

VOTE SHEET

DATE: February 7, 1995

RE: DOCKET NO. 930885-EU - Petition to resolve territorial dispute with Gulf Coast Electric Cooperative, Inc. by Gulf Power Company.

Issue 1: What is the geographical description of the disputed area?

Recommendation: The area in dispute is the site of the new correctional facility that is being constructed at the intersection of Highway 279 and Highway 77 in Washington County, and all areas in southern Washington County and Bay County where the facilities of the utilities are commingled or in close proximity, and the potential for further uneconomic duplication of facilities exists.

APPROVED

Issue 2: What is the expected customer load, energy, and population growth in the disputed area?

Recommendation: The Washington County Correctional Institute is expected to have a peak demand of 372 KW with an annual energy usage of 1,961.4 MWH beginning in 1995. Population growth will be primarily residential with the possibility of some small commercial development.

APPROVED

COMMISSIONERS ASSIGNED: CL DS JN

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

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Susan J. Clark

Jerry Deane

REMARKS/DISSENTING COMMENTS:

Issue 3: Which utility has historically served the disputed area?

Recommendation: Both utilities have been serving customers in the disputed area, as defined by staff in Issue 1, for over 20 years. Gulf Coast has served retail customers in the vicinity of the intersection of County Road 279 and State Road 77 since 1950. Gulf Power has had facilities bordering the correctional facility site since 1971.

APPROVED

Issue 4: What is the location, purpose, type and capacity of each utility's facilities existing prior to construction of facilities built specifically to serve the correctional facility?

Recommendation: Gulf Coast has maintained three-phase and single-phase service bordering and traversing the correctional facility site since 1950. Gulf Power has maintained three-phase service along CR 279 and SR 77 since 1971.

APPROVED

Issue 5: What additional facilities would each party have to construct in order to provide service to the correctional facility?

Recommendation: Both utilities would have to construct facilities on the prison property to provide permanent service. However, Gulf Coast has constructed the necessary service extensions to provide temporary service as construction of the prison is almost complete.

APPROVED

Issue 6: Is each utility capable of providing adequate and reliable electric service to the disputed area?

Recommendation: Both utilities are capable of providing adequate and reliable electric service to the disputed area.

APPROVED

Issue 7: What would be the cost to each utility to provide electric service to the correctional facility?

Recommendation: Gulf Coast incurred \$14,582.54 in additional construction cost to provide service to the prison site. Gulf Power would not incur any additional cost to reach the prison site as it currently has adequate three-phase lines bordering the property.

APPROVED

Issue 8: What would be the effect on each utility's ratepayers if it were not permitted to serve the existing facility?

Recommendation: Both utilities would suffer the loss of unquantified potential future revenues.

APPROVED

Issue 9: Which party is capable of providing electric service to the correctional facility site at the lowest rate to the Department of Corrections?

Recommendation: Gulf Power currently has the lowest rates. However, rates are subject to change and should not be used as a determining factor when resolving a territorial dispute.

APPROVED

Issue 10: What is the customer preference for electric service to the correctional facility?

Recommendation: Gulf Coast is the utility preferred by the customer. This fact should not determine who should serve the correctional facility because all other factors in the record are not substantially equal.

APPROVED

Issue 11: Does unnecessary and uneconomic duplication of electric facilities exist in the disputed area?

Recommendation: Yes. Gulf Power's and Gulf Coast's lines are commingled and in close proximity in many areas of Washington and Bay Counties.

APPROVED

Stipulated Issue 12: Do the parties have a formal territorial agreement that covers the disputed area?

Position: No.

APPROVED

Stipulation accepted without objection.

Issue 13: Which party should be permitted to serve the disputed area? What conditions, if any, should accompany the Commission's decision?

Recommendation: Gulf Power should be permitted to serve the Washington County Correctional Facility. In addition, Gulf Power should reimburse Gulf Coast for the \$36,996.74, identified in the staff analysis portion of Issue No. 7, to relocate the Red Sapp line as a single-phase line. The parties should be directed 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 that time the utilities should be directed to negotiate in good faith to develop a territorial agreement to resolve duplication of facilities and establish a territorial boundary. If the utilities are unable to negotiate an agreement, the Commission should conduct an additional evidentiary proceeding to establish a territorial boundary between their facilities in Washington and Bay Counties.

APPROVED

Issue 14: Should the Commission adopt staff's proposed responses to Gulf Power Company's Proposed Findings of Fact?
Recommendation: Yes.

MODIFIED

with change to Proposed Finding of Fact 1.

Issue 15: Should this docket be closed?
Recommendation: No. This docket should remain open.

APPROVED

Proposed Findings of Fact

Staff makes the following recommendations with regard to the proposed findings of fact submitted by Gulf Power Company.

1. The dispute between Gulf Power and Gulf Coast Electrical Cooperative, Inc. ["the Coop"] over service to the Washington County correctional facility is the only active dispute between the parties in southern Washington County or Bay County that is the subject of litigation before the Commission. (TR 65, 66-68, 79)

Recommendation: Accept with insertion of the following sentences: "The utilities' facilities are in close proximity, and in some areas commingled, in southern Washington County and Bay County. Because the utilities do not have any formal territorial agreements in those areas, the potential for future disputes and further uneconomic duplication of facilities is great." (Ex.6, TR 90, 156, 157, 160-162, 192-193, 312-314, 364-373, 379, 382)

Rejected - Not supported by preponderance of evidence in the record.

2. Gulf Power first began serving Washington County in 1926. (TR 68)

Recommendation: Accept.

APPROVED

3. Gulf Power provided all electric service, either at the retail or wholesale level, in Washington County from 1926 until 1981 when the Coop began purchasing wholesale power exclusively from Alabama Electric Cooperative. (TR 68, 596, 604)

Recommendation: Reject. Irrelevant and misleading. Gulf Coast also provided retail distribution service to its members in Washington County during that time period.

APPROVED

4. Prior to 1981, the Coop purchased all of its electric power from Gulf Power. (TR 68, 596, 604)

Recommendation: Accept.

APPROVED

5. Gulf Power, since 1971, has had 25kV, three-phase distribution lines in place along Highway 279 and Highway 77, on the highway right-of-way immediately adjacent to two sides of property which is the site of the correctional facility. (TR 66, 69, 167)

Recommendation: Accept.

APPROVED

6. Gulf Power's three-phase distribution lines along Highway 279 and Highway 77 can be fed from either the Sunny Hills or the Vernon substations. (TR 69, 71, 173, 658-659)

Recommendation: Accept.

APPROVED

7. Prior to 1993, the Coop's distribution facilities in the disputed area consisted of a radial three-phase line along Highway 77 and across the road from the site of the correctional facility and a single phase line crossing over the site of the correctional facility. (TR 70-72)

Recommendation: Accept.

APPROVED

8. In order to be able to provide the required permanent service to the Washington County Correctional Facility, the Coop constructed a three-phase line up Highway 279 from the intersection with Highway 77. These newly constructed three-phase distribution facilities are parallel to and opposite the highway from the existing three-phase facilities of Gulf Power Company that extend along Highway 279. (TR 70-72, 78, 166-168, 336, 398)

Recommendation: Accept.

APPROVED

9. The Coop would not have had to upgrade its existing facilities from single-phase to three-phase in order to serve its existing customers, if not for the correctional facility. (TR 80, 261)

Recommendation: Accept.

APPROVED

10. The Coop's cost for constructing three-phase service to the primary metering point was at least \$18,540.92. (EXH 10, EXH 38)

Recommendation: Accept.

APPROVED

11. The Coop's cost of relocation along CR 279, three-phase equivalent, was at least \$36,996.74. (EXH 10, EXH 38)

Recommendation: Reject. This statement is not supported by the exhibits referenced. Both exhibits indicate that Gulf Coast's cost of relocation along CR 279, single-phase equivalent, was \$36,996.74.

APPROVED

12. The Coop's total cost of constructing the new three-phase line along Highway 279 in order to serve the correctional facility was at least \$55,557.66 (\$18,540.92 + 36,996.74). (EXH 10, EXH 38)

Recommendation: Reject. This statement is not supported by the exhibits referenced. The relocation cost of \$36,996.74 included in the total cost does not represent three-phase service.

APPROVED

13. Gulf Power's existing three-phase line along Highway 279 was adequate to serve the facility with no new construction other than a service drop. (TR 66, 69, 73, 78, 95-96)

Recommendation: Reject. Mr. Weintritt testified that Gulf Power would have to construct permanent service lines and install additional meters to serve the main facility, employee housing, auxiliary facilities, a classroom and a firing range for the prison. (TR 98-99)

APPROVED

14. Gulf Power's estimated cost to provide three-phase service to the primary metering point from its existing facilities was approximately \$7,436. (TR 97, EXH 10, EXH 38)

Recommendation: Accept.

APPROVED

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15. The cost that the Department of Corrections would have to pay Gulf Power for electric service, on an annual basis, is lower than the cost that the Department would have to pay the Coop. (TR 73, 81, 148, 219, 229, 292, 483, EXH 2, EXH 7, EXH 11, EXH 13)

Recommendation: Accept with the insertion of the word "currently" after the word "Corrections." Mr. Weintritt admits that, while it is difficult to imagine the circumstances that would cause Gulf Coast's rates to be lower than Gulf Power's, none of us can predict the future with absolute certainty. (TR 81)

APPROVED