



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to resolve )  
territorial dispute with Gulf )  
Coast Electric Cooperative, Inc. )  
by Gulf Power Company )

Docket No.: 930885-EU  
Served: Jan 14, 1994

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Gulf Coast Electric Cooperative Inc.'s Response to Gulf  
Power Company's Motion to Strike



Rule 25-22.048FAC and Fla. Stat. § 90.408 are designed to exclude evidence of settlement discussions when offered "... to prove liability or absence of liability for the claim or its value". The testimony that Gulf Power seeks to strike does not relate to the liability of either party, nor does it suggest that either Gulf Power or Gulf Coast made any concessions, admissions, or offers to settle any liability issue. The testimony is factual and merely acknowledges that the parties did in fact meet to discuss compromise and settlement, and it does not suggest a lack of interest in settlement by either party.

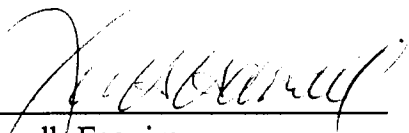
The testimony offered is particularly relevant to the issues in this case, because the Commission's interest is not merely the interests of the two parties, but more importantly, the public interest. The Florida Supreme Court itself has held that it is the duty of the Florida Public Service Commission, to police the state's utilities to assure the avoidance of uneconomic duplication of facilities. Lee County Electric Co-op vs. Marks, 501 So. 2d 585 (Fla. 1987). It is therefore to the benefit of both Gulf Power and Gulf Coast that testimony be offered and

admitted that these two utilities did in fact discuss settlement and a territorial agreement, in the public interest.

At formal hearings before the Commission on territorial disputes, the Commission routinely asks both parties to the dispute if they have attempted to settle their disputed claims. (In Re: Territorial Dispute between Talquin Electric Cooperative, Inc. and Town of Havana, Docket # 920214-EU, transcript of hearing, Volume 1, page 11, lines 14-22.) The purpose of such questions by the Commission is not to find out what each utility might believe it's liability is, nor to characterize a party in light less favorable than the other party.

Since the testimony neither refers to an admission of liability, nor to the absence of liability, it is not subject to the exclusion of Section 90.408.

Respectfully submitted,



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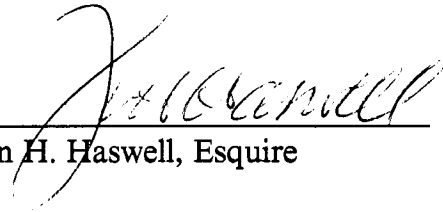
John H. Haswell, Esquire  
Chandler, Lang and Haswell, P.A.  
211 N.E. First Street  
Gainesville, Florida 32601  
904-376-5226  
FBN: 162536

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the foregoing has been furnished to the following via fax and U.S. Mail this 20th day of June, 1994:

George Edison Holland, Jr.  
Florida Bar No. 261599  
Jeffrey E. Stone  
Florida Bar No. 325956  
Teresa E. Liles  
Florida Bar No. 510998  
Beggs & Lane  
P.O. Box 12950  
Pensacola, Florida 32576-2950  
(904) 432-2451  
Attorneys for Gulf Power Company

Martha Carter Brown, Esq.  
Division of Legal Services  
101 E. Gaines Street #212  
Tallahassee, Florida 32399-6562

  
\_\_\_\_\_  
John H. Haswell, Esquire