

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

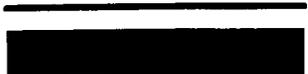
DOCKET NO. 930885-EU

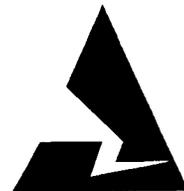
PREPARED REBUTTAL TESTIMONY

OF

RUSSELL L. KLEPPER

DECEMBER 20, 1996


GULF POWER



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1 GULF POWER COMPANY
2 Before the Florida Public Service Commission
3 Rebuttal Testimony of
4 Russell L. Klepper
5 Docket No. 930885-EU
6 Date of Filing: December 20, 1996

7 Q. Please state your name, business address, and occupation.

8 A. Russell L. Klepper. My business address is 10933
9 Crabapple Road, Suite 105, Roswell, Georgia 30075. I am
10 the Founder and Principal of Rawson, Klepper & Company, a
11 small utility and energy consulting services firm.

12 Q. Are you the same Russell L. Klepper that prepared and
13 submitted direct testimony on behalf of Gulf Power
14 Company in the second phase of this docket?

15 A. Yes, I am.

16 Q. What is the purpose of your rebuttal testimony?

17 A. I have been asked by Gulf Power Company ("Gulf Power") to
18 address certain misleading statements contained in the
19 direct testimonies of Archie Gordon and Stephen Page
20 Daniel, both of whom appear on behalf of Gulf Coast
21 Electric Cooperative, Inc. ("GCEC"). Gulf Power has also
22 asked that I analyze and discuss the regulatory
23 implications of certain of the positions adopted in the
24 Direct Testimony of Todd F. Bohrmann, who appears on

1 behalf of the Staff of the Florida Public Service
2 Commission (the "Commission").

3 Q. What misleading statements by GCEC Witnesses Gordon and
4 Daniel do you wish to address?

5 A. Both GCEC witnesses assert in testimony that an
6 appropriate consideration in the Commission's
7 deliberations in the instant matter should be whether one
8 of the two utilities "declined to provide service during
9 the past historical operating period" (see Gordon
10 testimony, page 11, lines 12-14) or "if a utility
11 historically was not prepared to serve an area, or for
12 any reason was not ready, willing, and able to serve an
13 area, or refused to serve an area" (see Daniel testimony,
14 page 11, lines 11-16).

15 This same contention was raised in testimony in the
16 first phase of this proceeding by GCEC's recently retired
17 General Manager, Hubbard Norris. By again raising this
18 issue, GCEC clearly seeks to gain favor with the
19 Commission by implying that Gulf Power previously refused
20 to provide electric service or otherwise failed to
21 fulfill its obligation to serve in the geographic areas
22 in dispute in this proceeding.

23

24 Q. How do you respond to these assertions?

1 A. The implication that Gulf Power has ever refused to
2 provide electric service upon request, whether in the
3 disputed areas or elsewhere, is wholly inaccurate and
4 unsupported by any credible evidence. In fact, in
5 response to questions posed at his deposition in the
6 first phase of this proceeding, which I personally
7 attended, Mr. Norris stated that he was unable to provide
8 any documentary evidence for his assertion, and that he
9 was further unable to cite any specific instance in which
10 Gulf Power refused to provide service.

11

12 Q. By contrast to the misleading statements made by GCEC,
13 what has been the actual role played by Gulf Power in
14 serving the so-called disputed areas and other rural
15 territory in Northwest Florida?

16 A. As mentioned by Gulf Power's Witness, Mr. Weintritt, Gulf
17 Power has provided retail electric service to customers
18 in rural areas of Washington County since Gulf Power's
19 beginnings in 1926. In fact, from the time of GCEC's
20 inception until the date in 1981 when GCEC unilaterally
21 terminated the wholesale power contract between Gulf
22 Power and GCEC, Gulf Power made all necessary capital
23 expenditures in generation and transmission facilities
24 and incurred all necessary operating costs to provide
25 adequate and reliable wholesale service to GCEC. Thus,

1 Gulf Power bore the preponderance of the electric service
2 cost burden that allowed GCEC to provide retail electric
3 service in Bay and Washington counties and the other
4 counties in which GCEC now serves. In fact, Gulf Power
5 continues to serve more rural customers in Northwest
6 Florida than the four Northwest Florida rural electric
7 cooperatives combined.

8

9 Q. What is the regulatory implication of GCEC's submission
10 of testimony containing such reckless and misleading
11 statements?

12 A. It is a contemptible tactic, and an affront to this
13 Commission and the regulatory process itself, that GCEC
14 would attempt to accomplish by innuendo the objectives
15 that GCEC apparently believes cannot be achieved either
16 by evidence or the merits of its arguments. GCEC's
17 efforts to subvert the regulatory process through its
18 deliberate submittal of insupportable accusations is an
19 action that should be carefully weighed by this
20 Commission in determining the method by which territorial
21 rights will be exercised by GCEC and Gulf Power.

22

23 Q. If the misleading statements of GCEC were true, and Gulf
24 Power had in the past refused to provide electric service
25 within the disputed area, should that circumstance be

1 properly considered by the Commission in the context of
2 the current proceeding?

3 A. No, it should not, especially if any refusal to serve had
4 occurred forty or fifty years ago and not in the recent
5 past. The economic circumstances that existed within the
6 electric utility industry in the United States in the
7 1930s and 1940s are far different from those that exist
8 today. In particular, the instability of the capital
9 markets in the 1930s due to the economic depression, and
10 the constrained supply of new private capital for non-
11 military purposes in the early 1940s, led to the
12 employment of scarce capital by investor owned utilities
13 in a manner that would provide reliable electric service
14 to the greatest number of new customers. The specific
15 purpose of federal government intervention in the
16 electric industry during these periods was to supplement
17 the limited supply of private capital and thereby make
18 electric service available in rural America as well as
19 more densely populated areas. To the extent that
20 constraints in acquiring capital for expansion would have
21 affected the ability of any investor owned utility in the
22 1930s or 1940s to extend service to every customer
23 seeking electric service, it is difficult to comprehend
24 how that situation is relevant to the current state of
25 the electric utility industry.

1 Indeed, the claims by GCEC's witnesses that a prior
2 failure by Gulf Power to provide service should be
3 considered by the Commission (notwithstanding that GCEC
4 can provide no evidence of any such failure to provide
5 service) are unsupported by any argument that explains
6 why any such consideration would be relevant. By
7 contrast, the Commission should note that changing
8 economic circumstances in the utility industry often
9 dictate that pre-existing industry structures must be re-
10 evaluated for their continuing applicability. If
11 historical arrangements for the allocation of electric
12 service territories are no longer anticipated to provide
13 the greatest economic efficiency, there is no longer any
14 reason to maintain the status quo, as desired by GCEC.

15

16 Q. Are there any other statements by the GCEC Witnesses that
17 you wish to address?

18 A. Yes, Mr. Daniel contends that "If a utility is currently
19 serving in a particular area, there is no logic for
20 displacing that utility unless that utility is not
21 prepared to continue to serve that area with adequate,
22 reliable electric service" (see page 14, lines 16-18),
23 and "Loss of the right to serve in an area which has
24 historically been served by a utility disrupts that

1 utility's orderly planning process" (see page 15, lines
2 16-17).

3 These and other similar statements in Mr. Daniel's
4 testimony are deceptive because they are based on the
5 erroneous premise that GCEC has some right or entitlement
6 to serve certain areas, and that right or entitlement is
7 exposed to an adverse modification or termination as a
8 result of this proceeding. In truth, there is no
9 territorial agreement between Gulf Power and GCEC, and
10 accordingly, GCEC currently has no greater right or
11 entitlement than Gulf Power to serve any of the areas in
12 dispute.

13 Further, given that GCEC has no exclusive service
14 rights to these disputed areas, GCEC's warnings about the
15 economic harm that it might incur if its assumed service
16 rights are changed must be ignored by this Commission.
17 If GCEC suffers economic harm as a result of any decision
18 by this Commission pertaining to service territories,
19 such damage must be viewed as the end result of GCEC's
20 imprudence in assuming the possession of territorial
21 service rights which in truth it did not hold.

22

23 Q. What comments do you wish for the Commission to consider
24 pertaining to the positions adopted and resulting
25 recommendations of Staff Witness Bohrmann?

1 A. A consistent theme that runs through the discussion and
2 recommendations of Mr. Bohrmann, and one that reflects
3 his intention to maintain strict neutrality between the
4 interests of Gulf Power and GCEC, centers on his apparent
5 perception that both Gulf Power and GCEC provide safe,
6 reliable and cost effective electric service. Mr.
7 Bohrmann's perception in this regard would seem to arise
8 from his statement that "Utilities are obligated to
9 provide safe, reliable, cost effective electric service
10 to their customers" (see page 10, lines 10-11) and
11 similar statements on pages 9 through 11 of his testimony
12 that impute to both Gulf Power and GCEC the
13 characteristics of safety, reliability and cost
14 effectiveness.

15 While Mr. Bohrmann's effort to be fair to both
16 parties is commendable, his willingness to assume
17 comparable characteristics and thereby to place both
18 utilities on an equal footing is erroneous and improper
19 within the context of this regulatory proceeding. The
20 reason that Mr. Bohrmann's testimony on this point is
21 erroneous and improper is that unlike Gulf Power, GCEC's
22 rate level is not regulated by this Commission or any
23 other regulatory body, and contrary to his testimony,
24 GCEC is not subject to any legal or regulatory obligation
25 to provide cost effective electric service.

1 Moreover, because GCEC is not subject to rate level
2 regulation, there has been no regulatory or similarly
3 authoritative review of GCEC's costs that can serve as
4 the evidentiary basis for Mr. Bohrmann's statement that
5 GCEC's operation is cost effective. Thus, Mr. Bohrmann's
6 statements that GCEC operates on a cost effective basis
7 are unsupported by evidence and therefore invalid, and
8 this Commission can accord no weight to such statements.

9
10 Q. If the Commission has no evidence to support the
11 contention that GCEC has cost effective operations, how
12 does that affect Mr. Bohrmann's recommendations?

13 A. Mr. Bohrmann's testimony reflects his concern that the
14 electric service available to customers within the State
15 of Florida should be safe, reliable, and cost effective.

16 Gulf Power has had its operating expenses reviewed by
17 this Commission on numerous occasions within the context
18 of rate case and other proceedings. However, there is no
19 evidence upon which this Commission can rely regarding
20 the propriety of GCEC's costs.

21 Because Mr. Bohrmann's recommendations rest squarely
22 on the underlying assumption that both utilities have
23 cost effective operations, and because that assumption
24 has been shown to be invalid with respect to GCEC, his
25 recommendations in their current form cannot be accepted.

1 However, because Mr. Bohrmann's recommendations were
2 clearly driven by his concern that customers receive cost
3 effective electric service, the logical revision to Mr.
4 Bohrmann's testimony would be to resolve all disputed
5 areas in favor of Gulf Power, the party which has
6 demonstrated to this Commission on numerous occasions
7 that it provides cost effective electric service.

8

9 Q. From a regulatory perspective, is it appropriate that a
10 cooperative utility like GCEC should be disadvantaged in
11 the regulatory arena solely because it is not rate
12 regulated?

13 A. Yes, it is appropriate. The Commission should be
14 reminded that this is not a proceeding to balance the
15 interests of Gulf Power versus those of GCEC. Instead,
16 the focus of this regulatory proceeding, as with
17 virtually all regulatory proceedings, is to balance the
18 interests of the customers versus the interests of the
19 utilities to achieve the most economically efficient
20 result. To accomplish this objective, the responsibility
21 of the Commission in this matter is to determine a
22 mechanism whereby the exercise of territorial service
23 obligations by either or both of the subject utilities
24 will best protect and preserve the economic interests of
25 future electric service customers.

1 In the proper exercise of its regulatory
2 responsibility, the Commission must decide if the
3 economic interests of future electric service customers
4 will be better served by (A) an investor owned utility
5 which is subject to continuing rate regulation and has
6 the lower current and prospective rates, or (B) by an
7 unregulated cooperative entity that seeks territorial
8 protection because it knows that it will be unable to
9 compete effectively in the rapidly changing electric
10 utility environment.

11 Assuming for the sake of argument that electric
12 service from either utility would be substantially equal
13 in all operational respects (an assumption that Gulf
14 Power contends is incorrect), the single issue that
15 concerns electric power consumers the most is the price
16 that is paid for service. If an unregulated cooperative
17 utility is unable to deliver service at a price
18 comparable to its competitor, and in addition, if that
19 same cooperative utility is expected to require rate
20 increases in the likely event that existing federal
21 subsidies are withdrawn or reduced, those facts should
22 most certainly be a major consideration when this
23 Commission addresses a territorial dispute.

24

1 Q. Does this conclude your rebuttal testimony?

2 A. Yes, it does.

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AFFIDAVIT

STATE OF GEORGIA)
)
COUNTY OF FULTON)

Docket No. 930885-EU

Before me the undersigned authority, personally appeared Russell L. Klepper who being first duly sworn, deposes, and says that he is a consultant from Rawson, Klepper & Company for Gulf Power Company, a Maine corporation, that the foregoing is true and correct to the best of his knowledge, information, and belief.

Russell L. Klepper
Russell L. Klepper
Rawson, Klepper & Company

Sworn to and subscribed before me this 17th day of December, 1996.

Helen L. Orlieb
Notary Public
Notary Public, Cobb County, Georgia
My Commission Expires Feb. 12, 1997

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