

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to resolve) DOCKET NO. 930885-EU
territorial dispute with Gulf) ORDER NO. PSC-96-1059-FOF-EU
Coast Electric Cooperative, Inc.) ISSUED: August 19, 1996
by Gulf Power Company.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JULIA L. JOHNSON

ORDER ON REMAND AWARDING SERVICE
OF WASHINGTON COUNTY CORRECTIONAL FACILITY
TO GULF COAST ELECTRIC COOPERATIVE, INC.

BY THE COMMISSION:

In April of 1993, Gulf Coast Electric Cooperative, Inc. (Gulf Coast) became aware that the Department of Corrections (DOC) was planning on locating a prison in West Florida and was considering sites in several counties, including Washington County. As Gulf Coast had previously assisted in the location of prison sites in Gulf County, Gulf Coast made a proposal to the Washington County Commission for a \$45,000 grant and assistance in securing a loan from the Rural Electrification Administration (REA) of \$300,000 to acquire the proposed prison site property in Washington County. After the grant and loan were in place, the prison site had been selected and secured, and Gulf Coast had been designated as the electrical service provider, Gulf Power Company (Gulf Power) contacted DOC regarding its willingness to serve the prison site.

In anticipation of providing permanent service to the prison site, Gulf Coast relocated and upgraded to three phase its existing Red Sapp Road line. As a result, on September 8, 1993, Gulf Power filed a petition to resolve a territorial dispute with Gulf Coast.

On March 1, 1995, we issued Order No. PSC-95-0271-FOF-EU awarding service to Gulf Power. We also ordered Gulf Power to reimburse Gulf Coast for the cost Gulf Coast had incurred to relocate its Red Sapp Road line from the prison site.

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FILED IN THE PUBLIC SERVICE COMMISSION

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Gulf Coast appealed the award of service to Gulf Power and Gulf Power cross-appealed our directive that Gulf Power reimburse Gulf Coast for the cost of relocating the Red Sapp Road line. On May 23, 1996, the Florida Supreme Court issued its decision which is reported at 674 So.2d 120. The Court reversed our order awarding service to Gulf Power and remanded the case for entry of an order awarding service to Gulf Coast. Because of the Court's resolution of Gulf Coast's appeal, the Court stated that Gulf Power's cross-appeal is rendered moot.

The Court stated that, under the unique factual circumstances of this case, there was not competent, substantial evidence in the record to support our findings that Gulf Coast (1) uneconomically duplicated Gulf Power's facilities and (2) engaged in a race to serve the prison. The Court concluded that we erred in failing to consider customer preference and abused our discretion in awarding service to Gulf Power. Pursuant to Rule 25-6.0441, Florida Administrative Code, the Commission may consider customer preference only if all other factors set out in the rule are substantially equal. Both DOC and Washington County indicated their desire that Gulf Coast provide service to the prison, therefore, the Court reversed the portion of Order No. PSC-95-0271-FOF-EU.

Accordingly, in order to comply with the Court's mandate, we direct that service to the Washington County prison should be awarded to Gulf Coast. Because Gulf Coast will now serve the prison, we no longer require that Gulf Power reimburse Gulf Coast for the relocation of the Red Sapp Road line.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Coast Electric Cooperative, Inc. shall provide electric service to the Washington County Correctional Facility. It is further

ORDERED that Gulf Power Company shall not be required to reimburse Gulf Coast Electric Cooperative for relocation of the Red Sapp Road line. It is further

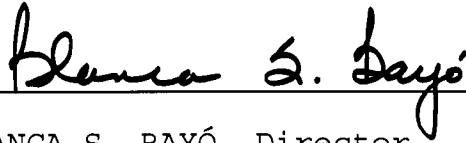
ORDERED that Order No. PSC-95-0271-FOF-EU is reaffirmed in all other respects. It is further

ORDERED that this docket shall remain open.

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By ORDER of the Florida Public Service Commission, this 19th
day of August, 1996.



BLANCA S. BAYO, Director
Division of Records and Reporting

(S E A L)

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

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