



# City of Gulf Breeze

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OFFICE OF THE CITY MANAGER

October 23, 1990

Steve Tribble, Director  
Division of Records &  
Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399

Ref: Docket #900532-GU  
Order #23605  
Issued: 10/12/90

Dear Director Tribble:

We hereby submit our written comments regarding the proposed rule.

Our assessment of the commission's plans is that it is an unnecessary intrusion by the State into the affairs of the public and private natural gas utilities to require approval of territorial agreement. In all likelihood this would result in more bureaucracy with little benefit.

It may be of some benefit for the commission to establish a territorial dispute board, but only to hear cases as requested by a utility. The commission would not have the power to act except in an appellate role.

In summary, it is our position that territorial agreements and disputes should be resolved between the parties involved with little or no involvement from the commission.

Very truly yours,

  
Jackson C. Tuttle  
City Manager

JCT/HH/sdc

DOCUMENT NUMBER-DATE

09718 OCT 29 1990

FPC-RECORDS/REPORTING



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Florida Public Service Commission  
101 East Gaines Street  
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RECEIVED  
FLORIDA PUBLIC SERVICE COM.   
OCT 30 1990  
ELECTRIC AND GAS

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ATTACHMENT 1 09718 OCT 29 1990

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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
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Senator Sherry D. Walker  
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Representative David L. Thomas, M.D.

CARROLL WEBB, EXECUTIVE DIRECTOR  
AND GENERAL COUNSEL  
Room 120, Holland Building  
Tallahassee, Florida 32399-1300  
Telephone (904) 488-9110

General Counsel's Office  
Florida Public Service Commission

M E M O R A N D U M

TO: Martha C. Brown, Associate General Counsel  
FROM: Jesslyn A. Krouskroup, Staff Attorney  
DATE: November 30, 1990  
RE: Public Service Commission  
Rules 25-7.047, 7.0471, 7.0472, 7.0473

As a follow-up to our recent telephone conversation regarding the referenced rules, I have identified issues of concern for your consideration and response.

For each of the rules, sec. 366.04(3)(a), (b), (c) and (4), F.S., is cited as specific authority. These provisions do not contain rulemaking authority and should be deleted.

Rules 25-7.0471(2) and 25-7.0472(2) contain provisions with regard to approving territorial agreements and resolving territorial disputes which state that the commission "may consider, but not be limited to consideration of" several listed factors. This language means that the commission may or may not base its determination upon the factors listed in the rule or it may or may not rely upon other factors which do not appear in the rule. As defined in paragraph 120.52(8)(d), F.S., a rule is an invalid exercise of delegated legislative authority if it is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency. The rule provisions at issue do not apprise the reader of which criteria, if any, the commission will consider. Court decisions which discuss the principle of law codified in paragraph 120.52(8)(d), F.S., include State v. Cumming, 365 So.2d 153 (Fla. 1978); Barrow v. Holland, 125 So.2d 749 (Fla. 1960); Grove Isle, Ltd. v. DER, 454 So.2d 571 (Fla. 1st DCA 1984); City of Miami v. Save Brickell Avenue, 426 So.2d 1100 (Fla. 3d DCA 1983).

Also in rule 25-7.0472, paragraph (2)(d), the phrase "includes but is not limited to" is used with regard to costs of utilities to



Memorandum to Ms. Brown  
November 30, 1990  
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provide service to disputed areas in the present and future.  
Please identify any other cost factors which the commission will consider.

In rule 25-7.0473, you may wish to consider whether subsections (1) and (2) should be included in the rule because these subsections reiterate or paraphrase subsection 366.04(4), F.S. See secs. 11.60(2)(b) and 120.545(1)(c), F.S.

Please contact me if you have questions regarding my comments or if I may be of assistance to you in resolving these issues.

JAK:cb