

23 11 1996
GULF POWER

DOCKET NO.: 930885-EU [Gulf Coast Electric Cooperative, Inc. - Gulf Power Company]

WITNESS: Direct Testimony of Todd F. Bohrmann, Appearing On Behalf of Staff

DATE FILED: November 15, 1996

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1 DIRECT TESTIMONY OF TODD F. BOHRMANN

2 Q Would you please state your name and business address.

3 A My name is Todd F. Bohrmann; 2540 Shumard Oak Boulevard, Tallahassee,
4 Florida, 32399-0850.

5 Q By whom are you employed and in what capacity?

6 A I am employed by the Florida Public Service Commission as a Regulatory
7 Analyst for the Bureau of Electric Regulation, Division of Electric and Gas.

8 Q Please give a brief description of your educational background and
9 professional experience.

10 A I graduated from the University of Central Florida in 1989 with a
11 Bachelor of Arts degree in Economics. I was awarded a Master of Business
12 Administration degree from the University of Central Florida in 1992.

13 I was employed by the Florida Department of Environmental Protection as
14 an economist from November, 1992 through May, 1994. I began employment with
15 the Florida Public Service Commission as a Regulatory Analyst in the Division
16 of Auditing and Financial Analysis in May, 1994. Subsequently in April, 1996,
17 I transferred to the Division of Electric and Gas.

18 Q What are your present responsibilities with the Commission?

19 A I provide technical support for docketed and undocketed matters to the
20 Commission on electric utilities in Florida. My areas of responsibility
21 include territorial agreements and territorial disputes.

22 Q What is the purpose of your testimony?

23 A The purpose of my testimony is to recommend that the Commission adopt
24 a policy to resolve this territorial dispute that will minimize future
25 uneconomic duplication, but not preclude future customers in now-undeveloped

1 | areas from being served in the most safe, reliable, cost effective manner.
2 | The disputed areas in Bay and Washington Counties are represented in the 27
3 | individual color maps found in EXH ____ (WCW-1).
4 | Q Please provide a general background about the current territorial
5 | dispute between Gulf Power Company (Gulf Power) and Gulf Coast Electric
6 | Cooperative (Gulf Coast).
7 | A On September 9, 1993, Gulf Power filed a petition to resolve a dispute
8 | as to whether service to the Washington County Correctional Facility should
9 | be provided by Gulf Power or Gulf Coast. By Order No. PSC-95-0271-FOF-EU
10 | issued on March 1, 1995, the Commission ordered "that Gulf Power shall provide
11 | electric service to the Washington County Correctional Facility". The
12 | decision awarding service to Gulf Power was ultimately overturned by the
13 | Florida Supreme Court on May 23, 1996. However, the Court's decision did not
14 | address the portions of Order No. PSC-95-0271-FOF-EU which directed Gulf Power
15 | and Gulf Coast "to negotiate in good faith to develop a territorial agreement
16 | to resolve duplication of facilities and establish a territorial boundary in
17 | south Washington and Bay Counties." Order No. PSC-95-0271-FOF-EU further
18 | stated that if Gulf Power and Gulf Coast "are unable to negotiate an
19 | agreement, then (the Commission) will conduct an additional evidentiary
20 | proceeding to resolve the continuing dispute between them." Gulf Power's and
21 | Gulf Coast's distribution lines have been commingled or in close proximity in
22 | certain areas of south Washington and Bay Counties for many years. During
23 | that entire time and almost two years since the Commission issued Order No.
24 | PSC-95-0271-FOF-EU, Gulf Power and Gulf Coast have been unable to agree on a
25 | territorial boundary.

1 Q Please describe the Commission's authority to resolve this territorial
2 dispute between Gulf Power and Gulf Coast.

3 A In Section 366.04(2)(e), Florida Statutes, the Legislature delegated
4 explicit authority to the Commission to resolve, upon petition of a utility
5 or on its own motion, any territorial dispute involving service areas between
6 all electric utilities in the State. Furthermore, Section 366.04(5), Florida
7 Statutes, states:

8 The commission shall further have jurisdiction over
9 the planning, development, and maintenance of a
10 coordinated electric power grid throughout Florida to
11 assure an adequate and reliable source of energy for
12 operational and emergency in Florida and the
13 avoidance of further uneconomic duplication of
14 generation, transmission, and distribution
15 facilities.

16 Pursuant to this statutory authority, the Commission promulgated Rules
17 25-6.0439 - 25-6.0442, Florida Administrative Code.

18 Q Is this the first time that the Commission has directed parties to
19 resolve a territorial dispute?

20 A No. In 1992, the Commission was asked to resolve a territorial dispute
21 between Okefenoke Rural Electric Membership Cooperative (Okefenoke) and the
22 Jacksonville Electric Authority (JEA) which involved service to the Airport
23 Holiday Inn in Duval County. The Commission issued Order No. PSC-92-1213-FOF-
24 EU which, in part, directed JEA to develop a plan to eliminate the extensive
25 duplication of JEA's and Okefenoke's electric facilities in northern Duval

1 | County. Okefenoke ultimately agreed to sell its electric facilities in Duval
2 | County to JEA and establish a territorial boundary at the northern Duval
3 | County line. The Commission approved this agreement in Order No. PSC-93-1676-
4 | FOF-EU.

5 | Q Is there a need to resolve the territorial dispute between Gulf Power
6 | and Gulf Coast at this time?

7 | A Yes. After a two day hearing in October, 1994, the Commission found
8 | that the dispute between Gulf Power and Gulf Coast was much broader than the
9 | prison site. The Commission has already stated its intention "to resolve the
10 | continuing dispute between (Gulf Power and Gulf Coast)", if necessary, in
11 | Order No. PSC-95-0271-FOF-EU. Gulf Power and Gulf Coast have been unable to
12 | agree on a boundary despite the Commission's directive in Order No. PSC-95-
13 | 0271-FOF-EU. Gulf Power does not have a Commission-approved territorial
14 | agreement with any other utility. Moreover, Gulf Power has expressed its
15 | adamant opposition to drawing "lines on the ground" (see direct testimony of
16 | Gulf Power's witness Holland).

17 | On the other hand, Gulf Coast entered into a territorial agreement with
18 | Florida Power Corporation in 1986 which the Commission approved in Order No.
19 | 15840. Also, Gulf Coast has shown a willingness to draw "lines on the ground"
20 | to resolve this dispute by submitting territorial boundary maps of Gulf and
21 | Washington Counties (EXH ____ (AWG-2), EXH ____ (AWG-3), EXH ____ (AWG-4), EXH
22 | ____ (AWG-5), EXH ____ (AWG-6), and EXH ____ (AWG-7)).

23 | Q Since the Commission acquired jurisdiction over territorial disputes,
24 | how many disputes has the Commission been asked to resolve between Gulf Power
25 | and Gulf Coast?

1 Since the Commission acquired jurisdiction over territorial disputes in
2 1974, there have been six disputes between Gulf Power and Gulf Coast which
3 required the Commission's determination of which utility should be awarded
4 service. Gulf Power's witness Weintritt stated that "the infrequency of the
5 disputes between these utilities demonstrates that the current system used to
6 allocate service territory works well". However, no other combination of two
7 utilities has produced more territorial disputes. Gulf Power has had five
8 other disputes with other utilities for a total of 11 disputes. During the
9 same period, Florida Power & Light Company, Florida Power Corporation, and
10 Tampa Electric Company have collectively had only ten disputes which required
11 the Commission to award service to a party in the dispute.

12 Q How many active territorial agreements has the Commission approved for
13 Florida's other investor-owned utilities?

14 A As of November 1996, the Commission has approved 44 active territorial
15 agreements between Florida Power Corporation and other utilities, 21 active
16 territorial agreements between Florida Power & Light Company and other
17 utilities, and 10 active territorial agreements between Tampa Electric Company
18 and other utilities.

19 Q Do you believe that Gulf Power's and Gulf Coast's distribution lines are
20 in close proximity to each other, commingled, or both?

21 A Yes. I have examined the 27 individual color maps submitted by Gulf
22 Power in Exhibit ____ (WCW-1) and also visited several locations within the
23 disputed areas to confirm what the maps seem to indicate. Observations from
24 the maps indicate several locations within the disputed area where Gulf
25 Power's and Gulf Coast's distribution lines are in close proximity to each

1 | other, commingled, or both. For example, near the intersection of 2nd Street
2 | and U.S. Highway 231 in Bay County, Gulf Coast serves two customers while Gulf
3 | Power serves the remaining customers. Gulf Power's and Gulf Coast's
4 | distribution facilities were less than 100 feet apart on 2nd Street (see EXH
5 | ____ (WCW-1), Map 2828NW). Also, in Washington County near Paradise Lakes,
6 | Gulf Coast has distribution facilities along the west side of Highway 279,
7 | while Gulf Power has distribution facilities along the east side of Highway
8 | 279. In one instance, Gulf Power's distribution facilities cross over Highway
9 | 279 and Gulf Coast's distribution facilities to serve one customer who is
10 | located next door to a Gulf Coast customer (see EXH ____ (WCW-1), Map 2220).

11 | Q How has the Commission previously resolved territorial disputes where
12 | the two utilities' distribution lines are in close proximity of each other,
13 | commingled or both?

14 | A Rule 25-6.0441(2), F.A.C., sets out the criteria that the Commission may
15 | consider in resolving territorial disputes. The subsection states:

16 | (2) In resolving territorial disputes, the
17 | Commission may consider, but not be limited to
18 | consideration of:

19 | (a) the capability of each utility to provide
20 | reliable electric service within the disputed area
21 | with its existing facilities and the extent to which
22 | additional facilities are needed;

23 | (b) the nature of the disputed area including
24 | population and the type of utilities seeking to serve
25 | it, and degree of urbanization of the area and its

1 | proximity to other urban areas, and the present and
2 | reasonably foreseeable future requirements of the
3 | area for other utility services;
4 | (c) the cost of each utility to provide
5 | distribution and subtransmission facilities to the
6 | disputed area presently and in the future; and
7 | (d) customer preference if all other factors are
8 | substantially equal.

9 | In many instances, the first two criteria have not been found to be
10 | controlling factors when determining which party should serve the disputed
11 | area. For some disputes, the Commission has determined that the utilities'
12 | cost to serve the disputed area has been the controlling factor, and awarded
13 | service to the utility with the more cost effective service (e.g., Order No.
14 | 12858; Order No. 13668; Order No. 16106; Order 18822; Order 19590; Order No.
15 | 25074). In a few disputes when the first three criteria were not controlling
16 | factors, the Commission has considered customer preference as the deciding
17 | factor in awarding service to a utility (e.g., Order No. 16105; Order 24003).
18 | On the other hand, the Commission has also assigned little or no weight to
19 | customer preference (e.g., Order No. 12858; Order No. 13668; Order No. 16106;
20 | Order No. 18425; Order No. 18886; Order 19590).

21 | Q What actions should the Commission take where Gulf Power's and Gulf
22 | Coast's distribution lines are in close proximity of each other, commingled
23 | or both?

24 | A Absent Gulf Power and Gulf Coast entering into a territorial agreement,
25 | the Commission should establish territorial boundaries in those places where

1 | Gulf Power's and Gulf Coast's distribution lines are in close proximity of
2 | each other, commingled or both. These territorial boundaries should be
3 | discrete line segments of sufficient length to separate the two utilities'
4 | distribution facilities, where necessary, to ensure that future uneconomic
5 | duplication does not occur.

6 | Q Within the disputed area, do examples exist which show Gulf Power's and
7 | Gulf Coast's distribution lines are neither in close proximity of each other
8 | nor commingled?

9 | A Yes. There are several locations within the disputed area where Gulf
10 | Power's and Gulf Coast's distribution lines are neither in close proximity of
11 | each other nor commingled.

12 | Q What actions should the Commission take where Gulf Power's and Gulf
13 | Coast's distribution lines are neither in close proximity of each other nor
14 | commingled?

15 | A The Commission should not draw a territorial boundary where Gulf Power's
16 | and Gulf Coast's distribution lines are neither in close proximity of each
17 | other nor commingled. A territorial boundary is unnecessary where only one
18 | utility can serve a new customer without uneconomically duplicating the other
19 | utility's facilities. Also, a territorial boundary drawn in an area where
20 | either utility can provide safe, reliable, cost effective electric service
21 | without uneconomically duplicating the other utility's facilities would
22 | preclude customer choice and impair competition.

23 | No one can accurately predict today how growth patterns will occur in
24 | the now-undeveloped parts of the disputed area in the future. Therefore, the
25 | Commission should not impede the logical cost-effective expansion of each

1 utility's services. However, the Commission's decision not to draw
2 territorial boundaries in these now-undeveloped areas should not be
3 interpreted by the parties as a license to prematurely install isolated
4 distribution facilities. The Commission should direct Gulf Power and Gulf
5 Coast to cooperate so that extensions of each utility's distribution
6 facilities are handled in a cost-effective manner and that new territorial
7 boundaries are drawn as the now-undeveloped areas develop.

8 Q Why is the uneconomic duplication of distribution facilities not in the
9 public interest?

10 A Utilities are obligated to provide safe, reliable, cost effective
11 electric service to their customers. These characteristics are compromised
12 when a utility uneconomically duplicates the distribution facilities of
13 another utility. In one of the first territorial agreements approved by the
14 Commission, the Commission recognized that:

15 (i) if two similar utilities enter the same territory
16 and compete for the limited business of the area,
17 each will have fewer customers, but there inevitably
18 will be excess facilities which must earn a
19 reasonable return. The rates in such a situation
20 will be higher than the service is worth, or
21 customers in more remote areas will bear some of the
22 unjustified expense necessary to support such
23 economic waste (Order 3051).

24 Also, the reliability of each utility's service may suffer in an area where
25 an uneconomic duplication of distribution facilities has occurred. For

1 | example, when an outage occurs, affected customers may unwittingly contact the
2 | wrong utility to report the outage. In addition, when two utilities'
3 | distribution facilities are in close proximity to each other, commingled, or
4 | both, additional safety considerations impact both utilities' customers who
5 | are served by the distribution facilities and workers who repair and maintain
6 | the distribution facilities. For example, when one utility's distribution
7 | facilities cross the distribution facilities of another utility, workers who
8 | are repairing one utility's distribution facilities must take additional
9 | precautions to avoid contact with the other utility's distribution facilities.

10 | Q Neither Gulf Power nor Gulf Coast believes that any customer should be
11 | transferred due to the resolution of this territorial dispute. Do you agree?

12 | A No. It may be necessary to transfer some customers to minimize future
13 | uneconomic duplication of facilities. However, the Commission should minimize
14 | the number of customers transferred between Gulf Power and Gulf Coast.
15 | Sufficient information is not currently available to estimate the number of
16 | customers that would be transferred between the two utilities. Each utility
17 | should transfer the affected customers as soon as possible while operating
18 | under the constraint of maintaining safe, reliable, cost effective service to
19 | its customers. A utility should transfer an affected customer when a change
20 | of use occurs, upon customer request, or within two (2) years after the
21 | resolution of this dispute, whichever happens first.

22 | Q Should the Commission establish customer enclaves (i.e., one or more
23 | customers of one utility surrounded or nearly surrounded by the other
24 | utility's customers) to resolve this territorial dispute?

25 | A No. Absent a compelling reason, the Commission should not condone

1 customer enclaves. In the past, the Commission has discouraged customer
2 enclaves as part of territorial agreements for any extended period of time.
3 However, the Commission has recognized that in certain extraordinary
4 circumstances it may be necessary to do so to ensure the cost-effectiveness
5 and viability of the agreement (e.g., Order No. PSC-95-0668-FOF-EU; Order No.
6 PSC-95-1522-FOF-EU)

7 Q Does this conclude your testimony?

8 A Yes.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to resolve) DOCKET NO. 930885-EU
territorial dispute with Gulf)
Coast Electric Cooperative, Inc.) FILED: 11/15/96
by Gulf Power Company)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony of Todd F. Bohrmann has been furnished by U. S. Mail this 15th day of November, 1996, to each of the following:

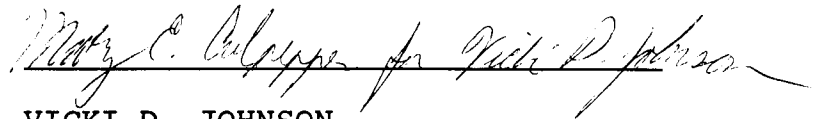
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