

Gulf Power Company
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FILE COPY

Warren E. Tate
Secretary and Treasurer

the southern electric system

June 3, 1994

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Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee FL 32399-0870

ACK _____
AFA _____
APP _____
CAF _____
RE: Docket No. [REDACTED] LU

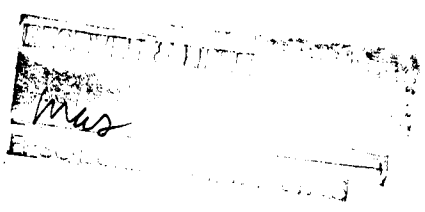
Enclosed are an original and fifteen copies of Gulf Power Company's Motion to Strike Portions of Testimony of H. W. Norris and Archie W. Gordon; and the Motion of Gulf Power Company to Limit Scope of Issues or, in the Alternative, to Extend Time for Filing Rebuttal Testimony.

Also enclosed is a 3.5 inch double sided, high density diskette containing both Motions in WordPerfect 5.1 format as prepared on a MS-DOS based computer.

An original and fifteen copies of the rebuttal testimony of W. C. Weintritt, W. F. Pope, M. W. Howell, and J. E. Hodges, Jr. are enclosed to be filed on behalf of Gulf Power Company.

Sincerely,

WC Tate
lw



cc: Beggs and Lane
Jeffrey A. Stone
Gulf Power Company
Jack L. Haskins

MOTION TO STRIKE PORTIONS
DOCUMENT NUMBER-DATE

MOTION LIMIT SCOPE
DOCUMENT NUMBER-DATE

WEIN TRITT
DOCUMENT NUMBER-DATE

POPE
DOCUMENT NUMBER-DATE

05439 JUN-3 5

05440 JUN-3 5

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Hoopes
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Howell
DOCUMENT NUMBER-DATE
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to resolve)
territorial dispute with Gulf)
Coast Electric Cooperative, Inc.) Docket No. 930885-EU
by Gulf Power Company)
_____)

Certificate of Service

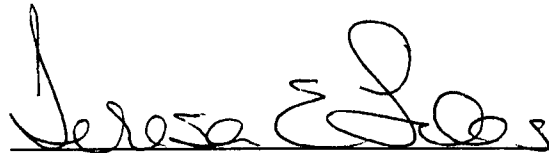
I HEREBY CERTIFY that a copy of the foregoing has been furnished this 30 day of June 1994 by U.S. Mail or hand delivery to the following:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

In Re: Petition to resolve)	
territorial dispute with Gulf)	Docket No. 930885-EU
Coast Electrical Cooperative, Inc.)	
by Gulf Power Company)	
)	

GULF POWER COMPANY'S MOTION TO STRIKE PORTIONS OF TESTIMONY OF H.W. NORRIS AND ARCHIE W. GORDON

GULF POWER COMPANY ["Gulf Power", "Gulf", or "the Company"], by and through its undersigned attorneys, files this motion to strike portions of the prefiled direct testimony submitted in this docket by Mr. H.W. "Hub" Norris and Mr. Archie W. Gordon on behalf of Gulf Coast Electric Cooperative, Inc. ["the Coop"]. As grounds for this motion, the Company states:

1. The rules of evidence in formal hearings before the Florida Public Service Commission ["Commission"], as set forth in Rule 25-22.048, F.A.C., provide that parties may submit prefiled written testimony. Rule 25-22.048(3) further provides that "...relevant evidence shall be admitted if it is the sort of evidence which is normally admissible in civil trials in Florida or which reasonably prudent persons are accustomed to relying upon in the course of their affairs."

2. The rules governing evidence in civil trials in Florida specifically prohibit "[e]vidence of an offer to compromise a claim which was disputed as to validity or amount, as well as any relevant conduct or statements made in negotiations concerning a

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compromise...". Section 90.408, Florida Statutes (1993). The authors of this provision have noted that the reasons for the exclusion are twofold: first, the evidence is irrelevant, since settlement discussions are entered into to avoid time-consuming and costly litigation and not as a concession as to the validity of one's claim or defense; and second, to encourage settlement discussions by protecting them against disclosure. Accordingly, evidence of settlement discussions is both inadmissible under the civil Florida Evidence Code, and irrelevant due to the lack of any probative value of such discussions.

3. Notwithstanding this clear and long-standing prohibition of evidence concerning settlement negotiations, both Mr. Norris' and Mr. Gordon's direct testimony refer to certain settlement discussions between representatives of Gulf Power and the Coop in an attempt to expand the issues in this docket. Direct testimony of H.W. Norris at p. 22, lines 9-15; direct testimony of Archie W. Gordon at p. 12, lines 24-25, through p. 13, lines 1-13. Again, based on well-established evidentiary rules, such testimony is wholly improper, irrelevant, and inadmissible.

WHEREFORE, Gulf Power Company asks that the above-described testimony of Mr. H.W. Norris and Mr. Archie W. Gordon reflecting settlement discussions between Gulf Power and the Coop be stricken from the record in this proceeding.

Respectfully submitted this 30 day of

June, 1994.



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