

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

FEBRUARY 8, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (BROWN) *MCB RVE*
DIVISION OF ELECTRIC AND GAS (DUDLEY, BASS) *RW JDJ*

RE: DOCKET NO. 930885-EU - PETITION TO RESOLVE TERRITORIAL
DISPUTE WITH GULF COAST ELECTRIC COOPERATIVE, INC. BY
GULF POWER COMPANY

AGENDA: FEBRUARY 20, 1996 - REGULAR AGENDA - POST-HEARING
DECISION - MOTION FOR EXTENSION OF TIME TO FILE REPORT

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\930885EX.RCM

CASE BACKGROUND

On March 1, 1995, the Commission issued Order No. PSC-95-0271-FOF-EU resolving a territorial dispute between Gulf Power Company (Gulf) and Gulf Coast Electric Cooperative (Gulf Coast). In that order the Commission required the parties to return to the Commission within 180 days with a report identifying all parallel lines and crossings of their facilities, and all areas of potential dispute, in south Washington and Bay counties. During the 180 day period the Commission directed the parties to negotiate in good faith to develop a territorial agreement to resolve duplication of facilities and establish a territorial boundary in south Washington and Bay counties. On July 27, 1995, The Commission issued Order No. PSC-95-0913-FOF-EU clarifying its direction to the parties regarding their negotiations. The issuance of that order started the 180 day time to file the report.

At the end of January, as the deadline for filing the report approached, the parties contacted staff and requested an extension of the time period. At staff's suggestion, the parties filed a joint Motion for Extension of Time to File Report. That motion is the subject of this recommendation.

DOCUMENT NUMBER-DATE

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the parties joint Motion for Extension of Time to File Report?

RECOMMENDATION: Yes, the Commission should grant the Motion for Extension of Time. The parties should file their reports by May 22, 1996.

STAFF ANALYSIS: In their motion, the parties ask the Commission to extend the time for filing the report for 120 days. They allege that they have negotiated in good faith towards a mutual agreement to settle the territorial issues between them. They state that they have made progress in those negotiations. While they have not reached an agreement yet, they say that they have not reached an impasse, and the negotiations are ongoing. They attribute the delay in negotiations in part to the two destructive hurricanes that caused widespread damage to the facilities of both utilities last Summer and Fall.

Both parties state that they believe filing the required report at this time would hinder further fruitful negotiations between the parties, because that would imply that the parties will not ultimately be successful in resolving their differences through a mutual agreement. They claim that an extension of the deadline would further the Commission's desire that the parties reach a territorial agreement without the need for further time-consuming and expensive evidentiary hearings.

In keeping with the Commission's long-standing policy to encourage territorial agreements, staff recommends that the Commission grant the parties' motion. The parties should file their reports by May 22, 1996. The additional four months is a reasonable amount of time, and it may eliminate the need for further evidentiary hearings in this case.

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ISSUE 2: Should the Commission delegate authority to staff to further extend the time for filing the report if the parties request additional time?

RECOMMENDATION: No, the Commission should not delegate such authority to staff in this case; but staff recommends, and the parties agree, that the Commission should permit the Prehearing Officer to make further decisions on extensions of time if the parties request additional extensions.

STAFF ANALYSIS: Staff filed this recommendation on the parties' motion, because the Commission specifically ordered the parties to file their report in 180 days in Order No. PSC-95-0271-FOF-EU, and staff believed that since the Commission had not specifically authorized the Prehearing Officer or staff to extend the time period, the Commission should make that decision. Because of the delay involved in bringing this procedural matter before the Commission, the parties have asked the Commission to delegate to the staff the authority to consider further requests for extension of time. The parties have accepted staff's suggestion that the Prehearing Officer in the case is the appropriate entity to consider further requests for extensions, if any.

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ISSUE 3: Should this Docket be closed?

RECOMMENDATION: No, the docket should remain open.

STAFF ANALYSIS: The Docket should remain open pending final resolution of the remaining issues in the case.