

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to resolve) DOCKET NO. 930885-EU
territorial dispute with Gulf) ORDER NO. PSC-96-1331-PCO-EU
Coast Electrical Cooperative,) ISSUED: November 4, 1996
Inc. by Gulf Power Company)
_____)

ORDER CLARIFYING
ORDER NO. PSC-96-1191-PCO-EU

By Order No. PSC-95-0271-FOF-EU, the Florida Public Service Commission resolved a territorial dispute between Gulf Power Company (Gulf) and Gulf Coast Electric Cooperative (Gulf Coast) concerning which utility should provide electric service to the Washington County Correctional Facility. Therein, the Commission also directed the companies to file reports identifying all areas of potential dispute in south Washington and Bay counties. The Commission directed the two utilities to attempt to negotiate a territorial agreement addressing all areas of potential dispute. If such an agreement was not possible, the Commission stated that it would hold evidentiary hearings on the matter and determine the appropriate boundary for the utilities.

On February 19, 1996, the parties filed reports stating that they had been unable to reach an agreement. Thereafter, Order No. PSC-96-0466-PCO-EU was issued establishing the procedure for this docket. Staff then met with the parties in an attempt to clarify the scope of the issues to be addressed at the hearing. An agreement was not reached. Staff then requested that a preliminary prehearing conference be held with the prehearing officer so that simplification of the issues could be considered. That conference was held on July 29, 1996.

On September 23, 1996, Order No. PSC-96-1191-PCO-EU was issued approving seven issues for consideration at the evidentiary hearing, scheduled for February 11-12, 1997. Those issues are as follows:

1. What are the areas of South Washington and Bay Counties where the electric facilities of Gulf Power and Gulf Coast are commingled and in close proximity?
2. What are the areas in South Washington and Bay Counties where further uneconomic duplication of electric facilities is likely to occur?

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3. What is the expected customer load, energy, and population growth in the areas identified in response to issues 1 and 2 above?
4. What is the location, type and capacity of each utility's facilities in the areas identified in response to issues 1 and 2 above?
5. Is each utility capable of providing adequate and reliable electric service to the areas identified in response to issues 1 and 2?
6. How should the Commission establish the territorial boundary between Gulf Power and Gulf Coast in South Washington and Bay Counties where the electric facilities are commingled and in close proximity and further uneconomic duplication of facilities is likely to occur?
7. Where should the territorial boundary be established?

On September 30, 1996, Gulf filed a Motion for Clarification of Order No. PSC-96-1191-PCO-EU. In its motion, Gulf states that it is customary Commission practice for parties to have the period up to and including the prehearing conference in which to identify issues to be resolved at the evidentiary hearing. Gulf, therefore, seeks clarification as to whether the seven issues approved in Order No. PSC-96-1191-PCO-EU are a final statement of the issues to be addressed. In addition, Gulf requests clarification of whether it will be allowed to present alternatives to drawing territorial boundary lines in its position on the issues. Further, Gulf seeks leave to raise any objections it may have if the issues were, in fact, intended to be limited to the seven set forth in Order No. PSC-96-1191-PCO-EU.

The purpose of these proceedings is to establish a boundary delineating Gulf's and Gulf Coast's territories. The purpose of the preliminary prehearing conference was to facilitate discovery and to consider simplification of the issues to be addressed in these proceedings. The seven issues approved by the prehearing officer are those which were proposed by Staff, with certain

revisions suggested by Gulf. These issues are sufficient to ensure that all matters of concern in establishing territorial boundaries are adequately addressed. Thus, the seven issues identified above are appropriate for consideration in the proceedings in this docket.

At the preliminary prehearing conference, Gulf suggested seven additional issues and a substantial revision to Issue 6, which are as follows:

Revision

Issue 6: Should the Commission establish a territorial boundary between Gulf Power and Gulf Coast in South Washington and Bay Counties where the electric facilities are commingled and in close proximity and further uneconomic duplication of facilities is likely to occur? If so, how and where should the boundary be established?

Additional Issues

1. What is the meaning of the statutory directive that the Commission ". . . prevent the further uneconomic duplication . . ." of generation, transmission and distribution facilities?
2. Is the Commission's present system for resolving territorial disputes adequate to resolve any future disputes that may arise between Gulf Coast Electric Cooperative and Gulf Power Company?
3. Can the Commission effectively prevent the uneconomic duplication of electric facilities by these two utilities through a mechanism that does not include drawing "lines on the ground"?
4. Are "lines on the ground" in the best interest of the customers of the two utilities?
5. Should the Commission seek a resolution of this matter through mechanisms other than drawing "lines on the ground"?
6. Rather than attempting to draw "lines on the ground" between the two utilities, would consumers be better served if the Commission directed each utility to follow Commission imposed guidelines for line extension to new customers, based on the Commission's "lowest cost to the utility" policy historically used in resolving territorial disputes?

7. Should the guidelines established by the Commission for line extensions to new customers include consideration of the cost of generation to serve loads in question in addition to the cost of distribution and/or transmission line extensions in determining which utility has the lowest cost to serve?

The prehearing officer determined at the preliminary prehearing conference that the revised and additional issues suggested by Gulf, as outlined above, were inappropriate for consideration in this docket. As stated in Order No. PSC-96-1191-PCO-EU, Gulf may present any creative alternatives to boundary lines it may have within its positions on the approved issues. Nevertheless, to the extent that Gulf, or any other party, determines that there are issues that were not previously considered at the preliminary prehearing conference, such issues may be presented for consideration and approval by the prehearing officer at the prehearing conference. Gulf, however, may not reintroduce the suggested revised and additional issues, nor any substantively similar issue.

Gulf filed its motion for clarification within the time provided by Rule 25-22.0376, Florida Administrative Code, for the filing of motions for reconsideration of orders of the prehearing officer. Gulf's motion for clarification is reasonable and clearly states that if the intent of Order PSC-96-1191-PCO-EU was to limit the issues in this docket, it may have objections to such a limitation. Therefore, it is appropriate that the time for filing a motion for reconsideration of Order PSC-96-1191-PCO-EU shall be extended to 10 days from the date of the issuance of this Clarifying Order.

Based on the foregoing, it is therefore

ORDERED by Chairman Susan F. Clark, as Prehearing Officer, that the issues to be addressed at the hearing in this docket, scheduled for February 11 and 12, 1997, are those approved by Order No. PSC-96-1191-PCO-EU. It is further

ORDERED that, at the prehearing conference, any party may present additional issues not previously considered at the preliminary prehearing conference, as set forth in the body of this Order. It is further

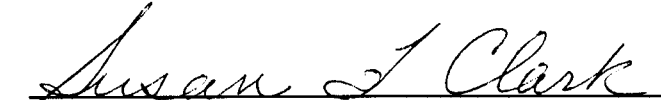
ORDERED that the time for filing a motion for a reconsideration of Order No. PSC-96-1191-PCO-EU shall be extended to 10 days from the date of the issuance of this Clarifying Order. It is further

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ORDERED that Order No. PSC-96-1191-PCO-EU is reaffirmed in all respects.

By ORDER of Chairman Susan F. Clark, as Prehearing Officer, this 4th day of November, 1996.


SUSAN F. CLARK, Chairman and
Prehearing Officer

(S E A L)

BC/VDJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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