and identified on the maps as listed
2 above, plus additional maps of 2828NE and 2828SW, included in that exhibit.
- 3 Q. Does a proposed territorial boundary established on these fifteen (15) listed maps
4 assure no further uneconomic duplication of electric facilities?
- 5 A. Not entirely. The boundary is intended to accomplish the goal of avoiding further
6 uneconomic duplication and resulting disputes, but only insofar as the particular
7 maps are concerned.
- 8 Q. Why not entirely?
- 9 A. These maps do not present a contiguous sequence. The proposed territorial
10 boundary line drawn thereon lacks a contiguous sequence because sections are
11 missing that could provide closure. In order to be an effective territorial boundary
12 line it must provide a contiguous sequence from beginning to end. This would
13 require the inclusion of at least additional map numbers 2638, 2637, 2636, 2635,
14 2732, 3028SW, 3028NW, 2433 and 2434. This would allow a proposed boundary
15 to be drawn from an established geographical feature on the southeast at East Bay
16 to an established geographical feature at North Bay.
- 17 Q. What credence do you give to methods of resolving territorial issues that avoid the
18 establishment of a defined boundary or that create situations where one utility can
19 ignore the defined service area of a neighboring utility?
- 20 A. None.
- 21 Q. Why?
- 22 A. It sets the negotiation of territorial agreements back approximately fifty (50) years,
23 and ignores the goal of avoiding uneconomic duplication of facilities.
- 24 Q. Have you proposed and written a territorial boundary description for Bay County?
- 25 A. Yes, I have attached it as Exhibit ^{COMP}2 (AWG-4).

1 Q. Turning now to Washington County, were the electric facilities of Gulf Power and
2 Gulf Coast commingled and in close proximity?

3 A. That question is also answered by reference to specific maps which I have
4 assembled and submitted as exhibits to my direct testimony. A Department of
5 Transportation map of Washington County, Florida (scale 1" = 1 mile) has been
6 modified to reflect the electric facilities of Gulf Power and Gulf Coast thereon. I shall
7 refer to this map and any reduction sized reproductions thereof as my Exhibit ^{COMP}2
8 (AWG-5). Twenty-four (24) copies of Gulf Power system detail maps (scale 1"=
9 400') have been modified to reflect the electric facilities of Gulf Power and Gulf Coast
10 thereon. I shall refer to these maps and any reduced sized reproductions thereof
11 as my Exhibit ^{COMP}2 (AWG-6) followed by the Gulf Power assigned map number. The
12 areas in Washington County which can be described as containing electric facilities
13 commingled and in close proximity can be set forth as a minimum on maps, 2221,
14 2321, 2322, 2320, 2220, 2218SE, 2218SW, 2218NW, 2418, 2717, 2618, 2518, 2520
15 and 2420 or fourteen (14) maps in all, in Exhibit ^{COMP}2 (AWG-6).

16 Q. What are the areas of Washington County where further uneconomic duplication of
17 electric facilities is likely to occur?

18 A. Those areas as shown, at a minimum, on Exhibit ^{COMP}2 (AWG-6) on the maps as listed
19 above plus additional maps of 2218NE, 2718, 2719, 2619, 2519, 2419, 2421, 2521,
20 2620 and 2720 or ten (10) additional maps.

21 Q. Does a proposed territorial boundary established on these twenty-four (24) listed
22 maps assure no further uneconomic duplication of electric facilities?

23 A. Not entirely. As I said with reference to Bay County, this boundary is also intended
24 to accomplish the goal of avoiding further uneconomic duplication and resulting
25 disputes, but only insofar as the particular maps are concerned.

1 Q. Why not entirely?

2 A. These maps do not present a contiguous sequence and also, where maps located
3 in Washington County abut Bay County, Gulf Power may have electric facilities in
4 Washington County adjacent to maps in Bay County where Gulf Coast has electric
5 facilities but this fact is not apparent. In further explanation, proposed territorial lines
6 drawn upon those first fourteen (14) maps listed would not present a contiguous
7 sequence but would contain missing sections and may not be as effective as a
8 boundary that has no gaps in it as I explained about the Bay County boundary.
9 Inclusion of the additional ten (10) maps showing where further uneconomic
10 duplication of electric facilities would be likely to occur still lacks the contiguous
11 sequence provision necessary to close the gaps in any proposed territorial boundary
12 in the Washington County area adjacent to Bay County near Fountain and again
13 where facilities abut the Wausau community. Additional maps needed for a
14 contiguous sequence would require maps 2417, 2416, 2516, 2517, 2617, 2616,
15 2716, 2721, 2722, 2621 and 2622, or eleven (11) additional maps. This total of
16 thirty-five (35) maps would allow a contiguous sequential boundary to be drawn
17 beginning at a fixed land section corner located west of State Road 279 and
18 proceeding with unbroken sequence until it terminates on the Washington-Bay
19 County line adjacent to the Fountain substation in northeast Bay County.

20 Q. Have you proposed a written territorial boundary description for Washington
21 County?

22 A. Yes, I have attached it as Exhibit ^{COMP}2 (AWG-7).

23 Q. What are some of the factors you have used in the process of making
24 recommendations for proposed territorial boundaries in Bay and Washington
25 Counties?

- 1 A. I have considered the following:
- 2 1. Routes along natural topographical or geographical features which of
- 3 themselves tend to discourage electric facility commingling and construction
- 4 in close proximity. This includes bays, rivers, creeks, swamps, etc.
- 5 2. Routes along land lines and property ownerships.
- 6 3. Routes along or between roads, streets, recorded plat subdivisions and
- 7 where existing electric facilities are already commingled and/or in close
- 8 proximity.
- 9 4. Areas where historic electrical service has been established and provided.
- 10 5. Areas that will provide opportunity for additional development and electrical
- 11 load growth.
- 12 6. Areas where the electrical utilities have made a choice and commitment to
- 13 provide service, or declined to provide service during the past historical
- 14 operating period.
- 15 Q. Have you prepared any additional estimates or reviewed additional data to cover the
- 16 maps that you believe should also be included for consideration in drawing a
- 17 contiguous territorial boundary line?
- 18 A. My exhibit, identified as Exhibit ^{COMP} 2 (AWG-8), provides the basic data in response to
- 19 Staff's request for information regarding numbers of customers, energy sales,
- 20 demand, existing and projected, a description of existing facilities, new facilities to
- 21 be added in the next five (5) years, generation or purchased power need to serve
- 22 the initial areas identified by Staff (not including the additional maps I have referred
- 23 to) for the next five (5) years, a summary of customer inquiries and service
- 24 requests, an economic analysis of Gulf Coast's annual and cumulative present value
- 25 revenue requirements for the initial areas, and historic cost figures. This data has

1 already been filed with the Commission. I have not prepared any additional
 2 estimates, or reviewed additional data at this time, regarding the additional maps that
 3 I believe should be considered to draw a contiguous boundary line.

4 Q. Why not?

5 A. The additional areas which I recommend for inclusion in drawing a contiguous
 6 boundary line were intended to add and provide a measure of contiguous sequence
 7 to any boundary considered. The additional areas recommended did not modify
 8 previous responses to Staff contained in Exhibit ^{COMP}2 (AWG-8) and did not place
 9 additional facilities and customers at any greater risk in the boundary establishment
 10 process.

11 Q. How should the Commission establish the territorial boundary between Gulf Power
 12 and Gulf Coast where the electric facilities are commingled and in close proximity
 13 and further uneconomic duplication of facilities is likely to occur?

14 A. My personal opinion is that the boundary selected by the Commission should be at
 15 a fixed location that will discourage continual adjustment of the boundary from time
 16 to time in order that neither Gulf Power's or Gulf Coast's position be strengthened
 17 or weakened by changes in facilities within their assigned service areas. It should
 18 firmly establish a service area for each company so that economical system designs
 19 can be provided and met as loads develop, and so that further disputes and
 20 uneconomic duplication of facilities can be avoided.

21 Q. Where should the territorial boundary be established?

22 A. Again, my personal opinion is set forth in Exhibit ^{COMP}2 (AWG-4) and Exhibit ^{COMP}2 (AWG-
 23 7) and further presented upon Exhibit ^{COMP}2 (AWG-2), Exhibit ^{COMP}2 (AWG-3), Exhibit ^{COMP}2
 24 (AWG-5) and Exhibit ^{COMP}2 (AWG-6).

25 Q. Are both utilities capable of providing adequate and reliable service to the areas of

1 Bay and Washington Counties identified in this proceeding by the Staff of the
2 Commission, and by you, as areas where a territorial boundary line would be
3 appropriate to satisfy the Commission's order in this proceeding?

4 A. Yes. Certainly Gulf Coast is capable of providing adequate and reliable service. I
5 have seen no data to suggest that Gulf Power would not also be as capable. Based
6 on my knowledge of Gulf Coast's system and its reliability, and the lack of any data
7 suggesting that Gulf Power is not capable, I do not believe adequacy and reliability
8 of service is an issue in this proceeding.

9 Q. Does this conclude your testimony?

10 A. It does at this time. I may have additional comments depending on the direct
11 testimony of Gulf Power's witnesses and of Staff.

[to be sworn to at hearing]

1 Q (By Mr. Haswell) Mr. Gordon, would you
2 please summarize your testimony?

3 A My direct testimony gives my educational
4 background, graduate of the University of Florida, my
5 professional association as an engineer certified to
6 practice in the State of Florida and Georgia. My
7 first association with Gulf Coast Electric Cooperative
8 approximate to July of 1949, and my familiarity with
9 the Cooperative, the board of trustees and the lines
10 of both Gulf Coast Electric and the lines of Gulf
11 Power Company as they have existed since my first
12 association with the area and the entities to this
13 hearing.

14 I assisted in answering some of the issues
15 and was instructed to prepare a proposed boundary,
16 lines that could be established on the ground, if you
17 please. I have done that and included it as an
18 exhibit for Bay County and an exhibit for Washington
19 County, those being the two areas that were narrowed
20 out of the service areas of both the companies. I
21 have done that, and prior to this date entered a large
22 map, a set of detailed maps of Gulf Power Company
23 origin and other small miscellaneous aids to follow
24 the metes and bounds description of the boundary lines
25 proposed in these two areas.

1 Q Okay. Do you have a summary of that
2 description to present?

3 A You say a summary of description, you
4 mean --

5 Q Very briefly could you tell the
6 Commissioners on the map --

7 A Well, I could trace it on the two maps of
8 the counties, tell you where it began and where it
9 progressed.

10 MR. HASWELL: Would that work for the court
11 reporter for Mr. Gordon to refer to his maps away from
12 his microphone?

13 COMMISSIONER DEASON: We have a hand-held
14 microphone, that may be helpful. Is there one
15 available? Let's go off the record for just a second.

16 (Brief recess.)

17 - - - - -

18 COMMISSIONER DEASON: Before we proceed
19 further, I failed to make an announcement. Chairman
20 Johnson is not going to be with us today for medical
21 reasons, she anticipates being with us tomorrow. So
22 we are going to proceed. She's indicated that she
23 will read the transcript for today's proceedings. And
24 we may proceed.

25 WITNESS GORDON: Yes, it is working. I can

1 tell.

2 The first drawing of the line was done in
3 the Bay County vicinity, it being the oldest area that
4 Gulf Coast Electric Cooperative and, I suppose, Gulf
5 Power has served.

6 One of the maps that had been defined by the
7 Staff as being involved was No. 2639, which was
8 located on Laird Bayou. We took an area or a point
9 out in the bay that would not supposedly present any
10 electrical load problems, has not in the past, would
11 not in the future, and progressed up Laird Bayou, and
12 then out onto the land area between the blue lines of
13 Gulf Power Company and the red lines indicating Gulf
14 Power Company, and then up to the center line of State
15 Road 22, the paved road from Panama City to
16 Wewahitchka.

17 There is then an area that the maps were not
18 deemed to be critical as part of this dispute, and we
19 resumed the plotting of the proposed boundary up to
20 Map 2634, which is just south of the John Pitts Road
21 in Bay County. And the proposed boundary was plotted
22 between two adjacent streets running north and south
23 off of John Pitts Road, and the line was placed
24 between those two streets. And it progressed
25 northerly to the John Pitts Road, then along the

1 center of the John Pitts Road down to the north feeder
2 out of the Bayou George south substation to Bayou
3 George Creek, thence northwesterly along Bayou George
4 Creek to the St. Andrews railroad, thence up the
5 railroad to a subdivision on the east side of that
6 point where Gulf Power currently provided service, and
7 thence south along the west boundary of that
8 residential development back to Bayou George Creek and
9 then -- thence over to the east to an area where Gulf
10 Coast Electric had provided service in a subdivision
11 northerly up the west side of that development to the
12 south boundary of the Bay County Industrial Park.

13 And then it came across the south boundary
14 of the existing Bay County Industrial Park, and thence
15 on east through lands presently unoccupied a half a
16 mile or so or beyond, and then north to within
17 one-half mile of the center line of 231. And thence
18 northeasterly, parallel two and a half miles south of
19 U.S. 231 to a point on the south boundary of Section
20 17, and then back to the right of way of the railroad
21 and across northeasterly to define an area where Gulf
22 Coast had built some of its initial service lines in
23 the area.

24 And then in the vicinity of Nixon on up the
25 railroad a defined distance. I believe the total

1 distance was about 2,600 feet, subject to reading the
2 narrative. And thence over to a tributary to the Bear
3 Creek drainage divide, and then up Bear Creek,
4 meandering with the creek through several land
5 sections and to the Bay County line.

6 And from there westerly along the section
7 lines until you cross 231, including the railroad and
8 the land to the west of the road to Little Bear Creek,
9 and thence down the Little Bear Creek tributary again
10 to the Nixon vicinity, and then coming back where the
11 lines are crossed on U.S. 231 and the Camp Flowers
12 Road.

13 Then departing and going out a half mile
14 corridor and along the road parallel to the center
15 line of the road, a half mile out away from it,
16 meaning a total of a mile corridor up and down the
17 line it was built there on 231 to a point that was
18 north of Coe Road and Penny Road.

19 And then without trying to delve on memory,
20 following a drainage divide around to the south side
21 of Coe Road, out to the area parallel to the North
22 Road that goes up to Bayhead to Bayou George Creek,
23 that's northerly and westerly along Bayou George
24 Creek, to another corridor half a mile wide northwest
25 of 231 to an intersection with a half a mile strip

1 across Titus Road where Gulf Power has a line down the
2 north side of that road.

3 This intercepts a drainage divide and comes
4 under the Old Bear Creek Road, and then goes over to
5 the High Point Road, comes down and through a bridge
6 and around the Deer Point Lake side of the area there
7 until you get to the northwest side of the Bay County
8 water supply pumping station.

9 At that point it crosses, the proposed
10 boundary crosses the Deer Point Dam Road -- I'll refer
11 to it as 77A -- comes back down the center line of the
12 road, then carries with the projection of Titus Road
13 out to Mill Bayou, and then from Mill Bayou out into
14 the North Bay and westerly through the bridge between
15 Lynn Haven and Southport.

16 Q (By Mr. Haswell) Thank you, Mr. Gordon.

17 MR. HASWELL: Commissioners, rather than
18 have Mr. Gordon walk through the Washington County
19 map, I believe that is Exhibit AWG-5.

20 Q (By Mr. Haswell) Mr. Gordon, if would you
21 just conclude your summary with what criteria --
22 summarize the criteria you used in drawing the line
23 based on a summary of your testimony.

24 A May I refer to my notes for that?

25 Q Yes, sir. (pause)

1 **A** In both counties I have used some of the
2 following criteria in arriving at a recommendation of
3 where I would draw a line for the Commission's use in
4 establishing a boundary. Criteria No. 1 was routes
5 along national topographical and geographical features
6 which of themselves tend to discourage electrical
7 facility commingling and construction in close
8 proximity. This includes bays, rivers, creeks,
9 swamps, et cetera.

10 Two, Criteria 2, routes along land lines and
11 property ownerships. Three, routes along in between
12 roads, streets, recorded plat subdivisions and where
13 existing electrical facilities are already commingling
14 and/or in close proximity. Criteria 4, areas where
15 historical electrical service has been established and
16 provided. Five, areas that will provide opportunity
17 for additional development and electrical load growth.
18 And six, areas where the electrical utilities have
19 made a choice and commitment to provide service or
20 decline to provide service during the past historical
21 operating period.

22 **Q** Thank you, Mr. Gordon.

23 **MR. HASWELL:** At this time we would tender
24 the witness for cross examination.

25 **COMMISSIONER DEASON:** Mr. Stone.

1 **CROSS EXAMINATION**2 **BY MR. CRESSE:**

3 Q Mr. Gordon, how are you this morning?

4 A Fine, sir.

5 **COMMISSIONER DEASON:** I didn't mean to
6 slight you, Mr. Cresse; I didn't know you were going
7 to be doing the cross examination.8 **MR. CRESSE:** That's all right, sir.9 **MS. JOHNSON:** Commissioner Deason, excuse
10 me. Mr. Gordon has exhibits which have not been
11 marked for identification. I don't know if the
12 parties intended to do that.13 **MR. HASWELL:** Yes. We would ask that the
14 Exhibits AWG-2 through AWG-8 be marked for
15 identification.16 **COMMISSIONER DEASON:** They will be
17 identified as Composite Exhibit No. 2.

18 You may proceed, Mr. Cresse.

19 (Composite Exhibit 2 marked for
20 identification.)21 Q (By Mr. Cresse) Mr. Gordon, my name is Joe
22 Cresse, and I'm appearing here on behalf of Gulf Power
23 Company. If you don't understand a question,
24 sometimes I gobble them up a little bit, please let me
25 know, and I'll try to clarify.

1 A All right.

2 Q Are you familiar with Commission policy in
3 resolving territorial disputes?

4 A In general, I am, sir.

5 Q How would you describe that policy?

6 A The legislature for the State of Florida has
7 mandated that authority to the Commission. The
8 Commission in turn has established its own set of
9 rules implementing the mandate. And upon the filing
10 of a complaint, then the Commission opens the case and
11 goes through establishing, according to the
12 information submitted by both parties to the dispute,
13 where the lines should be. And then the Commission
14 establishes where the line should be, if any.

15 Q In doing that, don't they consider least
16 cost to serve as being the overriding policy?

17 A I don't know if they consider it as
18 overriding, I do know that --

19 Q Let me substitute primary.

20 A That is one of the criteria that is inquired
21 of, yes, sir.

22 Q On Page 5 of your testimony you use the term
23 "uneconomic duplication," would you please define that
24 as you use that term. (Pause)

25 A I find that I was asked a question.

1 Q Yes, sir.

2 A About uneconomic duplication.

3 Q Yes, sir. And you answered the question
4 "yes."

5 A Yes, sir.

6 Q And I'm asking you to please define
7 "uneconomic duplication" as you understand that term.

8 A Uneconomic duplication, as I understand, is
9 brought about when two entities vie for provision of
10 services within a same area. And in so doing it
11 requires that more than the necessity for just one
12 company to do it, for two companies to do it, whereby
13 either one may be duplicating facilities and services,
14 etcetera, required of the other.

15 Q If a customer was requesting service,
16 requested service of two utilities, both Gulf Coast
17 and Gulf Power, and it required one of the utilities
18 to spend \$50,000 to extend service to that customer
19 while the other utility could extend service for
20 \$5,000, would it be uneconomic duplication for the
21 company who had to spend \$50,000 to extend that
22 service? Would that be an example of uneconomic
23 duplication?

24 A All other things being equal and that being
25 the only criteria addressed in this sentence, yes,

1 sir.

2 Q But it would be an example of uneconomic
3 duplication?

4 A Not total conclusion, but that would be one
5 of the indicators, yes, sir.

6 Q In the settlement of the -- in the
7 Commission's determination of the disposition of the
8 prison site, did they not use cost to extend service
9 as one of the primary guides?

10 A I believe that was a consideration, yes,
11 sir.

12 Q All right, sir. On Page 7 you use the term
13 "close proximity." In the design of those maps, what
14 definition do you use for close proximity?

15 A Well, I use that as also being commingled,
16 crossed. I have read other definitions as being
17 within 1,000 feet of. So far as the area is
18 concerned, I take it anything where you could look at
19 a blue line and find a red line across from it on the
20 same map. There is no exact "close proximity"
21 definition.

22 Q On Page 6 of your testimony, you indicate
23 that territorial disputes have been continuous. Am I
24 correct, on Lines 13 and 14?

25 A Yes, sir, that is a correct interpretation

1 of my testimony.

2 Q Are you familiar with all the complaints
3 that Gulf Coast Electric Company and Gulf Power have
4 been involved in for the last 10 years?

5 A I don't know as I'm familiar with all of
6 them, I'm at least aware of some of them.

7 Q Would you believe that if there had been two
8 complaints filed with the Public Service Commission
9 that that would not be a situation where disputes were
10 continuous?

11 A I did not follow the last part of your
12 question, sir.

13 Q If there's only been two disputes filed with
14 the Public Service Commission in the last 10 years,
15 would that be an indication that these disputes are
16 not continuous?

17 A No, sir. It is excessively expensive to
18 contest one of these disputes. You would have a half
19 a dozen or so maybe small ones that would go by
20 unnoted and uncontested and still be a continuing
21 dispute.

22 Q On Page 6 and 7 of your testimony you
23 indicate that you have been involved in several
24 dispute resolutions, am I correct?

25 A Which page, sir?

1 Q On Page 6 and 7 of your testimony.

2 A I did not get that page number, sir.

3 Q Page 6 and 7.

4 A Yes, sir.

5 Q Bottom of Page 6 starting on Line 15.

6 A Yes, sir, that's correct.

7 Q In the resolution of those disputes that you
8 were involved in by the Public Service Commission, was
9 the least cost to serve the guiding principle used by
10 the Commission in all those disputes?

11 A No, sir.

12 Q Which ones did they not use least cost to
13 serve in those disputes?

14 A In the one with Sumter Electric and the City
15 of Ocala. It was done as a negotiated settlement
16 between the two entities.

17 Q They approved the territorial agreement that
18 had been reached between the two?

19 A They reached a territorial agreement and
20 submitted to -- to my knowledge, to the Commission for
21 the Commission's ratification.

22 Q Do you remember when that was?

23 A No, sir.

24 Q But it was not one that the Commission
25 litigated and resolved the dispute based on the

1 evidence; they accepted one that may not have been
2 based on least cost to serve because it was an
3 agreement reached between the parties; is that
4 correct?

5 A That is correct, sir.

6 Q Of any that have been settled by the
7 Commission as a result of a hearing, do you know of
8 any deviation from least cost to serve principles
9 adopted by the Commission?

10 A I believe the Peace River Electric
11 Cooperative and Florida Power & Light was settled by
12 the Commission. And what was your question concerning
13 it?

14 Q Let me go ahead to another one please, sir.
15 On Page 8 of your testimony, in answer to a
16 question on Line 17 which reads, "What credence do you
17 give to methods of resolving territorial issues that
18 avoid the establishment of defined boundary or that
19 create situations where one utility can ignore the
20 defined service area of a neighboring utility."

21 I believe you answered that "none"; is that
22 correct?

23 A I answered it none.

24 Q Why would you give no credence to a clear
25 and ambiguous policy statement that the utility which

1 could serve the customer at least incremental cost
2 should be allowed to serve that customer?

3 A It took us back about 50 years to where you
4 were caught with statements of policy and what you
5 were going to do and good intentions and good
6 intentions not being met in practice and it reminded
7 me of the 1940s again.

8 Q Of the 1940s?

9 A Yes.

10 Q Speaking of the 1940s, you and I both were
11 in Gainesville in what's referred to as the golden
12 years; is that correct?

13 A Yes, sir.

14 Q And why do they refer to that as the golden
15 years? Do you recall?

16 A I don't recall why it was called the golden
17 years then. They told me my golden years was going to
18 come, sir.

19 Q My recollection is we had such a sorry
20 football team in 1946 and '47 that the players decided
21 that they should refer that to the golden years in the
22 future. We have lived with that until this past year
23 when we played 52-20 in New Orleans.

24 A We finally did it, sir. Prior to that I
25 never saw my alma mater win in the first game.

1 Q So you don't think if the Commission adopted
2 a clear and ambiguous policy that this would help
3 resolve territorial disputes; is that correct?

4 A I read the administration of what was
5 proposed, and I could not see any relief to either
6 one, or this Commission, just by having the policy set
7 up. It only attempted to preempt the Commission's
8 guidelines on how the dispute should be settled.

9 Q In what way did it attempt to preempt the
10 Commission guidelines? What guidelines of the
11 Commission?

12 A By creating the -- by going in and creating
13 a new set of rules to where there are no drawn lines
14 on the ground, but you have a continuous negotiation
15 between the two teams for new services within the
16 areas where service has been established.

17 Q That's the situation that exists today, is
18 it not?

19 A Yes, sir. But it's one that's administered
20 by the Commission.

21 Q Mr. Holland's proposed policy would be
22 administered by the Commission also, would it not?

23 A Yes, sir.

24 Q Why is it then that we are trying to deviate
25 from Commission jurisdiction?

1 A The Commission has, through its authority
2 designated by the state legislature, come up with its
3 own rules. This proposes that the rules that the
4 Commission has established independent of either one
5 of these companies and the other companies would now
6 be replaced with rules proposed by -- if you'll excuse
7 me -- the fox that watches the hen house.

8 Q Certainly, sir, I would excuse you for that
9 misrepresentation.

10 You think there is a difference between what
11 the Commission's policy is and what that rule has
12 proposed?

13 A Yes, sir.

14 Q What? What is the difference?

15 A It has been some time since I have reviewed
16 it, but at the time I gave this direct testimony, I
17 had made a review of it and I did not believe the
18 credence was there.

19 Q All right. So let me ask you this question.
20 On the six factors that you considered as outlined on
21 Page 10 and 11 of your testimony, none of those
22 factors seem to consider least cost to extend service;
23 is that correct?

24 A It did not mention it forthwith.

25 Q Why not?

1 A Because the way the line, the proposed line,
2 was drawn, it was drawn approximate to facilities that
3 had been established in territories where the two
4 companies had been in existence. It did not attempt
5 to remove any of the facilities.

6 Q No, sir, it did not. The question is,
7 though, in expansion, in drawing lines, you did not
8 look at what would be least cost to serve; is that
9 correct?

10 A Least cost to serve is not just the
11 out-of-pocket expense, sir. I looked at --

12 Q Is the answer yes or no to my question?

13 A I will tell you yes, and then explain that
14 least cost to serve is not just the immediate cost of
15 extending a service. Least cost to serve has to do
16 with planning, initiating a plan, construction,
17 operation and the expense that you go through. And it
18 would be impractical to set up and say that the least
19 cost to serve is just the swinging of a service wire
20 unless it was that simple. And if it's that simple,
21 then it could be solved without ever having a dispute
22 over it.

23 Q In your planning what type of costs do you
24 use, cost of estimates do you use, for extension of a
25 single-phase service, say one mile of the extension of

1 single-phase service?

2 A We keep within this client's records a work
3 order accounting system that calculates the amount of
4 volume or the magnitude of the service, a standard
5 cost, according to the accounting records, and the
6 total that it cost per customer as well as per foot,
7 et cetera. And I use those estimates right off of the
8 company records.

9 Q Yes, sir. Do you recall what that would be
10 per mile of single-phase distribution line?

11 A Not offhand, but that was used historically
12 as of about 1996 to come up with a four-year work
13 program ending in 1999.

14 Q And you are involved in that process, are
15 you not?

16 A Yes, sir.

17 Q Do you recall what you use in planning of,
18 say, a three-phase line as opposed to a single-phase
19 line?

20 A No, sir, I do not.

21 Q In the drafting of your lines on those maps
22 there, did you consider equidistance between existing
23 facilities?

24 A I don't believe so. If there were
25 conflicting areas where you had impenetrable swamps or

1 other barriers that would impede equidistance, and
2 depending upon the history of the service to the
3 areas, I did not necessarily go out and take
4 equidistant points.

5 Q So you didn't use least cost or equal
6 distance; is that correct?

7 A I did not make a final conclusion based upon
8 equal distance.

9 Q Or least cost?

10 A Or least cost.

11 MR. CRESSE: Excuse me. (Pause)

12 Mr. Chairman, I have no further questions.

13 COMMISSIONER DEASON: Staff.

14 CROSS EXAMINATION

15 BY MS. JOHNSON:

16 Q Mr. Gordon, if the Commission does not draw
17 a territorial boundary and the parties are unable to
18 agree on a territorial agreement, can you tell us how
19 Gulf Coast will ensure that further uneconomic
20 duplication of facilities will not occur?

21 A We will cooperate with the Commission so far
22 as we can and as we have, and that's all the assurance
23 I can give to you.

24 Q Currently, does Gulf Coast Electric
25 Cooperative have any procedures or policies regarding

1 providing service to a customer in a congested area
2 that's served by both utilities?

3 A They have a procedure whereby anyone calling
4 for a service, including a reconnect service if need
5 be, is referred to a member service representative and
6 an appointment is made if necessary. The customer
7 service representative goes out and determines where
8 the facilities are located, and they determine if they
9 are indeed Gulf Coast Electric facilities.

10 And the determination is then referred to an
11 engineering service representative who makes such
12 decisions, has been referred to that status, and then
13 if it is something that needs to be brought to the
14 attention or is beyond the guidelines that they have
15 set down -- I say guidelines, this may be verbal --
16 they also refer to the general manager unusual
17 situations.

18 Q So to the best of your knowledge, do you
19 know whether or not these guidelines are in writing?

20 A I didn't understand the last two or three
21 words.

22 Q Do you know whether or not the guidelines
23 you refer to are in writing?

24 A They are not in writing, to my knowledge.

25 Q Mr. Gordon, Staff --

1 A Now, it would not surprise me if somebody
2 brought out a set of them. But to my knowledge, I
3 don't think -- I have never seen a set of written
4 guidelines.

5 Q Staff will hand out to you, Mr. Gordon, a
6 summary of the Cooperative's responses to Staff's
7 interrogatories. And I'd like for you to just review
8 this for a moment.

9 MS. JOHNSON: We'd like to have this marked
10 for identification.

11 COMMISSIONER DEASON: This will be
12 identified as Exhibit 3.

13 (Exhibit 3 marked for identification.)

14 Q (By Ms. Johnson) Do you agree that this is
15 a summary of Gulf Coast Cooperative's responses to
16 Staff's interrogatories that are noted on the exhibit?

17 A Yes.

18 Q And this exhibit identifies the date that
19 the distribution line was initially installed in
20 selected areas; is that correct?

21 A That is correct.

22 Q Are the dates that are shown on these
23 interrogatories correct -- on the exhibit, excuse me,
24 correct?

25 A Yes.

1 Q If customers have the right to choose this
2 electric service provider, do you believe they should
3 also have the right to cause the utility of choice to
4 install uneconomic facilities?

5 A I did not -- I did not understand that all
6 the way through. There's something wrong with the
7 speaking system, so far as my ears are concerned.

8 Q Okay. If a customer has the right to choose
9 their electric provider, do you believe that customer
10 should also have the right to cause the utility of
11 choice to install uneconomic facilities?

12 A I believe it's a conclusion that if they
13 have the right to choose, that it will cause
14 uneconomic duplication of facilities.

15 MS. JOHNSON: That's all that we have.

16 COMMISSIONER DEASON: Redirect.

17 MR. HASWELL: No.

18 COMMISSIONER DEASON: Exhibits.

19 COMMISSIONER CLARK: I would like to -- has
20 Gulf Coast and Gulf Power entered into any territorial
21 agreements -- I'm right here.

22 Has Gulf Coast and Gulf Power entered into
23 any territorial agreements to your knowledge?

24 WITNESS GORDON: To my knowledge, there has
25 never been an agreement or an agreement that was begun

1 and kept.

2 **COMMISSIONER CLARK:** Do you know if Gulf
3 Power has agreements with other providers in their
4 area?

5 **WITNESS GORDON:** I'm not aware of any.

6 **MS. JOHNSON:** Okay. Thank you.

7 **COMMISSIONER DEASON:** Exhibits.

8 **MR. HASWELL:** We move exhibit -- Composite
9 Exhibit 2 and Exhibit 3.

10 **COMMISSIONER DEASON:** Well, Exhibit 3 is
11 Staff's exhibit.

12 Is Staff intending to move Exhibit 3?

13 **MS. JOHNSON:** Yes, Staff moves Exhibit 3.

14 **COMMISSIONER DEASON:** Without objection,
15 Exhibits 2 and 3 are admitted.

16 Mr. Stone, have you had an opportunity to
17 review Exhibit 1?

18 (Exhibits 2 and 3 received in evidence.)

19 **MR. STONE:** Commissioner Deason, Exhibit 1,
20 the area where I had some concern about wanting to
21 review it has impact on two of the exhibits that have
22 been made a part of Composite Exhibit 2. I have had
23 someone else looking at that narrative, and I have not
24 had a chance to consult with him. We would reserve
25 the right to further cross examination on that exhibit

1 when this witness reappears in rebuttal and would not
2 object to its entry at this time.

3 **COMMISSIONER DEASON:** Very well. Exhibit 1
4 then is admitted.

5 Mr. Haswell, you may call your next witness.

6 (Exhibit 1 received in evidence.)

7 (Witness Gordon excused.)

8 - - - - -

9 **MR. HASWELL:** Thank you, sir.

10 Our next witness will be Mr. Stephen Page
11 Daniel.

12 **MR. STONE:** Commissioner Deason?

13 **COMMISSIONER DEASON:** Yes.

14 **MR. STONE:** If I may indulge, could we have
15 a five-minute break before this witness?

16 **COMMISSIONER DEASON:** Sure. We'll make it
17 ten. We'll take a ten-minute recess.

18 (Brief recess.)

19 - - - - -

20 **COMMISSIONER DEASON:** Call the hearing back
21 to order.

22 Mr. Haswell.

23 **MR. HASWELL:** Thank you, Commissioner.

24 - - - - -

25

1 **STEPHEN PAGE DANIEL**
2 was called as a witness on behalf of Gulf Coast
3 Electric Cooperative, Inc. and, having been duly
4 sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 **BY MR. HASWELL:**

7 **Q** Could you please state your name for the
8 record?

9 **A** Stephen Page Daniel -- excuse me, Stephen
10 Page Daniel.

11 **Q** Okay. And are you the same Stephen Page
12 Daniel who has filed direct testimony in this cause?

13 **A** Yes.

14 **Q** And you are sponsoring Exhibits SPD-2
15 through SPD-6; is that correct?

16 **A** Yes, that's correct.

17 **Q** Do you have any additions, deletions or
18 corrections to make?

19 **A** No.

20 **Q** Okay. If you were asked those same
21 questions today, would your answers be the same?

22 **A** Yes.

23 **MR. HASWELL:** Mr. Chairman, Gulf Coast
24 Electric would respectfully request that the direct
25 prefiled testimony of Mr. Daniel be entered into the

1 record as those read.

2 **COMMISSIONER DEASON:** Without objection, it
3 shall be so inserted.

4 **MR. HASWELL:** And that his exhibits SPD-2
5 through SPD-6 be identified as Composite Exhibit 4.

6 **COMMISSIONER DEASON:** They will be so
7 identified.

8 (Composite Exhibit 4 marked for
9 identification.)

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve)
Territorial Dispute with Gulf Coast)
Electric Cooperative, Inc. By) Docket No. 930885-EU
Gulf Power Company)

DIRECT TESTIMONY AND EXHIBITS
OF
STEPHEN PAGE DANIEL
ON BEHALF OF
GULF COAST ELECTRIC COOPERATIVE, INC.

October 15, 1996

I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Stephen Page Daniel. My business address is 1850 Parkway Place, Suite 720,
3 Marietta, Georgia 30067.

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

5 A. I am Executive Vice President and a founding principal of GDS Associates, Inc. ("GDS
6 Associates"), a multi-disciplined engineering and consulting firm.

7 **Q. PLEASE OUTLINE YOUR FORMAL EDUCATION.**

8 A. I received a Bachelor of Industrial Engineering degree from Georgia Institute of Technology in
9 1970. I received a Master of Business Administration degree with a major in finance from
10 Georgia State University in 1978.

11 **Q. TO WHAT PROFESSIONAL ORGANIZATIONS DO YOU BELONG?**

12 A. I am a member of the Institute of Electrical and Electronics Engineers.

13 **Q. WHAT ARE YOUR DUTIES AND RESPONSIBILITIES WITH GDS ASSOCIATES?**

1 A. My primary responsibilities involve providing rate and regulatory services related to electric
2 utility industry matters and consulting services with regard to electric system power supply
3 planning, including strategic planning for transmission resources.

4 **Q. PLEASE BRIEFLY DESCRIBE YOUR PROFESSIONAL EXPERIENCE.**

5 A. Prior to founding GDS Associates in early 1986, I worked for approximately fifteen (15) years
6 with another consulting engineering firm. During that time my positions and responsibilities
7 changed from initially a rate analyst to Assistant Vice President, Rate and Analytical Services.

8 As an engineering consultant over the last twenty-six (26) years, I have had primary
9 responsibility for assignments pertaining to wholesale rates, retail rates, financial planning, and
10 power supply planning for electric utilities. My various assignments have been on behalf of
11 more than one hundred and fifty (150) cooperative and municipal electric systems, several
12 industrial clients, several investor-owned electric systems, and regulatory commissions in thirty-
13 three (33) states. My responsibilities have included the preparation of allocated cost-of-service
14 studies, retail and wholesale rate design studies, financial forecasts, revenue requirements
15 evaluations, analyses of alternative power supply resources, facilities valuations, and analyses
16 regarding territorial disputes, including the economic impact associated with service area gains
17 or losses. These activities have also involved the negotiation of bulk power contracts and
18 transmission service arrangements.

19 I also have analyzed cost-of-service studies filed by others with the Federal Energy
20 Regulatory Commission and various state regulatory commissions.

21 My responsibilities also have included assignments in the specialized areas of rate
22 design for unusual loads, evaluation of financing alternatives, acquisition and merger feasibility,
23 and regulatory rulemaking.

Exhibit No. ____ (SPD-1)

COMP

1 I have attached a copy of my current resumé as Exhibit No. 4 (SPD-2) for further
2 reference to my professional experience.

3 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE REGULATORY COMMISSIONS?**

4 A. Yes. I have testified before the Florida Public Service Commission (“FPSC” or
5 “Commission”), Alabama Public Service Commission, Alaska Public Utilities Commission,
6 Arizona Corporation Commission, Arkansas Public Service Commission, Colorado Public
7 Utilities Commission, Georgia Public Service Commission, Public Service Commission of
8 Indiana, Louisiana Public Service Commission, North Carolina Utilities Commission,
9 Pennsylvania Public Utility Commission, South Carolina Public Service Commission, Public
10 Utility Commission of Texas, Utah Public Service Commission, Virginia State Corporation
11 Commission, West Virginia Public Service Commission, and the Wisconsin Public Service
12 Commission. I have also testified before the Federal Energy Regulatory Commission (formerly
13 the Federal Power Commission) in numerous proceedings.

14 **Q. HAVE YOU TESTIFIED IN ANY COURTS?**

15 A. Yes. I have testified in Federal District Courts in several cases and in State court in Florida.

16 **Q. HAVE YOU PROVIDED CONSULTING SERVICES AND TESTIMONY IN
17 MATTERS PERTAINING TO TERRITORIAL DISPUTES, INCLUDING THE
18 ECONOMIC IMPACTS ASSOCIATED WITH SERVICE AREA GAINS AND
19 LOSSES?**

20 A. Yes. In my work over the last twenty-six (26) years, I have had occasion to provide financial
21 and analytical services involving territorial issues between neighboring electric utility systems
22 in Florida, Alabama, Alaska, Colorado, Delaware, Illinois, Indiana, Mississippi, South
23 Carolina, and Virginia. These services have involved, among other things, the following:

1 (1) analysis of the financial impact of the loss of consumers, facilities, load (i.e., MW and MWh
2 sales), and service territory through annexation and/or condemnation; (2) transfers of facilities
3 to eliminate duplication; (3) transfers of facilities and consumers pursuant to territorial laws and
4 agreements; and (4) valuation of individual facilities and entire utility systems.

5 As part of these assignments, I have had occasion to study territorial laws in a number
6 of states throughout the nation, specifically as those laws relate to resolution of territorial
7 disputes or prescribe the assignment of retail service areas to utility systems and methods of
8 compensation for facilities, consumers, load, and service area exchanged or other transferred
9 between utilities. These assignments have provided me the opportunity to analyze in detail the
10 financial, economic, and operating ramifications of territorial disputes and an understanding of
11 how to resolve such disputes.

12 **Q. DESCRIBE IN GENERAL TERMS SEVERAL OF THESE PROJECTS TO**
13 **ILLUSTRATE THE TYPES OF TERRITORIAL DISPUTE MATTERS IN WHICH**
14 **YOU HAVE BEEN INVOLVED.**

15 A. I prepared a financial impact analysis for Clay Electric Cooperative, Inc. which quantified the
16 impact of the loss of a portion of its service area annexed by the City of Green Cove Springs,
17 Florida. Expert testimony was presented in that proceeding before Clay County, Florida Circuit
18 Court.

19 I also provided consulting services to Talquin Electric Cooperative, Inc. ("Talquin")
20 on a territorial agreement and territorial disputes between Talquin and the City of Tallahassee,
21 Florida. This matter, which included my submittal of testimony before the Florida Public
22 Service Commission, ultimately was settled by the parties.

1 I provided expert testimony as to the appropriate compensation to be paid to Chugach
2 Electric Association (“Chugach”) by the Anchorage Municipal Light & Power System
3 (“ML&P”) for territory, facilities, and load which the Alaska Public Utility Commission
4 (“APUC”) initially ordered transferred to ML&P in resolution of territorial disputes and
5 duplication of facilities issues. I also prepared a comprehensive damage study which quantified
6 the economic impacts on Chugach of the net loss of certain territory, facilities, customers, and
7 load which were finally ordered transferred to ML&P by the APUC. That study formed the
8 basis for a negotiated settlement of issues related to that matter.

9 I assisted Copper Valley Electric Association (Glenallen, Alaska) in matters dealing
10 with the proposed takeover of the Valdez, Alaska portion of its system by the City of Valdez.
11 The services involved negotiations with the City, meetings with the Rural Electrification
12 Administration (“REA”) (now Rural Utilities Service or “RUS”), preparation of economic and
13 financial impact analyses, and presentations to community meetings.

14 I testified on behalf of the Colorado Rural Electric Association in a matter before the
15 Colorado Public Utilities Commission involving the impact of a territorial agreement between
16 the Public Service Company of Colorado and Union Rural Electric Association (“Union”) (now
17 United Power, Inc.).

18 I later was retained by Union to prepare analyses and provide consultation associated
19 with the negotiation of territorial arrangements, including territorial exchanges, facilities and
20 service area valuation, and financial impact analyses. These matters related to the resolution
21 of territorial disputes and the implementation of a territorial agreement between Union and the
22 Public Service Company of Colorado emanating from the CPUC matter noted above.

1 **Q. DO YOUR JOB RESPONSIBILITIES ALSO REQUIRE YOU TO CONSULT IN THE**
2 **AREAS OF POWER SUPPLY PLANNING, POWER SUPPLY FEASIBILITY, AND**
3 **POWER SUPPLY ECONOMICS IN GENERAL?**

4 A. Yes. Periodically I assist clients with evaluating the feasibility of power supply alternatives.
5 On several occasions I have participated as part of a project team on power supply economic
6 studies and power supply negotiations. Examples of these power supply areas are: evaluation
7 of alternative power sources for public power systems such as municipals and generation and
8 transmission cooperatives; negotiation of joint ownership agreements for generating plants;
9 negotiation of interconnection and interchange agreements; negotiation of transmission service
10 contracts, including ancillary services, and joint transmission participation arrangements; and
11 development of generation support services arrangements. Work on rate cases before state
12 commissions and the FERC requires a varying intensity of power supply evaluation for
13 purposes such as cost allocation and rate design.

14 **Q. PLEASE SUMMARIZE YOUR EXPERTISE AS IT RELATES TO THE ISSUES IN**
15 **THIS PROCEEDING.**

16 A. That expertise is in the area of power economics involving all aspects of the cost of providing
17 electric service, including the production, transmission, and distribution of power and the factors
18 which affect these functional components.

19 **Q. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

20 A. Gulf Coast Electric Cooperative, Inc. (“Gulf Coast” or “GCEC”).

1 **II. SCOPE OF TESTIMONY**2 **Q. WHAT WAS YOUR FIRM'S RESPONSIBILITY IN THIS PROCEEDING?**

3 A. My firm was asked to: (1) review the service area relationship between Gulf Coast's system and
4 Gulf Power Company's ("Gulf Power") electric system; (2) make a recommendation on how
5 a territorial boundary should be established consistent with the Commission's orders to
6 establish a territorial boundary in the areas in Bay and Washington Counties where the two
7 systems are commingled or in close proximity and/or where further uneconomic duplication
8 potentially could occur; and (3) comment on the territorial boundary line defined by Gulf Coast.

9 **Q. WHAT PREPARATIONS DID YOU UNDERTAKE TO FAMILIARIZE YOURSELF**
10 **WITH THE ISSUES BEFORE THE COMMISSION IN THIS PROCEEDING?**

11 A. I first reviewed the Commission's March 1, 1995 order requiring the parties to attempt in good
12 faith to negotiate a settlement agreement to resolve territorial disputed areas and indicating,
13 absent such an agreement, that the Commission would establish a territorial boundary. I have
14 also reviewed the Commission's Clarifying and Amendatory Order issued July 27, 1995. In
15 addition, I have reviewed, among other things, the following information:

- 16 1. The State Supreme Court's May 23, 1996 order involving the Department of
17 Corrections prison located in Washington County;
- 18 2. Subsequent orders by the Commission, including the Order Determining Issues To Be
19 Resolved At Evidentiary Hearing, issued September 23, 1996;
- 20 3. Various pleadings of Gulf Coast and Gulf Power filed in this docket subsequent to the
21 FPSC's March 1, 1995 order;
- 22 4. Various responses of Gulf Coast and Gulf Power to FPSC Staff's interrogatories and
23 requests for production of documents;

- 1 5. Various maps showing the facilities of Gulf Coast and Gulf Power, including maps
- 2 prepared by Gulf Power for certain areas which show the facilities of both parties;
- 3 6. Chapter 366 of the Florida statutes relating to electric utilities;
- 4 7. Chapter 25-6 of the Florida Administrative Code;
- 5 8. Other documents related to Gulf Coast's system and operations.

6 In addition to reviewing the above information, I met with representatives from Gulf
7 Coast to discuss the issues posed by this proceeding and to review certain relevant information.
8 Finally, I made visual inspections of portions of Gulf Coasts's service area and facilities where
9 the parties' facilities are commingled or in close proximity. Lastly, I have reviewed the various
10 maps filed with Mr. Gordon's testimony showing (1) the parties' facilities in the areas identified
11 by Gulf Coast as being in dispute and (2) Gulf Coast's recommended territorial boundary to
12 comply with the Commission's orders to establish a territorial boundary to avoid further
13 disputes and uneconomic duplication of facilities.

14 **III. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

15 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS WITH**
16 **REGARD TO THE ESTABLISHMENT OF A TERRITORIAL BOUNDARY IN THE**
17 **AREAS OF BAY AND WASHINGTON COUNTIES WHERE THE TWO SYSTEMS**
18 **ARE COMMINGLED OR IN CLOSE PROXIMITY OR WHERE FURTHER**
19 **UNECONOMIC DUPLICATION IS LIKELY TO OCCUR.**

- 20 A. My analysis of relevant factors and information, including specific data about these disputed
21 areas, causes me to conclude the following:
- 22 1. The fundamental criteria which should be used to establish a territorial boundary are:

Exhibit No. ____ (SPD-1)

- 1 a. The avoidance of further uneconomic duplication;
- 2 b. The assignment of the right to serve an area must recognize the historical
- 3 presence of the respective competing utilities in identified area(s), including
- 4 the physical location of existing facilities;
- 5 c. Minimization of the transfers of customers and facilities, taking into account,
- 6 among other things, reintegration costs and administrative costs of such
- 7 transfers, whether immediate or over a transition period;
- 8 d. The readiness, willingness, and ability of the respective utilities to serve
- 9 identified area(s);
- 10 e. The continuity of planning and operation of the respective competing systems;
- 11 f. The continuity of service areas;
- 12 g. Reliability;
- 13 h. Natural physical boundaries;
- 14 i. Resolutions of prior service area disputes; and
- 15 j. The respective utilities' costs to serve identified area(s).
- 16 2. The territorial boundary to be established by the Commission should be subject only
- 17 to deviations by mutual agreement;
- 18 3. Gulf Coasts' recommended territorial boundary for the identified areas in Bay and
- 19 Washington Counties set out on Exhibit No. ____ (AWG-2) and Exhibit No. ____,
- 20 (AWG-5) reflects a reasonable assignment of service areas to Gulf Coast and Gulf
- 21 Power based upon and consistent with the fundamental criteria which should be applied
- 22 when establishing territorial boundaries. Most importantly, further uneconomic
- 23 duplication would be avoided.

- 1 4. Not establishing a territorial boundary in these areas could lead to further unnecessary
2 and uneconomic duplication and additional territorial disputes.
- 3 5. Permitting a party to continue vying to serve the same service areas as the other party
4 would encourage that party, at its convenience, to intrude into the other party's
5 traditional service area by building duplicative facilities and seeking to serve the same
6 customers and load in violation of the fundamental criteria which dictate against
7 uneconomic duplication of facilities and support the right of each utility to continue
8 planning for and serving the needs of areas it has historically served.

9 **IV. SERVICE AREA INTEGRITY AND ECONOMIC CONSIDERATIONS**

10 **Q. DEFINE SERVICE AREA INTEGRITY.**

- 11 A. Service area integrity is the right and obligation of a utility to be solely responsible for planning
12 to serve and providing service to a defined area.

13 **Q. WHAT IS THE BASIS FOR PROVIDING SERVICE AREA INTEGRITY TO**
14 **ELECTRIC UTILITIES?**

- 15 A. Although many reasons are often cited, there are two principal public interest reasons for the
16 recognition of and honoring of service area integrity with regard to the service areas of electric
17 utilities: (1) economic considerations; and (2) environmental considerations.

18 **Q. EXPLAIN WHAT YOU MEAN BY ECONOMIC CONSIDERATIONS.**

- 19 A. The recognition of service area integrity is intended to assure the most efficient, economical, and
20 orderly rendering of retail electric service within an area. The implications of this consideration
21 are best understood by focusing on two important aspects of electric utility service.

22 First, the provision of electric service is capital intensive, that is, extremely high capital
23 investment per dollar of annual revenue is required to provide electric service. This capital

1 intensity is influenced by two other important factors. One, electric facilities generally require
2 long lead times for construction. Two, electric utilities have an obligation to provide reliable
3 electric service not only to their existing customers but also to future customers. The utility
4 obligation to serve, requires that a utility be prepared to serve the increased loads of its existing
5 consumers and any new loads which locate within its service area. Given construction lead
6 times for distribution facilities, utilities must plan their systems based upon anticipated load
7 growth, including consideration of the location of load centers.

8 Second, where utilities do not have specifically assigned service territories, there is
9 almost invariably a tendency for neighboring utilities to engage in service area competition.
10 Such competition leads to the wasteful and unnecessary duplication of electric facilities. This
11 wasteful and unnecessary duplication in turn increases the costs of supplying electric service to
12 the retail consumers of both competing utilities.

13 For these reasons, service area integrity is necessary for the efficient and economical
14 rendition of retail electric service. Without service area integrity, the costs to serve retail
15 customers are unnecessarily increased by inefficiency and wasteful duplication.

16 **Q. EXPLAIN WHY SERVICE AREA INTEGRITY IS IMPORTANT**
17 **ENVIRONMENTALLY.**

18 A. The construction and operation of electric facilities generally affect the environment. The
19 construction of distribution facilities requires the use of both public and private rights-of-way.
20 To the extent there is service area competition, the potential for needless duplication of facilities
21 exists. Such needless duplication can unnecessarily impact the environment, both physically and
22 aesthetically. A couple of examples may be helpful. In the case of two electric distribution lines
23 along a roadway, where one is on one side of the road and one on the other, the probability of

1 an automobile leaving the roadway and striking a pole is certainly greater than if only one pole
2 line was built along the roadway. Another example has to do with crossings of power lines.
3 Where the lines of two or more utilities are in close proximity to each other, there may be
4 crossings of one utility by the other. In the event of accidents, conductors of one utility
5 sometimes sag into those of the other. This can create severe voltage problems for end-use
6 consumers and can damage utility equipment. Finally, I believe that most people would prefer
7 an environment without the visual effects of duplicate sets of distribution lines. Therefore,
8 service area integrity is compatible with the preservation and enhancement of the physical
9 environment, including public safety concerns.

10 **Q. HOW DOES DUPLICATION OF FACILITIES OCCUR WHEN THERE ARE NO**
11 **DEFINED SERVICE AREAS FOR UTILITIES WHICH WILL OTHERWISE**
12 **COMPETE TO SERVE THE SAME LOADS AND CUSTOMERS?**

13 A. Where two utilities compete for the same loads and each assumes that it will serve a given
14 geographic area (or specific consumers and load within an area), each must plan and install the
15 necessary facilities to serve its expected load and associated consumers. If these competing
16 neighboring systems only secure a portion of the common load which they both planned to
17 serve, each utility has needlessly duplicated facilities, in whole or in part, to serve the same load.

18 Both systems have the right to serve as public utilities and in return have an obligation
19 to serve. RUS cooperatives also have certain area coverage obligations. In return, both systems
20 also anticipate being allowed the opportunity to recover their prudently incurred costs to serve.
21 Because each utility plans to serve its historic service area, including logical extensions thereof,
22 and fully expects to recover all costs committed to serve, any duplication of facilities which

1 occurs results in increased costs to serve those customers and loads actually served by each
2 system.

3 **Q. DESCRIBE GENERALLY HOW UNECONOMIC DUPLICATION MAY OCCUR AT**
4 **THE DISTRIBUTION SYSTEM LEVEL WHEN TWO UTILITIES COMPETE TO**
5 **SERVE THE SAME AREA, CUSTOMERS, AND LOADS.**

6 A. First, duplication of facilities may occur in the immediate vicinity of the specific area where two
7 utilities, such as Gulf Coast and Gulf Power, are vying to serve the same customers and load.
8 Both may install tap lines to pick up individual customers within an area, with both serving
9 some of the same customers. The tap lines of either utility are likely adequate to serve the total
10 load which has been split between the two systems. Hence, unnecessary duplication of facilities
11 has occurred.

12 Second, feeder lines are constructed from distribution substations through various areas
13 of the system to serve load remote from distribution substation facilities. These distribution
14 feeders generally are sized to serve dispersed loads across several geographically distinct areas,
15 which may include disputed areas where two utilities are vying to serve the same load. If both
16 systems size their distribution feeders to serve the same load and that total load is ultimately
17 split between them, unnecessary duplication of feeder capacity occurs. To the extent either or
18 both systems also build alternative feeders with switching capability to provide dual feed to
19 various areas which include disputed areas where both systems seek to serve the same load,
20 thereby increasing reliability, and the sizing of such facilities also is based on the total load in
21 disputed areas, either or both systems may install unnecessary duplicate capacity.

22 And, third, distribution substations are generally designed to serve geographically
23 dispersed loads across a wide area through multiple feeders. These distribution substations are

1 planned and sized to serve current load and some amount of future load growth. Again, to the
2 extent such facilities are planned by both Gulf Coast and Gulf Power to serve the same load in
3 disputed areas, unnecessary and uneconomic duplication will occur.

4 **Q. ARE THERE OTHER ELEMENTS OF UNECONOMIC DUPLICATION WHICH**
5 **MAY OCCUR?**

6 A. Yes. Many other elements of utilities' operations are affected by unnecessary duplication.
7 Maintaining two separate rights-of-way to serve a given area, which could be served by a single
8 entity, results in duplicative costs. Maintenance costs per kWh sold likely will be higher on
9 facilities which are under utilized due to uneconomic duplication. General costs (e.g.,
10 administrative and general expenses and general plant costs) are also impacted.

11 **Q. SHOULD THE HISTORICAL PRESENCE OF THE RESPECTIVE COMPETING**
12 **UTILITIES IN THE AREAS IDENTIFIED IN THIS CASE BE CONSIDERED IN**
13 **ESTABLISHING A TERRITORIAL BOUNDARY?**

14 A. Where a utility historically has provided electric service to an area, that utility should be allowed
15 to continue to serve that area, including natural extensions of that area, as it develops and the
16 load and number of consumers grow. If a utility is currently serving in a particular area, there
17 is no logic for displacing that utility unless that utility is not prepared to continue to serve that
18 area with adequate, reliable electric service.

19 Where two competing utilities are vying to serve a particular area that historically has
20 been served by one of those utilities, and the current supplier is not allowed to continue to serve
21 the area, one of several outcomes can result.

22 1. Both utilities could compete openly and serve the consumers each could attract
23 to its system.

- 1 2. The area could somehow be bifurcated into separate areas to be served by the
2 respective systems.
- 3 3. The utility with a historical presence could be frozen in place and not allowed
4 to serve any more consumers within the area.
- 5 4. The utility without the historical presence could be allowed to serve the entire
6 area and the utility with historical presence ordered to withdraw by either
7 removing its facilities or transferring them to the competing utility.

8 Under any of these four possible occurrences, there will be adverse economic effects on both
9 systems. There will be uneconomic duplication. There will be the potential for idle capacity.
10 Under the first and second outcomes enumerated above, there will be the loss of the beneficial
11 economies of serving defined areas. Under the fourth outcome, there will be unnecessary
12 disengagement and reintegration costs for both systems, and the system with historical presence
13 in the area may be adversely affected by the loss of embedded cost investment and other factors
14 which adversely affect the costs of providing service to its remaining customers.

15 Electric utility systems are planned and designed to serve an evolving service area and
16 the load characteristics of that service area. Loss of the right to serve in an area which has
17 historically been served by a utility disrupts that utility's orderly planning process. This is
18 unnecessary and adverse to the public interest.

19 Finally, if a utility has historically served a particular area, it has asserted the right to
20 serve that area and has accepted the responsibility to serve that area as part of its utility
21 obligation. Absent a showing that the utility is not capable of serving that area with adequate,
22 reliable service, or unless it has refused to serve that area, it should be permitted to continue to
23 serve that area exclusively.

1 Q. WHY IS THE MINIMIZATION OF THE TRANSFERS OF CUSTOMERS AND
2 FACILITIES IMPORTANT WHEN ESTABLISHING A TERRITORIAL
3 BOUNDARY?

4 A. If areas which competing utilities are allowed to serve, are continuously being redefined, with
5 customers and loads transferred as service areas boundaries are realigned, the disruption or
6 frustration of the planning process is obvious. It is difficult enough to plan adequate facilities
7 to serve a known service area, given all of the uncertainties associated with planning for the
8 future; it is even more difficult when a utility is constantly faced with the threat of losing service
9 area, customers, and load in unknown quantities and at unpredictable times, which may be solely
10 within the discretion of a third party (i.e., the competing utility which, for whatever reason, is
11 granted some right to take-over another neighboring utility's service area, customers, and load).
12 Minimization of transfers of facilities and customers will minimize these adverse effects.

13 Furthermore, the transfer of service area and facilities is not without expense. First,
14 there is a cost for disengagement and transfer of the facilities and customers, including costs of
15 the acquiring utility to integrate the acquired facilities with existing facilities. Second, there may
16 be a cost to the utility losing the facilities associated with reintegrating its remaining facilities
17 for continuity of service. Both such costs are directly caused by a transfer and must be absorbed
18 by the ratepayers of one or both utilities involved.

19 Third, the utility originally serving an area to be transferred to another utility was under
20 an obligation to construct facilities adequate to serve existing and future loads within the area.
21 To the extent the transfer of service area, facilities, consumers, and load idles capacity in the
22 remaining distribution system of the losing utility, the cost of this idle capacity will be borne by

1 the remaining ratepayers of the system losing the area. When such a situation occurs, the cost
2 of serving the remaining consumers is increased unnecessarily.

3 Fourth, where substantial investments in distribution facilities have been made in a
4 specific area to serve existing and future consumers and load, the current ratepayers have paid
5 rates reflective of those costs. Rates are reflective of costs determined on a declining rate base
6 (i.e., net plant – gross plant less accumulated depreciation). Net plant is high initially for
7 transfer facilities before they are transferred and the associated costs have been paid by existing
8 ratepayers. When facilities are transferred after they have declined in net book value, the
9 acquiring utility is able to acquire them at a point in time when the revenue requirement
10 associated with the investment is reduced. At the same time, the losing utility is losing the
11 advantage of the reduced revenue requirement. In other words, the losing utility and its
12 ratepayers have carried the transferred assets during the higher-cost earlier years due to the
13 front-loaded method of recovering costs based on declining rate base.

14 Also, since a distribution system is always designed to include capacity for growth, the
15 expense of this reserve capacity is borne by the current ratepayers. Such investments are made
16 in anticipation of additional consumers and load which will ultimately pay a portion of the costs
17 of such facilities. To the extent a service area is lost by a utility prior to receiving the benefits
18 of such growth in consumers and load, the current ratepayers of the utility have paid for the
19 carrying costs associated with investments in reserve capacity within the system without the
20 benefits of the future load which those facilities are intended to serve.

21 Adverse occurrences, such as those described above, increase the costs of providing
22 service to a utility's remaining customers. Minimization of transfers of facilities and customers
23 will mitigate these adverse costs associated with such transfers.

1 Q. ARE THERE ADVERSE EFFECTS ON THE ACQUIRING UTILITY OF
2 TRANSFERRING CUSTOMERS TO ESTABLISH A TERRITORIAL BOUNDARY?

3 A. Yes. An acquiring utility also incurs costs for the acquisition, transfer, and integration of
4 acquired facilities. For example, there are costs associated with cut-over and integration of the
5 acquired facilities. There may also be costs for voltage conversion where the acquired facilities
6 historically have been operated at a different voltage than the facilities of the acquiring utility.
7 There are also administrative costs incurred by the acquiring utility (as well as the losing utility)
8 such as inventorying and valuing facilities, accounting and meter reading related to transferred
9 customers, and engineering and other overhead generally associated with the transfer process.
10 Such costs must be borne by the acquiring utility's and losing utility's ratepayers.

11 Any transfer results in both utilities incurring additional costs and results in total costs
12 being increased, regardless of the compensation formula. The end result is that the public pays
13 more than would otherwise be the case.

14 Q. YOUR PRIOR RESPONSE ASSUMES CONSTANTLY CHANGING SERVICE AREAS
15 FOR TWO COMPETING UTILITIES. WOULD THE SAME BE TRUE WHERE A
16 PERMANENT TERRITORIAL BOUNDARY BETWEEN TWO UTILITIES, SUCH AS
17 GULF COAST AND GULF POWER, IS FIXED?

18 A. Yes. The only difference is that the types of costs occasioned by a transfer, and which I
19 described earlier, would be a one-time occurrence.

20 Q. YOUR RESPONSES TO THE LAST SEVERAL QUESTIONS ASSUME THAT
21 UNDER EITHER THE CONSTANTLY CHANGING SERVICE AREA SCENARIO OR
22 THE PERMANENT BOUNDARY SCENARIO, THERE WOULD BE A NECESSITY
23 OR REQUIREMENT FOR THE TRANSFER OF FACILITIES AND CUSTOMERS

1 **FROM ONE ENTITY TO ANOTHER. WHAT WOULD BE THE EFFECT IF NO**
2 **FACILITIES WERE TRANSFERRED?**

3 A. No facilities being transferred could occur under either of three conditions: (1) there was a
4 standstill arrangement, or grandfathering, for existing facilities and customers of one utility in
5 the assigned service area of the other utility, instead of a mandatory transfer; (2) the acquiring
6 system opted not to acquire the existing facilities of the losing system if transfers are otherwise
7 required; or (3) the losing system had no facilities in the area.

8 Under the first condition, each utility would continue to serve all customers it had
9 historically served, even those customers which, by the establishment of a service area
10 boundary, are in the other utility's designated service area. This standstill arrangement would
11 avoid the costs as well as any potential customer confusion and dissatisfaction occasioned by
12 being transferred from one utility to another.

13 Under the second condition, there would be an even greater adverse public interest
14 effect. Facilities on the losing system would be idled and would have to be retired prematurely
15 (excluding salvageable materials), representing an uneconomic writeoff. There may also be
16 facilities, or a portion of the capacity of facilities, on the losing system which are remote from
17 the area and which are temporarily idled. I discussed the adverse effects of this earlier. The
18 acquiring system in turn would have to construct new facilities to serve an area at current costs
19 which, in today's economic environment, are higher than embedded costs. Both the losing
20 system and the acquiring system would be adversely affected.

21 Under the third condition, the losing system may have no existing facilities directly in
22 the area, yet the area, because it is contiguous to, or in close proximity to other areas being
23 served by the utility, is a natural extension of the other service area presently being served by

1 the losing system. It is common for primary distribution facilities to be planned in anticipation
2 of serving other areas which are logical and natural extensions of the existing system. Once
3 again, idled capacity will occur if these other areas are lost, thus causing adverse economic
4 consequences for the losing system.

5 **Q. WHY IS THE READINESS, WILLINGNESS, AND ABILITY OF THE RESPECTIVE**
6 **UTILITIES TO SERVE AN AREA AN IMPORTANT FACTOR IN ESTABLISHING**
7 **A TERRITORIAL BOUNDARY?**

8 A. First, let me clarify the extent of this readiness, willingness, and ability of a utility to serve a
9 particular area. This factor should not only be based upon current conditions, it should also take
10 into account historical conditions as well.

11 If a utility historically has been ready and willing to serve an area and has developed
12 the capability to serve that area, this should be considered in deciding whether that utility should
13 be allowed to continue to serve an area which another utility now desires to serve. If a utility
14 historically was not prepared to serve an area, or for any reason was not ready, willing, and able
15 to serve an area, or refused to serve an area, this should be a major point in deciding which
16 utility should be allowed to serve a specific area.

17 While there may be exceptions, generally where two utilities are competing to serve a
18 specific area, those respective utilities are currently ready and willing to serve the area. The
19 abilities of those respective utilities to serve the area in all likelihood, however, are not identical.
20 The capability of each utility to serve the area must be evaluated to determine which one is most
21 capable of serving. This is a difficult issue to evaluate, since the motives and objectives of the
22 planning of each utility may differ. Simply because one system has built heavier facilities in a
23 given area, for example, speculating on future service in areas where it has not had a historical

1 presence, awarding that utility the right to intrude and serve the area of a neighboring utility with
2 adequate facilities would not be justified. This simply would encourage wasteful overbuilding,
3 which is just another form of uneconomic duplication. The real issue is whether the utility with
4 the historical presence has planned and continues to plan prudently to serve areas, including
5 natural extensions, which it historically has served.

6 Finally, absent compelling reasons to the contrary, the utility which has historically
7 maintained a presence in an area should be allowed to continue to serve that area,
8 notwithstanding the fact that the competing utility may now find it convenient, desirable, or
9 economically beneficial to serve an area in which it has not historically operated.

10 **Q. WHY IS CONTINUITY OF PLANNING AND OPERATION OF THE RESPECTIVE**
11 **COMPETING SYSTEMS A FUNDAMENTAL CRITERION WHICH SHOULD BE**
12 **CONSIDERED IN ESTABLISHING A TERRITORIAL BOUNDARY?**

13 A. As I noted previously, electric utilities are capital intensive. Capital intensive industries are
14 usually identified by two significant characteristics: (1) high investment cost per dollar of
15 annual revenue; and (2) lead times for planning and constructing distribution facilities. The
16 investments to serve electric consumers are not incurred on a continuous basis from year to year
17 as the need for electric service changes. Rather, facilities are planned and constructed in discrete
18 increments with long lead times. Distribution facilities have lead times that can be from several
19 months to several years depending upon the type of facility, location of service, and other
20 factors. The ability to plan distribution facilities in large part is contingent upon the certainty
21 of the right and obligation to serve specified service areas.

1 Distribution feeders are designed and constructed to serve not only existing load but
2 future load growth within particular areas, including natural extension of those areas. The same
3 is true for distribution substations.

4 These planning factors must be taken into account in establishing a territorial boundary.
5 If a utility plans its facilities to serve a particular area and a pocket of that area is taken away
6 by a competing utility, planning is disrupted. The resulting distribution system may be less
7 efficient or more costly than one which would have been designed to serve the area had the loss
8 of that pocket in the service area been anticipated in advance.

9 One of the worst things that can occur where the right to serve is uncertain is the failure
10 to construct and maintain adequate facilities. If a utility is expected to meet its service
11 obligation while knowing that it is constantly threatened by loss of service area to a competing
12 utility, a logical strategy would be to minimize investments where there is the greatest
13 uncertainty of being allowed to continue serving. A minimization-of-investment decision
14 strategy may be inefficient and may result in reduced reliability. The uncertainty of which
15 service area may be lost and when that loss will occur makes it difficult to even measure the
16 impact of such losses before they occur.

17 In summary, uncertainties related to service area obligations and constantly changing
18 service areas caused by infringement of competing utilities frustrates the orderly, long-term
19 planning necessary for the economic delivery of power at the distribution level.

20 **Q. WHY IS CONTINUITY OF SERVICE AREA AN IMPORTANT CRITERION TO BE**
21 **USED IN ESTABLISHING A TERRITORIAL BOUNDARY?**

22 **A.** For many practical reasons, it is more efficient and economical to plan and construct facilities
23 to serve contiguous areas. It is more costly and less efficient to serve areas which are

1 interrupted by or interspersed with areas served by competing utilities. Where neighboring
2 utilities' service areas come together, the continuity of those service areas should be maintained
3 to the extent practicable to facilitate the orderly and efficient planning and operation of the
4 respective systems. Thus, allowing one utility to carve out and serve an area in the midst of a
5 neighboring utility's system should be avoided.

6 **Q. SHOULD RELIABILITY BE CONSIDERED IN ESTABLISHING A TERRITORIAL**
7 **BOUNDARY?**

8 A. Yes. A utility has the obligation to provide adequate and reliable service consistent with good
9 utility practices. Where utilities competing to serve an area have documented and quantified
10 differences in the level of reliability of service to its members, this should be taken into account
11 in deciding which utility should serve the particular area. Care must be taken here, however, to
12 be sure that consistent comparisons are being made. The adequacy, accuracy, and comparability
13 of reliability reporting must be analyzed carefully. If there are unique service characteristics
14 associated with an area, care must be taken to measure the reliability of the respective systems
15 with respect to service under similar circumstances (e.g., reliability may be greater in downtown
16 Pensacola than more remote rural areas of Washington County). Finally, trends with regard to
17 reliability standards and performance of the competing utilities should be considered as part of
18 this evaluation.

19 **Q. WHY SHOULD NATURAL PHYSICAL BOUNDARIES AND BARRIERS BE**
20 **CONSIDERED IN ESTABLISHING SERVICE AREAS FOR UTILITIES?**

21 A. This is best illustrated by giving examples. Where two utilities historically have served on
22 opposite sides of a major physical barrier (e.g., a bay, river, swamp, or recognized tract of land
23 such as a wildlife management area), it makes economic sense for those utilities not to traverse

1 such barriers which can be costly and environmentally sensitive. Such barriers provide a natural
2 geographic marker by which service areas can be delineated.

3 Other physical landmarks can provide logical and easily recognizable boundaries for
4 demarcation of service areas. Such landmarks would be roads and highways. In relying on such
5 landmarks, there may be reasons to establish a service area boundary at a point other than the
6 exact location of such landmarks. For example, rather than establishing the service area
7 boundary in the middle of a highway, it may be environmentally more acceptable to use a
8 setback location off the highway to avoid two sets of utility facilities running down opposite
9 sides of the highway. In other words, common sense should prevail.

10 **Q. IT SEEMS SELF-EVIDENT, BUT SHOULD PRIOR RESOLUTIONS OF SERVICE**
11 **AREA DISPUTES BE CONSIDERED IN ESTABLISHING A PERMANENT SERVICE**
12 **AREA BOUNDARY?**

13 A. Yes. There should be no reason to ignore the resolutions associated with prior service area
14 disputes. Quite to the contrary, expending valuable resources revisiting and attempting to revise
15 past resolutions of disputed service areas can be costly and is not in the public interest. For
16 example, as part of this proceeding, a dispute concerning the service rights to the
17 Washington County prison has already been resolved in favor of Gulf Coast and this
18 should not be revisited.

19 **Q. WHY SHOULD THE RESPECTIVE UTILITIES' COST TO SERVE A DISPUTED**
20 **AREA BE CONSIDERED IN ESTABLISHING A TERRITORIAL BOUNDARY?**

21 A. There are several costs which are impacted by a transfer of facilities extending service to
22 consumers, and duplication of facilities. Most weight is placed on the incremental cost to serve
23 an area of consumers. If one utility is already providing service in an area, from adequate

1 primary distribution feeders and substation capacity, its incremental cost to serve new
2 consumers is much lower than that of another utility which must install substation capacity,
3 construct new or upgrade existing distribution feeders and then add individual services. As I
4 have stated in reply to previous questions, there are also other costs such as the impact on the
5 costs of the displaced utility, such as reintegration costs and the burden of the cost of excess
6 capacity created by loss of load.

7 **V. SPECIFIC SERVICE AREAS AT ISSUE**

8 **Q. MR. DANIEL, HAVE YOU HAD OCCASION TO REVIEW INFORMATION**
9 **CONCERNING WHERE GULF COAST'S AND GULF POWER'S FACILITIES ARE**
10 **COMMINGLED, IN CLOSE PROXIMITY, OR WHERE FUTURE UNECONOMIC**
11 **DUPLICATION IS LIKELY TO OCCUR?**

12 A. Yes.

13 **Q. DESCRIBE IN GENERAL THE INFORMATION CONCERNING GULF COAST'S**
14 **AND GULF POWER'S FACILITIES IN THESE AREAS WHICH YOU HAVE**
15 **REVIEWED.**

16 A. First, I have reviewed maps of the geographic areas identified by the FPSC Staff, which maps
17 were prepared by Gulf Power to show the facilities of both systems. Certain of these detail
18 maps are included in Exhibit No. ____ (AWG-3) [Bay County: Map Nos. 2533, 2534, 2632,
19 2633, 2634, 2639, 2731, 2828, and 2830] and Exhibit No. ____ (AWG-6) [Washington County:
20 Map Nos. 2218, 2220, 2221, 2320, 2321, 2322, 2518, 2519, and 2618]. In addition, I have
21 reviewed other detail maps which show the facilities of the two systems as being commingled,
22 in close proximity, or where further uneconomic duplication is likely to occur, even though such
23 maps were not identified by the FPSC Staff. See Exhibit No. ____ (AWG-3) [Bay County: Map

1 No. 2733] and Exhibit No. ___ (AWG-6) [Washington County: Map Nos. 2418, 2419, 2420,
2 2421, 2520, 2521, 2619, 2620, 2718, 2719, and 2720]. As explained by Mr. Gordon, such
3 additional maps should be reviewed in order to illustrate a clear and continuous boundary in
4 these areas.

5 I also reviewed the responses of Gulf Coast and Gulf Power to certain of the FPSC
6 Staff's requests for information concerning the so-called "disputed areas" as identified by the
7 map numbers selected by the FPSC Staff. That information contained such things as sales
8 statistics, facilities investments, customer complaints, reliability data, and cost data purportedly
9 related to the "disputed areas," as selected by the FPSC Staff.

10 **Q. DO GULF COAST AND GULF POWER AGREE THAT THE SO-CALLED**
11 **"DISPUTED AREAS" SELECTED BY THE FPSC STAFF ARE THE AREAS**
12 **ACTUALLY IN DISPUTE?**

13 **A.** No. As discussed further by Mr. Gordon, certain areas were not identified by the FPSC Staff
14 where the facilities of Gulf Coast and Gulf Power are either commingled or in close proximity
15 and where further uneconomic duplication is likely to occur, and therefore, potentially in dispute
16 as to the delineation of a service area boundary between the two systems. Apparently, Gulf
17 Power also does not agree with the FPSC Staff's selection of the so-called "disputed areas," as
18 indicated by its April 12, 1996 letter transmitting data requested by the Staff.

19 **Q. HAVE YOU ALSO HAD OCCASION TO VISUALLY INSPECT AREAS WHERE**
20 **BOTH SYSTEMS' FACILITIES ARE COMMINGLED, IN CLOSE PROXIMITY, OR**
21 **WHERE FURTHER UNECONOMIC DUPLICATION IS LIKELY TO OCCUR?**

22 **A.** Yes.

1 Q. PLEASE COMMENT ON THE DATA SUPPLIED BY GULF COAST AND GULF
2 POWER IN RESPONSE TO THE FPSC STAFF'S DATA REQUESTS.

3 A. I am aware that under Chapter 25-6 of the Florida Administrative Code, certain guidelines are
4 provided as to how the Commission should go about resolving a territorial dispute. Section 25-
5 6.0441(1) states, in part, "... each utility party shall also provide a description of the existing
6 and planned load to be served in the area of dispute and a description of the type, additional
7 cost, and reliability of electrical facilities and other utility services to be provided within the
8 disputed area." Subsection (2) provides, in part, that:

9 The Commission may consider, but not be limited to the consideration of:

10 (a) the capability of each utility to provide reliable electric service within
11 the disputed area with its existing facilities and the extent to which
12 additional facilities are needed;

13 * * *

14 (c) the cost of each utility to provide distribution and subtransmission
15 facilities to the disputed area presently and in the future;

16 Subsection (3) provides that "the Commission may require additional relevant information from
17 the parties of the dispute if so warranted."

18 From my previous experience in dealing with territorial disputes in Florida, I am aware
19 that certain of the information enumerated in Chapter 25-6 may be relevant to the resolution of
20 a territorial dispute in particular situations which are confined to a well defined area, such as a
21 subdivision, where the geographic location is certain, the number and location of consumers and
22 expected electrical requirements can be reasonably projected, and where the cost of upgrading
23 and extending electric service facilities can be determined with a reasonable degree of certainty.
24 However such is not the case in this proceeding. Rather, as indicated by the number of maps
25 selected by the FPSC Staff as identifying these areas, the areas to be examined are spread across

1 a large geographic area. The data supplied by both Gulf Coast and Gulf Power in response to
 2 the FPSC Staff's data requests primarily reflect aggregated data as to the combined areas (e.g.,
 3 customers, kWh sales, and load) and in other instances county-wide (i.e., Washington and Bay
 4 Counties) data (e.g., facilities investments). Furthermore, in the absence of the identification
 5 of specific customers that are likely to develop by location within identified areas, it is difficult
 6 to project the expected costs to serve the various areas as they develop over time.

7 Given the nature of this data, in my opinion, it is difficult to determine each utility's
 8 expected costs to serve specific customers in specific areas as they materialize in the future. It
 9 also is difficult to determine the life-cycle effects of the long-term planning process involved in
 10 the commitment to serve customers, including identifying and quantifying the potential adverse
 11 effects of both systems having planned to serve the same areas. Finally, for all the reasons I
 12 discussed earlier, the relative costs of competing utilities to supply a given area are difficult to
 13 assess and, therefore, should be used sparingly, if at all, in situations such as this where a
 14 permanent service area boundary is to be established.

15 **Q. FROM THE DATA FILED BY THE PARTIES, CAN YOU INFER ANYTHING**
 16 **RELATIVE TO THE EXPECTED CUSTOMER LOAD, ENERGY, AND**
 17 **POPULATION GROWTH IN THE AREAS IDENTIFIED BY THE FPSC STAFF AS**
 18 **THE DISPUTED AREA?**

19 A. I have summarized some of the data submitted by the parties which I have shown on Exhibit
 20 Nos. ^{COMP}4 (SPD-3) and ^{COMP}4 (SPD-4). As indicated on page 1 of Exhibit No. ^{COMP}4 (SPD-3), in
 21 column (d), line 6, Gulf Coast indicates that it expects to be serving an additional 304
 22 consumers by the end of the next five years, reflecting a growth rate of about 4.5% per year
 23 (column (b), line 7). Energy growth is also shown to increase steadily at a rate of approximately

1 7.25% per year (column (c), line 7). Based on these projections, average usage per consumer
2 should increase over the next five years. I have also attempted to estimate the growth in peak
3 load for these specific areas, based on the data submitted and also based upon information
4 included on Gulf Coast's RUS Form 7 (Operating and Statistical Report) for 1995. As shown
5 on Exhibit No. ^{COMP}4 (SPD-3), column (i), line 7, the annual rate of increase in summer peak
6 demand is expected to be approximately 5.8%, or approximately 1,420 kW over the next five
7 years. With a lower rate of increase in peak demand than energy growth, average load factor
8 in the areas will likely increase. Except for an inference that with an increase in consumers a
9 reasonably proportionate increase in population should occur, no specific estimates of
10 population growth can be determined from the data submitted.

11 Similar information was developed for Gulf Power, based on the data submitted. As
12 shown on page 2 of Exhibit No. ^{COMP}4 (SPD-4), Gulf Power projects the number of consumers
13 in the disputed area to increase by about 385 (column (d), line 6) over the next five years,
14 representing a growth rate of 5.1% (column (b), line 7). Energy sales are expected to grow at
15 an annual rate of approximately 11.7% (column (e), line 7), and summer peak demand growth
16 is expected to increase by about 8.1% (column (i), line 7) per year. As with Gulf Coast, average
17 usage per consumer and load factor are expected to increase during this period. Also, as with
18 the data filed by Gulf Coast, no specific population growth estimates can be made from the data
19 filed by Gulf Power.

20 As I have stated previously, the lack of certainty of service area usually results in both
21 utilities planning to serve some of the same consumers and load. While it is not clear from the
22 data submitted by the parties, it is likely that the projected consumer growth for both Gulf Coast
23 and Gulf Power include some of the same consumers and that both likely would incur costs to

1 serve consumers that may never materialize on their systems, absent a permanent resolution of
2 the service area responsibilities.

3 **Q. FROM THE DATA SUBMITTED BY THE PARTIES, CAN YOU DRAW ANY**
4 **CONCLUSIONS AS TO THE LOCATION, TYPE, AND CAPACITY OF EACH**
5 **UTILITY'S FACILITIES IN THE FPSC STAFF'S IDENTIFIED DISPUTED AREA?**

6 A. It is my understanding that Gulf Coast and Gulf Power worked together to develop a set of
7 detail maps which depict the facilities of both utilities. These are the grid maps identified by
8 the numbers shown on the FPSC Staff's request for documents of May 24, 1996. From my
9 review of these maps, I noted that conductor sizes and transformer sizes were indicated. For
10 substations shown on the maps, the capacity and load of substations is indicated. A summary
11 of the substation capacity and load for the substations serving the disputed areas for Gulf Coast
12 was provided to me by the Cooperative. I have reproduced this information on Exhibit No. ^{Comp}4
13 (SPD-5), on which I have also computed "available capacity" by subtracting the estimated peak
14 load on each station from the "fan rated" substation transformer capacity. As indicated in
15 column (e) on line 5, Gulf Coast's available substation capacity for the substations serving the
16 disputed area is approximately 12,545 kW, as of the end of the 1995 Summer period. I was not
17 able to develop comparable information for Gulf Power. While certain substation capacity and
18 load data for Gulf Power is shown on the maps defining the areas, the capacity of any
19 substations not shown on the maps which do or could serve load in the areas was not made
20 available in any of the information filed by Gulf Power.

21 **Q. WHAT CAN YOU INFER RELATIVE TO THE CAPABILITIES OF THE PARTIES**
22 **TO PROVIDE ADEQUATE AND RELIABLE ELECTRIC SERVICE, BASED ON THE**

1 **DATA FILED BY THE PARTIES FOR THE DISPUTED AREAS, AS IDENTIFIED BY**
2 **THE FPSC STAFF?**

3 A. Substation capacity is a key factor in a utility's ability to provide adequate and reliable electric
4 service. Referring again to my Exhibit Nos. ^{COMP}4 (SPD-3) and ^{COMP}4 (SPD-5), I transferred Gulf
5 Coast's available substation capacity of 12,545 kW from Exhibit No. ^{COMP}4 (SPD-5) to Exhibit
6 No. ^{COMP}4 (SPD-3), column (l), line 1. I then subtracted the increase in demand for each of the
7 next five years (1996 - 2000). At the end of the five-year period, approximately 1,420 kW of
8 the available capacity has been consumed, leaving about 11,125 kW (column (l), line 6) of
9 available substation capacity. Even if the amount of capacity utilized per year varied
10 significantly from the values used in this analysis, there would appear to be substantial available
11 capacity at the end of the period. Of course, some of this would likely be required to serve other
12 areas served by the substations which are not included within the Staff's defined disputed areas
13 and for which data has not been compiled.

14 As shown on Exhibit No. ^{COMP}4 (SPD-4), a similar analysis performed using the Gulf
15 Power data indicated that over the next five years, the growth in consumers would result in a
16 cumulative increase in demand of approximately 6,996 kW (column (j), line 6). While the peak
17 demand per consumer provided in the Gulf Power data appears to be unusually high, the
18 increased utilization of approximately 7,000 kW would probably be well within the capabilities
19 of Gulf Power's substations serving the load in the Staff's defined areas.

20 The FPSC Staff requested that the parties file customer complaint data for the counties
21 in which the specific areas are located. Presumably, the Staff believed that such information
22 may shed light upon the quality and reliability of service provided by the parties. A review of
23 the information filed by Gulf Coast indicates that the information relates to situations in the

1 field, and as indicated by the descriptions provided by Gulf Coast, only a few instances were
2 believed to be attributable to any problems on the Gulf Coast system. As also indicated, it
3 appears that Gulf Coast promptly located the cause and made the necessary repairs or advised
4 the consumer as to actions required to correct the situation. Furthermore, the data does not
5 indicate recurrences at the same location attributed to causes on the utility system. Moreover,
6 the situations documented do not indicate any kind of systematic patterns related to utility
7 deficiencies.

8 The data filed by Gulf Power reflects complaints of an entirely different nature than the
9 data provided by Gulf Coast. Whereas, the Gulf Coast data consisted almost entirely of
10 situations found in the field, which were not necessarily complaints but reports of service
11 problems, almost all of the items included in Gulf Power's data refers to complaints received
12 in the office concerning billing, disconnects, high bills, etc. Since the FPSC Staff's request
13 sought the "location, nature of the complaint, and the corrective action taken, along with the date
14 of the complaint and any recurring complaints of a similar nature by the same complainant," it
15 appears that the FPSC Staff was actually seeking information as to service complaints and the
16 utility's response. If this is the case, the Gulf Power response does not appear to provide the
17 data requested, unless Gulf Power actually received no complaints of the type sought in the data
18 requested by the FPSC Staff.

19 Given that the data filed by Gulf Coast and Gulf Power appear completely inconsistent,
20 no comparisons can be drawn from that data with respect to quality and reliability of service.
21 Based on the information submitted though, there is little to indicate persistent service quality
22 or reliability problems on either utility system.

1 The FPSC Staff also requested "Distribution Service Reliability Reports" for the
2 disputed areas for the most recent 12-month period for which data was available. Gulf Power
3 indicated on its response that the data submitted was for the Company's Eastern District
4 (including Panama City, Chipley, and surrounding areas) and not specifically the FPSC Staff's
5 identified areas. The report indicates a number of outages by category, although no real
6 conclusions can be drawn. Perhaps the most interesting information on this report is the average
7 length of service interruption of approximately 1.5 hours per outage. From the report, outage
8 time per consumer cannot be determined, which might be a good basis for comparison. The
9 report does indicate that the circuits with the highest number of breaker operations do not cover
10 the specific areas, indicating possibly the absence of repeated interruptions on the same line.

11 The data submitted by Gulf Coast is much more detailed in nature, indicating for each
12 outage, by major feeder serving the disputed area, each specific outage (excluding those
13 associated with Hurricane Opal), the location, the number of consumers affected, the duration
14 of the outage, and the total consumer outage time (number of consumers times outage duration).
15 As summarized in Exhibit No. ^{Comp}4 (SPD-6), this data indicates that there were 1,121 consumers
16 affected by outages in the areas and that the total consumer outage time was 1,387.88 hours.
17 This results in an average outage time per consumer affected of 1.24 hours (1,387.88
18 hours/1,121 consumers) as shown in column (e), line 9. I also computed the average duration
19 of the 101 reported outages as 1.4 hours (column (d), line 12), slightly less but certainly
20 comparable to the average duration reported by Gulf Power for an area that may not be
21 comparable to the areas identified by the FPSC Staff.

22 From all of this I can only conclude that both Gulf Coast and Gulf Power appear to be
23 providing adequate and dependable service to their consumers, and that both appear to be

1 capable of serving new load within their traditional service areas, including the specific areas
2 served by both. I cannot conclude that either has a significant advantage in service reliability
3 and/or capability based on the data submitted in response to the FPSC Staff's request. More
4 significantly, I believe this tends to confirm my belief that the traditional service areas served
5 by the two utilities should bear the greatest weight in determining where the service area
6 boundary should be established.

7 **Q. WHAT CAN YOU INFER ABOUT THE COST DATA FILED IN RESPONSE TO THE**
8 **FPSC STAFF REQUEST OF MAY 24, 1996?**

9 A. I have reviewed the data filed by both Gulf Coast and Gulf Power in response to items 3 and 6
10 of the Staff's list of additional discovery information issued May 24, 1996. From the
11 information filed, it appears that Gulf Coast expects to invest approximately \$470,000 to
12 upgrade and extend service to the 304 additional consumers it expects to serve in the identified
13 areas. This amounts to \$1,547 per consumer, significantly lower than Gulf Coast's embedded
14 distribution plant of \$2,350. If this is indeed the case, serving the additional consumers in the
15 identified areas will have the effect of lowering Gulf Coast's average distribution plant per
16 consumer, which should ultimately have a beneficial impact on revenue requirements and rate
17 levels.

18 The data filed by Gulf Power appears to be for the entire counties in which the
19 identified areas lie, and therefore the data does not lend itself to the same type of analysis as my
20 computations for Gulf Coast. Nonetheless, it does appear that Gulf Power intends to invest
21 approximately \$28 million in distribution facilities in Washington and Bay Counties over the
22 1996 - 2000 time period. While I was not able to relate this to the number of new consumers,
23 it appears that Gulf Power has planned to serve new consumers in the two counties. Likewise,

1 it also appears that Gulf Coast has developed plans to serve new consumers in Washington and
2 Bay Counties. This is as it should be. What is unknown is whether both utilities have
3 undertaken plans to serve the same consumers; and, if they have, what uneconomic duplication
4 of facilities is likely to occur. Certainty of service areas, though, would prevent this and allow
5 each utility to be more accurate in planning to serve new consumers.

6 **Q. PLEASE IDENTIFY ADDITIONAL AREAS WHICH WERE NOT IDENTIFIED BY**
7 **THE FPSC STAFF, WHERE GULF COAST'S AND GULF POWER'S FACILITIES**
8 **ARE COMMINGLED, IN CLOSE PROXIMITY, OR WHERE FURTHER**
9 **UNECONOMIC DUPLICATION IS LIKELY TO OCCUR.**

10 A. Mr. Gordon has identified these areas on the detail maps contained in Exhibit Nos. ____ (AWG-
11 3) [Bay County: Map No. 2733] and ____ (AWG-6) [Washington County: Map Nos. 2418,
12 2419, 2420, 2421, 2520, 2521, 2619, 2620, 2718, 2719, and 2720]. Shown thereon in red are
13 Gulf Coast's facilities and in blue are Gulf Power's facilities. These areas represent the areas
14 where either system (1) could serve customers currently served by the other or (2) could extend
15 its existing system with new facilities additions to serve existing or new customers which the
16 other system is capable of supplying and has planned to serve. It is my understanding that the
17 Commission's intent is to establish a service area boundary to clarify where each utility is to
18 serve to avoid further uneconomic duplication which will occur if both systems continue to plan
19 to serve those same areas, customers, and loads.

20 The areas identified on these additional maps also allow closure of a service area
21 boundary to avoid uncertainties due to gaps that would otherwise occur where continuity of the
22 boundary is not maintained by excluding these maps. Mr. Gordon notes and discusses the areas.

1 VI. ESTABLISHMENT OF A SERVICE AREA BOUNDARY

2 Q. IN YOUR OPINION, HOW SHOULD THE COMMISSION ESTABLISH THE
3 SERVICE AREA BOUNDARY BETWEEN GULF POWER AND GULF COAST IN
4 SOUTH WASHINGTON AND BAY COUNTIES WHERE THE ELECTRIC
5 FACILITIES ARE COMMINGLED OR IN CLOSE PROXIMITY AND WHERE
6 FURTHER UNECONOMIC DUPLICATION IS LIKELY TO OCCUR?

7 A. Given (1) the large geographic areas in question, (2) the uncertainty as to where future
8 consumers and load will materialize, (3) the inability to accurately project the cost of upgrading
9 and constructing new facilities to serve new consumers, wherever they may be located, (4) the
10 fact that both utilities appear to have adequate system capacity in the general areas in question,
11 and (5) the fact that the reliability of both Gulf Coast and Gulf Power has not been questioned,
12 I believe the Commission should establish a service area boundary between Gulf Coast and Gulf
13 Power that recognizes primarily the historic service area of each and which minimizes or
14 eliminates the need for transfers of customers and facilities. On Exhibit Nos. ____ (AWG-2) and
15 ____ (AWG-5), and on the detail maps included in Exhibit Nos. ____ (AWG-3) and ____ (AWG-
16 6), Mr. Gordon has indicated the location of the proposed service area boundary in south
17 Washington and Bay Counties that accomplishes a division consistent with my recommendation.
18 As review of these exhibits clearly indicates, the dividing line has been drawn along clearly
19 identified boundaries, more or less, at the point of interface of the facilities of the two systems.
20 In only a few instances are the facilities and consumers of Gulf Power on the Gulf Coast side
21 of the line and vice versa, and where this does occur, only short distances of line and only a few
22 consumers are involved. The affected consumers and facilities are so insignificant, I recommend
23 that, notwithstanding the establishment of this service area boundary, there be no requirement

1 for transfers of customers or facilities. Instead, I recommend a stand-still policy for those areas
2 where the existing facilities and consumers of one utility would be in the assigned area of the
3 other and that when a new consumer locates in this general area, the assigned supplier would
4 provide service, unless Gulf Coast and Gulf Power mutually agree otherwise.

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

6 A. It does at this time. I may have additional comments following receipt of Gulf Power's direct
7 testimony and FPSC Staff's testimony.

1 **MR. HASWELL:** Sir, in the interest of time,
2 we will forgo a summary and tender the witness for
3 cross examination.

4 **COMMISSIONER DEASON:** Mr. Stone.

5 **MR. STONE:** Thank you, Mr. Chairman. If
6 you'll bear with me just a moment, I was anticipating
7 a summary.

8 **CROSS EXAMINATION**

9 **BY MR. STONE:**

10 **Q** Good morning, Mr. Daniel.

11 **A** Hello.

12 **Q** I believe in your testimony you describe
13 your activities in preparation for testifying in this
14 proceeding at Pages 7 and 8; is that correct?

15 **A** Well, I think that summarizes specific
16 information that I identified as having reviewed.

17 **Q** But those were your preparations in this
18 case?

19 **A** No, I had other preparations. For example,
20 I met with representatives from Gulf Coast, met with
21 Mr. Gordon.

22 **Q** I believe you describe that on Page 8 of
23 your testimony. I'm not trying to play a trick on
24 you, Mr. Daniel, I'm sorry. The bottom line is it
25 appears from your summary there that your first

1 involvement came after the Commission issued its
2 March 1, 1995, Order awarding the prison to Gulf Power
3 Company and directing the utilities to conduct good
4 faith negotiations. Am I correct that that was when
5 your first involvement came, was after that date?

6 A That's correct.

7 Q So you were not involved in the first stage
8 of this case before the Commission that lead to the
9 issuance of that order?

10 A No.

11 Q And I believe you also noted in your
12 testimony that you reviewed the Commission's orders in
13 this case subsequent to that March 1, 1995, Order, and
14 the Supreme Court's Order on appeal, and various
15 pleadings and discovery in the case subsequent to the
16 Commission's March 1, 1995, Order; is that correct?

17 A That's correct.

18 Q Is it accurate to say that your description
19 of your preparatory activities focuses exclusively on
20 this second stage of the proceedings?

21 A Well, I'm not sure what you mean by "focuses
22 on the second stage." Obviously, as we went through
23 this process in getting up to speed on the issues, the
24 issue of the prison load came up, and there's been
25 discussion about the prison load and the things that

1 went on in the first phase, so --

2 Q Well, did you review the transcript and
3 exhibits submitted in the first stage?

4 A I did not review the transcripts. I have
5 seen some of the testimony and documents that were
6 involved. I don't at this point really recall what
7 the specifics were.

8 Q In any event your review of that material
9 was not significant enough to be placed in your
10 testimony?

11 A I did not mention it, no.

12 Q Now, I believe your testimony is such that
13 you contend that Mr. Gordon's proposed territorial
14 boundary reflects, a) reasonable assignment of service
15 areas to Gulf Coast and Gulf Power.

16 Isn't it true that other possible
17 territorial boundaries, if adopted in this case would,
18 in your view, also result in a reasonable assignment
19 of service areas to the two utilities?

20 A I guess there could be modifications to the
21 proposals of Mr. Gordon that would produce a boundary
22 that was different than the one precisely drawn by him
23 that would achieve basically the same result.

24 The question is presented in the abstract
25 and you would need to know more about how such a

1 boundary would be proposed, where it would be
2 proposed.

3 Q Basically, if the Commission decided to make
4 an assignment of service areas to the two utilities,
5 you are not contending that Mr. Gordon's proposal
6 represents the only reasonable assignment of service
7 areas that the Commission could possibly order in this
8 case?

9 A Again, I think that's the Commission's
10 decision to make. There -- as I said, there could be
11 modifications to that boundary, and that, in effect,
12 would constitute a different boundary, and that that
13 might be ordered by this Commission.

14 Q And that might be reasonable in your view?

15 A It could be. Again, it would depend on the
16 facts and circumstances and location of the boundary.

17 Q Can I safely say that Mr. Gordon's proposal
18 is not the only possible reasonable solution to this
19 case?

20 A I think I've tried to answer your question
21 as best I can. That's a hypothetical that you're
22 asking. I think I've indicated there could be other
23 locations of lines; as an example, indicated a
24 modification of Mr. Gordon's line that could be
25 reasonable.

1 Q Okay.

2 A That doesn't make his line unreasonable.

3 Q It would probably be helpful if you could
4 answer my questions yes or no, and if you had an
5 explanation go on with that. But it would be a lot
6 helpful for the record if you could just simply answer
7 questions that lend themselves to yes or no answers.

8 A I will be glad to when you ask a question
9 that lends itself to that.

10 Q I believe it's your opinion as stated in
11 your testimony that failure to establish territorial
12 boundaries in the areas identified on Mr. Gordon's
13 exhibits could lead to further uneconomic duplication.
14 You are not saying that further uneconomic duplication
15 of facilities in these areas would absolutely result
16 from a failure to establish boundaries?

17 A Well, if you look at the instances that have
18 occurred over time --

19 MR. STONE: Excuse me. Commissioner Deason,
20 I've asked a question -- I'm asking, is he saying
21 absolutely it would result? I believe that lends
22 itself to a yes or no answer.

23 COMMISSIONER DEASON: Mr. Daniel, it is
24 common practice at the Commission that an answer be
25 given yes or no when the question is phrased such, and

1 then you'll be given ample opportunity to expand upon
2 that yes or no answer.

3 **WITNESS DANIEL:** Yes, sir.

4 Would you repeat your question?

5 **Q** **(By Mr. Stone)** Certainly. You are not
6 saying that further uneconomic duplication of
7 facilities in these areas identified on Mr. Gordon's
8 exhibits would absolutely result from the failure to
9 establish territorial boundaries, only that it could
10 result?

11 **A** Not absolutely, that's correct.

12 **Q** Now, on Page 10 of your testimony, you
13 describe service area integrity as a right of a
14 utility to be solely responsible for planning to serve
15 and providing service to a defined area. Do you
16 recall that testimony?

17 **A** Yes, sir.

18 **Q** Now, in preparing for this case, you
19 indicated that you reviewed Chapter 366 of the Florida
20 Statutes; is that correct?

21 **A** Yes, sir.

22 **Q** And that you also reviewed Chapter 25-6 of
23 the Florida Administrative Code?

24 **A** Yes, sir.

25 **Q** And that would be the Commission's rules

1 with regard to territorial disputes?

2 A That's correct.

3 Q That portion of it. Your stated concept of
4 service area integrity is not stated in either the
5 statutes or the Florida Administrative Code, is it?

6 A No, sir, it's not.

7 Q Isn't it true, in fact, that on each
8 occasion, that the question of mandated territorial
9 boundaries has been considered by the Florida
10 Legislature, the Legislature has rejected such
11 proposed legislation?

12 A To my knowledge, that there have been times
13 when that's been proposed and it has not been adopted.

14 Q From Pages 16 through 20 of your direct
15 testimony, you refer -- or you discuss the adverse
16 economic consequences of transferring customers from
17 one utility to another as part of the resolution of
18 territorial rights. Do you recall that testimony?

19 A Yes.

20 Q Can we correctly conclude that it's your
21 general position that such adverse economic
22 consequences outweigh any perceived benefits of
23 mandated customer transfers?

24 A That will depend on a number of customers
25 being transferred, the facts and circumstances around

1 the transfers. It's a very difficult question to
2 answer in the abstract.

3 What I've tried to present here is where you
4 have a reasonable prospect of a significant number of
5 customers being transferred, that these are the types
6 of costs that are incurred and the kinds of adverse
7 economic effects that can result in that sort of
8 situation. If you had one customer that was going to
9 be transferred under a very narrow set of facts and
10 circumstances, it may not be significant.

11 Q But in general terms, in your discussion of
12 adverse consequences, it's because you think it's not
13 a good idea?

14 A Oh, that's correct. In general, where you
15 are talking about transfers of a significant nature,
16 it's not a proper thing to do for economic reasons.

17 Q Now, towards the end of that discussion, you
18 describe a situation where one system may have no
19 existing facilities directly in the area, yet the
20 area, because it is contiguous to or in close
21 proximity to other areas being served by the utility,
22 is a natural extension of the other service area being
23 served by the utility. Do you recall that reference?

24 A Yes, that could be a situation.

25 Q In this context you state that it is common

1 for primary distribution facilities to be planned in
2 anticipation of serving other areas which are logical
3 and natural extensions of the existing system. Do you
4 recall that statement in your testimony?

5 A That's correct.

6 Q I think you go on to say that prohibition of
7 service in these areas that can be served by such
8 logical and natural extension of the existing system
9 will result in idled capacity causing adverse economic
10 consequences for the losing system. Do you recall
11 that reference?

12 A That can occur, yes.

13 Q You would agree, of course, that the
14 territorial boundaries proposed by Mr. Gordon on
15 behalf of Gulf Coast would also have the effect of
16 prohibiting a utility from serving in some areas that
17 can be served by logical and natural extensions of the
18 utility's existing system?

19 A It would restrict how each utility would
20 expand, given their existing facilities.

21 Q And so that would have the effect of
22 prohibiting a utility from serving in some areas that
23 it could serve by logical and natural extensions of
24 its own facilities?

25 A Right. But at the same time the other

1 utility might --

2 Q I haven't defined which utility, Mr. Daniel.

3 A Right.

4 Q I just said it would prevent one utility
5 from serving another area that it could logically and
6 naturally extend from its service area?

7 A Right.

8 Q I believe you state that service areas
9 recognize -- sorry.

10 I believe you state that service areas
11 recognized or established in the course of resolving
12 past disputes should not be revisited or revised as a
13 result of the Commission's efforts in this proceeding;
14 is that correct?

15 A Yes.

16 Q Although the example given in your testimony
17 in reference to that statement happens to be a case
18 ultimately resolved in favor of Gulf Coast Electric
19 Cooperative, your position would be equally applicable
20 to service areas of Gulf Power Company recognized in
21 the resolution of past cases; isn't that correct?

22 A Yes, I think that's correct. I guess if you
23 got down to trying to establish a line and a number of
24 factors came into play -- for example, if customers
25 were going to be transferred -- then I could see how

1 an area which might have been resolved in the past
2 could be -- could come into play in trying to reach a
3 final solution. But in general, I think where a
4 territorial resolution has been reached in the past,
5 it should be retained.

6 Q Well, you did make that statement that it
7 should not waste the effort to revise territories that
8 have already been settled in past orders.

9 A That's correct. That's correct.

10 Q And you're not saying that that's only
11 applicable to service areas resolved in favor of Gulf
12 Coast, that would be the same for both utilities?

13 A I'm not saying it would be a one-sided
14 position, that's correct.

15 MR. STONE: With the Commissioners'
16 indulgence, I'd like to hand a copy of one of your
17 orders to the witness. (Document tendered.)

18 For the record, I have handed out copies of
19 the Commission's Order in 850048. It's Order 16246.
20 It was issued June 17, 1986, in regard to the petition
21 of West Florida Electric Cooperative, Incorporated to
22 resolve a territorial dispute with Gulf Power Company
23 in Washington County, Florida.

24 Q (By Mr. Stone) Mr. Daniel, this is an
25 Order denying motion for reconsideration and

1 clarifying a previous order. What I'd ask you to do
2 is read the paragraph on Page 1 of that Order that's
3 under the heading, No. 1 there. You can read it into
4 the record, please.

5 A I'm sorry, I didn't hear what you just said.

6 Q Would you read the paragraph on the bottom
7 of Page 1 of the Order that starts out "On this
8 point."

9 A "On this point, West Florida says it is
10 uncontradicted that it and Gulf Coast Electric
11 Cooperative serve the general area of Washington
12 County where both Buckhorn Creek and Sunny Hills are
13 situated until 1971 when Gulf Power installed
14 facilities to serve Sunny Hills.

15 "West Florida's facts are apparently true,
16 but it misses the point that neither cooperatives
17 serve the specific areas where Sunny Hills and
18 Buckhorn Creek are located. More importantly, West
19 Florida ignores the fact that it is now 1986 or some
20 15 years since Gulf Power began to serve Sunny Hills.

21 "15 years of service and the installation of
22 some \$1.4 million of facilities establishes a history
23 of service in Sunny Hills, in our opinion. We must
24 note, too, that West Florida never brought to this
25 Commission a dispute regarding Sunny Hills. And

1 further that this docket concerns Buckhorn Creek and
2 not Sunny Hills."

3 Q Thank you, Mr. Daniel.

4 Now, your direct testimony up to the
5 beginning of Section V on Page 25 is essentially a
6 general discussion of what you believe to be proper
7 considerations of this Commission in resolving the
8 matters before it in this case; is that correct?

9 A Yes, that's correct.

10 Q So up to this point in your testimony, you
11 have not discussed or analyzed any specific facts or
12 circumstances involving the two utilities presented by
13 this case?

14 A That's correct, other than the general
15 propositions I set forth, I think apply in this
16 specific situation.

17 Q I understand. But the general proposition
18 is more of a generic discussion rather than applying
19 it to specific facts at that point?

20 A Well, I think that's correct, but, again,
21 the principles I've tried to enunciate I think are
22 applicable to the specific facts here.

23 Q Okay. But in terms of actual application of
24 those principles to specific technical, economic,
25 planning or other considerations in the case, that

1 takes place in later portions of your testimony, not
2 in the first 25 pages; is that correct? The actual
3 application of those general principles you discuss?

4 A The conclusions that I reach in applying
5 those principles are described in the later portions
6 of the testimony, that's correct.

7 Q Well, on Page 9 of your direct testimony,
8 you indicate that one of the fundamental criteria to
9 be used to establish a territorial boundary is the
10 historical presence of the respective utilities; is
11 that correct?

12 A That's correct.

13 Q Have you reviewed Mr. Gordon's testimony and
14 made any assessment of the historical presence of Gulf
15 Power Company in eastern Bay County?

16 A We have talked at some length, and I think a
17 significant amount of information has been passed back
18 and forth in discovery responses which indicate the
19 presence of facilities in specific areas.

20 I believe there was even a set of data
21 requests from Staff asking for the identification, at
22 least in certain areas, as to when specific facilities
23 of the respective parties were installed.

24 Q Well, let me ask you. Do you recall that
25 portion of Mr. Gordon's testimony that indicated Gulf

1 Power Company already had a line from College Station
2 to Youngstown when Gulf Coast began staking their
3 prospective pole line in the area?

4 A I don't recall that specific thing right at
5 this moment.

6 Q Do you have a copy of Mr. Gordon's direct
7 testimony with you?

8 A No.

9 Q Would you accept, subject to check, that at
10 Page 5 of Mr. Gordon's testimony, Lines 24 to 25, he
11 makes that reference?

12 A I'd prefer to take a look at it and see in
13 what context that statement is being given.

14 Q I believe your counsel is being kind enough
15 to provide you a copy.

16 (Witness tendered document.)

17 A Could you give me a cite again, now, please,
18 sir?

19 Q It's of his direct testimony, and it's Page
20 5, Lines 24 to 25.

21 A Yes, I think that Mr. Gordon makes that
22 statement. But reading it out of context is a little
23 misleading, and he's certainly the one to ask about
24 the facts and circumstances with regard to all the
25 particulars of the respective party's facilities.

1 Q Would you agree though that if Gulf Power
2 Company already had lines in the area when Gulf Coast
3 was just staking their facilities, that this would
4 indicate that Gulf Power Company had a longer
5 historical presence in the area?

6 A Well, I'd like to review this just a little
7 more. I think there's more to it than just that.

8 Q Well, I'm asking you a hypothetical at this
9 point, Mr. Daniel. If Gulf Power Company already had
10 lines in the area when Gulf Coast was just staking
11 their facilities, would that, in fact, indicate a
12 longer historical presence for Gulf Power Company?

13 A Well, if you read on -- and I've got to read
14 this whole thing, you are picking one statement out of
15 context. But I think this whole issue was ultimately
16 resolved, and Gulf Power actually withdrew from this
17 area if I'm not mistaken. I think this is the
18 example.

19 Q Mr. Daniel, I asked you a question that I
20 think lent itself to a yes or no answer.

21 A Well, this is a situation where I think a
22 territorial issue has been resolved. So if you look
23 at any particular issue in total isolation, you might
24 get one result. But I think I've presented a number
25 of factors here. Some of those factors may occasion a

1 situation where you have to select one over the other,
2 and I think this is a case where there was a situation
3 where the two parties were building facilities in the
4 same area, and it was ultimately resolved.

5 Q So, basically, you are saying ignore
6 historical presence?

7 A Well, I think what I'm saying is it's very
8 difficult to set up a series of criteria that won't
9 have some overlap or interplay such that every one
10 discretely will be met. And this is a case where I
11 think that very situation resulted.

12 Q Okay. On Page 12 of your direct testimony,
13 you indicate that where there are no defined service
14 areas, two competing utilities will both plan to serve
15 the same customers; is that correct?

16 A I think that's a real risk where utilities
17 are in close proximity in terms of their ability to
18 serve a given area.

19 Q Would you agree that in the last 12 years
20 the case involving the Washington County prison is the
21 only territorial dispute involving these two utilities
22 that has come before the Commission for resolution?

23 A I believe that's correct. I know there have
24 been several, and I don't recall exactly the ones that
25 have come before the Commission. But in terms of the

1 ones that come before the Commission, they've been
2 limited.

3 Q Is it your opinion or belief that Gulf Coast
4 Electric Cooperative is planning to serve all of the
5 new customers in the identified areas?

6 A Not necessarily. I think Mr. Gordon might
7 be a more logical one to ask since he is the actual
8 engineer that does the planning for the Cooperative.
9 But the point I'm trying to get across is the
10 potential for duplication in planning which might be
11 from a select few customers to all the customers in a
12 given area.

13 Q Well, based on your knowledge of Gulf
14 Coast's planning process and the fact that there's
15 only been the one litigated dispute between these two
16 utilities over the past 12 years, is it your opinion
17 that Gulf Power and Gulf Coast are planning to serve
18 significant numbers of duplicate customers?

19 A I think they must have because there are a
20 number of instances where Gulf Power, for example, has
21 signed up utilities -- excuse me, has signed up
22 customers that could have been served from facilities
23 of Gulf Coast.

24 Q Does that necessarily mean that they were
25 being planned to be served by Gulf Coast?

1 A Well, if you are talking about a specific
2 customer, it may or may not mean that. But the
3 distribution planning process is an integrative
4 process. The whole planning of an electric utility
5 system, not just distribution, is an integrative
6 process, and you have to make decisions about what
7 areas you are going to serve, what likely customer
8 growth will be in those areas, and you plan your
9 system accordingly. And you have to take into account
10 the potential for customer load to develop in an area
11 and plan for that.

12 And the fact that you have facilities in a
13 given area that are capable of serving not only the
14 existing load, but other load, is suggestive of the
15 fact that a system has planned to serve other load in
16 the area.

17 And if two utilities have similar facilities
18 and can serve that same load in that area, then either
19 they've planned to serve that same load, or they are
20 absorbing capacity and they will ultimately have to
21 build additional capacity to serve other customers
22 that they serve -- that they've planned to serve.

23 Q Isn't it a fact, though, that utilities do
24 not plan with regard to specific loads, but rather
25 with projections of aggregate load in an area?

1 A I think it's both.

2 Q With regard to your assumption that they are
3 planning to serve a specific load, would that be one
4 that they have direct knowledge that that is imminent
5 to be located?

6 A Generally, that would be some reasonable
7 knowledge of a particular load in a given area. Also,
8 that could be a single customer, or it could be, say,
9 a subdivision or something like that.

10 Q To the extent the two utilities have
11 facilities in the same general area and they are
12 planning their respective facilities for the future,
13 would it be reasonable for the two utilities to base
14 their plans based on their expectation of what portion
15 of the new development in that area may come in
16 their -- onto their system rather than the whole
17 development in the area?

18 A Well, it would be reasonable to base your
19 planning on what you expect to serve. Unfortunately,
20 if you don't have a coordinated planning approach
21 between two utilities that are vying, there's no --
22 given a specific area and an expected define load to
23 develop in that area, independent planning by those
24 two utilities could result in overplanning facilities
25 or underplanning facilities.

1 So even though you may be engaging in an
2 expectation process, that doesn't mean that that will
3 result in no uneconomic duplication in the planning
4 process as it relates to each of those individual
5 utilities.

6 Q You do not equate planning with
7 construction, do you?

8 A Well, I think they are normally talked about
9 as two separate functions, that's correct. Normally,
10 you go through the planning process and decide what
11 facilities are required, and then you go through the
12 actual design and construction phase where you develop
13 the specifics of the facilities and the location of
14 those facilities that are going to be installed.

15 Q So the mere fact that you plan something
16 doesn't mean you necessarily construct to meet that
17 plan?

18 A Well, again, you have to be very careful
19 when you ask a question like that.

20 Q Okay. I'll be very careful. Let me ask you
21 slightly different. Can plans, once they are made,
22 can they be changed before they are put into effect?

23 A Some can. Some plans may have been made and
24 put into effect in anticipation of other events
25 occurring. And, you know, in retrospect those plans

1 proved to be, let's say, wrong or improper for what
2 actually occurred.

3 Q Should customer preference be given any
4 weight in assigning territory?

5 A Generally, I think the proposition is where
6 there is a problem with commingling, the potential for
7 uneconomic duplication, that the effort should be to
8 resolve that by establishing specific service areas
9 that are in the public interest. And in that
10 situation the customer would have certain choices, but
11 he would not necessarily have the choice of a
12 different utility than the one assigned to a
13 particular area.

14 For example, that customer could use gas
15 versus oil, electric, if it were available. That
16 customer could choose to locate in one utility's
17 service area versus another. So the customer would
18 have certain choices. But the attempt is to eliminate
19 uneconomic duplication that's not in the public
20 interest.

21 Q I don't believe you answered my question.
22 In your opinion, should customer preference be given
23 any weight in assigning territory?

24 A Little, if any.

25 Q Little, if any weight, is your opinion?

1 A That's right.

2 Q Now, you, of course, are aware that the
3 Commission's rules specify that in resolving
4 territorial disputes, if all other factors are
5 substantially equal, customer preference should be
6 considered.

7 A I understand that rule very specifically,
8 and I think in looking at an individual customer on a
9 specific circumstance, that you might want to look at
10 that. I will also tell you that finding a situation
11 where all factors are otherwise equal is very, very
12 probabilistically low, in my opinion, if you consider
13 all the range of factors that come into play and you
14 consider the potential impacts on other customers and
15 so forth. So I think that's a very, very narrow
16 possibility, and I'm aware that the rule says in that
17 situation customer preference could be given --
18 (Simultaneous conversation.)

19 Q Well, isn't it also true that the Supreme
20 Court's recent opinion in the prison case was, in
21 fact, to allow for customer choice in such a case?

22 A And that was a very specific circumstance,
23 that's correct.

24 Q Well, isn't it true that territorial
25 boundaries under the concept that you advocate would

1 preclude the very choice that the Supreme Court found
2 the prison was entitled to make, that ultimately
3 resulted in the prison load being served by Gulf Coast
4 Electric Cooperative?

5 A That's right. But it's my understanding
6 that this proceeding is attempting to resolve on a
7 permanent basis or -- I think that's a proper word, a
8 permanent basis, the continuing nature of territorial
9 disputes between these two parties. And you don't
10 have a specific set of facts and circumstances with a
11 given customer where the criteria that you are
12 referring to are being applied in that context; they
13 are being applied in a more broad context here.

14 Q But the point is that by doing it in this
15 fashion, you would be precluding customer choice?

16 A I think I indicated that earlier.

17 Q That's yes?

18 A Yes, what I said earlier.

19 Q I see from your testimony that you have
20 experience in the area of utility facilities planning;
21 is that correct?

22 A Yes.

23 Q Have you reviewed the maps identified by the
24 two utilities in this docket?

25 A You're talking about the exhibits that have

1 been presented?

2 Q Well, some of them have been presented as
3 exhibits, some of them have been presented in
4 discovery. But you've looked at the maps that have
5 been submitted on Washington County and Bay County; is
6 that correct?

7 A Well, I don't want to be too quick to say
8 I've looked at every map that has been exchanged, but
9 I am certainly familiar with the maps that have been
10 submitted as predesignated exhibits in this
11 proceeding, plus other maps that have been submitted
12 as part of discovery.

13 Q All right, that's fair. I'll point you in a
14 specific area of the map then. Do you recall the area
15 of Highway 279 known as the Moss Hill Church area?

16 A I'm generally aware of that, yes.

17 Q Would you agree that Gulf Power Company has
18 a three-phase line along this highway, that's Highway
19 279 in that area, and that Gulf Coast has a
20 single-phase line along this highway in that area?

21 A I think that's correct.

22 Q And I believe you've indicated that you've
23 reviewed Mr. Gordon's proposed territorial boundaries?

24 A Yes.

25 Q Do you recall that he proposes a boundary in

1 the Moss Hill Church area that basically runs down the
2 middle of the highway with Gulf Coast assigned the
3 area to the east of the highway and Gulf Power
4 assigned the area to the west side of the highway?

5 A I'd want to refer to the map, the detail
6 map. My recollection is that's correct, but I don't
7 want to be too hasty.

8 MR. STONE: With the indulgence of the
9 Commission, if we can allow the witness to look at the
10 map?

11 MR. HASWELL: Which one is that referred to
12 of Mr. Gordon's?

13 MR. STONE: It's been marked as Composite
14 Exhibit 2. I don't know which specific map. (Pause)

15 Q (By Mr. Stone) Mr. Daniel, if I may
16 indulge --

17 COMMISSIONER DEASON: Mr. Stone, you are
18 going to have to get to a microphone.

19 MR. STONE: Yes, sir.

20 Am I on yet?

21 Commissioner, there's a large map for
22 demonstrative purposes we've placed in the hearing
23 room. And if we could get the mike to work, if
24 Mr. Daniel could join me at the map, I believe we
25 could show the area I was referring to in my question.

1 Q (By Mr. Stone) Mr. Daniel, would you mind
2 joining me at the map?

3 Would you agree that this general area of
4 this demonstrative aid represents the Moss Hill Church
5 area?

6 A Yes.

7 Q And I described for you the boundary that
8 Mr. Gordon's proposal was running down the highway.
9 Is that, in fact, depicted along this area?

10 A Yes.

11 Q And I previously indicated that Gulf Power
12 has a three-phase line along the highway and Gulf
13 Coast has a single-phase line along the highway; is
14 that correct?

15 A That's correct.

16 Q As a person with experience in utility
17 facilities planning -- well, first, let me ask you
18 this question.

19 Did Mr. Gordon make any provision in his
20 proposal of a boundary in that area for the character
21 or capability of existing facilities or the nature of
22 future load to be served?

23 A Well, I think you probably should have
24 directed that question to Mr. Gordon because he gave
25 you his criteria, and I think they are very consistent

1 with mine, and how he applied that in each instance,
2 and I'm not really the one to tell you exactly how he
3 applied that along that given path.

4 Q The fact of the matter, though, is that all
5 it is, is a single line drawn, and there is no
6 provision in the nature of his boundary that makes
7 provision for such future service; is that correct?

8 A Could you -- could you repeat your question?
9 You are talking about the boundary line that's drawn?

10 Q The existence of the boundary down highway
11 279 where there's a three-phase line belonging to one
12 utility on one side of the highway and a single-phase
13 line belonging to the other utility on the other side
14 of the highway. The fact that there's a line drawn
15 down the center of the highway allocating territory to
16 one utility on one side and to the other utility on
17 the other, is there any distinction drawn in that line
18 that makes provision for the character or capability
19 of existing facilities or the nature of future load to
20 be served?

21 A Again, I think you should ask Mr. Gordon
22 that, but that line was drawn to separate the two
23 utilities and assign a service area that each would be
24 responsible for serving from those particular
25 facilities. And there's also history behind those

1 facilities which I think is covered in various
2 testimony that's been filed as to which utility had
3 facilities there first; and those things, again, come
4 into play.

5 You can't look at a specific factor and
6 isolate on that factor and say that's the decision you
7 are going to make. It considers this range of
8 factors.

9 Q The fact of the matter is if the boundary
10 line is drawn in the fashion proposed, if a new 200 kW
11 or similar sized three-phase load were to locate
12 across the highway, that is on the east side from Moss
13 Hill Church in the area that we've just described and,
14 therefore, in the area that Mr. Gordon's proposal
15 would assign to Gulf Coast, do you know what
16 facilities Gulf Coast would have to construct to serve
17 that load?

18 A Probably facilities somewhat like what Gulf
19 Power built through that area at a point in time when
20 they weren't serving any load in that area.

21 Q Well, can you tell me then that since Gulf
22 Power's line is a three-phase line, that the
23 facilities that you just described would be more than
24 Gulf Power would have to construct to serve that 200
25 kW load, three-phase load?

1 A You are picking again a situation where
2 facilities exist the Cooperative's lines were there
3 first. Had they needed to build three-phase service
4 into that area to serve that load as it developed
5 along the way, the Cooperative could have made those
6 decisions at a point in time.

7 You are looking -- again, you are trying to
8 isolate on a particular circumstance and ignore all
9 the other factors that I've tried to take into
10 consideration; one of them is who was in the area
11 first.

12 Q Okay.

13 A The fact that somebody came into the area
14 later and constructed a facility is not necessarily
15 dispositive of how you make a resolution -- determine
16 a resolution in this proceeding.

17 Q You recognize, of course, that those
18 facilities of Gulf Power had been there more than 20
19 years?

20 A I understand they have, yes.

21 Q And I believe, even though you didn't give a
22 direct answer to the question, the direct answer would
23 have been that, "Yes, given the state of the
24 facilities as they exist today, given the hypothetical
25 new customer I described, Gulf Coast would have to

1 construct more facilities to provide service to that
2 load than Gulf Power Company at that location."

3 A If you focus solely on that criterion at
4 this point in time, that would be correct.

5 Q But the territorial boundary proposed by
6 Mr. Gordon would prevent Gulf Power from serving this
7 load under my hypothetical?

8 A I'm not sure you said which side of the road
9 it would be on.

10 Q Well, let's make no mistake. I said that
11 the new load, 200 kW three-phase load, would be on the
12 Gulf Coast side of the proposed boundary.

13 A That's correct. They would -- absent an
14 agreement between the parties for some temporary
15 arrangement under the boundary proposal, that would be
16 Gulf Coast's load.

17 Q Well, even under your agreement, it would
18 only be a temporary situation?

19 A That's correct.

20 Q And there is no agreement between the
21 parties; is that correct?

22 A No, that's why we are here.

23 Q If Gulf Power could serve this load with a
24 significantly smaller expenditure than Gulf Coast, the
25 boundary proposed by Mr. Gordon would not have

1 prevented uneconomic duplication in this instance,
2 would it?

3 A It wouldn't prevent uneconomic duplication
4 at that point in time, but it certainly could lead to
5 that down the road depending on how development occurs
6 in the area and what the parties would do as that load
7 is served in the area.

8 Q The answer is, no, it did not prevent it?

9 A That's what I said. I think -- on that
10 particular instance. But it doesn't look at what
11 would happen down the road.

12 Q And, in fact, the existence of that boundary
13 line actually caused uneconomic duplication by causing
14 Gulf Coast to build facilities that duplicate the
15 existing facilities of Gulf Power ready and capable of
16 serving that load?

17 A If you look at a short-term one-customer
18 view --

19 Q Is the answer yes, Mr. Daniel?

20 A No. The answer is no.

21 Q It would not cause uneconomic duplication of
22 Gulf Power's existing facilities?

23 A The question can't be answered yes or no,
24 because you are looking at one customer at one point
25 in time with regard to serving a given area. Planning

1 the distribution facilities of a system is a dynamic
2 process that involves not only that customer, but all
3 other customers that will locate in that area and
4 other areas that might be affected by the facilities
5 that would serve that customer in that given area. So
6 you can't say yes or no.

7 It's much like Gulf Coast -- excuse me, Gulf
8 Power, so it's a life cycle view of things, it's not
9 an instantaneous view of things that you have to take
10 when you look at whether something is or isn't
11 uneconomic, and that's the approach that I have said
12 has to be considered. It's a long-term approach and
13 not a one-instance approach such as you hypothesize.

14 Q With reference to Page 21 of your testimony
15 at Lines 17 through 20, you indicate the distribution
16 facilities are planned to construct in discrete
17 increments with long lead times, that distribution
18 facilities have lead times that can be from several
19 months to several years depending upon the type of
20 facility, location of service and other factors. Do
21 you recall that reference?

22 A Yes.

23 Q At this point in your testimony you are not
24 referring to someone that locates 100 feet from an
25 existing primary line and requests to have service; is

1 that correct?

2 A I think as a general proposition that would
3 be correct. I guess there could be some unusual
4 circumstance that could cause there to be a protracted
5 problem, but, generally, I wouldn't think that would
6 be the case.

7 Q In fact, this customer's load might be
8 contained in the utility's expected growth; however,
9 the customer's exact location is not part of the
10 planning process; isn't that correct?

11 A It could be either utility's, in either
12 utility's load, that's correct. Planning load, if you
13 will.

14 Q How much lead time would you estimate for a
15 new customer locating 100 feet from an existing
16 primary line before service can be provided?

17 A I guess it could be requested one day and
18 connected the next day under certain circumstances.

19 Q How about one that located 500 feet from
20 that existing primary line?

21 A Again, generalizing is something you need to
22 be very careful on because it will depend on the facts
23 and the circumstances.

24 Q And would the same be true for 1,000 feet
25 from the line?

1 A Well, the farther you go from the location
2 that you are tapping, the greater the facilities that
3 are involved, the greater potential for any number of
4 factors to come into play that would affect the timing
5 of being able to get a facility physically
6 constructed. I think the planning process might also
7 be impacted depending upon that distance.

8 Q When you discuss the planning process, what
9 you are really talking about is making sure that the
10 distribution system that currently exists, along with
11 already known specific developments and a reasonable
12 load growth forecast, that with this information any
13 future need for improvements to the existing system
14 will be identified and put into a work plan; isn't
15 that correct?

16 A No, that's not the only thing. I'm talking
17 about the upstream planning obligation with regard to
18 sizing your feeder lines, your substation facilities,
19 in order to be able to serve a given load. For that
20 matter, in the aggregate all loads affect transmission
21 planning and they affect generation planning with
22 regard to the service in a given area.

23 So the planning I have in mind is much
24 broader, takes in the full range of economic effects
25 of all factors that play into the delivery of electric

1 service to a given consumer along with all other
2 consumers.

3 Q Okay. But to be clear, the planning process
4 does not generally take into consideration the
5 specific location of individual new customers, but
6 rather some expectation of load growth caused by a
7 reasonable number of new customers, isn't that
8 correct?

9 A Again, with the exception that I said
10 earlier, I think that's correct. You may have
11 instances where specific loads at the end of the line,
12 so to speak, are planned for.

13 In other words, a distribution tap to serve
14 a new commercial industrial customer might be
15 specifically planned for. But your facilities in
16 general upstream are planned on an aggregated basis in
17 anticipation of serving aggregated loads in a given
18 area.

19 Q In Pages 28 through 31 of your testimony,
20 you discuss the exhibits that have been made a part of
21 Composite Exhibit 4 and, specifically, you are
22 referring to your Exhibits SPD-3, SPD-4 and SPD-5; is
23 that correct?

24 A I'm sorry, give me a cite again. Page 28,
25 what?

1 Q Pages 28 through 31.

2 A Yes, that area of my testimony touches on
3 some specific data related to the areas on the maps
4 that have been identified, and that data was supplied
5 by both Gulf Coast and Gulf Power.

6 Q On SPD-5, you show the 1995 peak loads for
7 four substations on Gulf Coast Electric Cooperative's
8 system; is that correct?

9 A Yes.

10 Q And what you are doing with this exhibit is
11 trying to demonstrate the available transformer
12 capacity of Gulf Coast Electric Cooperative's system
13 to meet future demand growth; is that also correct?

14 A Well, it's an estimate. You know, it
15 actually gets more technical than that in the sense
16 that you can overload transformers for certain periods
17 of time and things of that nature. But it was an
18 effort to identify relative capacities and indicate
19 that there is substation capacity in the area -- I
20 mean, in the substations that are available to serve
21 in these areas.

22 Q Now, let's look at SPD-3 where you project
23 demand. You show a figure on the right called
24 available transformer capacity; is that correct?

25 A Yes.

1 Q On SPD-3, you also have a column called
2 "Estimated Summer Peak Demand"; isn't that correct?

3 A Just to be clear, you are talking about
4 Column I? So we are in the same column on that page.

5 Q Well --

6 A There are two columns that are labeled
7 Estimate Summer Peak Demand; one is on an aggregated
8 basis and the other one is on a per consumer basis.

9 Q Well, isn't it true that the peak demand
10 figure in one of those columns is only the load
11 estimated to be on the maps included in this case?

12 A That's correct.

13 Q Which column is that?

14 A Column I.

15 Q Thank you. When you arrive at your
16 available transformer capacity, you are not taking
17 into account all of the expected demand growth that
18 would impact the available capacity; isn't that true?

19 A That's correct.

20 Q Going back to SPD-5, in order to arrive at
21 the available transformer capacity in 1995 that you
22 use as a basis for your figures in SPD-3, you use the
23 transformer's fan rating; isn't that correct?

24 A That's correct.

25 Q And just to make it clear, fans are used in

1 order to get a higher capacity out of a transformer?

2 A That's correct.

3 Q Would you agree that according to your
4 exhibit this added capacity is worth about 25% more in
5 available -- the capacity from these transformers?

6 A I think that was the indication -- I didn't
7 calculate that percentage, but then my recollection is
8 that's probably the order of magnitude based on the
9 data that was supplied.

10 Q The fact of the matter is that none of the
11 transformers identified on SPD-5 have fans installed
12 today; is that correct?

13 A That's correct, although I believe one of
14 them is scheduled to have fans installed in '97. And
15 I'm also told that fans are available probably on a
16 day's notice from Alabama Electric Cooperative who is
17 responsible for the substation as far as securing
18 this.

19 Q But in terms of 1995 data, there were no
20 fans installed?

21 A That's correct. But, again, the '95 data
22 was a starting point trying to look forward into the
23 future years that were on the other exhibit that you
24 asked me about, which were '96 through 2000.

25 Q On Page 10 of your testimony, you give your

1 opinion that allowing two utilities to continue vying
2 for the opportunity to serve the same service areas
3 encourages the two utilities to build duplicative
4 facilities. Do you recall that reference?

5 A Yes.

6 Q In other words, you are saying that such
7 continued state of affairs, that is allowing the two
8 utilities to continue vying for that opportunity,
9 would actually encourage Gulf Coast Electric
10 Cooperative to duplicate the existing facilities of
11 Gulf Power Company?

12 A Well, I think what I said, it encourages
13 both utilities to do that, and -- (Simultaneous
14 conversation.)

15 Q By definition then it would also be
16 encouraging Gulf Coast?

17 A Yeah. I mean, either party would have to
18 act under some restraint in order to not be induced to
19 do that.

20 Q You are, of course, aware that the Florida
21 Statutes establishes the state's policy is to avoid
22 further uneconomic duplication of facilities?

23 A I understand that that's the case, but I
24 think the record, before the case is over with here,
25 will be replete with examples of where instances

1 occur. But because of the size of the loads involved
2 and the cost involved, it's just prohibitive to come
3 down here and fight a proceeding like this every time
4 one of those instances comes up.

5 So events occur and things occur and
6 uneconomic duplication can occur that never even comes
7 to the Commission's attention because of the economics
8 of those sorts of situations.

9 Q But in terms of encouraging the two
10 utilities to build duplicative facilities, your
11 earlier answer means -- does that mean in absence of
12 fixed territorial boundaries, Gulf Coast would violate
13 state policy and uneconomically duplicate the existing
14 facilities of Gulf Power Company?

15 A Well, you get into arguments about whether
16 something does or doesn't violate state policy.

17 If Gulf Coast did something that Gulf Power
18 thought violated state policy then, obviously, I think
19 what would happen, if it were serious enough, then
20 there would be a dispute alleged before this
21 Commission and this Commission would decide that. And
22 this Commission on an after-the-fact basis could
23 potentially remedy that, but --

24 Q But in the case of these two facilities --

25 A Excuse me --

1 Q There have been six such instances where --

2 MR. HASWELL: Could you let the witness
3 finish answering, please?

4 COMMISSIONER DEASON: Mr. Stone, let the
5 witness finish his answer.

6 MR. STONE: I'm sorry.

7 WITNESS DANIEL: So whether a party chooses
8 to violate the policy, and how it might violate the
9 policy or the procedures of the Commission, I mean, we
10 don't know that in a given instance. What I'm telling
11 you is that I think other witnesses have presented
12 instances where that has occurred, where it hasn't
13 caused a dispute, and that's driven by economics. You
14 can't come down here and fight each of these
15 situations because of the cost of doing that.

16 But that doesn't mean that the utilities
17 haven't engaged in practices that could be considered
18 as causing uneconomic duplication. And by not having
19 a boundary and looking at some of these past
20 instances, I think there is a real probability that it
21 will encourage the parties to possibly do things that
22 are uneconomic.

23 Q It's the word "encourage" that you have
24 chosen to use. You are saying it encourages them to
25 violate the state policy.

1 A Well, there's no constraint --

2 Q Is there an incentive to violate the state
3 policy?

4 A Well, there is an incentive to go out and
5 build lines into the other person's area and just hope
6 that the other guy doesn't call your hand and bring
7 you down here to the Commission and to squabble over
8 whether I'm going to build to this customer or this
9 subdivision because it's got 5,000 customers in it
10 potentially versus letting the other guy pick up
11 another customer that's maybe a chip mill or
12 something; and you get into selective decision making
13 that can result in uneconomic duplication.

14 Q But you are not saying that that is a
15 situation that exists only for Gulf Power Company,
16 that that same situation exists for Gulf Coast
17 Electric Cooperative in terms of this so-called
18 encouragement that you describe in your testimony?

19 A Well, in general, I think that's true. My
20 review of the record, as it stands today, is that Gulf
21 Coast's policy has been to try to operate in a way
22 that doesn't result in that sort of thing.

23 And I won't say they are completely clean in
24 that regard because I think there's at least one
25 instance that's been presented where maybe they went

1 into an area where Gulf Power might have been closer.
2 But the whole purpose of this proceeding is to try to
3 avoid those types of things that I can tell you, based
4 upon my experience, lead to uneconomic duplication
5 that's costly to the public.

6 Q In fact, what you are really after is to
7 eliminate disputes?

8 A To eliminate uneconomic duplication,
9 irrespective of whether it leads to a formalized
10 dispute before this Commission.

11 You use the term "dispute," and you seem to
12 define it as being something that comes before this
13 Commission. I use a much broader term to define a
14 dispute. And a dispute could be over a customer in
15 the field, but it's never brought to this Commission.

16 Q The goal of this Commission is to avoid
17 uneconomic duplication; is that correct?

18 A Absolutely.

19 Q And you had previously acknowledged that the
20 statutes establish that that is the state's policy, to
21 avoid further uneconomic duplication of facilities.

22 A That's correct.

23 Q And you are aware that Gulf Power Company is
24 under the complete regulatory jurisdiction of this
25 Commission as to its rates and allowed return on

1 investment?

2 A Except for its wholesale business, but
3 that's basically correct.

4 Q With regard to the matters that are being
5 brought before this Commission today, Gulf Power
6 Company is under the complete regulatory jurisdiction
7 of this Commission as to rates and allowed return on
8 investment?

9 A Yes, I think that's correct.

10 Q The Commission does not have such control
11 over Gulf Coast Electric Cooperative, does it?

12 A Well, it has certain controls over Gulf
13 Coast. It's not --

14 Q But not such complete control over rates?

15 A It doesn't have the same all encompassing
16 control, that's correct.

17 Q Thank you very much.

18 A But Gulf Coast is controlled in other ways.

19 **COMMISSIONER DEASON:** Staff.

20 **MR. HASWELL:** Mr. Chairman, before we get
21 off of the cross by Gulf Power, I'd like to move to
22 strike the reading by Mr. Daniel of the Order 16246
23 that Mr. Stone had him read. I thought at some point
24 they were going to use that as part of cross
25 examination or get into an inquiry of it. But this

1 point is totally irrelevant. Mr. Daniel did not
2 mention anything about that order. There's no
3 testimony that he was involved in that case, and it's
4 simply an effort by Gulf Power to read in -- into this
5 record -- language out of an order that occurred back
6 in 1986; it has nothing to do with this case.

7 If they want to refer to it in their closing
8 argument, if they want to refer to it in a brief,
9 that's fine. But to have our witness read it in and
10 then ask him no further questions about it, I think is
11 wrong, and it should be stricken.

12 **COMMISSIONER DEASON:** Mr. Stone.

13 **MR. STONE:** I'm sorry if Mr. Haswell didn't
14 hear my other questions asked about it. They were
15 asked. I think the record will speak for itself. I
16 believe the Commission has a practice of taking
17 official notice of its own orders.

18 **COMMISSIONER DEASON:** I think the record
19 will speak for itself. The objection is overruled.

20 I think there were follow-up questions,
21 Mr. Haswell, and I think that we do have a customary
22 practice of taking official recognition of our own
23 orders. And the fact that part of that order was read
24 into the record, I don't think that is in any way --
25 is prejudicial to your case.

1 Staff, you may proceed.

2 CROSS EXAMINATION

3 BY MS. JOHNSON:

4 Q Mr. Daniel, do you believe that uneconomic
5 duplication of facilities would be reduced if both
6 companies establish a written formal policy with
7 guidelines and procedures detailing how each request
8 for a new service will be evaluated?

9 A I think that might take a step in the
10 direction, but there are several things you have to
11 recognize. One, it requires an adherence to those
12 policies which is of some concern, and when you have
13 policies like that and not a specific line, then you
14 get into judgmental areas, gray areas, where there can
15 be problems arising as a result of those gray areas.

16 I think the other thing that you have to
17 keep in mind is in looking at policies like that, I
18 think they are very hard to fashion unless you are
19 going to look at just the last increment of hooking up
20 a customer and not consider the whole planning process
21 that goes into serving overall aggregated load in a
22 given area.

23 In order to do that, I think you would
24 almost have to have coordinated planning among the two
25 systems, and I don't think that's very likely. And

1 short of that, I think the sort of proposition that
2 you are talking about is sort of a limited fix to a
3 problem and probably not a permanent fix that would
4 work.

5 Q Do you believe it's necessary to have two
6 utilities present in an area to reliably meet the
7 electric service requirements of a customer?

8 A To have two in an area?

9 Q Yes.

10 A No.

11 MS. JOHNSON: That's all that we have.

12 COMMISSIONER DEASON: Redirect.

13 MR. HASWELL: Mr. Chairman, at this time we
14 would move SPD-2 through SPD-6. I think that would
15 become a composite exhibit.

16 COMMISSIONER DEASON: That was Composite
17 Exhibit 4. Without objection Composite Exhibit 4 is
18 admitted. Thank you.

19 (Composite Exhibit 4 received in evidence.)

20 MR. HASWELL: Mr. Chairman, that concludes
21 our case on direct.

22 COMMISSIONER DEASON: Thank you, Mr. Daniel.

23 (Witness Daniel excused.)

24 - - - - -

25 COMMISSIONER DEASON: We are not going to

1 break for lunch at this time, we are going to take a
2 recess. We are going to take a -- we will reconvene
3 at 12:15, and we will plan on breaking for lunch
4 somewhere around 1:00. We will stand in recess until
5 12:15.

6 (Brief recess.)

7 - - - - -

8 COMMISSIONER DEASON: Call the hearing back
9 to order. Mr. Stone.

10 MR. STONE: Thank you, Commissioner Deason.
11 Mr. Holland has taken the stand and has previously
12 been sworn.

13 - - - - -

14 G. EDISON HOLLAND, JR.

15 was called as a witness on behalf of Gulf Power
16 Company and, having been duly sworn, testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. STONE:

20 Q Would you please state your name for the
21 record?

22 A My name is Ed Holland.

23 Q And by whom are you employed?

24 A By Gulf Power Company.

25 Q In what capacity?

1 **A** I am Vice president of Generation and
2 Transmission and Corporate Counsel.

3 **Q** Are you the same Ed Holland who prefiled
4 direct testimony dated October 15, 1996, in this
5 proceeding?

6 **A** Yes, I am.

7 **Q** Do you have any changes or corrections to
8 your prefiled direct testimony?

9 **A** Yes, I have three changes. On Page 7,
10 Line 13, the "eight-tenths" should be changed to
11 "nine-tenths." On Page 19, Line 24, the first word on
12 that line "Power" should be changed to "Coast."

13 And then on my Exhibit GEH-4, Line 7, the
14 word "with" where it says "utility with selected," the
15 word "with" should be stricken and "who is" should be
16 substituted. That's all the changes I have.

17 **COMMISSIONER DEASON:** Could you review that
18 last one?

19 **WITNESS HOLLAND:** Line 7, toward the end of
20 that line it says "the utility with selected by the
21 customer." "With" should be stricken and "who is"
22 should be substituted. That's all the corrections I
23 have.

24 **Q** **(By Mr. Stone)** With the changes noted, if
25 I were to ask you the questions contained in your

1 prefiled direct testimony, would your responses be the
2 same?

3 A Yes, they would.

4 MR. STONE: Commissioner Deason, we would
5 ask that Mr. Holland's direct testimony be inserted
6 into the record as though read.

7 COMMISSIONER DEASON: We have a pending
8 Motion to Strike which we will address at this time.
9 Mr. Haswell.

10 MR. HASWELL: Thank you, Commissioner
11 Deason.

12 Again, to refer to our Motion to Strike, we
13 specifically asked the Commission to strike Lines 23
14 through 25 on Page 4, specifically the language that
15 says "This is clearly contrary to the public policy
16 considerations which brought about the creation and
17 existence of such cooperatives" as being irrelevant
18 and immaterial to any of the seven issues identified
19 in this case.

20 Also that in light of our reduction in the
21 size of our Motion to Strike, Page 11, Lines 13 to 25,
22 and Page 12, Lines 1 and 2, that refers to speculation
23 about what might happen in the utility industry. And
24 again, the language -- the bottom line is this
25 language does not tend to prove or disprove any issue

1 in this case and is not related to any of the seven
2 issues.

3 Finally, exhibits GEH-2 and GEH-5 in our
4 view are also irrelevant and immaterial. Adding a law
5 review article as an exhibit does not tend to prove or
6 disprove any of the issues in this case, and
7 neither -- excuse me. And in addition, the Supreme
8 Court opinion, which really we could just leave it if
9 we wanted to. I just don't like to see a witness
10 attaching a Supreme Court opinion as an exhibit to his
11 case. It should be legal argument in the closing
12 brief or argument by counsel. But for Mr. Holland to
13 sponsor a Supreme Court opinion I think is beyond the
14 issues in this case or beyond the scope of his
15 testimony.

16 **COMMISSIONER DEASON:** Mr. Stone.

17 **MR. STONE:** Commissioner Deason, I would
18 refer to Mr. Badders who will present argument on
19 behalf the company.

20 **COMMISSIONER DEASON:** Mr. Badders.

21 **MR. BADDERS:** Yes, Commissioner Deason,
22 which order would you like me to address; as they have
23 it laid out in their motion?

24 **COMMISSIONER DEASON:** Yes.

25 **MR. BADDERS:** As to Page 4, Lines 23 through

1 25, this is clearly relevant and material to Gulf
2 Power's answer to Issue 6 and 7.

3 This posed the question "How should the
4 Commission establish the territorial boundary between
5 Gulf Power and Gulf Coast, South Washington and Bay
6 Counties where the electrical facilities are
7 commingled and in close proximity and further
8 uneconomic duplication of facilities is likely to
9 occur?"

10 Gulf Power responds to that saying that
11 territorial boundaries should not be established.
12 This is part of the basis and is highly relevant to
13 Gulf Power's case in putting forth that territorial
14 boundaries should not be put in place.

15 **COMMISSIONER DEASON:** Let me ask you this:
16 How is the public policy considerations which brought
17 about the creation of cooperatives relevant to how
18 territorial boundaries are to be drawn in this case?

19 **MR. BADDERS:** Placed in context with the
20 beginning sentence in this, this is where Mr. Holland
21 is explaining that he does not believe that it would
22 be right to assign these exclusive service rights to
23 either one. And part of that reason is that he
24 believes, it's his opinion, that the public policy
25 behind the creation of the cooperative goes against

1 this.

2 So I mean this is just part of his opinion;
3 it's his basis for his argument.

4 **COMMISSIONER DEASON:** Please proceed.

5 **MR. BADDERS:** I argue, also, the same at
6 Page 11, Lines 13 through 25. This is the basis
7 for -- part of the basis for Mr. Holland's answer to
8 Issues No. 6 and 7. It states why the Commission
9 should not draw territorial boundaries in the present
10 matter.

11 This discusses what he believes is a
12 concern; the future ramifications of what are being
13 done here, and the uncertainty as to the future in
14 this environment and the impact that that has on these
15 proceedings.

16 And as to I believe it's the law review
17 article, GEH-2, clearly this article addresses the
18 topic that is at hand: whether or not territorial
19 boundaries should be drawn. It's authoritative; input
20 from members of this Commission Staff. It's a public
21 document, public record. I believe that the
22 Commission can judicially take official notice of
23 this.

24 Further, this Commission has the latitude to
25 accept this type of information and attribute to it

1 whatever weight it so desires. And I believe -- I'm
2 not really sure, as to GEH-5, if he withdrew his
3 Motion to Strike. He said he didn't care if it was
4 left attached.

5 **MR. HASWELL:** We prefer it not be.

6 **MR. BADDERS:** I believe for the convenience
7 of the parties and people reading this, the casual
8 reader, it helps to have this attached. He does make
9 reference to it in his testimony, and to facilitate
10 the reader to having to go to another source to find
11 it, it is attached.

12 **COMMISSIONER DEASON:** Have you any
13 concluding argument?

14 **MR. HASWELL:** Thank you, sir.

15 I still point out that the language on
16 Page 4, Lines 23 through 25, has nothing to do with
17 the resolution of how the Commission should establish
18 a territorial boundary or where that boundary should
19 be.

20 We're not here to argue about why
21 investor-owned utilities were created and how they are
22 constructed or why co-ops were created or how they
23 were constructed.

24 In addition, the language on Page 11 and top
25 of Page 12 we asked to be stricken, Mr. Holland is

1 in terms of a changing regulatory climate. That could
2 happen any time. It goes without saying that anything
3 could be changed. But the bottom line is in terms of
4 what the issues are in this case, that language is
5 really irrelevant.

6 The language suggests that don't do anything
7 because there's tremendous uncertainty in the utility
8 industry. In our view that's not something this
9 Commission should be considering, and it does not
10 answer any of the issues.

11 Again, on GEH-2 and 5, I definitely think
12 that GEH-5 should be stricken also on the basis of
13 being redundant. It's already filed in the record of
14 this case -- part of the record, part of the official
15 record. And GEH-2 does not need to be attached as an
16 exhibit, and I would suggest that it does not resolve
17 any of the issues in this case or address any of the
18 issues in this case.

19 **COMMISSIONER DEASON:** Mr. Haswell, what is
20 your opinion on whether the Commission could take
21 official notice of the law review article which is
22 attached as GEH-2.

23 **MR. HASWELL:** I'm not confident that a law
24 review article is a public document. It's a
25 publication by the Florida State University Law

1 Review. I certainly think you can take public
2 notice -- excuse me, judicial notice, official notice
3 of the Supreme Court opinion. But again I think it's
4 redundant. It's already in the case.

5 **COMMISSIONER CLARK:** Mr. Chairman, can I
6 give you my thoughts for what they are worth? I'm
7 comfortable either way on this and I'm glad it's your
8 decision.

9 But it just seems to me with respect to the
10 order, we can take official notice of it. The fact it
11 is labeled as an exhibit, I think we can just say
12 we're taking official notice of it; it's not proof of
13 a fact or testimony. It's more in the nature of
14 something you would rely on for legal argument. I'm
15 not sure you can take judicial notice of the law
16 review article, but it is also something that I think
17 lawyers can use to explain their positions and use it
18 as I guess its persuasive authority, but it's not
19 probative evidence. And there's probably no harm in
20 leaving it as an exhibit as long as it's understood
21 that it's not probative of any fact. It's just more
22 in the nature of legal argument.

23 With respect to the testimony, it seems to
24 me the law is what the law is, and I think what is in
25 the testimony is an argument of what it ought to be or

1 may be in the future. But again I think we could go
2 either way on this one.

3 **COMMISSIONER DEASON:** Thank you. As to the
4 first section of testimony found on Page 4, Lines 23
5 and 25, I'm going to grant the Motion to Strike. I
6 don't find that the public policy of creation of
7 co-ops has any material bearing on the issues in this
8 case. Those lines will be stricken.

9 As to the second part of the motion
10 addressing testimony on Page 11 and 12 -- Line 13
11 through 25 on 11, and Lines 1 and 2 on Page 12, the
12 Motion to Strike is denied. While the testimony may
13 be addressing matters which are to somewhat -- to some
14 degree speculative, it is within the nature of an
15 expert witness to address such matters. And I think
16 that the subject matter of that testimony is on point
17 to the issues which are in this case.

18 As to the law review article, the Motion to
19 Strike, that is denied. I do agree with the statement
20 by Commissioner Clark, that in and of itself it cannot
21 be used -- is not probative of any fact in this case
22 but I think that it does contain relevant information
23 basically of a historical nature, which is helpful to
24 the reader of the testimony in this proceeding.

25 As to the Supreme Court decision, which is

1 contained in GEH-5, I find no reason to strike that
2 from the testimony either. I think it's primarily
3 included as an aid to the reader and to facilitate the
4 understanding of the testimony. And for that purpose
5 it is permissible to have that identified as an
6 exhibit to the testimony, and we will proceed on that
7 basis.

8 **MR. STONE:** I believe I was at the point of
9 moving the admission of Mr. Holland's testimony into
10 the record as though read.

11 **CHAIRMAN DEASON:** And it will be inserted
12 into the record with the exception of the testimony
13 contained on Page 4 as I described earlier.

14 **Q** **(By Mr. Stone)** Mr. Holland, did you have
15 some exhibits with your prefiled direct testimony? I
16 believe they were exhibits GEH-1 through GEH-5.

17 **A** That's correct.

18 **Q** And you've previously noted a correction to
19 one of those exhibits; is that correct?

20 **A** That's correct.

21 **MR. STONE:** Commissioner, I would ask to
22 have these exhibits marked for identification. It's
23 your preference as to whether that composite exhibit
24 or separate numbers.

25 **COMMISSIONER DEASON:** I think that a

1 composite will suffice, and they will be identified as
2 composite Exhibit 5.

3 (Exhibit 5 marked for identification.)

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GULF POWER COMPANY

Before the Florida Public Service Commission
Direct Testimony of
G. Edison Holland, Jr.
Docket No. 930885-EU
Date of Filing: October 15, 1996

1
2
3
4
5
6 Q. What is your name and affiliation with Gulf Power
7 Company?

8 A. My name is Ed Holland, and I am Gulf Power Company's Vice
9 President -- Generation and Transmission and Corporate
10 Counsel. In this role, I serve on the Leadership Council
11 of Gulf Power Company ("Gulf Power", "the Company") which
12 consists of the Company's president and vice presidents.
13 I have responsibility for policy issues regarding service
14 rights and other corporate issues related to our
15 obligation to serve the public with retail electric
16 service.

17
18 Q. Do you have any exhibits to which you will refer in your
19 testimony?

20 A. Yes, I have five exhibits. My first exhibit (GEH-1) is a
21 comparison of residential electric service prices between
22 Gulf Power and Gulf Coast Electric Cooperative, Inc.
23 (GCEC). My second exhibit (GEH-2) is a Florida State
24 University Law Review article referenced herein. My
25 third exhibit (GEH-3), is entitled "Territorial Policy

1 Statement". My fourth exhibit (GEH-4) is entitled
2 "Policy Statement". My fifth exhibit (GEH-5) is the
3 order of the Florida Supreme Court reversing the
4 Commission's award of service rights for the Washington
5 County prison to Gulf Power.

6
7 Q. What is the purpose of your testimony in this proceeding?

8 A. The purpose of my testimony is to present Gulf Power's
9 position regarding the resolution of territorial disputes
10 and the drawing of territorial boundaries.

11 Our basic position is very simply that the procedure
12 used by this Commission for resolving service disputes
13 has served the ratepayers of this state extremely well
14 for nearly twenty-five years and should continue to be
15 used by the Commission. Given the history of disputes
16 between the parties and the current status of the
17 electric utility industry, the mandating of fixed
18 territorial service areas or "lines on the ground" would
19 constitute a regressive rather than a progressive policy
20 on the part of the Commission. Nevertheless, given the
21 predisposition some have expressed for "lines on the
22 ground," my testimony and the testimony of Gulf Power's
23 other witnesses will also introduce several innovative
24 methods for resolving territorial disputes between GCEC.
25 These methods involve various forms of agreements that

1 could be entered into by the parties in this docket. In
2 the absence of an agreement between the parties, one of
3 these methods could be adopted by the Florida Public
4 Service Commission ("Commission") as a policy statement
5 governing the resolution of future territorial questions
6 that may arise upon a direct request for service by a new
7 customer in the relevant areas of southern Washington and
8 northern Bay Counties. Each of these innovative methods
9 will result in the avoidance of further uneconomic
10 duplication of electric facilities and in fewer contested
11 territorial disputes involving the two utilities while
12 still allowing for customer choice where appropriate.

13
14 Q. What general observations would you make about the issues
15 identified in Commission Order No. PSC-96-1191-PCO-EU?

16 A. The explicit issues of this proceeding, as specifically
17 and narrowly defined by the Commission's order, clearly
18 indicate a predisposition for the establishment of
19 territorial boundaries between Gulf Power and GCEC
20 consisting of detailed geographical delineations (i.e.
21 "lines on the ground"). Such boundaries would define
22 geographic areas in which one utility or the other would
23 have exclusive service rights.

24 Gulf Power adamantly opposes such geographical
25 delineations in Northwest Florida for several reasons.

1 First and foremost, we believe such a decision today,
2 when there are vast areas of undeveloped property in this
3 region of the state, would be contrary to the best
4 interests of the general body of electric customers in
5 the region both now and in the future. Lines on the
6 ground would preclude Gulf Power from serving some new,
7 future electric service customers for which the Company
8 would ordinarily be the economic choice to extend
9 facilities and provide electric service. This preclusion
10 would hinder Gulf Power from fulfilling its basic
11 business objective of providing reasonably priced
12 electric service to customers in Northwest Florida
13 through the economies inherent in the free enterprise
14 system and the profit motive.

15
16 Q. What impact would such a policy have on the new electric
17 service customers in the areas at issue?

18 A. Assigning exclusive service rights for any geographic
19 areas to GCEC would allow (in fact, force) a rural
20 electric cooperative to serve some electric service
21 customers that an investor owned utility, Gulf Power,
22 would otherwise be willing and able to serve at a lower
23 cost. ~~This is clearly contrary to the public policy~~
24 ~~considerations which brought about the creation and~~
25 ~~existence of such cooperatives.] Gulf Power's witness~~

1 Russell Klepper will provide additional testimony as to
2 why and how such a policy and practice is contrary to
3 established public policy in the United States and to the
4 general welfare of the citizens of Florida.

5 Another concern that Gulf Power has with the
6 preclusive practice of "lines on the ground" is the
7 impact it would have on specific customers. Customers in
8 areas that would be exclusively assigned to GCEC and who
9 would otherwise have desired service from Gulf Power
10 would be disadvantaged and disenfranchised by a
11 Commission decision to impose "lines on the ground."
12 Such customers would be relegated to essentially
13 unregulated rates for electric service charged by GCEC.
14 The rates of GCEC, both currently and historically, have
15 been higher than such rates made available by Gulf Power
16 subject to the regulatory oversight of the Commission.
17 My Exhibit GEH-1 sets forth the current and historical
18 prices for various levels of power consumption for both
19 Gulf Power and GCEC. Each of these as yet unidentified
20 future customers who would be deprived of the savings
21 available from taking electric service from Gulf Power
22 rather than GCEC has a vested interest in the outcome of
23 this proceeding. The collective higher prices
24 involuntarily paid by all of these future customers as a
25 result of imposing a "lines on the ground" solution

1 represents money needlessly drained from the economy of
2 Northwest Florida. While this exhibit presents
3 comparative residential rates, the commercial and
4 industrial rates of GCEC are also significantly higher
5 than those of Gulf Power. The potential impacts that the
6 drawing of lines on the ground would have on economic
7 development are obvious.

8

9 Q. Do you have other objections to the delineation of
10 service territory by the drawing of lines on the ground?

11 A. Yes. In this area of Northwest Florida, there are large
12 tracts of undeveloped property. A process that
13 permanently assigns exclusive territorial rights to such
14 property based on the location of existing electric
15 service facilities totally ignores the differing types of
16 facilities that might be required to serve the different
17 types of electric loads that might be associated with as
18 yet unknown future development. Rather than preventing
19 the further uneconomic duplication of electric service
20 facilities, "lines on the ground" imposed under these
21 circumstances could have the effect of mandating
22 uneconomic duplication. This would, of course, be
23 contrary to the Commission's stated goal and statutory
24 jurisdiction upon which this proceeding is presumably
25 based.

1 Q. Can you give some examples why drawing "lines on the
2 ground" could lead to rather than prevent the further
3 uneconomic duplication of facilities?

4 A. Yes. Suppose a line was drawn equal distance between two
5 existing distribution lines that were two miles apart.
6 If the first customer obtained service 1/10th of one mile
7 inside of the drawn line in Gulf Power's territory and
8 was served by Gulf Power, that service would be
9 consistent with the least cost of service policy of the
10 Commission. However, if the next customer to be served
11 after Gulf Power extended service to the first customer
12 was 1/10th of one mile inside GCEC's assigned territory,
13 then GCEC could not extend service ^{9/10}~~8/10~~ths of one mile at
14 less cost than Gulf Power could extend service 2/10ths of
15 one mile. Nevertheless, the mere act of drawing lines on
16 the ground would preclude the utility with the least cost
17 of extending service to this second customer from serving
18 the request. Thus, drawing lines on the ground would
19 result in uneconomic duplication.

20 Please consider another example based on the same
21 facts. Assume that the first new customer required three
22 phase service instead of single phase service, and that
23 Gulf Power would have to rebuild five miles of line to
24 serve the customer with three phase service, while GCEC
25 would only have to build 1.1 miles of three phase

1 service. Obviously the least cost to serve policy would
2 be violated if Gulf Power served the customer, since its
3 line extension costs would be greater than GCEC's. This
4 is true notwithstanding the fact that the customer is
5 1/10th of one mile within Gulf Power's side of the
6 territorial boundary established by "drawing lines on the
7 ground."

8
9 Q. Could the concerns you just described through these two
10 examples be addressed by periodically re-drawing the
11 boundaries?

12 A. Perhaps, however, this would entail additional
13 controversy and additional proceedings before the
14 Commission. In fact, I believe it would require more
15 time than has been historically expended to resolve the
16 few territorial disputes that have arisen between these
17 two utilities.

18
19 Q. Why do you believe the current method for resolving
20 territorial disputes is the preferred method?

21 A. Let me say that we encourage a thorough analysis of the
22 various methods available to the Commission for the
23 resolution of territorial disputes and the prevention of
24 further uneconomic duplication. This is certainly not
25 the first time the issue of mandated lines on the ground

1 has been raised. It has been debated for years by the
2 legislature, the Commission, and the affected electricity
3 providers. The ultimate outcome of each of these debates
4 has been that the current regulatory scheme for the
5 resolution of such disputes works well and should be
6 continued. It is noteworthy that in a recent Florida
7 State University Law Review article (GEH-2), members of
8 the Commission Staff reached the same conclusion,
9 stating:

10 "While the system Florida presently uses to allocate
11 utility territory is dynamic and thus somewhat
12 stressful, the system is not broken. The
13 flexibility inherent in a dynamic system, rather
14 than the stability inherent in a static system, may
15 well be needed to effectively resolve the
16 territorial issues of the future, just as it has
17 been needed in the past. The present system
18 provides continuity, without imposing any single,
19 rigid model statewide. Paradoxically, the most
20 innovative system among the alternatives currently
21 being debated may be the one already in place."

22 As evidenced by the several suggested alternatives or
23 modifications to the current procedure which we make in
24 our testimony, we recognize that other methods do exist
25 for the resolution of disputes between electricity

1 providers. Of them all, the one least in the interest of
2 the public and the customers is the drawing of lines on
3 the ground based in large part on the location of single
4 phase distribution lines. Again, such an approach
5 creates and encourages uneconomic duplication, rather
6 than preventing it.

7 We have seriously considered all of the proposals
8 made in the past. For a number of reasons, we have
9 concluded that the current method best serves the public
10 interest and the electricity consumers of Northwest
11 Florida. First, the current system has served well and
12 is not broken. The reason most given for changing and
13 for mandating lines on the ground is that disputes are
14 expensive and time consuming. The fact is that over the
15 years, disputes have occurred so seldomly that the
16 relative time and expense involved is far outweighed by
17 the benefits gained through a case-by-case resolution of
18 disputes arising from requests for electric service.

19 Secondly, what has occurred, and was perhaps
20 foreseen by the legislature and the Commission, is a
21 systematic and economic expansion of facilities into
22 unserved areas of Northwest Florida by the electricity
23 providers in the area. Over the years, with the
24 specificity of the legislative and regulatory criteria
25 for resolving disputes, and the sparse but direct case

1 law on the subject, potential parties to a dispute have
2 evaluated the likely outcome and have resolved the matter
3 far short of ever having to come to the Commission. The
4 fact that the dispute over the Washington County prison
5 was the first between Gulf Power and GCEC to come before
6 the Commission in over eight years provides ample support
7 for this statement. The bottom line is that in 999 out
8 of 1000 cases, it is relatively easy for the utilities to
9 figure out which provider should serve a particular
10 customer based on the criteria outlined by statute and
11 rule. Cases where the ultimate outcome is not so certain
12 are rare and are readily dealt with by the Commission.

13 Thirdly, and perhaps most importantly, of all the
14 times for the Commission to be considering such a drastic
15 change in its approach to service disputes, this is
16 perhaps the least appropriate time. Consideration in the
17 past by both the legislature and the Commission of
18 mandated lines on the ground has been done in a
19 relatively stable regulatory climate. As everyone is
20 aware, these are times of tremendous uncertainty in the
21 industry. One thing is certain, however, and that is
22 that the momentum is toward giving electricity consumers
23 a choice of suppliers where it is in their and society's
24 best interests to do so. The drawing of lines on the
25 ground as suggested in this proceeding would eliminate a

1 truly economic choice for many consumers in Northwest
2 Florida and is moving backward rather than forward.

3

4 Q. You mentioned Gulf Power's willingness to consider
5 alternatives to the current regulatory procedure for
6 resolving disputes. Have there ever been any past
7 agreements between Gulf Power and GCEC that helped
8 determine which utility would serve a new customer or
9 that otherwise helped to prevent uneconomic duplication
10 of electric facilities?

11 A. Yes. For many years Gulf Power was the exclusive
12 wholesale electric supplier to GCEC. Gulf Power's
13 wholesale service contract with GCEC contained language
14 that determined retail service rights. The provisions of
15 this agreement are further described by Gulf Power's
16 witness Bill Weintritt. These provisions implicitly, if
17 not explicitly, served as a territorial agreement between
18 the parties. During the period this contract governed
19 the relationship between the parties, very few service
20 rights disputes arose between the two utilities. None
21 came before this Commission.

22

23 Q. What is Gulf Power's position regarding the need for a
24 territorial agreement at this time?

25 A. There certainly does not appear to be any justification

1 for an agreement involving exclusive territorial
2 assignments with the accompanying inefficiencies,
3 diseconomies, and public policy contradictions. In the
4 last ten years, there has been only one contested
5 territorial dispute between Gulf Power and GCEC that was
6 brought before the Commission for resolution. Since 1972
7 (when the Commission was given jurisdiction over
8 territorial disputes between electric utilities), only
9 six contested territorial disputes between these two
10 utilities have been brought by one party or the other to
11 the Commission for resolution. Given this extremely low
12 frequency, it is difficult to comprehend how the history
13 of disputes between these two utilities demonstrates a
14 compelling need for an agreement at this time.

15 This particular proceeding does not involve a
16 dispute over which utility should serve a particular
17 customer that has made a request for electric service.
18 As a result, we question whether there is an active
19 dispute between the two utilities. Nevertheless, Gulf
20 Power has always been willing to consider an agreement
21 with GCEC that would enable the two utilities to avoid
22 disputes and prevent the further uneconomic duplication
23 of electric facilities. Gulf Power does not believe that
24 such an agreement should involve boundary lines defining
25 exclusive service territories for the two utilities. In

1 our view, the inability of the two utilities to reach an
2 agreement that would allow them to avoid future
3 uneconomic duplication of each other's facilities has
4 been caused by GCEC's unwillingness to consider solutions
5 that do not involve "lines on the ground." In the
6 absence of an agreement voluntarily reached by the
7 parties, Gulf Power would support a policy statement of
8 the Commission through an order in this proceeding that
9 would give the two utilities specific guidance as to the
10 type of future utility construction that would constitute
11 uneconomic duplication of existing electric facilities in
12 violation of the Florida Statutes. Such a policy
13 statement need not and should not involve the
14 establishment of "lines on the ground". By following one
15 of our proposals, the Commission can reasonably assist
16 the two utilities in preventing further uneconomic
17 duplication of each other's electric facilities and
18 consequently avoiding unnecessary territorial disputes.

19
20 Q. What type of agreement to avoid further uneconomic
21 duplication would Gulf Power propose?

22 A. Gulf Power's first choice for such an agreement would be
23 one similar to, if not identical to, the one that served
24 each party and the general public well for many years as
25 part of the prior wholesale service contract between the

1 two utilities. As Bill Weintritt discusses in his
2 testimony, there were provisions in that contract that
3 helped the parties to avoid uneconomic duplication, gave
4 some recognition to differing service needs of customers
5 associated with the size of their electric service
6 requirements, and provided customers an initial voice and
7 choice in determining which utility would have permanent
8 service rights to a particular premise and load.

9 A similar but somewhat more detailed approach to
10 resolving potential disputes is contained in my attached
11 Exhibit GEH-3. The document is written as a policy
12 statement to be adopted by the Commission, but could be
13 easily adapted and put in agreement form. This proposal
14 provides specific distance and load criteria for
15 determining which utility is best capable of providing
16 requested electric service. It also provides, under
17 specifically defined circumstances, a requirement that a
18 party receiving a request for service notify the other
19 party of the request. If the notified party desires, a
20 meeting will be held prior to the provision of service
21 for the purpose of determining the appropriate party to
22 provide the requested service. Failing agreement at the
23 meeting, the matter is to be submitted to mediation
24 before the Commission Staff. Should mediation fail,
25 causing the matter to be submitted to the Commission for

1 ultimate resolution, the losing party would be required
2 to pay the prevailing party's costs of litigation
3 including reasonable attorney's fees.

4 We believe either of these proposals (reinstatement
5 of the relevant provisions from the wholesale service
6 contract or adoption of the policy set forth in GEH-3)
7 would drastically reduce, if not eliminate, the
8 Commission's involvement in the resolution of disputes.
9 Moreover, and we think, more importantly, it would allow
10 the economically prudent expansion of both systems to the
11 benefit of the ratepayers of Northwest Florida.

12
13 Q. Do you have any other proposals or alternatives for the
14 Commission to consider.

15 A. Yes. As an alternative to the type of agreement or
16 policy statement I just described, the utilities could be
17 directed to follow a policy such as the one set forth in
18 Exhibit GEH-4 attached to my testimony. We provide this
19 alternative because we firmly believe that if Gulf Power
20 and GCEC followed the policy and procedures outlined in
21 GEH-4, the Commission would have few, if any, territorial
22 disputes to settle in the future. More importantly,
23 further uneconomic duplication would be prevented if each
24 utility followed this policy and procedure. Furthermore,
25 like the proposal in GEH-3, this proposed solution is

1 more consistent with existing Commission policy than
2 would be an imposed "lines on the ground" solution. The
3 proposal set forth in GEH-4 would allow for a least cost
4 solution to territorial issues on a case-by-case basis.

5

6 Q. How does the proposed policy in GEH-4 differ from
7 existing Commission policy?

8 A. It does not really differ from existing policy. It
9 supplements and clarifies the Commission's existing
10 policies by providing procedural incentives for a
11 different and less costly process to dispute resolution
12 than litigation before the Commission. It also takes
13 into account the recent Supreme Court decision reversing
14 the Commission's award of service rights for the
15 Washington County prison to Gulf Power.

16 The proposal set forth in GEH-4 first sets out the
17 mechanism for consultation between the utilities in the
18 event of a request for service that may result in a
19 potential dispute regarding uneconomic duplication of
20 facilities. In the event the utilities cannot agree that
21 the customer's choice of supplier does not result in
22 uneconomic duplication of electric facilities, the
23 proposal mandates that the utilities submit the question
24 to mediation.

25

1 Q. Would the mediation process in GEH-4 eliminate all
2 Commission decision or involvement in settling
3 territorial disputes?

4 A. No. The Commission would still have to approve any
5 agreements and, in the event mediation fails to result in
6 an agreement between the utilities, the Commission would
7 still have to hold a hearing to resolve the dispute.
8 Like the proposal in GEH-3, the proposal in GEH-4
9 provides an incentive to resolve the matter either short
10 of or through the mandated mediation by requiring, in the
11 event of a contested hearing, the losing utility to pay
12 the litigation costs of the prevailing party, including
13 reasonable attorneys' fees. This type of incentive is
14 consistent with similar provisions in the context of
15 civil litigation in traditional judicial proceedings.

16

17 Q. You stated earlier that the proposals in GEH-3 and GEH-4
18 are more consistent with existing Commission policy than
19 an imposed "lines on the ground" solution would be. Why
20 is this the case?

21 A. The policy and practice of the Commission generally has
22 been to award service based on a determination of which
23 utility would have the lowest incremental cost of
24 service. Imposing "lines on the ground" is not
25 consistent with the determination of which utility should

1 honor a particular request for electric service based on
2 the least cost of service.

3

4 Q. Is the proposal set forth in GEH-4 consistent with
5 allowing customer choice when everything else is
6 essentially equal?

7 A. Yes. The policy provides that customer choice will
8 prevail when the net incremental cost to the selected
9 utility is no more than \$15,000 greater than the net
10 incremental cost to the other utility. Otherwise, the
11 customer is required to choose the utility with the
12 lowest net cost of extending or providing the required
13 electric service.

14

15 Q. What is the rationale for allowing a differential of up
16 to \$15,000?

17 A. The Supreme Court's decision reversing the Commission's
18 decision regarding which utility should serve the
19 Washington County Correctional Institute recognized that
20 customer choice should be allowed, if the cost to serve
21 for the two utilities is substantially equal. In that
22 case the Commission found that there was a \$14,583
23 difference in cost between the two utilities with Gulf
24 ~~Power~~ ^{Coast} having the higher cost. The Supreme Court ruled as
25 a matter of law that this differential was not sufficient

1 to warrant deviation from the customer's choice of GCEC
2 to be the electric supplier. For ease of reference, I am
3 attaching the Supreme Court's opinion as Exhibit GEH-5.

4 On the maps identified by the Commission Staff where
5 the parties' lines are in close proximity, there are few,
6 if any, areas where either party could not serve any new
7 load for \$15,000 or less. In other words, setting the
8 threshold at some level consistent with the Supreme
9 Court's decision would eliminate the vast majority of
10 instances where "uneconomic" duplication might occur, and
11 therefore prevent most disputes. And again, unlike
12 "lines on the ground", it would allow the economic
13 provider of choice to serve the customer.

14 If one can conclude anything from the Supreme
15 Court's opinion it is that customer choice does matter
16 and there is a threshold level of cost which is too small
17 to constitute "uneconomic duplication" as defined in the
18 statutes. In the vast majority of cases, any duplication
19 of distribution facilities which will occur in the future
20 will be *de minimus*. It is upon this basis that Gulf is
21 suggesting that the threshold level be set at \$15,000.

22

23 Q. If neither of the two proposals you have just discussed
24 are acceptable to the Commission, and if the Commission
25 insists on assigning exclusive geographic service areas

1 to each of the parties in this docket, do you have a
2 proposal that would meet this criterion?

3 A. Again, Gulf Power does not feel this type of "solution"
4 would be appropriate. However, should an approach that
5 assigns detailed, specific territories be required, it is
6 clearly inappropriate to assign territories and all the
7 future customers that would locate within such areas
8 without regard to the character of service that would be
9 required or the size of load to be served. Our witness
10 Ted Spangenberg provides testimony concerning a proposal
11 that avoids the problems of indiscriminate territorial
12 assignments related only to the presence of any type of
13 facility, regardless of its capabilities. The proposal
14 he describes assigns territories on the basis of the
15 relative economics of facilities expansion related to the
16 nature of the load to be served.

17

18 Q. Has the Commission staff identified specific maps that
19 should be addressed in this proceeding due to the close
20 proximity or co-mingling of both utilities' facilities?

21 A. Yes. Gulf Power's witness Bill Weintritt will further
22 discuss the details of those maps. Again, let me
23 reiterate Gulf Power's position that specific and
24 detailed geographical delineations that assign exclusive
25 territories are not needed and are extremely unwise due

1 to the economic inefficiencies and the poor public policy
2 that result. When new customers can be provided an
3 initial choice of electric service provider without
4 introducing uneconomic duplication, particularly when
5 that initial choice can yield these customers the
6 economic benefits of lower and regulated electricity
7 prices, it should be allowed.
8

9 Q. Does this conclude your testimony?

10 A. Yes, it does.

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1 Q (By Mr. Stone) Mr. Holland, would you
2 please summarize your testimony.

3 A Yes.

4 Good afternoon, Commissioners. We are here
5 this afternoon to determine the method for resolving
6 service disputes between Gulf Power and Gulf Coast,
7 which will result in the provision of reliable
8 electric service at the lowest overall cost to the
9 ratepayers of Northwest Florida. We are not here, or
10 should not be here, to determine where geographic
11 boundaries could be drawn between the parties in this
12 proceeding. To my knowledge there has never been a
13 proceeding before this Commission which has determined
14 that lines on the ground is the method which will
15 result in the lowest total cost to the ratepayer. In
16 fact, the legislature and this Commission have
17 repeatedly rejected mandated lines on the ground as
18 being in the best interest of the ratepayers. Nor
19 should we be here to find a method which will totally
20 eliminate disputes between these two utilities.

21 This Commission is charged by statute with
22 jurisdiction to resolve territorial disputes between
23 parties; not with the elimination of disputes.
24 Protecting the ratepayers from uneconomic duplication
25 of electric facilities and providing them with the

1 lowest cost electric service while minimizing the
2 number of disputes should be our primary or if not our
3 only purpose in this proceeding.

4 It is our sincere belief that the method
5 adopted by the legislature and this Commission some 24
6 years ago for resolving such disputes has worked
7 extremely well and should be continued. With the
8 guidance of the statutory provision, Commission rules
9 and the well reasoned opinions of the Commission and
10 the courts, the existing method that is provided the
11 utilities of Northwest Florida with a road map for the
12 economic and cost-efficient expansion of our electric
13 facilities. This method has prevented uneconomic
14 duplication, has provided low cost electric service to
15 the ratepayers and has done so with a minimum amount
16 of disputes. If I might I would like to take a moment
17 to show you how well it has worked, especially over
18 the last 12 years. I'm just going to hold this chart
19 up. (Indicating)

20 Commissioners, what this chart shows, and it
21 begins when the Grid Bill was passed and takes us to
22 the present, shows that in the first six years there
23 were no disputes. The second six-year period, 1980 to
24 1985, there were five disputes with Gulf Coast
25 Electric Cooperative; there were none in the next six

1 years and has only been one since then.

2 What this shows is there's only been one
3 dispute between Gulf Power Company and Gulf Coast in
4 the last 12 years. Significantly, I think, it was
5 about this time, 1980-1981, when Gulf Coast began to
6 terminate service from Gulf Power Company, its
7 wholesale load from Gulf Power Company, and began
8 taking it from Alabama Electric Cooperative.

9 And what happened is we went through a
10 period of transition. And there were some disputes --
11 not in our mind at least -- a significant number of
12 disputes but some disputes that occurred in that short
13 period of time. But since that time, since 1985, the
14 prison dispute is the only dispute that has come
15 before this Commission involving Gulf Power Company
16 and Gulf Coast Electric Cooperative.

17 We are not kidding ourselves, however. We
18 know that there exists a predisposition among at least
19 some of the Staff and certainly with the Co-op for
20 lines on the ground. This seems to be in some minds
21 the be all to end all. To the contrary, "lines on the
22 ground" is the method of all of those being considered
23 here today, due in large part to the vast unserved
24 areas of Bay and Washington Counties, and I think you
25 can see what we're talking about with the maps that

1 are up here that have already been presented by the
2 cooperative this morning.

3 That method "lines on the ground" which is
4 most likely to result in the uneconomic duplication of
5 facilities, increased overall cost to serve the
6 ratepayers of Northwest Florida and remove all
7 vestages of choice of service in an era when we are so
8 obviously moving into a more competitive environment.

9 It is a policy which smacks of protectionism
10 and one which would relegate a large number of new
11 customers, many of which are low income, to higher
12 rates and less reliable service. Moreover, it's a
13 policy which could cause severe harm to the economic
14 development efforts in the unserved areas in Northwest
15 Florida.

16 My testimony and that of Gulf Power's other
17 witnesses provide numerous examples of the harm which
18 could and would be caused by what we described as the
19 arbitrary erection of permanent fences based on what
20 is largely the present location of low cost single
21 phased electric lines.

22 It is a system which wholly fails to take
23 into account the future customers' electrical needs or
24 the cost of the transmission and generation
25 facilities, which is by far the greatest cost in an

1 electric system.

2 The primary focus of those who advocate
3 lines on the ground appears to be the elimination of
4 disputes; not the statutorily authorized objective of
5 preventing uneconomic duplication.

6 We hear of the inefficiencies and high cost
7 of the disputes brought before the Commission. First,
8 as we have shown, the number of disputes has been few.
9 As then data shows, we have learned with experience to
10 determine what constitutes uneconomic duplication.

11 Armed with this knowledge, we have worked with
12 customers who request service that will result in
13 uneconomic duplication of the existing -- of our
14 facilities to take service from the facilities of an
15 adjoining utility.

16 Moreover, given the environment in which the
17 industry is moving, our methods of analyzing the
18 economics of one party over the another serving a
19 particular customer have become much more
20 sophisticated.

21 Second, as I stated earlier, we are not here
22 to eliminate disputes to ease the administrative
23 burden on the Commission or the expense to the parties
24 if doing so results in overall economic harm to the
25 ratepayer.

1 Minimization of disputes is a worthy goal if
2 it can be done while protecting are ratepayers. While
3 we do not believe that one dispute in 12 years is
4 either a burden on the Commission or the parties, we
5 have proposed several alternatives, which if agreed to
6 by the parties, or adopted by the Commission, would,
7 we believe, further minimize the number of disputes
8 coming before the Commission.

9 Both of the methods proposed in my testimony
10 are consistent with the current method of resolving
11 disputes and simply provide the parties with
12 additional guidance. In addition, they require the
13 parties to meet in advance of one providing service
14 where doing so is likely to result in a dispute. The
15 provisions require mediation before the Staff before a
16 dispute is brought to the Commission.

17 Finally, if a dispute does come before the
18 Commission, the losing party must pay the other
19 party's cost of litigation, including attorney fees.
20 This provision would provide a tremendous disincentive
21 to the bringing of unjustified disputes before the
22 Commission.

23 In my testimony I quote from a very
24 comprehensive and much discussed law review article on
25 the development of territorial laws in Florida,

1 written by two members of the Commission Staff. A
2 copy of this article is attached as my GEH-2.

3 The conclusion reached by the Staff members
4 is, and I quote, "While the system Florida presently
5 uses to allocate utility territory is dynamic and thus
6 somewhat stressful, the system is not broken. The
7 flexibility inherent in a dynamic system, rather than
8 the stability inherent in a static system, may well be
9 needed to effectively resolve the territorial issues
10 of the future, just as it has been needed in the past.
11 The present system provides continuity without
12 imposing any single rigid model statewide.
13 Paradoxically, the most innovative system among the
14 alternatives currently being debated may be the one
15 already in place." End of quote.

16 Other than the dispute which gave rise to
17 this proceeding, there has been no dispute between
18 Gulf and any other electric service provider since
19 this article was written in 1991. Certainly if the
20 system was not broken then, it's not broken now.

21 If our goal here is as it should be the
22 determination of that method of resolving service
23 disputes by results in the lowest overall cost to the
24 ratepayers, we will reach the same conclusion as that
25 stated in the law review article. If the decision is

1 to draw lines on the ground, it is the ratepayers,
2 especially low income, both old and new, who will
3 suffer the consequences; economic development will
4 also suffer.

5 The existing method of resolving service
6 disputes has worked extremely well in the past; it's
7 working extremely well today, and is by far the best
8 method to carry us into the future, competitive
9 changes and all. Simply put, line on the ground are
10 not the most cost-effective way of resolving
11 territorial disputes. This concludes my summary.

12 **MR. STONE:** We tender the witness for cross
13 examination.

14 **COMMISSIONER DEASON:** Mr. Haswell.

15 **MR. HASWELL:** Thank you, Commissioner.

16 **CROSS EXAMINATION**

17 **BY MR. HASWELL:**

18 **Q** Mr. Holland, you are an attorney, are you
19 not?

20 **A** Yes, I am.

21 **Q** And you're a member of the Florida Bar then?

22 **A** Yes, sir.

23 **Q** But you don't currently practice law, do
24 you?

25 **A** I wouldn't say that. I do practice law.

1 Q Okay. You have a firm that you work with?

2 A No. I am counsel to the company, as stated
3 in my title. And I do from time to time -- I do all
4 of the financing work for the company still, the bond
5 work, and from time to time am involved in the legal
6 issues.

7 Q Okay. Regarding your education, your
8 undergraduate major was in political science and
9 speech communications; is that not correct?

10 A That's correct.

11 Q So you don't have any other degrees
12 including any degrees in engineering or economics, do
13 you?

14 A No, sir, I do not.

15 Q And you do not have any direct
16 responsibility for Gulf Power's rates or rate design,
17 do you?

18 A The rates and regulatory area do not report
19 directly to me. I am very involved in the setting of
20 rates and regulatory matters before this Commission,
21 if that's the question.

22 Q Okay. But in a rate case before the
23 Commissioner, if Gulf Power needed to have a rate
24 expert to testify, that would not be you?

25 A I would not testify to the rates. I would

1 testify to the -- if we were filing a rate case we
2 would be increasing our rate base, which in all
3 likelihood would include generation and transmission
4 facilities, and I would testify as to the prudence of
5 those.

6 Q But you would not be the expert on rates?

7 A No.

8 Q Okay. Now, isn't it true that when Gulf
9 Power evaluates service to a new customer, it does it
10 on a case-by-case basis?

11 A That's correct.

12 Q Okay. And as part of that evaluation, Gulf
13 Power determines what it would cost the Company to
14 provide that service; is that not correct?

15 A That is correct.

16 Q Okay. And Gulf Power looks at whether it is
17 economic for the Company to provide the service
18 looking at the piece of the facilities itself that it
19 needs to provide; is that correct?

20 A Yes. But I would add that in making that
21 analysis there are provisions in our tariffs which if
22 it is not economic, we are still obligated to provide
23 the service and the ratepayer, in fact, has to make a
24 contribution in aid of construction before that
25 service is provided, subject to Commission tariff.

1 Q But in determining the cost to provide the
2 service, you would deduct the contribution in aid of
3 construction?

4 A Yes. That's the cost to the Company.

5 Q So essentially you're look at whether it's
6 economic or uneconomic for the Company to provide the
7 service?

8 A The contribution in aid of construction
9 calculation is designed to calculate whether it is
10 economic or not economic to provide that service. It
11 would be economic with the contribution in aid of
12 construction. If there is no contribution in aid of
13 construction required, then it's by definition
14 economic to provide that service.

15 Q Forget whether we're talk about a CIAC.
16 When you evaluate service to a new customer you look
17 at whether it is economic or uneconomic for the
18 company to provide the service?

19 A No.

20 Q You don't?

21 A No.

22 Q Not in the context that you have put it.
23 Now, I would give you the fact that we would look at
24 -- if there are other providers nearby, we would make
25 a determination as to whether another utility could

1 make a more economic -- would be more economic for
2 that utility to provide the service than it would be
3 for us. But we would not refuse service to a customer
4 who requested that service on the basis that it was
5 uneconomic, because by definition again in the tariff,
6 if contribution in aid of construction is not
7 required, it is not uneconomic.

8 Q Do you recall your deposition that was taken
9 on January 24th, 1997?

10 A Yes.

11 Q Do you have a copy of it with you?

12 A No, but I can get one. (Hands to witness.)

13 A I have it.

14 Q Okay. I would call your attention to
15 Page 37, at the bottom where the question was asked
16 "Can you tell me if the Commission did not allow
17 recovery of a de minimis cost for a line crossing of
18 another utility's line, would it still be built?
19 Would those lines still be built?" Could you read us
20 your answer to that question?

21 A Yes.

22 Q Page 38.

23 MR. STONE: I was about to object to this
24 being improper impeachment. I don't believe he's
25 asked a question in a fashion that indicates that he's

1 trying to use -- normally depositions are used to
2 impeach a witness with a prior inconsistent statement.
3 He certainly hasn't given any preface for an
4 inconsistent statement.

5 COMMISSIONER DEASON: Mr. Haswell?

6 MR. HASWELL: Well, then I will.

7 Q (By Mr. Haswell) Didn't you, in fact,
8 state -- I would prefer just having him read his
9 answer rather than me read it -- but didn't you
10 previously state that the Company does look at whether
11 the load is economic to serve and what is not economic
12 to serve; and if it's not economic, you refer the
13 customer to the Co-op?

14 A What I said was that if it's not -- if there
15 are two suppliers close by, say Gulf Power and Gulf
16 Coast, and we make an analysis that shows that our
17 service would cost more than service to the Co-op,
18 that we would defer that customer to the Co-op. When
19 I use the term "uneconomic" there may be situations
20 where in our own minds it would not constitute an
21 uneconomic duplication of facilities, but would in
22 fact be uneconomic for us to provide that service and
23 we feel like the service would best be provided by the
24 Co-op. But if the customer insisted on us providing
25 that service and was willing to pay the aid in

1 construction, and in our minds would not constitute
2 uneconomic duplication, that we would wind up here in
3 front of this Commission and have to take those
4 facilities out, then we would provide that service.

5 Q So if Gulf Power determined that it was, in
6 fact, uneconomic for the Company to serve a customer
7 in a area where Gulf Coast was also serving, the
8 Company would, in fact, refer that customer to Gulf
9 Coast?

10 A Yes.

11 Q Okay. And Gulf Power always does that?

12 A And I would say yes, in our minds we do
13 that. We may disagree; you and I may disagree, the
14 Company and Co-op may disagree on what's economic and
15 uneconomic; but my answer to your question would be
16 yes.

17 Q And isn't it true that in looking at the
18 costs that you use to determine whether it's economic
19 or uneconomic, you look at the cost of extending the
20 last section of distribution facilities to serve that
21 customer?

22 A The incremental cost of distribution, that
23 is correct. That is the standard we think the
24 Commission has used. In fact, if you look at the
25 Commission rule that's what they tell you to use when

1 you make an assessment of the whether it will occur.

2 Q I didn't ask you what the Commission said.

3 A Well, that's what we used. You asked what
4 we used.

5 Q Would you agree that a prudent utility has
6 an obligation to plan to provide service to not only
7 its existing customers but also future customers?

8 A A utility does need to plan for growth; that
9 is correct.

10 Q And does not the Company, that's Gulf Power
11 Company, build facilities in advance of forecasted
12 load?

13 A My general answer to that would be no. We
14 plan based on our expectations of growth and load, but
15 we do not construct the facilities until that growth
16 has actually occurred, or is occurring.

17 Q So the Company's plan in Northwest Florida
18 is to be ready to provide adequate and reliable
19 service to all customers that the Company agrees it
20 will be economic for the Company to serve; is that not
21 correct?

22 A Our plan and our obligation is to provide
23 service to all customers in Northwest Florida
24 consistent with Commission rules and regulations, in
25 accordance with the statutes.

1 **COMMISSIONER CLARK:** Let me ask a question.
2 Does that mean your territory? What is your
3 territory, Gulf Power's territory?

4 **WITNESS HOLLAND:** Our stated territory --
5 and it's not officially stated other than the fact it
6 is included in our annual report and things like that.
7 It's the ten-county area of Northwest Florida.

8 **COMMISSIONER CLARK:** So you consider that to
9 be your territory where you have the right and the
10 obligation to serve.

11 **WITNESS HOLLAND:** Commissioner Clark, what I
12 said, and if you look at the statute, what it says is
13 we're obligated to provide service to all customers
14 requesting service subject to the Commission's rules
15 and regulation.

16 Our view of that is that if a customer comes
17 to us in Northwest Florida, and we can provide service
18 to that customer without uneconomically duplicating
19 the facilities of another provider, which would be one
20 of the four co-ops, or Florida Public Utilities
21 located within the vicinity, then we would provide
22 that service. If it would duplicate -- uneconomically
23 duplicate the facilities of the other service
24 provider, we would not provide that service. We'd get
25 ourselves in a position where customers insist that we

1 provide the service even where we think it would be
2 uneconomic, and in those cases we've referred those
3 individuals to the Commission.

4 **COMMISSIONER CLARK:** I guess I still don't
5 have a handle on what you consider your territory as
6 opposed to the Co-op's territory.

7 **WITNESS HOLLAND:** In our minds that's not
8 necessary. We have an obligation we think by statute
9 to serve all of those that we can economically serve
10 within Northwest Florida, the ten counties of
11 Northwest Florida. And as I said earlier, and the
12 statute provides for this, subject to Commission rules
13 and regulations -- and to us that means we're not to
14 go in and try to provide service or take customers
15 away from another utility if doing so would
16 uneconomically duplicate the facility of another
17 provider. And that's a system that has been in place
18 for a long, long time and at least in our minds has
19 worked extremely well; allowed for the natural
20 expansion of respective electric service providers in
21 Northwest Florida with a minimal, if any, duplication
22 of facilities and where one utility maybe got out of
23 hand and was threatening to do that, the Commission
24 stepped in and stopped it. As I said earlier, it's
25 worked extremely well. We've only had one dispute in

1 the last 12 years.

2 **COMMISSIONER CLARK:** Let me ask you this
3 question then: If that's the criteria, if somebody
4 comes and asks you and you determine that it wouldn't
5 result in the uneconomic duplication of another
6 utility provider's facilities, why have you limited it
7 to the ten counties in North Florida?

8 **WITNESS HOLLAND:** Primarily because I think
9 that our providing service to any other area crossing
10 the river and coming over this way would very clearly
11 duplicate the facilities of utilities that are already
12 there. The areas we're primarily talking about are
13 the areas that are unserved in Northwest Florida.

14 If we were to, go for example, and -- this
15 came up in the deposition, it came up out of context,
16 but we were requested to provide service to a
17 development that is in -- we don't have a agreement
18 with them, but it's in an area that is currently being
19 provided service by Florida Power Corp. And we talked
20 to them, determined that they indeed deemed that to be
21 geographic area that they, in fact, had service on,
22 was adequate and capability of providing that service
23 and that was the end of it.

24 **COMMISSIONER CLARK:** Let me ask it this way:
25 Suppose there was a development going in close to a

1 transmission line, and that it was clear that the way
2 to economically serve that area was simply to run a
3 line to that high voltage transmission and put in a
4 substation.

5 **WITNESS HOLLAND:** Substation, yes.

6 **COMMISSIONER CLARK:** And that's the same
7 type of facility an existing utility that was in the
8 area would have to put in. In other words, the cost
9 to Gulf and the cost to the other utility is virtually
10 exactly the same. It would seem to me under your
11 criteria that's within your territory, too.

12 **WITNESS HOLLAND:** I would agree with that.
13 And in that case we would leave it up to the customer
14 because from our perspective all things are otherwise
15 equal and I think that's consistent with the
16 Commission rules.

17 We don't have any transmission line to the
18 east of the Apalachicola River, so the situation
19 doesn't really come up where we have facilities there
20 that are -- and we would not build facilities that
21 would otherwise duplicate the facilities of another
22 provider.

23 **COMMISSIONER CLARK:** Does Southern Company
24 have any interest in any lines on the other side of
25 the river?

1 WITNESS HOLLAND: No, not to my knowledge.

2 MR. HASWELL: Thank you.

3 Q (By Mr. Haswell) Mr. Holland, isn't it
4 true that you've said that when you have one, two,
5 three, four or more utilities on one or both sides of
6 street that is not unnecessarily uneconomic
7 duplication.

8 A True.

9 Q And isn't it also true that in your position
10 on behalf of the Company is that you don't know of any
11 uneconomic duplication that currently exists in
12 Northwest Florida?

13 A I know given my experience with this
14 Commission and the few occasions that we've been told
15 where we uneconomically duplicated the facilities of
16 the cooperative or vice versa, that in those instances
17 there was duplication of facilities and that was
18 remedied. To my knowledge -- and I won't tell you it
19 absolutely does not exist --

20 Q Excuse me, Mr. Holland, I asked you the
21 simple question, didn't you previously say on behalf
22 of the Company that you don't know --

23 A I did.

24 Q Yes or no?

25 A That's correct.

1 Q Okay.

2 A That's correct.

3 Q Okay.

4 A Now can I explain?

5 Q Certainly.

6 A Thank you.

7 What we're saying very simply is to our
8 knowledge there is no -- or at the most is very little
9 uneconomic duplication of facilities that has occurred
10 under the scheme that has been in place for some 24
11 years.

12 In our minds, if any has occurred -- and
13 again I would say that it's minimal -- when you weigh
14 that against the cost and the uneconomic duplication
15 that will occur, very clearly in our minds by the
16 drawing of the lines that have been suggested by the
17 Cooperative and by the Staff, then a tremendous amount
18 of uneconomic duplication will occur. If you weigh
19 the pluses and minuses on both sides, in our mind
20 common sense would dictate that you keep doing what
21 you have been doing that's worked so well for so long
22 and that you be allowed to continue to provide service
23 in those unserved areas.

24 Q Mr. Holland, the question I just asked you
25 was about Northwest Florida. Isn't it also true that

1 you do not know of any current uneconomic duplication
2 in South Washington or Bay Counties, which are the
3 subject of this proceeding?

4 A I think that's in Northwest Florida so the
5 answer would be yes.

6 Q Okay. Do you know whether the contract
7 identified as WCW-3 was in effect at the time of the
8 Sunny Hills dispute?

9 A Is that the wholesale tariff attached to
10 Mr. Weintritt's testimony?

11 Q That's correct.

12 A Oh, yes, I'm sure it was; 1971.

13 Q And isn't it true that at that time Gulf
14 Coast had adequate distribution facilities in place to
15 serve Sunny Hills?

16 A I don't know the answer to that question.

17 Q You don't know whether the Company made an
18 evaluation of that or not?

19 A No. I also think that if you look at the
20 terms and provisions of that tariff and the
21 anticipated load that was going into Sunny Hills that
22 it was up to the customer to decide which utility
23 would provide that service. And I think the Circuit
24 Court agreed with that, if I'm not mistaken.

25 Q Isn't it true that what the Circuit Court

1 did was say that the customer could pick the service
2 provider?

3 A I think that's what I just said, that the
4 tariff provided for customer choice in that instance
5 and that's what the customer did, and the Circuit
6 Court agreed with that.

7 Q So there was no Circuit Court awarding the
8 territory to Gulf Power.

9 A The Circuit Court said it was the customer's
10 choice, and that either utility could compete for that
11 load and the customer chose Gulf Power Company.

12 Q Now, isn't it true that Gulf Power is ready,
13 willing and able to serve every customer in Northwest
14 Florida as long as in your opinion it does not
15 constitute uneconomic?

16 A I think that's what we're statutory mandated
17 to do, so the answer would be yes.

18 Q As you previously stated, it's also true
19 that you don't believe there's any uneconomic
20 duplication that now exists in Northwest Florida?

21 A Not as it has been defined by this
22 Commission.

23 Q And isn't it true that if both utilities
24 build facilities capable of serving all of the load in
25 a defined geographic area, that uneconomic duplication

1 has occurred?

2 A To my knowledge we have not built facilities
3 to serve all of the load in a defined area. We make
4 and Mr. Pope --

5 Q I didn't ask if you did. I said if the two
6 utilities build facilities capable of serving all the
7 load in a defined area, would that not constitute
8 uneconomic duplication?

9 A If both built to serve the same customer,
10 and only one of them got the customer, which is, in
11 fact, what would occur, then I would agree there would
12 be uneconomic duplication.

13 Q Okay. Is the position in this case is that
14 drawing lines on the ground is not necessary because
15 this is -- there is no uneconomic duplication going
16 on?

17 A No. Our position is that uneconomic
18 duplication might from time to time occur, although
19 there are tremendous deterrents for either of us doing
20 that. It might occur from time to time, but that the
21 drawing of lines on the ground would, in fact, create
22 greater uneconomic duplication; much greater
23 uneconomic duplication than we would have under the
24 present scheme.

25 Q Okay. So consistent with your position,

1 anywhere in the state where the Public Service
2 Commission has approved the territorial line or
3 boundary, your judgment is that uneconomic duplication
4 will occur?

5 A I don't think I testified to that. I don't
6 think that's what I said. I have not gone in and
7 looked at each instance, or really any instance, where
8 territorial boundaries have been agreed upon by the
9 utilities. There are circumstances, perhaps, where
10 that might be the economic proper thing to do?

11 It is not, in our judgment, the proper and
12 economic thing to do in Northwest Florida given the
13 population, the growth and the vast unserved areas.

14 Q So your answer is you don't know of any
15 other place in the state of Florida that has a
16 territorial boundary whether or not that has resulted
17 in uneconomic duplication?

18 A I do know of one instance where it would
19 have had there not been some provision made in the
20 agreement.

21 Q I didn't say would have. I said exists. Do
22 you know of any -- where a territorial agreement --

23 A No, I don't. I would bet that it exists,
24 though. Common sense would dictate.

25 **COMMISSIONER DEASON:** Mr. Haswell, how much

1 more do you have for this witness?

2 **MR. HASWELL:** Another 30, 45 minutes.

3 **COMMISSIONER DEASON:** You answered my
4 question. We're going to go ahead and recess for
5 lunch at this time. We will reconvene at ten minutes
6 after 2:00.

7 (Thereupon, lunch recess was taken at
8 1:15 p.m.)

9 (Transcript continues in sequence in
10 Volume 2.)

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