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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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



FIRST DAY - AFTERNOON SESSION

VOLUME 2

Pages 201 through 313

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON  
COMMISSIONER SUSAN F. CLARK

DATE: Tuesday, April 29, 1997

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR  
Chief, Bureau of Reporting  
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APPEARANCES:  
(As heretofore noted.)

DOCUMENT NUMBER - DATE

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**P R O C E E D I N G S**

(Hearing reconvened at 2:25.m.)

(Transcript follows in sequence from

Volume 1.)

**COMMISSIONER DEASON:** Call the hearing back to order. Mr. Haswell.

**MR. HASWELL:** Thank you, Commissioner.

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**G. EDISON HOLLAND, JR.**

resumed the stand as a witness on behalf of Gulf Power Company and, having been previously sworn, testified as follows:

**CONTINUED CROSS EXAMINATION**

**BY MR. HASWELL:**

**Q** Mr. Holland, would you agree that whether a utility is serving in a rural area as opposed to an urban area or urban-rural mix, that the cost to serve customers in a rural area would be higher?

**A** Not in all cases. I would say there are circumstances where that would be the case but that is not true in all cases. I think there are urban areas where the cost, in fact, might be higher than to serve in a rural area.

**Q** Do you recall your deposition that we just referred to, the time it was taken?

1           A     Yes.  And I probably testified at that  
2 time --

3           Q     Let me finish.  And you were asked that same  
4 question I just quoted and your answer was "yes"?

5           A     It may have been.  I don't disagree with  
6 that.

7           Q     Do you recall that?

8           A     I don't recall it, but it probably was  
9 because that was my thought at that time.

10          Q     Would you further agree that that would also  
11 impact the utility's rates?

12          A     It would impact the utility's rates, but I'd  
13 like to finish, because I think that having reflected  
14 on my answer given in the deposition, in responding to  
15 your question today, there are circumstances such as  
16 on the beach where you've got the salty air and the  
17 problems associated with that, and other problems that  
18 Mr. Weintritt is much more able to respond to than I  
19 am, where it might indeed be more costly to serve in a  
20 a more congested area than in a rural area.

21          Q     Isn't it true that Gulf Power serves more  
22 industrial, commercial and urban areas than Gulf  
23 Coast?

24          A     Yes, and I think it was the intent of public  
25 investor-owned utilities versus rural electric

1 cooperatives.

2           **MR. HASWELL:** I'd move to strick that last  
3 portion of his answer as --

4           **WITNESS HOLLAND:** You asked the question.

5           **COMMISSIONER DEASON:** Hold it. I'll make  
6 the ruling, Mr. Holland.

7           **WITNESS HOLLAND:** I'm sorry.

8           **COMMISSIONER DEASON:** Mr. Haswell, you  
9 opened the door to that question and you --

10           **MR. HASWELL:** No, sir. All I did was ask if  
11 they served more industrial, commercial dense areas  
12 than the Co-op. All he had to do was say yes or no.

13           **COMMISSIONER DEASON:** Yeah. But we have the  
14 history here of an allowing witnesses to expand upon  
15 their answers if it is reasonably associated with the  
16 question. And I find his answer to be reasonably  
17 associated with your question. I'm going to allow the  
18 question and answer to stand.

19           **Q**       **(By Mr. Haswell)** Isn't it true that a  
20 utility with, say, 50 customers per mile of line can  
21 serve those customers at less cost per customer than a  
22 utility with seven customers per mile of line?

23           **A**       In general that would be true.

24           **Q**       Isn't it true that if Gulf Power Corporation  
25 serves rural customers and Gulf Coast serves rural

1 customers, both having approximately the same density  
2 of customers per mile of line, that their cost to  
3 serve these customers should be approximately the  
4 same?

5 A If both are operated as efficiently as they  
6 possibly can given the structure and organization of  
7 the corporate structure and the way they are operated,  
8 I think regulation would also impact that. But in  
9 general I think my answer would be yes.

10 Q Isn't it true that Gulf Power Corporation  
11 does not charge its customers a higher rate if they  
12 are located in a rural less dense area even if it cost  
13 Gulf Power more to serve those customers than service  
14 to an urban customer?

15 A Yes, that's true. We serve our customers  
16 according to our retail tariff on file with the  
17 Commission.

18 Q Would it be possible for Gulf Power  
19 Corporation to establish a rate class of residential  
20 rural to distinguish it from a class of residential  
21 urban?

22 A Anything is possible. I would not testify  
23 here today that that would be the right thing to do or  
24 the advantageous thing to do but it could be done.

25 Q Okay. Do you believe that if Gulf Power had

1 a separate rate for residential Rural 1 that was  
2 approved by the Commission, that that rate would be  
3 higher than its rate for residential as it now exists?

4 A I don't know the answer to that question. I  
5 do know that even if you did that, I feel very  
6 strongly that that rate would still be lower than the  
7 cooperative rate charged to those same customers in  
8 the rural areas.

9 Q Okay. You must have been reading my notes.  
10 My next question is if such a rate class  
11 were approved, do you believe the rate charged by Gulf  
12 Power for its rural customers would closely approximate  
13 the rates charged by Gulf Coast to its customers?

14 A No, I do not.

15 Q Have you done any analysis to establish your  
16 negative answer?

17 A No, I have not.

18 Q Now, isn't it true that it's possible that  
19 Gulf Power's rates could be higher at sometime in the  
20 future?

21 A As I answered the question earlier, anything  
22 is possible. I would say it is highly improbable  
23 given where we think we're headed.

24 Q But it is possible?

25 A Anything is possible.

1           Q     I didn't say anything but it is  
2 possible, is it not, that Gulf Power's rates  
3 could be higher in the future?

4           A     There could be circumstances that I  
5 do not, nor anyone else in our industry,  
6 foresees that could cause our rates to go  
7 higher rather than lower.

8           Q     So your answer is no, it's not  
9 possible that Gulf Power Corporation's rates  
10 could be higher in the future?

11          A     I didn't say that. What I said is  
12 it is extremely unlikely that that could  
13 happen but it is possible.

14          Q     Are you aware of any cooperative  
15 that has rates lower than an  
16 investor-owned utility's rate?

17          A     I'm sure there are some. I don't know  
18 of any but I'm sure that there are.

19          Q     Isn't it also true that your  
20 expectation is that Gulf Power's rates will  
21 actually go down in the future?

22          A     That's my expectation.

23          Q     Okay. And is it also true that  
24 Gulf Power Company is doing everything it can  
25 to keep its rates as low as possible?



1           A     Yes. Under mandate of the Public Service  
2 Commission.

3           Q     And do you have any reason to believe that  
4 Gulf Coast is not doing the same thing to keep its  
5 rates as low as possible?

6           A     It certainly does not have the incentive  
7 that we do to do that.

8           Q     I didn't ask you that question. Do you know  
9 whether or not Gulf Power -- do you have any reason to  
10 believe that Gulf Coast is not doing everything it can  
11 do to keep its rates lower?

12          A     Based on the only evidence that I have, and  
13 its rates are substantially higher and Gulf's, I'd say  
14 they are not doing everything they could, but I don't  
15 have any substantive evidence to back that up.

16          Q     And you also believe that the ability of a  
17 utility to improve economies of scale is beneficial to  
18 the utility; is that not true?

19          A     It is a benefit, yes.

20          Q     Okay. And isn't it true that you also  
21 believe that the better your residential density the  
22 better your rate level?

23          A     I think I agreed with you in general that's  
24 probably true. I would not agree that's true in all  
25 cases. I visited some areas where, in fact, I saw the

1 cost was much greater than it otherwise would be in a  
2 very dense area as opposed to a less populated area.  
3 So I think there are some exceptions to that.

4 Q You haven't done any analysis, have you, as  
5 to why Gulf Power's rates will continue to be as  
6 attractive as compared to Gulf Coast's?

7 A I know what we're trying to do. I know what  
8 we will be capable of doing. There are things on the  
9 horizon that while they have not taken place yet, it's  
10 most definite that they will take place. And that as  
11 a result of that our rates will be lower. I have not  
12 looked at what Gulf Coast might be able to do to get  
13 their rates lower.

14 Q My question was whether or not you have done  
15 any analysis?

16 A I think my answer was no, I've not done the  
17 type of analysis that you're talking about but we have  
18 analyzed what our rates will be, we think, out into  
19 the future.

20 Q Isn't it also true you have done no thorough  
21 analysis as to why Gulf Power Corporation's rates are  
22 currently lower than Gulf Coast's?

23 A No, I have not.

24 Q Do you know -- isn't it true that you don't  
25 know whether Gulf Coast is not providing adequate and

1 reliable service in South Washington and Bay Counties?

2           A     If I understood the question, and I think  
3 the question was do I know whether Gulf Coast is  
4 providing reliable service in south Washington and  
5 north Bay County -- is that the question?

6           Q     That's correct?

7           A     We have indications when customers come to  
8 us -- and I have some personal knowledge of customers  
9 coming to me -- on the basis of one, rates, and two,  
10 reliability, who would prefer to take service from  
11 Gulf Power Company. So to that extent I have my own  
12 personal knowledge and am aware of that happening with  
13 other employees of Gulf Power Company. I would say  
14 there are those out there who don't think the rates  
15 are as low or the service is as reliable. But I have  
16 not done a sophisticated analysis -- I don't know how  
17 you would do that.

18           Q     I recall your deposition -- if you have it  
19 in front of you -- Page 119. I asked you the question  
20 "All right. Well, let me ask you my question again.  
21 Do you believe Gulf Coast Electric Cooperative is  
22 providing adequate and reliable service in south  
23 Washington and Bay County, if you know?" And your  
24 answer was "I don't know." Do you remember giving  
25 that answer?

1           A     I do remember giving that answer.

2           Q     Thank you.

3           A     Perhaps I've given it more thought since  
4 that point.

5                   **COMMISSIONER CLARK:** Mr. Holland, can I ask  
6 you a question? Mr. Daniel talks about the fact that  
7 comparable data wasn't given by Gulf Power so there  
8 could be a comparison of service. I was on Page 32 of  
9 his testimony and he indicates that whereas the Gulf  
10 Coast data consisted almost entirely of situations  
11 found in the field which were not necessarily  
12 complaints but report of service problems, almost all  
13 of the items included in Gulf Power's data refers to  
14 complaints received in the office concerning billing,  
15 disconnects and high bills.

16                   Do you know if Gulf Power actually provided  
17 information on service outages and service problems?

18                   **WITNESS HOLLAND:** Commissioner Clark,  
19 Mr. Weintritt would be the better person to ask that  
20 question. But to my knowledge we provided everything  
21 we had in the format that we keep it in terms of the  
22 outages in the area that is at issue here.

23                   **COMMISSIONER CLARK:** Okay.

24           Q     (By Mr. Haswell) Going back to Phase I of  
25 this case, regarding the prison, isn't it true that

1 Gulf Power would not have filed this dispute if it had  
2 the benefit of the Supreme Court's opinion that you  
3 attached as an exhibit to your direct testimony, and  
4 there had not been a loan or a grant involved?

5       A     I think -- and I'm trying to recall my  
6 deposition -- but what we said was based upon the  
7 Commission's past rulings, the rules and regulations  
8 of the Commission and the statute, as they existed  
9 prior to the prison case, we may or may not have filed  
10 the dispute because the \$15,000 difference at that  
11 point, given past Commission precedent, was relevant.  
12 It would not, we don't think, have been considered to  
13 be de minimis, which the Supreme Court, in fact, ruled  
14 it was de minimis.

15               What I have said is that I think if the  
16 wholesale tariff that was in place before, or either  
17 of the GEH-3 or GEH-4 were in place, that we would not  
18 have filed or that dispute would never have come  
19 before the Commission. Because at least with respect  
20 to the wholesale tariff and with respect to GEH-3, the  
21 territorial policy, it would have been up to the  
22 customer to decide in that case.

23       Q     Okay. But part of your objection to that was  
24 that there was a loan or a grant involved and someone  
25 who was paying for that?

1           **A**     Yes, we did object to that. We don't think  
2 that's right.

3           **Q**     And if your GEH-3 and 4 had been in place,  
4 you would have agreed with customer choice?

5           **A**     Under GEH-4 we would have met and discussed  
6 it before it happened. Under GEH-3 I think it very  
7 clearly would have been customer choice, and no, we  
8 would not have disputed the selection by the  
9 Department of Corrections.

10                   **COMMISSIONER CLARK:** Mr. Holland, let me ask  
11 you a question along that line.

12                           I glean from what testimony you filed and  
13 the conferences we've had that the threshold amount is  
14 roughly \$15,000. That's a de minimis amount and  
15 anyone can serve if it's not that different. Tell me  
16 where I'm wrong.

17                           **WITNESS HOLLAND:** There's been a lot of  
18 confusion about this, and if we're responsible, I  
19 apologize.

20                                   GEH-4 does contain a \$15,000 threshold  
21 amount and one could possibly read from that that is a  
22 threshold amount in all cases.

23                                   I think in my deposition -- and I would tell  
24 the Commission that we're not locked into 15,000, and  
25 we think there may be -- and in fact Mr. Spangenberg's

1 mechanism for resolving territorial disputes talks in  
2 terms of what it takes in incremental cost to serve a  
3 particular load of a particular size.

4           The best example I can give you is that if  
5 there were a single-phase distribution line that was  
6 running down a road and it was going to cost -- and it  
7 was Gulf Coast's line, and there was a trailer, house  
8 trailer, down there, and it would cost them \$150 or  
9 \$100 for a service drop, and it would cost us \$15,000,  
10 even though we were on the main road but not on the  
11 side road -- it would cost us \$15,000. I would tell  
12 you today we would not go serve that load. That would  
13 be a duplication. And given the size and nature of  
14 that load I think that is uneconomic duplication.

15           It gets back to what I said earlier in my  
16 summary. That we think that this process has  
17 developed to the point where we are very good, I  
18 think, and I think the Co-op is pretty good, too, at  
19 looking a particular situation, analyzing what it  
20 would cost them to serve, what it would cost us to  
21 serve, and making a determination as to which utility  
22 ought to serve a particular customer.

23           What we do believe that the Supreme Court  
24 said is that there is a level given the size and the  
25 nature of the load, where even if it does cost one a

1 little bit more than it costs the other, that that is  
2 not uneconomic. It's not a dollar more it's  
3 uneconomic. Depending on the size of the load it may  
4 be \$1,000 more, 5,000 or in the case of the present it  
5 was 15,000.

6 **COMMISSIONER CLARK:** What I hear you saying  
7 is it's on a case-by-case basis you would determine if  
8 the service to that particular customer resulted in  
9 uneconomic duplication.

10 **WITNESS HOLLAND:** Yes. That's what we've  
11 done forever for -- since the two of us have been in  
12 existence.

13 **COMMISSIONER CLARK:** And that it would be up  
14 to you two, whoever the co-op is and -- whoever the  
15 two parties are to meet, discuss and agree as to who  
16 would serve that --

17 **WITNESS HOLLAND:** Yes.

18 **COMMISSIONER CLARK:** -- customer.

19 **WITNESS HOLLAND:** And if I might, GEH-3 has  
20 some fairly definite distance and size limitations in  
21 it that determine or defined more clearly -- even more  
22 clearly, although I think it's pretty clear under what  
23 the Commission has done in the past -- but defined a  
24 little bit more clearly what would be uneconomic and  
25 what would not be uneconomic.



1           **COMMISSIONER CLARK:** You two would make an  
2 agreement and, in effect, divide up the territory on a  
3 customer-by-customer basis.

4           **WITNESS HOLLAND:** Yes.

5           **COMMISSIONER CLARK:** Okay.

6           **WITNESS HOLLAND:** But --

7           **COMMISSIONER CLARK:** Would that come before  
8 the Commission at some point? Would you, in effect,  
9 develop a line that you would feel comfortable signing  
10 an agreement and saying "Here are the lines" and have  
11 that approved by the Commission?

12           **WITNESS HOLLAND:** I don't think that  
13 agreement would lead to that. And let me, if I might,  
14 explain why.

15                   What has happened -- and you brought it up  
16 before lunch, and I think it's a great example -- if  
17 those lines or the service to those new customers --  
18 and we agree, yes, these are -- let's say they are  
19 homes, single-family homes -- and there are two or  
20 three homes there and we decide, yeah, Gulf Coast  
21 ought to serve those because they have single-phase  
22 distribution lines in that area. And then you would  
23 say, "Well, would you draw a line there?" Well, what  
24 if right behind the that line -- and this is the case  
25 in many instances, we could look at the map, but there

1 are transmission lines back there. And there happens  
2 to be established an industrial park or a large load  
3 that has to be served at substation level.

4           The drawing of that line based on those  
5 single-phase distribution lines would preclude Gulf  
6 Power Company from providing that customer with  
7 service.

8           In our situation, and our experience has  
9 been, and there have been actual instances of this,  
10 where those types of customers have come to us and we  
11 said, "No, we can't serve that because that would  
12 constitute uneconomic duplication," and instead of  
13 locating in Northwest Florida they have gone to  
14 Alabama, Georgia or whatever.

15           It's those situations, a line on the ground  
16 will not prevent uneconomic duplication in all cases  
17 and, again, what we keep coming back to, it may cause  
18 it, and in fact, we think will cause it.

19           **COMMISSIONER CLARK:** So you don't anticipate  
20 ever drawing a line on the ground and submitting an  
21 agreement to the Commission; is that right?

22           **WITNESS HOLLAND:** That's correct. When  
23 these natural expansion of facilities occur, and those  
24 single-phase lines are located where they are located  
25 you in effect have a line for purposes of service to

1 that size load. And I think that's what the  
2 legislature and this Commission has contemplated over  
3 the years, that that would in fact happen.

4 I guess from my perspective I don't see a  
5 need for us coming before the Commission and asking  
6 the Commission to draw a line and approve that.

7 **COMMISSIONER CLARK:** And you don't think  
8 that your company or the company you entered into an  
9 agreement with on that basis would be subject to  
10 antitrust liability without having it come before the  
11 Commission for approval?

12 **WITNESS HOLLAND:** No, Commissioner, I don't.  
13 I've looked at that. And I have had people I deemed  
14 to be experts in the field look at that very situation  
15 and given the -- now, what would constitute -- and I  
16 would submit to you would constitute a violation of  
17 the antitrust laws is if a customer came to us -- and  
18 this is what we tell our people: If a customer comes  
19 to us and says "We want service from Gulf Power  
20 Company." And we tell that customer, "We can't serve  
21 you because for us to serve you would constitute  
22 uneconomic duplication," and that customer insists on  
23 us providing service, then we refer them to you.

24 The other thing that would constitute -- and  
25 that doesn't constitute a violation, I don't think, as

1 long as we refer that customer to you and you tell  
2 that customer, "No. Gulf Coast ought to serve that  
3 load." What would constitute a violation of the  
4 antitrust laws is without your approval we sit down  
5 and agree that we're not -- that Gulf Coast is going  
6 to serve a load versus us serve a load when the  
7 customer wants us to serve that load.

8           The mechanism that we've suggested in GEH-3  
9 and GEH-4, we would seek your approval of that  
10 process, and are seeking that approval of one or the  
11 other of those processes, as a policy statement that  
12 this Commission would adopt, instructing us to meet  
13 and talk about a potential dispute before it gets to  
14 the level of bringing it before the Commission. And  
15 no, we don't think that would violate the antitrust  
16 laws.

17           **COMMISSIONER CLARK:** Who have you talked to  
18 about that?

19           **WITNESS HOLLAND:** John Mandt, who is an  
20 antitrust -- one of the -- at least from my  
21 perspective, one of the preeminent antitrust lawyers  
22 in the country relating to utilities. He's with the  
23 Balch & Bingham firm in Birmingham, Alabama. He does  
24 work for Alabama but he also does work for a lot of  
25 northeastern utilities and midwestern utilities.

1                   **COMMISSIONER CLARK:** Have you talked to  
2 Sylvia Walbolt?

3                   **WITNESS HOLLAND:** I think that I have, but  
4 it's been a long time ago. We've not talked about  
5 what we've proposed here to Sylvia.

6                   **COMMISSIONER CLARK:** Okay. Thank you.

7           **Q**       **(By Mr. Haswell)** Mr. Holland, on the issue  
8 of retail wheeling, isn't it true that Gulf Power has  
9 no written policy on that?

10           **A**       Gulf Power does not, that's correct.

11           **Q**       Okay. And isn't it true that the Southern  
12 company, of which Gulf Power is one of the operating  
13 companies, has taken a position against retail  
14 wheeling?

15           **A**       We have taken a position that retail  
16 wheeling should not be authorized, mandated. That  
17 competition -- full open competition should not be  
18 brought about until certain other things are done,  
19 including leveling the playing field by the removal of  
20 the subsidies that the co-ops and the municipalities  
21 receive. There's a long list of things that we think  
22 need to happen before retail wheeling takes place.

23           **Q**       Including the issue of stranded investment?

24           **A**       Yes.

25           **Q**       Okay. Isn't it also true that customer

1 choice, in the opinion of Gulf Power, or the right to  
2 choose means that a new customer gets a one-time  
3 choice of power supplier; is that correct?

4 A That's correct.

5 Q Isn't it also true that it's the Company's  
6 view that eliminating disputes is not what the PSC  
7 should be doing?

8 A That should not be the only purpose, and  
9 that's not the primary purpose. The primary purpose  
10 is to look out for the best interest of the ratepayer.

11 Q And it's also your view that if, in fact,  
12 lines in the ground were drawn, that they would have  
13 to be periodically redrawn? Is that not correct?

14 A I'm afraid it would be more than periodic  
15 but they would have to be redrawn.

16 Q Isn't it also true that of the five  
17 operating companies of the Southern Company system,  
18 four are in jurisdictions that have territorial  
19 assignment laws?

20 A They have laws that vary in terms of their  
21 impact on service and things like that. But yes, they  
22 do have territorial laws in place as does the Florida  
23 Commission.

24 Q And Southern Company itself has no policy on  
25 territorial assignment laws for or against them?

1           A     Not that I'm aware of.

2           Q     It's also true that you believe the Public  
3 Service Commission, this Commission, has no  
4 jurisdiction to draw territorial boundary lines?

5           A     It's our position based upon past Commission  
6 rulings and the statute as it is written that it is  
7 beyond the discretion of the Commission absent a real  
8 and actual controversy and conflict to draw lines on  
9 the ground.

10           **COMMISSIONER CLARK:** Can I ask you a  
11 question along those lines? It seems to me that your  
12 position is that dispute arises when the two parties  
13 say there is a dispute.

14           **WITNESS HOLLAND:** No. I can give you  
15 another example, and the one I just gave, where we've  
16 agreed among ourselves that a particular customer  
17 ought to be served by a particular utility. But the  
18 customer themselves is pretty upset about that and  
19 might bring that to the Commission, and not with a  
20 formal proceeding but come over here and say, "We  
21 think Gulf Power ought to serve us, not Gulf Coast."  
22 At least in that customer's mind certainly there's a  
23 controversy there about who should provide that  
24 service. So it can arise in other ways.

25           I don't think -- and I feel very strongly

1 about this -- that the mere allegation and the  
2 question of two utilities being located in close  
3 proximity in and of itself creates a dispute or a  
4 controversy. And the Commission itself has said that,  
5 in fact, in the Chelco case in 1985.

6 **COMMISSIONER CLARK:** Let me focus on  
7 dispute. If the two parties do not believe that they  
8 have a dispute and they are willing to run parallel  
9 lines to serve customers. In effect they just divvy  
10 up the customers. And they don't ever come to the  
11 Commission. Is there anything the Commission can do  
12 about that?

13 **WITNESS HOLLAND:** One, I can't imagine --  
14 yes, there is something you can do, because I think in  
15 the situation that you described, if it's -- and the  
16 way you put it, it's almost a race to serve. And I  
17 think the Commission could, on its own motion in that  
18 case, where uneconomic duplication were clearly  
19 occurring because of the actions of those two  
20 utilities, could step in and take action. I'm not  
21 sure that drawing of lines on the ground would be the  
22 proper action to take in that case. But you could and  
23 would have jurisdiction, I think, to bring us both  
24 before you to look at the situation and try to resolve  
25 it.



1           **COMMISSIONER CLARK:** Okay. So we, on our  
2 own motion, can declare there's a dispute.

3           **WITNESS HOLLAND:** Yes.

4           **COMMISSIONER CLARK:** Okay. And it's a  
5 factual matter as to whether or not there is  
6 uneconomic duplication; is that right?

7           **WITNESS HOLLAND:** It is, yes.

8           **COMMISSIONER CLARK:** It's your view in this  
9 instance there is not uneconomic duplication,  
10 therefore, there is not a dispute for us to resolve.

11          **WITNESS HOLLAND:** That's correct.

12          **COMMISSIONER CLARK:** Let me ask another  
13 question. What does the word "territory "mean?

14          **WITNESS HOLLAND:** I think it can mean a  
15 number of things. I think that there is a tendency to  
16 think of it as one guy being on one side of the line  
17 and another guy being on the other side of the line.

18               I would submit to you that more than one  
19 utility can serve within a, quote, "territory". And I  
20 would say the territory of Northwest Florida is  
21 currently being served by four cooperatives, Gulf  
22 Power Company and Florida Public Utility. I don't  
23 think that that necessarily means you have to draw a  
24 line on the ground and separate those utilities and  
25 preclude one from serving an area on the other side of

1 that line, when to do so would cause uneconomic  
2 duplication.

3           **COMMISSIONER CLARK:** What is the plain  
4 meaning of the word "territory"?

5           **WITNESS HOLLAND:** It's an area.

6           **COMMISSIONER CLARK:** A geographic area.

7           **WITNESS HOLLAND:** Geographic area, yes.

8           **COMMISSIONER CLARK:** How do you define a  
9 geographic area if you don't draw lines on the ground?

10           **WITNESS HOLLAND:** It's not hard for me to  
11 conceive of having a geographic area or a geographic  
12 territory, or however you want to describe it, where  
13 two or more utilities are located and both of them can  
14 provide service.

15           I think that is, in fact, what the  
16 legislature in 366.042(e), they contemplate there will  
17 be more than one utility serving a particular area and  
18 that where those two utilities -- where the service  
19 creates uneconomic duplication, the Commission can  
20 step in and take action. But where that is not  
21 occurring, and, in fact, there is a natural expansion  
22 of the facilities without uneconomic duplication, the  
23 Commission should not step in and draw lines on the  
24 ground that creates economic duplication.

25           **COMMISSIONER CLARK:** I guess what I hear you

1 saying is that in this instance, in the instance of  
2 what territory is used in the statutes, that it  
3 doesn't have its plain meaning, and that being  
4 describing a geographic area?

5           **WITNESS HOLLAND:** I think that in terms of  
6 the contemplation of utilities bringing agreements to  
7 you, to, in fact, draw lines on the ground -- and I  
8 know that's happened on a number of occasions where  
9 the Commission has approved those agreements -- there  
10 is contemplated that kind of thing. I don't think,  
11 though, that would preclude the utilities from coming  
12 before you -- and, in fact, we have tried to do  
13 this -- coming before you with a mechanism that would,  
14 in fact, not draw lines on the ground, but would make  
15 it more definitive in terms of which utility ought to  
16 serve a particular customer. I think the Commission  
17 could approve that agreement just as easily -- as a  
18 territorial agreement as it could approve an agreement  
19 that draws lines on the ground.

20           I think you could take GEH-3 or GEH-4, we'd  
21 sign it today. If the Co-op would sign, we'd bring it  
22 before you; ask you to approve either one of those  
23 proposals, and I think that is a territorial agreement  
24 as defined in 366.

25           **COMMISSIONER CLARK:** Are there any of those

1 type territorial agreements existing today?

2           **WITNESS HOLLAND:** I'm not aware of any in  
3 Florida. I think there are agreements of that type in  
4 other jurisdictions.

5           **COMMISSIONER CLARK:** Prior agreements have  
6 drawn lines on the ground; is that right?

7           **WITNESS HOLLAND:** Commissioner, I couldn't  
8 answer that question definitively. The ones I know  
9 about have lines on the ground.

10           **COMMISSIONER CLARK:** You don't know of any  
11 in Florida that don't --

12           **WITNESS HOLLAND:** No, I do not. No.

13           **COMMISSIONER CLARK:** Okay.

14           **Q**       **(By Mr. Haswell)** Mr. Holland, you do agree  
15 with Mr. Spangenberg that you can, in fact, have  
16 territorial lines on the ground even if it takes five,  
17 six or seven different levels.

18           **A**       To do it right in my perspective you'd need  
19 50 or more.

20                   I think that what he did -- and if you're  
21 going to draw lines on the ground it's better than  
22 drawing where you would draw or where the cooperative  
23 would draw in terms of preventing uneconomic  
24 duplication.

25                   What he's attempted to do and he's far

1 better able to speak to this than I am -- is take the  
2 types of facilities that are typically used to serve  
3 certain types of loads, and has prescribed those  
4 lines -- which would move as the facilities expanded.  
5 I mean if the question is does that draw lines on the  
6 ground? It does draw lines on the ground for a period  
7 of time, again, until those facilities are altered and  
8 then the lines move.

9 Q But you personally don't think that's really  
10 a good idea?

11 A I think that's a great idea. It's a far  
12 better idea than what the cooperative is proposing  
13 today. But it is not as good an idea -- and I think  
14 Mr. Spangenberg would agree with this -- it is not as  
15 good as what is in the statute today in terms of  
16 resolving territorial disputes.

17 Q Okay. Now, in you reference in your direct  
18 testimony to the prior agreements with Gulf Coast,  
19 isn't it true that those agreements were terminated  
20 according to their terms?

21 A Yes.

22 Q And that Gulf Coast did not violate the FERC  
23 tariff by terminating service?

24 A No, it did not. It gave us the two years  
25 notice that was prescribed.

1 Q Okay.

2 A I would add, though, that during the  
3 period -- to my knowledge, during the period that that  
4 agreement which did have a territorial provision  
5 that's very similar to GEH-3 in it, that to my  
6 knowledge there were no disputes other than, I think,  
7 the Sunny Hills, and that was not brought before the  
8 Commission.

9 Q So let me get this straight. You agree that  
10 there are at least four alternatives to drawing lines  
11 on the ground, and one is the existing situation we  
12 have right now, GEH-3, GEH-4 and Mr. Spangenberg's  
13 proposal?

14 A I'm sure there are others. Those are the  
15 three that we've submitted in this proceeding. Those  
16 are the four, I'm sorry. The primary and the one we  
17 would prefer is to leave things just as they are.

18 Q Now, if we take your proposal in GEH-3 and  
19 apply it to a situation as follows: Let's say Gulf  
20 Coast has a three-phase line running east and west  
21 let's say -- let's make it a nice five-mile section of  
22 Washington County, and 3,000 feet south of that  
23 there's a parallel Gulf Power line that's also a  
24 three-phase line running east and west.

25 Now, under your proposal of 1,000 feet,

1 anyone coming within 1,000 feet of the Cooperative's  
2 line would be served by the Cooperative, if the load  
3 was under 300 KVA; is that correct?

4 A That's correct.

5 Q If a customer on the north side is farther  
6 than 1,000 feet from the Cooperative's lines, in other  
7 words, outside of that, that would be customer choice?

8 A That's correct.

9 Q Now, the nearest Gulf Power line though was  
10 the line that was 3,000 feet south of the Cooperatives  
11 lines?

12 A That's correct.

13 Q Could Gulf Power, under your scenario, run a  
14 line across -- cross over the cooperative's line to  
15 serve that customer?

16 A The question would depend on the answer to  
17 No. 1, and that is neither of the parties shall  
18 uneconomically duplicate the other's facilities.

19 We would look at it the same way we look at  
20 it today and we'd make a determination based on the  
21 case law and Commission precedent, would that  
22 uneconomically duplicate the Co-op's facilities? If  
23 it didn't, we'd serve it; if it did, we wouldn't.

24 Q Let's say you determine it would cost a lot  
25 more to go that distance and that it would be higher

1 cost for Gulf Power. What if the customer agreed to  
2 pay that as a contribution in aid of construction,  
3 would you deduct that from your cost of serve?

4       A     Probably not today, although I would tell  
5 you that philosophically in my mind, and I think it's  
6 reflected in GEH-4, we think if you're looking at the  
7 economic benefit or economic harm to the ratepayers of  
8 Northwest Florida, and an individual ratepayer feels  
9 so strongly that he is willing to pay that  
10 differential, that that should not be factored in the  
11 comparative cost to serve.

12            I would tell you under Commission precedent  
13 today until that changes, even if that customer were  
14 willing to pay for it, I think it's unlikely that we  
15 would provide that service.

16       Q     Let's go back into the Cooperative's 1,000  
17 foot corridor and let's assume it's also serving  
18 customers under 300 KVA in that corridor, and a  
19 customer that's wants to request service from Gulf  
20 Power will be over 300 KVA right next to the  
21 Cooperative's three-phase service.

22       A     Okay.

23       Q     Under your scenario, that customer can chose  
24 Gulf Power; is that not correct?

25       A     That's correct.



1           Q     Okay.  And similarly -- and let's say Gulf  
2 Power went ahead and served that customer, that a  
3 customer within Gulf Power's 1,000 foot corridor came  
4 along at a service requirement of 300 KVA or higher,  
5 they could request service from the Cooperative,  
6 couldn't they?

7           A     Yes.  If I might, a situation almost  
8 identical to that, although I would tell you the load  
9 is 900 rather than 300, is, in fact, what has been in  
10 effect in Georgia since I think the mid-70s; giving  
11 customers an one-time choice for large loads of that  
12 kind.  And to my knowledge everyone I've talked to,  
13 including cooperatives, municipalities, you name it  
14 are extremely satisfied about the way that system has  
15 worked and given customers a choice in that one  
16 instance.

17          Q     In the absence of territorial agreements or  
18 territorial assignments, isn't it true that Gulf Power  
19 would object to service to a new customer by another  
20 utility if, in fact, Gulf Power had the capacity and  
21 facilities available to serve the new customer?

22          A     You need to repeat that question.

23          Q     Isn't it true that -- there's no territorial  
24 agreement.

25          A     Okay.

1           Q     Gulf Power would object to service to any  
2 new customer by another utility if, in fact, Gulf  
3 Power had the capacity and facilities available to  
4 serve that new customer?

5           A     Not even with with those facilities our  
6 service would uneconomically duplicate the service  
7 being provided by the other utility -- if all things  
8 were equal and the service -- the cost of service,  
9 incremental cost of service, were de minimis, and the  
10 customer chose the Co-op -- and it gets back to the  
11 prison case, and if we had the knowledge today and you  
12 take the loans and all those other things and the  
13 subsidies and all of that out of it, and we were  
14 looking at a straight \$15,000 to serve a load that was  
15 over 300 KVA, and the customer, for whatever reason,  
16 chose Gulf Coast Cooperative, we wouldn't be sitting  
17 here today.

18          Q     So if a competing utility would have to add  
19 facilities and capacity to serve or compete for  
20 service to new customers, you believe that would be  
21 uneconomic duplication?

22          A     Mr. Haswell, I'm sorry, I'm not following  
23 your question.

24          Q     All right. This is following up on some of  
25 your comments in your direct testimony about the

1 coming of competition amongst utilities?

2       **A**     Okay.

3       **Q**     If a competing utility would have to add  
4 facilities or capacity to compete for new customers,  
5 isn't it true that Gulf Power would object to that  
6 addition of new facilities as being uneconomic?

7       **A**     If the additional facilities that were being  
8 added, the cost of those facilities was greater than  
9 the cost to Gulf Power Company, under those  
10 circumstances -- and substantially greater as defined  
11 by the case law and the Commission's precedent, then  
12 yes, we would object.

13               **COMMISSIONER CLARK:** Mr. Holland, can I ask  
14 you a question, and go back to one of the answers you  
15 gave with respect to if the customer was willing to  
16 pay the difference.

17               I think what you said is under current law  
18 that's not appropriate. You would factor in that  
19 amount in determining whether it was uneconomic.

20               **WITNESS HOLLAND:** We would either factor  
21 that in or we would bring it to the Commission to seek  
22 a determination that the Commission agrees with our  
23 philosophy that under the CIAC rules, as long as the  
24 customer were willing to pay the difference -- and  
25 when you take the incremental cost above the CIAC and

1 the cost of the other utility to serve, it's not  
2 uneconomic.

3 To my knowledge there's been no  
4 determination. The only one that I'm familiar with  
5 was the situation, I guess, in Power Corp, Power and  
6 Light with Union Carbide, I believe, where they wanted  
7 to build a transmission line or whatever. But to my  
8 knowledge that issue has not come up.

9 But I would submit to the Commission, that  
10 there is, I think, a very strong argument in terms of  
11 the economic interest of the total body of ratepayers;  
12 that if an individual customer is willing to pay that  
13 differential, and there will not be the ensuing harm  
14 to the remaining body of ratepayers, and, in fact, it  
15 may be of benefit to them, that there's nothing wrong  
16 with taking that into account. In fact, it's the  
17 right thing to do.

18 **COMMISSIONER CLARK:** Then in the Union  
19 Carbide-FP&L-FPC, they should have been aloud to take  
20 power -- they were not located in the territory, their  
21 host utility should have been required to wield that  
22 power?

23 **WITNESS HOLLAND:** Commissioner, when you get  
24 to that level -- I'm not ashamed to say it --  
25 Mr. Daniel and I agree on something. We have for

1 years argued that when you're looking at duplication  
2 of facilities that you ought to look at generation,  
3 transmission and the distribution cost. And we've  
4 always lost that argument and always just looked at  
5 the incremental cost of the distribution facilities.

6 I think in that case when you were talking  
7 about the size load that you were talking about and  
8 the stranded cost that would, I think, be left with  
9 the utility that was losing the service, that you take  
10 that all the way back to the generator and you look at  
11 it. And I can't tell you how it would have come down  
12 because I don't know the situation. But I think  
13 especially in a case like that you've got to look at  
14 the big picture when you are talking about a load that  
15 size.

16 **COMMISSIONER CLARK:** Tell me if what you're  
17 advocating then is retail competition for load above a  
18 certain size?

19 **WITNESS HOLLAND:** Retail competition for a  
20 load above a certain size, when it does not  
21 uneconomically duplicate the facilities of another  
22 party.

23 In our proposal we very clearly state up  
24 front, number one, you've got to look at the economics  
25 and the incremental cost to serve. As I've said

1 before -- and again I think we've done I would say a  
2 great job over the past ten or 12 years at analyzing  
3 what load we should serve or shouldn't search.

4           But to the extent that it would not  
5 uneconomically duplicate the facilities of the other,  
6 we think that it is the right thing to do, and in the  
7 best interest of all of the ratepayers of Northwest  
8 Florida, that those customers, new customers, who are  
9 coming in, be given a one-time choice of their  
10 supplier.

11           **COMMISSIONER CLARK:** So you support the  
12 Georgia law. You would support a law like they have  
13 in Georgia that allows that one time -- I guess it's  
14 good for five years or something.

15           **WITNESS HOLLAND:** Yes. It's good for five  
16 years -- well, there are different terms of those  
17 contracts. Some of them are five years and some of  
18 them are longer. They've negotiated all kinds of  
19 contracts. I guess --

20           **COMMISSIONER CLARK:** I'm sorry. I thought  
21 the law said if you wanted to get out of it you had to  
22 give five years notice.

23           **WITNESS HOLLAND:** It may. I don't recall.  
24 I'm sorry, it's been a while since I've looked at it.

25           I know in operation -- and I guess I've got

1 to be careful here because with Georgia Power Company  
2 and their involvement in it and I know how they feel  
3 about it -- but given where we are in Florida today I  
4 don't think that I would advocate the wholesale  
5 open-up service to any customer above 300 or 900. I  
6 think we've still got, given the laws on the books in  
7 Florida today -- and I think this is probably the  
8 right thing to do -- that we've got the provision  
9 against uneconomic duplication. And I think there are  
10 probably some instances --

11 **WITNESS HOLLAND:** I hesitate to say this,  
12 but I think you could go to Georgia probably and given  
13 the circumstance up there, at least the way we define  
14 uneconomic duplication, where you would find that the  
15 competition for 900 KVA or above has resulted in some  
16 duplication of distribution facilities.

17 So to the extent that I would advocate that  
18 or not advocate that, I think I would have to caveat  
19 that with this limitation on uneconomic duplication.

20 **COMMISSIONER CLARK:** Are you saying caveat  
21 because that's what the law is or is that the way you  
22 think it should be?

23 **WITNESS HOLLAND:** I'm not advocating  
24 uneconomic duplication. I don't think that we ought  
25 to allow that. I don't think that it's the right

1 thing to do.

2 COMMISSIONER CLARK: Thank you.

3 Q (By Mr. Haswell) Mr. Holland, isn't it  
4 true that there have been territorial disputes in  
5 Georgia regarding the interpretation and application  
6 of 900 KVA customer choice rule.

7 A There have been a few, yes, I think. I'm  
8 not familiar with any of them, but I do think there  
9 have been some.

10 Q Okay. And it's also true that you believe  
11 the \$15,000 threshold that you refer to in either  
12 GEH-3 or 4 is not the correct amount in all cases.  
13 The de minimis amount --

14 A I'm glad to hear you say that I said that,  
15 but that's exactly right.

16 I think that what the Supreme Court said to  
17 us is that in each circumstance you look at that  
18 circumstance and there is a level considering the size  
19 of the load, the magnitude of the load, the revenue to  
20 be derived where a de minimis amount would not  
21 constitute uneconomic duplication of facilities and  
22 customer choice overrides any duplication that  
23 otherwise might exist. And, again, I think that  
24 either party to this proceeding in 999 cases out of  
25 1,000 is going to be able to sit down and decide which



1 utility ought to provide the service under a set of  
2 given circumstances.

3           **COMMISSIONER CLARK:** Just so I'm clear, it's  
4 your view that a determination of whether there is  
5 uneconomic duplication should occur on a  
6 customer-by-customer basis.

7           **WITNESS HOLLAND:** Yes. But, again, I don't  
8 think it's that hard or difficult or that  
9 sophisticated of an analysis to make that  
10 determination on a case-by-case basis.

11           **Q**       **(By Mr. Haswell)** Okay. Now, under GEH-3  
12 and/or 4, isn't it true that by applying those  
13 policies where the parties simply cannot agree, they  
14 either go to some sort of dispute resolution  
15 proceeding or come back to the Commission?

16           **A**       Well, I think in both of those our proposal  
17 is that we bring -- if we're unable to agree at the  
18 meetings that are called for under those proposals,  
19 that we then bring that to the Commission Staff for  
20 mediation.

21                   And at the time we drafted this, the  
22 Commission's alternative dispute resolution process  
23 was not that far along. Since that time it has come a  
24 long way, and I think is, in fact -- I think it's on  
25 the books. I'm not positive. I think the Commission

1 approved it at an internal affairs meeting.

2 But what we would suggest -- and it could  
3 very easily be written in here -- that we bring any  
4 dispute that we have, or disagreement, before the  
5 Commission subject to that alternative dispute  
6 resolution policy; go through that mechanism before it  
7 gets to the Commission.

8 The purpose of mediation, the purpose of ADR  
9 very simply is to prevent the bringing of those kinds  
10 of things to the Commission when it is not necessary,  
11 and we think it would work.

12 Q So it's your belief that that resolution  
13 procedure that you've just described, ultimately  
14 bringing these disputes that could not be resolved  
15 under the terms of those agreements back to the  
16 Commission, is a good way of resolving it and a good  
17 use of PSC's resources?

18 A Absolutely. I think that's what they are in  
19 business for, one of reason, among others they are in  
20 business for.

21 But, you know, one of the things -- if you  
22 look back at the few disputes that we've had, one of  
23 the criticisms that we've always gotten is that we  
24 haven't sat down and talked about these things before  
25 we bring them to the Commission. The first word one

1 or the other of us hears is that there's a lawsuit, or  
2 a dispute has been filed. And what both of our  
3 proposals provide for is that before we get to that  
4 point we do sit down, talk, compare notes, and say  
5 this is what it would cost us, this is what it would  
6 cost you; under these set of guidelines or these rules  
7 and regulations of the Commission you would  
8 uneconomically duplicate. I guess I'm optimistic  
9 based on those kinds of discussions that we have had  
10 with other utilities, that we could resolve those  
11 kinds of things.

12 **MR. HASWELL:** We have no further questions  
13 at this time.

14 **COMMISSIONER DEASON:** Staff.

15 **CROSS EXAMINATION**

16 **BY MS. JOHNSON:**

17 **Q** Mr. Holland, I believe that you indicated  
18 that Gulf Power Company believes that uneconomic  
19 duplication would be defined on a case-by-case basis;  
20 is that correct?

21 **A** A determination as to whether a particular  
22 circumstance would or would not constitute uneconomic  
23 duplication would be made on a case-by-case basis.

24 In my mind, at least, uneconomic duplication  
25 has been pretty well defined by this Commission and

1 the courts. And it's those set of standards we use  
2 when we look at a particular case to make the  
3 determination about whether it would be or would not  
4 be uneconomic duplication.

5 Q And what is that definition?

6 A The definition, as it is -- as we understand  
7 it today, is to look at the incremental additional  
8 cost of distribution facilities which would have to be  
9 constructed in order to provide service versus the  
10 other utility to provide that service. And given the  
11 Supreme Court's opinion -- and if you could back and  
12 look at Paradise Lakes and there are some others where  
13 the Commission did, in fact -- there was maybe a  
14 slight additional cost above that of the other  
15 utility, the Commission said it's de minimis or it's  
16 too small to worry about, and said it was not  
17 uneconomic.

18 So I think that what we would do in any  
19 given set of circumstances is look at those  
20 comparative costs and make a determination based on  
21 the case law whether it was uneconomic.

22 It's not that hard to do. It's really not.

23 Q In your Exhibit GEH-3, does that include a  
24 definition for uneconomic duplication?

25 A No. I mean the reason it doesn't is that we

1 would again, and the parties would again, rely on the  
2 direction that this Commission has given in the past  
3 and the direction we have been given by the Supreme  
4 Court.

5 Q So it's your opinion that uneconomic  
6 duplication of facilities would be reduced if both  
7 companies established a written formal policy with  
8 guidelines detailing how each request for new service  
9 will be evaluated?

10 A We think that would be beneficial.

11 Q Do you believe that if two utilities  
12 competing for future customers in a congested area,  
13 that it will result in further uneconomic duplication  
14 of facilities?

15 A My initial -- my answer would be no. But  
16 let me explain. I think there may be situations, and  
17 all you have to do is step outside this office  
18 building and ride down Capital Circle or Lake Bradford  
19 Road or anywhere and you see two sets of lines running  
20 parallel down the streets. Most of that has occurred  
21 -- a lot of that has occurred because the best way for  
22 a utility to get from one point to another point is  
23 down a highway, and they have built down that highway.

24 Once that has been done, then the question  
25 becomes is it uneconomic at that point for that

1 utility, even though the other utility may have been  
2 there first, for that utility to provide service? If  
3 it's just a supply drop or if it's -- as it was in  
4 Paradise Lakes that this Commission looked at where  
5 you just go underground and you're across the street  
6 and you provide the same level of service at no  
7 greater incremental cost than the other utility could  
8 provide, at least in my mind, all things are equal in  
9 that case and customer choice ought to prevail.

10           So I wouldn't say that under absolutely no  
11 circumstances would lines in a -- when you say  
12 congested -- I say congested is two lines running down  
13 either side of the road. Would that constitute an  
14 uneconomic duplication? I would say in most cases it  
15 does not.

16           Q     Is it necessary to have two utilities  
17 present to reliably meet the electric service  
18 requirements of a customer?

19           A     It's not necessary. I think it helps. And  
20 I think it helps a great deal. To the extent that  
21 there is competition for load and a customer is  
22 looking at, and customers today more than ever do look  
23 at not only the cost, but the reliability, I think it  
24 does help incent each utility to keep their  
25 reliability as high as possible.

1                   **COMMISSIONER CLARK:** I don't think I  
2 understand that. You're saying the presence of  
3 another utility that can provide the service just as  
4 well as the other utility is the incentive for both of  
5 them to provide reliable service; and therefore, it's  
6 okay to have two of them in the same area?

7                   **WITNESS HOLLAND:** As long as they are not  
8 uneconomically duplicating the facilities of the  
9 other, I think that in terms of keeping your rates as  
10 low as possible and in terms of providing the lowest  
11 possible or the best reliability possible, that, yes,  
12 that is a real advantage to providing all of the  
13 ratepayers within that area with greater reliability  
14 and lower cost service.

15                   **COMMISSIONER CLARK:** So you could have a  
16 subdivision located near a highway and if your lines  
17 ran down the highway and the co-ops' ran down the  
18 highway, then they should be able to choose from who  
19 they want to get service?

20                   **WITNESS HOLLAND:** Yes. And if you go back  
21 and look at Cedar Wood, Paradise Lakes, and the few  
22 that have come before this Commission, I guess maybe  
23 four or five of them have involved subdivisions and  
24 that is, in fact, what took place. And I think that's  
25 a good thing.

1           **COMMISSIONER CLARK:** Well, let me ask you  
2 this: Was the entire subdivision served by a  
3 particular utility or were the individual customers in  
4 the subdivision allowed to choose either one?

5           **WITNESS HOLLAND:** No, it's the subdivision.  
6 And I would agree with you that for us to go in, to  
7 take off down both sides of the road into the  
8 subdivision and circle around and duplicate each  
9 other's facilities within that subdivision would be  
10 uneconomic.

11           **COMMISSIONER CLARK:** Well, what happens if  
12 it develops along the line that it's incrementally,  
13 and if you take the first customer, it's only, you  
14 know, \$200 difference, so it doesn't matter who serves  
15 them. You come to the next one, it's also \$200, so  
16 they ought to be able to chose. Isn't it possible you  
17 will have, you know, Gulf Power serves one, then Gulf  
18 Coast serves another and then Gulf Power serve another  
19 under your plan?

20           **WITNESS HOLLAND:** I would say that's  
21 possible, and I asked that question myself yesterday.

22           I don't think, and I would commit to you,  
23 that we would not do that in terms of going down  
24 within a subdivision on both sides of the road and  
25 incrementally try to -- I mean, the situation, the



1 hypothetical that you've presented, is one where let's  
2 say you had 75 lots and every other customer wanted  
3 Gulf Power Company and then the ones in between wanted  
4 Gulf Coast. That has not happened and I don't  
5 envision that it would happen under the scheme that is  
6 in place today. Because I don't think you would let  
7 that happen.

8 One, I don't think it would ever get to you,  
9 because I don't think we would do it.

10 **COMMISSIONER CLARK:** How would we prevent  
11 it?

12 **WITNESS HOLLAND:** Huh?

13 **COMMISSIONER CLARK:** How would we prevent it  
14 if the determination is on a case-by-case basis, and  
15 if it's relatively the same the customer gets to  
16 choose?

17 **WITNESS HOLLAND:** I think there are  
18 provisions. I think the provisions of preventing  
19 uneconomic duplication that the Commission would be  
20 allowed in that case to look at the circumstances  
21 associated with that case, and you would have  
22 jurisdiction to say, "No, you all stop doing that.  
23 That's not the right thing to do." I hope we would  
24 have enough common sense that that would never get to  
25 you.

1                   **COMMISSIONER CLARK:** Well, I guess it's a  
2 matter of degree, then, at what point is it  
3 appropriate to step in? Is it only when it becomes  
4 customers side-by-side, and it's in a subdivision and  
5 you're going to have one residential customer being  
6 served by Gulf Power, and immediately next door it's  
7 Gulf Coast and then next door to that it's Gulf Power.  
8 At what point do you determine that it makes sense not  
9 to look at it in a case-by-case basis but to look at  
10 it in terms of whole territory and draw the lines in  
11 the territory?

12                   **WITNESS HOLLAND:** Well, one, I would argue  
13 that it never gets to the point where you draw the  
14 lines based on the location of those single-phased  
15 distribution lines that are serving that subdivision.  
16 Because I think in that case to prevent -- let's  
17 assume we did engage in what you just described, in  
18 order to prevent what would be -- and I hate to throw  
19 out a number, but let's say \$50,000 or \$100,000 in  
20 uneconomic duplication. In order to prevent that you  
21 would draw a line on the ground that might very well  
22 later, because of the location of another larger  
23 subdivision or commercial customer or industrial  
24 customer cause the other utility to expend \$200,000 or  
25 \$300,000 in order to serve that customer when the

1 other utility could have done it for much less.

2           Where from a commonsense perspective, and it  
3 really gets, I guess, to the concept of drawing lines  
4 in those areas where the utilities are in close  
5 proximity, I would submit to you that I don't have a  
6 problem -- and, in fact, think it is in the best  
7 interest of the ratepayers -- that if you're running  
8 down a major artery and you've got single-phase --  
9 both have single phase or both have three-phase lines  
10 that were built, one may have built those lines in  
11 order to provide service to customers on that road.  
12 The other one may have built because they were in one  
13 area and had to get to another area, and so they built  
14 down that highway because that was the best way to get  
15 there. I really don't think that it is -- in my own  
16 mind I know it's not uneconomic, and I don't think  
17 it's a problem, and I think it's, in fact, a benefit  
18 if on either side of that highway a particular  
19 customer would like service from one or the other  
20 utilities for either party to provide service to that.

21           I would agree with you that you reach a  
22 point where if you go into that road and you serve  
23 that subdivision and the other utility begins to build  
24 into that subdivision, that you could, in fact, be  
25 engaging in uneconomic duplication.

1           Again, I know of no instance where that has  
2 occurred. And I do know of one case, one of the early  
3 cases that came before this Commission, where Gulf  
4 Coast built into a subdivision where we were right  
5 there. But they built a long way to get there and  
6 then went a circular route around the subdivision so  
7 as to stake out as much territory as they could to  
8 serve a customer that was located in another area of  
9 the subdivision just to keep us out, and we brought  
10 that before the Commission.

11           I know of no other instance since that time,  
12 and that's why I always go back and rely on Commission  
13 decision for instruction -- I know of no other  
14 instance since that time where that has occurred. I  
15 think we've both learned our lesson and we've not done  
16 that since then.

17           **Q**       **(By Ms. Johnson)** You gave an example just  
18 now of two utilities that built parallel lines down a  
19 road, and you indicated that you didn't believe that  
20 that was uneconomic duplication, correct?

21           **A**       That's correct.

22           **Q**       Can you explain why that's not uneconomic?

23           **A**       Sure. In the planning and construction of  
24 an electric distribution system, there are numerous  
25 instances where in order to provide initial service or

1 perhaps for reliability purposes, to provide dual  
2 feed, that you might build another line from point to  
3 point. And in a lot of instances, most instances, the  
4 least expensive way to do that in order to avoid  
5 having to buy right-of-way is to build that down an  
6 already existing road, state road or county road or  
7 whatever. That's what we've all done. And in some  
8 cases -- and, in fact, I think what you see in the  
9 Tallahassee area and other places around, what you see  
10 is the fact that you've got one utility's lines on one  
11 side of the street and another utility's lines on the  
12 other side of the street. There was an absolutely  
13 good, valid, perfectly economic reason for the utility  
14 to have built that line from point-to-point at the  
15 time that they built that. That is not uneconomic  
16 duplication.

17           Then the question becomes, if you try to  
18 provide service off of that point-to-point line, does  
19 that constitute uneconomic duplication? And, again, I  
20 think you look at it on a case-by-case basis, as I've  
21 discussed with Commissioner Clark to make that  
22 determination.

23           Q     You stated that it's not uneconomic  
24 duplication. Who are you referring that it's economic  
25 to? Economic to whom?

1           A     Economic to the ratepayer.

2           Q     Would that be the ratepayers of both  
3 utilities?

4           A     Yes.

5           Q     Can you envision a situation where you have  
6 parallel lines where there would be uneconomic  
7 duplication?

8           A     Sure. I think that in the case -- let's say  
9 -- and someone gave the example this morning. It may  
10 have been in Mr. Stone's questioning of Mr. Daniel, I  
11 don't remember. But -- not that it wasn't something  
12 to remember, but the -- if the one utility has built a  
13 single-phase distribution line down a highway, and  
14 because of reliability reasons or other perfectly  
15 legitimate reasons the other utility used the other  
16 side of that right-of-way in point-to-point service  
17 and built a three-phase distribution line, then a  
18 customer who needs three-phase service locates across  
19 the street under the single phase line of the other  
20 utility. If that utility would have to build 10,000  
21 feet, a mile, two miles, I don't know, of --  
22 reconductor that line and build three-phase service in  
23 to provide that service when you could get it across  
24 the street for next to nothing, then the paralleling  
25 at that point, in my mind, would constitute uneconomic

1 duplication.

2           Now, to get back to a point that  
3 Commissioner Clark raised, I think that if the natural  
4 course of expansion of that utility's services,  
5 incremental customers came along and, in fact, they  
6 expanded their three-phase service parallel to Gulf  
7 Power's, or whoever's three-phase service, along that  
8 highway, then really I wouldn't have a problem with  
9 that. But there are instances I would agree where it  
10 would constitute uneconomic duplication.

11           The fact of the matter is -- and we keep  
12 talking about hypotheticals and we keep giving  
13 examples and things like that, the instances that  
14 we're talking about happen infrequently. And I think  
15 from the fact that we've only had these six disputes  
16 in 24 years is indicative of that.

17           The growth in this area is not that great.  
18 The size loads that go in, the big loads go in  
19 extremely rarely. And so I guess my point is that I  
20 think that there are instances where we have  
21 duplicated each other, but it has not been uneconomic.

22           **COMMISSIONER CLARK:** Mr. Holland, do you  
23 have any agreements with other utilities delineating  
24 territory?

25           **WITNESS HOLLAND:** Not where lines have been

1 drawn. The wholesale tariff that was in effect has  
2 been in effect with FPU and Blountstown has provisions  
3 in it that are similar to the provisions that we had  
4 with the Cooperative until they terminated service in  
5 the '80s. And it's very similar to my GEH-3.

6 Now, Mr. Weintritt discusses it in detail  
7 but we had those agreements. And this Commission, in  
8 fact, and I don't remember the case, recognized the  
9 validity of that agreement with one of the co-ops in  
10 one of the early cases in the 1980s.

11 But as far as the drawing of lines on the  
12 ground, for reasons that I've stated, no, we have not  
13 entered into those agreements.

14 **COMMISSIONER CLARK:** Well, if your  
15 interpretation of the statutes is correct, why do you  
16 suppose the other investor-owned utilities have signed  
17 agreements delineating territorial boundaries?

18 **WITNESS HOLLAND:** I've asked myself that  
19 question many times, and I think that there are  
20 perhaps -- there is a point when a utility gets to a  
21 point where there is enough growth within the area or  
22 the magnitude and number of disputes, or potential  
23 disputes that they see, when they weigh that against  
24 the potential for uneconomic duplication by the  
25 drawing of lines on the ground, that they have felt



1 like that it was in their and the other utility's best  
2 interest to do that. Very frankly, I don't think  
3 we're to that point here, and I don't foresee, given  
4 where we're headed that we'll ever get to that point  
5 in Northwest Florida.

6 I'm not criticizing those that have done it,  
7 I guess is my point. But again looking at the  
8 ratepayers in Northwest Florida, and knowing the  
9 situations that we know that have occurred in terms of  
10 facilities locating in Northwest Florida, we need  
11 economic growth, we need jobs, we need those kinds of  
12 things, and the impact that forcing a utility to  
13 take -- or forcing an industry or a commercial  
14 customer to take higher cost service would have -- we  
15 think is not in the best interest of the ratepayers,  
16 of the citizens of Northwest Florida. We know it's  
17 not.

18 **COMMISSIONER CLARK:** So you don't believe in  
19 agreements?

20 **WITNESS HOLLAND:** I do believe in  
21 agreements.

22 **COMMISSIONER CLARK:** You don't believe in  
23 agreements that draw lines.

24 **WITNESS HOLLAND:** I could accept the drawing  
25 of a line that was along the concept of what

1 Mr. Spangenberg has proposed. But I cannot accept and  
2 do not accept that it is in the best interest of the  
3 ratepayers to draw a line based upon where some  
4 relatively inexpensive distribution lines are located.

5 One of the big problems we have here,  
6 Commissioner Clark, we built a rather expensive but  
7 cost-effective reliable transmission, generation,  
8 distribution system that served all of Northwest  
9 Florida up until the early '80s. All of the customers  
10 in Northwest Florida were either at retail or  
11 wholesale served by Gulf Power Company.

12 We do not oppose agreements that provide for  
13 the natural expansion of each other's facilities. We  
14 do oppose, because of the investment that we have that  
15 initially was built to serve all of the customers, we  
16 do oppose the drawing of lines where you're drawing  
17 them where the single-phase, the least expensive piece  
18 of an electric system, you're using that to draw the  
19 lines that decide which utility is going to serve  
20 which customer regardless of how big the load is. And  
21 we don't think that's right. We don't think it's in  
22 the best interest of the ratepayers or the citizens.

23 **COMMISSIONER CLARK:** When did you develop  
24 the policy statement GEH-3 and 4?

25 **WITNESS HOLLAND:** It's been -- it's been

1   sometime ago. It was not just prepared to be attached  
2   as an exhibit to my testimony. I won't say it was in  
3   exactly this form, but we have had -- we have had in  
4   our own minds and have thought about what would be  
5   better, what could be better than what we have today?

6           I'm not sitting here telling you that I can  
7   absolutely guarantee you that this would be better  
8   than what we have today, because I think what we have  
9   today is pretty good. I think it's worked pretty  
10  well. But one of the things that this Commission has  
11  told us, through order or otherwise, is that one, we  
12  want you to meet together before you bring a dispute  
13  to us. And you ought to be able to sit down, talk  
14  about it, try to resolve it before it's brought here.

15           The other thing, again -- and I think you  
16  know probably better than I do, the alternative  
17  dispute resolution process and the mediation process  
18  has worked extremely well. I don't know how much  
19  experience the Commission has had with it, but I know  
20  it has worked well in the courts, and I think it's  
21  worked well in other commissions that have tried it.  
22  And we thought that that would be an additional or an  
23  improvement on the current process to bring any  
24  dispute that we might have to the Staff and get a  
25  reading from the Staff on their perspective of whether

1 it constitutes uneconomic duplication or not.

2           **COMMISSIONER CLARK:** Well, let me ask you  
3 this: You didn't develop it prior to the conclusion  
4 of the case involving the correction facility.

5           **WITNESS HOLLAND:** Yes.

6           **COMMISSIONER CLARK:** You did develop prior  
7 to that?

8           **WITNESS HOLLAND:** I think so.

9           **COMMISSIONER CLARK:** Did you bring it  
10 forward as a solution for the Commission to consider  
11 before we directed you to solve it, determine where  
12 the boundary should be? If you did, I sure don't  
13 remember it.

14           **WITNESS HOLLAND:** Well, no, we didn't, and  
15 I'm trying to recall -- as I recall, the Commission  
16 instructed us before the hearing on the prison to meet  
17 and discuss. And we did that. And this or something  
18 very similar to this was prepared during that process.  
19 We didn't bring it before the Commission in the prison  
20 case because, very frankly, we felt like the dispute  
21 was over the prison and the Commission was going to  
22 decide the issue of the prison based on the merits and  
23 based on prior Commission decisions and case law.

24           **COMMISSIONER CLARK:** Are you saying that it  
25 wasn't made an issue, the other territories or the

1 other facilities within Bay and Washington Counties,  
2 that was not part of the original case?

3           **WITNESS HOLLAND:** In our minds it was not.  
4 The Commission Order that --

5           **COMMISSIONER CLARK:** You're saying it was  
6 not a issue?

7           **WITNESS HOLLAND:** The other areas?

8           **COMMISSIONER CLARK:** Yes.

9           **WITNESS HOLLAND:** No.

10           **COMMISSIONER CLARK:** Was never identified as  
11 an issue?

12           **WITNESS HOLLAND:** Frankly, I don't remember.  
13 And I could have my recollection -- but to my  
14 knowledge, we were instructed to try to resolve -- and  
15 I think it was probably the initial instructions of  
16 the Commission and this may be what you're speaking  
17 to -- the initial instructions of the Commission was  
18 for us to meet and attempt to not only resolve the  
19 prison, but to attempt to resolve the broader issue of  
20 continuing disputes in south Washington County and  
21 northern Bay County, and we did that. And then you  
22 asked us again to do that, I think, after the prison  
23 decision and the order came out, and we did that.

24           **COMMISSIONER CLARK:** Okay.

25           **MS. JOHNSON:** Staff has no further

1 questions.

2 **COMMISSIONER DEASON:** Redirect.

3 **MR. STONE:** No redirect. We'd move the  
4 admission of Exhibit 5 into the record.

5 **COMMISSIONER DEASON:** Without objection  
6 Exhibit 5 -- I understand there was an objection made  
7 that's been dealt with. Exhibit 5, Composite  
8 Exhibit 5 is admitted.

9 (Composite Exhibit 5 received in evidence.)

10 **MR. STONE:** Commissioner, may we take a  
11 brief recess for personal convenience?

12 **COMMISSIONER DEASON:** Sure. We'll take a  
13 ten-minute recess at this time.

14 (Brief recess taken.)

15 - - - - -

16 **COMMISSIONER DEASON:** Call the hearing back  
17 to order.

18 Mr. Stone.

19 **MR. STONE:** Yes, Commissioner Deason.  
20 Mr. Weintritt is our next witness. He has taken the  
21 stand and was here this morning when the witnesses  
22 were sworn.

23 - - - - -

24

25

1                                   **WILLIAM C. WEINTRITT**  
2   was called as a witness on behalf of Gulf Power  
3   Company and, having been duly sworn, testified as  
4   follows:

5                                   **DIRECT EXAMINATION**

6   **BY MR. STONE:**

7            **Q**     Would you please state your name and  
8   occupation for the record?

9            **A**     William C. Weintritt, Power Delivery Manager  
10 with Gulf Power.

11           **Q**     Are you the same William C. Weintritt that  
12 prefiled direct testimony in this proceeding dated  
13 October 15, 1996?

14           **A**     Yes, I am.

15           **Q**     Do you have any changes or corrections to  
16 your prefiled direct testimony of that date?

17           **A**     Yes, I do. I have three changes.

18                    On Page 3, Line 10, toward the end of the  
19 line it says "Gulf Power and "Gulf are." The word  
20 "Coast" should be inserted after the second Gulf, so  
21 that it would read "Gulf Power and Gulf Coast."

22                    On Page 6, Line 24, need to correct an  
23 arithmetic error. "50.8 minutes," should be "41.4."

24           **Q**     I'm sorry. What was that again?

25           **A**     50.8, the number should be changed to 41.4.

1           A typo on Page 12, Line 4, Mr. Holland's  
2 Exhibit GEH-2 should be GEH-3.

3           Q     Does that complete the changes or  
4 corrections to your prefiled direct testimony?

5           A     Yes, it does.

6           Q     If I were to ask you the questions contained  
7 in that testimony, given those corrections, would your  
8 responses be the same?

9           A     They would.

10           **MR. STONE:** We'd ask Mr. Weintritt's  
11 prefiled direct testimony be inserted into the record  
12 as though read.

13           **COMMISSIONER DEASON:** Without objection, it  
14 shall be so inserted.

15           Q     **(By Mr. Stone)** Mr. Weintritt, do you have  
16 some exhibits attached to your prefiled testimony?

17           A     I did.

18           Q     Was the compilation of those exhibits done  
19 by you or at your direction?

20           A     Yes, it was.

21           **MR. STONE:** Commissioner Deason, the  
22 exhibits attached to Mr. Weintritt's direct testimony  
23 consists of Exhibits No. WCW-1 through WCW-5. It's  
24 your preference as to whether to lump those together  
25 as a composite exhibit or not, but we would ask for an



1 exhibit number.

2                   **COMMISSIONER DEASON:** They will be  
3 identified as composite 6.

4                   (Composite Exhibit 6 marked for  
5 identification.)

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## 1 GULF POWER COMPANY

2 Before the Florida Public Service Commission  
3 Direct Testimony of  
4 William C. Weintritt  
5 Docket No. 930885-EU  
6 Date of Filing: October 15, 1996

7 Q. What is your name?

8 A. William C. Weintritt

9 Q. What is your business address?

10 A. My business address is 1230 East 15th Street, Panama  
11 City, Florida, 32402.

12 Q. What is your area of responsibility?

13 A. I am the Power Delivery Manager for the Panama City  
14 District of Gulf Power Company (Gulf Power).

15 Q. What is the purpose of your testimony?

16 A. The purpose of my testimony is to show that for nearly 50  
17 years the previous method used to determine whether Gulf  
18 Power or Gulf Coast Electric Cooperative (GCEC) would  
19 provide service to customers in Northwest Florida has  
20 worked well. I will demonstrate that with this method  
21 few territorial disputes have been referred to the  
22 Florida Public Service Commission (FPSC) for resolution  
23 in the past 25 years. I will also show that this  
24  
25

1 previous method allowed more customer choice without the  
2 uneconomic duplication of facilities than would have been  
3 provided with territorial boundary lines. Finally, I  
4 will discuss revised guidelines set forth in the form of  
5 a Territorial Policy Statement that add a procedure to  
6 this previous method which would provide an incentive to  
7 reduce or eliminate the need to bring a territorial  
8 dispute before the FPSC. These revised guidelines could  
9 be used if the FPSC determines the present method of  
10 deciding which utility should serve new customers in the  
11 identified area is inadequate.

12

13 Q. Do you have exhibits attached to your testimony?

14 A. Yes, I have five exhibits. My first exhibit (WCW-1) is a  
15 set of maps depicting the area identified by FPSC staff  
16 in this docket as having facilities of Gulf Power and  
17 GCEC in close proximity (identified maps). As I will  
18 discuss later in my testimony, we believe that the area  
19 of close proximity (identified area) is actually a  
20 portion of each map. My second exhibit (WCW-2) is the  
21 Rural Utilities Service Form 7, Part H, Page 4 for year  
22 end December 31, 1994 as filed by GCEC. My third exhibit  
23 (WCW-3) is the Gulf Power Company Contract For Electric  
24 Service Resale By Gulf Coast Electric Cooperative, Inc.  
25 dated December 1, 1947. My fourth exhibit (WCW-4) is

1 paragraph 14 of the FERC Electric tariff dated June 15,  
 2 1979. My fifth exhibit (WCW-5) is the GCEC Resolution  
 3 terminating service from Gulf Power, June 1, 1981.

4 Counsel: We ask that Mr. Weintritt's five Exhibits  
 5 be marked as Exhibits No. <sup>COMP</sup>6 through  
 6 1 respectively. (WCW-1, WCW-2,  
 7 WCW-3, WCW-4, WCW-5)  
 8

9 Q. What are the areas in South Washington and Bay Counties  
 10 where the electric facilities of Gulf Power and Gulf <sup>COAST</sup> are  
 11 in close proximity?

12 A. Gulf Power maintains maps of its transmission and  
 13 distribution facilities plotted on the State of Florida  
 14 coordinated grid. The distribution facilities of GCEC  
 15 have been added to these grid coordinated maps. Each map  
 16 typically encompasses a rectangular area 12,000 feet by  
 17 8,000 feet. The following maps have been identified by  
 18 the FPSC staff as having facilities belonging to each  
 19 utility in close proximity with each other (identified  
 20 maps): map numbers 2218NE, 2218NW, 2218SE, 2218SW, 2220,  
 21 2221, 2320, 2321, 2322, 2518, 2519, 2618, 2533, 2534,  
 22 2632, 2633, 2634, 2639, 2731, 2733, 2828NW, 2828SW,  
 23 2828NE, 2828SE, 2830NE, 2830NW, 2830SW. I agree that in  
 24 the places on these maps where one utility's facilities  
 25 are within 1,000 feet of the other utility's facilities

1 that they are within close proximity with each other.  
2 For purposes of my testimony, I will refer to the  
3 portions of the maps in Exhibit WCW-1 where each utility  
4 has facilities within 1,000 feet of facilities belonging  
5 to the other as "the identified areas."

6

7 Q. What are the areas in South Washington and Bay Counties  
8 where further duplication of electric facilities is  
9 likely to occur?

10 A. The identified areas of the maps in WCW-1 are the areas  
11 of closest proximity between Gulf Power and GCEC  
12 facilities. Although some further duplication of  
13 facilities may occur on these maps, further uneconomic  
14 duplication can be easily avoided by methods I will  
15 discuss later in my testimony.

16

17 Q. What is the expected customer load, energy and population  
18 growth in the areas identified by FPSC Staff as having  
19 facilities of Gulf Power and GCEC in close proximity?

20 A. The expected customer load, energy and population growth  
21 in the full portions of South Washington and Bay Counties  
22 shown on the maps that are identified as WCW-1 are as  
23 follows:

24

25

1	YEAR	CUSTOMER LOAD	ENERGY	CUSTOMERS
2		(KW) *	(KWH) *	(*)
3	1995	15,495	28,819,654	1,371
4	1996	15,818	32,712,628	1,438
5	1997	17,112	35,269,973	1,511
6	1998	18,946	41,093,598	1,588
7	1999	20,219	43,700,186	1,668
8	2000	21,759	46,881,912	1,753

9 \* All values given are determined by the customers  
10 presently served by Gulf Power with the expected growth  
11 assuming no change in the method of determining customers  
12 affiliation.

13

14 Q. What is the location, purpose, type and capacity of Gulf  
15 Power's facilities in the identified areas?

16 A. The identified areas in South Washington County are  
17 served by two separate Gulf Power substations. Sunny  
18 Hills Substation is a 12 MVA, 115KV to 25KV substation  
19 located south of Gap Pond in Sunny Hills, Florida.  
20 Vernon Substation is a 11.5 MVA, 115KV to 25KV substation  
21 located south of Vernon, Florida. From each of these  
22 substations, 25KV feeders provide the preferred and back  
23 up sources for reliable service to the identified area.  
24 Local overhead and underground distribution lines, and  
25 transformers provide service to our customers as shown on

1 the following Florida grid coordinated maps: map numbers  
2 2218NE, 2218NW, 2218SE, 2218SW, 2220, 2221, 2320, 2321,  
3 2322, 2518, 2519, and 2618.

4 The identified areas in Bay County are served by Gulf  
5 Power's Bay County Substation. Bay County Substation is  
6 a 13.75 MVA, 115KV to 12.47KV substation located in Bay  
7 Industrial Park, off Highway 231, north of Panama City,  
8 Florida. A 12.47KV feeder from Bay County Substation  
9 provides the preferred source of feed with another  
10 12.47KV feeder from Highland City Substation providing  
11 the back-up source of feed. Local overhead and  
12 underground distribution lines and transformers provide  
13 service to our customers as shown on the following grid  
14 coordinated maps: map numbers 2533, 2534, 2632, 2633,  
15 2634, 2639, 2731, 2733, 2828NW, 2828SW, 2828NE, 2828SE,  
16 2830NE, 2830NW, and 2830SW.

17

18 Q. How does the distribution reliability of Gulf Power  
19 compare with that of GCEC?

20 A. The distribution reliability of Gulf Power is much better  
21 than that of GCEC. The average minutes of service  
22 interruption time for each customer over the 5 year  
23 period from 1990 to 1994 in Gulf Power's Eastern  
24 Districts is <sup>41.4</sup>~~50.8~~ minutes per year. According to  
25 information filed by GCEC on its Rural Utilities Service

1 Form 7, Part H, page 4 (Exhibit No. WCW-2), the average  
2 minutes of service interruption time for this time period  
3 for each GCEC customer is 95.4 minutes per year.

4 Therefore, this basic measure of service reliability  
5 shows that GCEC customers on average experienced 88% more  
6 distribution outage time than Gulf Power customers. Since  
7 this outage history is over a 5 year period of time, it  
8 demonstrates that Gulf Power service reliability is  
9 consistently much greater than GCEC's service  
10 reliability.

11

12 Q. What guidelines have Gulf Power and GCEC utilized in the  
13 past to determine which party would construct facilities  
14 to serve customers?

15 A. The terms in contracts and tariffs between Gulf Power and  
16 GCEC remained virtually unchanged from the December 1,  
17 1947 Gulf Power Company Contract For Electric Service For  
18 Resale by Gulf Coast Electric Cooperative (Exhibit  
19 No. WCW-3) until the FERC Electric Tariff (paragraph 14,  
20 Exhibit No. WCW-4) was terminated by GCEC Resolution  
21 (Exhibit No. WCW-5) effective June 1, 1981. These  
22 contracts and tariffs utilized two tenths of a mile or  
23 1000 feet from existing facilities adequate to serve the  
24 new customer's load as a guideline to determine which  
25 party would serve a customer located in the identified



1 area. Close proximity, as defined by Gulf Power in this  
2 testimony, means both utilities being within 1,000 feet  
3 of each other with facilities adequate to serve the load.  
4

5 Q. What are the basic provisions of paragraph 14 of the FERC  
6 Tariff (Exhibit No. WCW-4)?

7 A. The basic provisions of this FERC Tariff are as follows:

8 1) Unnecessary duplication of facilities would be  
9 avoided.

10 2) Neither party would furnish electrical service to  
11 a premise which is receiving electrical service from the  
12 other party.

13 3) If one party is within 1000 feet (500 feet within  
14 corporate limits) with adequate facilities to serve a new  
15 customer and the other is not, then the party that is  
16 within 1000 feet will provide the service.

17 4) If neither or both parties are within 1000 feet  
18 (500 feet within corporate limits) with adequate  
19 facilities, then customer choice will determine which  
20 party will provide the service.

21 5) For loads greater than 300 KVA, customer choice  
22 will determine which party will provide the service.  
23

24 Q. How successful has Gulf Power's use of the guidelines in  
25 the FERC Tariff been in resolving potential conflicts

1 without the need to involve the FPSC in a territorial  
2 dispute?

3 A. Gulf Power's use of these guidelines has been very  
4 successful in eliminating the need for the FPSC to  
5 resolve territorial disputes. In fact, until Gulf Power  
6 filed its complaint in this docket over three years ago,  
7 it had been eight years since the last time either  
8 utility had initiated litigation to resolve a territorial  
9 dispute against the other. Indeed, no complaint has been  
10 filed since the petition Gulf Power filed that initiated  
11 this docket. To the best of my knowledge, there is no  
12 active dispute pending between the two utilities  
13 regarding which utility should serve a particular  
14 customer requesting service. This is proof that these  
15 FERC guidelines along with guidance the FPSC has provided  
16 in resolving past disputes have generally enabled both  
17 utilities to properly extend electric service to new  
18 customers while satisfying the State legislative  
19 directive to avoid the uneconomic duplication of  
20 facilities as provided in the statute granting the  
21 Commission jurisdiction over territorial disputes.

22 Over the past 25 years there have been only seven  
23 territorial disputes between Gulf Power and GCEC,  
24 including this case. To put this history in proper  
25 perspective, it is important to note the timing of the

1 various disputes. The first litigated dispute in this  
2 period of time between these two utilities was initiated  
3 by GCEC in March, 1971, before the FPSC was given  
4 jurisdiction over territorial disputes by the  
5 legislature. More than ten years passed before the  
6 second dispute was filed, again by GCEC, in April, 1981.  
7 This second dispute was the first before the FPSC. The  
8 next four disputes between Gulf Power and GCEC were filed  
9 by one party or the other between March, 1983 and June,  
10 1985, a period of 27 months. As I pointed out earlier,  
11 the dispute which resulted in this docket came before the  
12 FPSC eight years after the last previous dispute was  
13 initiated by GCEC in June, 1985. During this time  
14 period, both utilities have added thousands of other  
15 customers without disputes.

16 Gulf Power believes that the infrequency of the  
17 disputes between these utilities demonstrates that the  
18 current system used to allocate service territory works  
19 well.

20

21 Q. What are the basic advantages of utilizing guidelines  
22 such as the terms of the FERC tariff instead of drawing  
23 boundary lines to determine service territories?

24 A. Utilizing guidelines with provisions such as this FERC  
25 tariff allows for the least cost expansion of both

1 parties in serving unserved areas without the uneconomic  
2 duplication of facilities. Since every expansion of  
3 either party's facilities defines a new relationship  
4 between the two parties, these guidelines provide much  
5 greater flexibility over time than a fixed boundary line  
6 which becomes outdated each time a new distribution line  
7 is constructed. The guidelines also allow customer  
8 choice where both or neither utility has adequate  
9 facilities within 1000 feet of the premise to be served  
10 or the customer's load is greater than 300 KVA or the  
11 closer utility's facilities are not adequate to serve the  
12 load.

13 It is not in the customer's or Gulf Power's best  
14 interest to predetermine all future power supplier  
15 decisions regardless of the load based on the present  
16 location of each party's existing distribution facilities  
17 and without regard for the adequacy of those facilities.  
18 Use of guidelines instead of predetermined territorial  
19 boundary lines allows customers to make better power  
20 supplier decisions at the time service is needed. Such a  
21 solution provides the greatest customer choice and  
22 flexibility to meet future economic conditions while  
23 offering the utilities the greatest incentives to  
24 maintain reliable service at the lowest cost to the  
25 customer.

1 Q. Does Gulf Power have a proposed set of revised guidelines  
2 that it recommends for use in resolving which party would  
3 serve new customers locating in the identified area?

4 A. Yes, Mr. Holland's Exhibit No. GEH-~~2~~<sup>3</sup> is a proposed set of  
5 revised guidelines which would determine which Company  
6 would provide service to new customers in the identified  
7 area.

8  
9 Q. What is the advantage of utilizing these revised  
10 guidelines?

11 A. These revised guidelines offer all the advantages  
12 previously described for the FERC Tariff plus they  
13 prohibit the extension of distribution lines to serve  
14 future speculative growth. These revised guidelines also  
15 offer a method to resolve disputes in that they require  
16 the utilities to meet and discuss potential disputes.  
17 Mediation by the FPSC Staff would be used if the  
18 utilities could not agree on their own. Although it  
19 would still be possible to have a dispute come before the  
20 FPSC for resolution, the revised guidelines use the  
21 potential award of attorney's fees to the prevailing  
22 party as an incentive to reach agreement short of  
23 contested litigation.

24 If the FPSC determines that the present system is  
25 inadequate even though it has proven to be very effective

1 in providing the maximum customer choice consistent with  
2 avoiding the uneconomic duplication of facilities, these  
3 revised guidelines offer a better solution than  
4 territorial boundary lines to determine which utility  
5 should provide services to new customers in the  
6 identified area.

7

8 Q. Does this conclude your testimony?

9 A. Yes, it does.

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1           Q        (By Mr. Stone) Mr. Weintritt, please  
2 summarize your testimony.

3           A        Commissioner Clark, Commissioner Deason,  
4 good afternoon.

5                    My name is Bill Weintritt. My job title is  
6 Power Delivery Manager, but all that means is that I'm  
7 responsible for ensuring adequate and reliable  
8 electrical supply to customers, including those in  
9 Washington and Bay Counties.

10                   I'll explain the method used to determine  
11 whether Gulf Power or Gulf Coast Cooperative would  
12 provide service to customers in Northwest Florida and  
13 I'll also discuss the reasons this method that worked  
14 well for so many years is still effective.

15                   Beginning in 1947 Gulf Power and Gulf Coast  
16 utilized the provisions of the contract for electric  
17 service for resale, and the FERC tariff, to prevent  
18 uneconomic duplication. Those terms remained in  
19 effect until this relationship was terminated by Gulf  
20 Coast Cooperative in 1981. That wholesale contract  
21 utilized two-tenths of a mile from existing facilities  
22 adequate to serve new load as a guideline.

23                   The FERC's tariff provisions were similar.  
24 Basically those provisions were unnecessary  
25 duplication would be avoided; neither party would

1 furnish service to anyone who was receiving service  
2 from the other party; if one party was within 1,000  
3 feet or 500 feet in an urban area with adequate  
4 facilities to serve, and the other party was not  
5 within that 1,000 feet, then the party within the  
6 1,000 feet provided the service. If neither party or  
7 both parties were within 1,000 feet with adequate  
8 facilities then customer choice would prevail. For  
9 loads greater than 300 KVA, customer choice would  
10 determine which party would provide that service.

11           The use of those guidelines has been very  
12 successful in eliminating the need for formal  
13 resolution of disputes. There's been only one dispute  
14 in the last 12 years, that being the one Gulf Power  
15 filed which began this docket.

16           Furthermore, during the 24 years in which  
17 the Public Service Commission has had jurisdiction,  
18 there have been only six disputes, four of which were  
19 filed during a brief 27-month period ending in 1985.  
20 The effectiveness of the guidance provided by this  
21 Commission in resolving those and previous disputes,  
22 coupled with the application of the FERC guidelines,  
23 is proved by the fact that only one dispute was filed  
24 in the next 12 years. Further proof is that both  
25 utilities have added thousands of customers during



1 these 12 years. In fact, the eastern district of Gulf  
2 Power alone grew from 58,000 to 84,000 customers  
3 during those 12 years. One dispute from 26,000  
4 customer additions speaks for itself.

5           The extraordinary benefit of guidelines,  
6 such as in the FERC tariff, is the flexibility  
7 inherent in them. Expansion into unserved areas is  
8 accomplished at the least cost to all parties.  
9 Uneconomic duplication is avoided as each extension  
10 defines a new relationship between the utilities.

11           Fixed boundaries established with no  
12 knowledge of future conditions become outdated as soon  
13 as any new line is constructed. This is particularly  
14 important for Bay and Washington Counties which have  
15 vast unserved areas.

16           The flexible guidelines now offered by Gulf  
17 Power provide all of the benefits of the old FERC  
18 tariff.

19           They have also prohibit speculative  
20 construction, require discussion toward a resolution,  
21 allow mediation for the Commission Staff and, finally,  
22 there is a potential for loser pays legal fees if no  
23 agreement can be negotiated. Certainly, these  
24 flexible terms are preferable to rigid lines which  
25 preclude all customer choice and will in many cases

1 result in uneconomic construction by the serving  
2 utility. This concludes my summary.

3 MR. STONE: We tender Mr. Weintritt for  
4 cross examination.

5 COMMISSIONER DEASON: Mr. Haswell.

6 MR. HASWELL: Thank you, Commissioner.

7 CROSS EXAMINATION

8 BY MR. HASWELL:

9 Q Mr. Weintritt, you agree, don't you that  
10 close proximity of another utility's facilities is  
11 1,000 feet?

12 A Yes, I'll agree to that.

13 Q Okay. And don't you also agree, sir, that  
14 further duplication of facilities may occur on the  
15 maps you've identified as WCW-1?

16 A Further duplication may occur or further  
17 uneconomic duplication may occur?

18 Q Further duplication.

19 A Yes, I would agree duplication could occur.

20 Q Isn't it true that Gulf Power moved a  
21 25-megawatt transformer out of Sunny Hills after the  
22 prison dispute was heard by the Commission and you  
23 inserted a 12 MVA transformer?

24 A Yes. But may I explain that? The existing  
25 transformer failed due to a winding fault. The

1 replacement was put in simply as a maintenance and  
2 repair. It had nothing to do with the prison dispute.

3 Q Okay. But irrespective of that, you don't  
4 need a 25 MVA transformer to handle the load that you  
5 expected in Sunny Hills in the next five to ten years,  
6 do you?

7 A No, we don't need that for five years.

8 Q Now, isn't it true that Gulf Power does not  
9 build facilities in anticipation of future load but  
10 only builds it when it receives a customer request for  
11 service?

12 A Yes. We do not construct speculative load.

13 Q Okay.

14 A However, the economies of scale dictate you  
15 can't buy half a KVA transformer. When you purchase  
16 something, if you don't put in something inadequate  
17 there's almost certainly going to be some capacity  
18 left.

19 Q But isn't it true that Gulf Power in 1971  
20 installed a 25 MVA transformer in Sunny Hills for a  
21 speculative load that never materialized?

22 A It's true we installed the original  
23 transformer based on the load projections at the time.  
24 I wouldn't characterize them as speculative.

25 Q The load is not there now?

1           A     The load did not occur.

2           Q     Okay. Now you just corrected part of your  
3 testimony saying that the average time for  
4 interruptions reported by Gulf Power for each customer  
5 over a five-year period, 1990 to 1994 was now 41  
6 point -- 4 minutes per year?

7           A     Yes, I did.

8           Q     Is that in Gulf Power's eastern district?

9           A     Yes, it is.

10          Q     Not just South Washington and Bay Counties?

11          A     It's for the entire district which includes  
12 those two areas.

13          Q     Okay. Now, was that now amended 41.4  
14 minutes -- was that number of minutes per customer  
15 interrupted or 41.4 minutes averaged over all of the  
16 customers in the eastern district?

17          A     It's the cumulative minutes of interruption  
18 divided by the customers.

19          Q     By the number of customers?

20          A     Yes.

21          Q     In the district. So it's not divided by the  
22 number of customers who were actually interrupted?

23          A     I believe that's correct.

24          Q     Okay. Now, you noted that Gulf Coast  
25 reported 95.4 minutes per year on Page 7, Line 3, of

1 your direct. Do you know if Gulf Coast reported that  
2 figure for all of its system or only for South  
3 Washington and Bay County?

4 A I assume, since it's on the statistical  
5 report, that it's for the entire system.

6 Q Do you know if Gulf Coast calculated its  
7 outage per customer on the same basis as Gulf Power?

8 A No, I do not know that.

9 Q Do you know whether or not Gulf Power has  
10 any statistics for outages in exclusively rural areas?

11 A We don't maintain statistics for rural or  
12 urban areas exclusively.

13 Q Okay. Now, if Gulf Power calculated its  
14 outage time of 41.4 minutes per customer taking the  
15 total outage time divided by the total number of  
16 customers in the eastern district as you said, as  
17 opposed to taking the total outage time divided by  
18 only those customers who were interrupted, you would  
19 actually show less outage time per customer, wouldn't  
20 you?

21 A I lost you. Could you repeat that, please?

22 Q Okay. You've said that you've calculated  
23 outage time per customer based on the total number of  
24 customers in the eastern district. If you then did a  
25 calculation to show the total outage time of only

1 those customers affected, that would show a higher  
2 amount of time, more time per customer, would it not?

3       A     It could, unless every customer were out.  
4 It's possible that if all customers were interrupted  
5 the numbers would be the same.

6       Q     I'd like to show you an exhibit that was  
7 requested by Staff and filed in this cause requesting  
8 distribution outage time and number of customers for  
9 the calendar year 1991 for any map on which the FPSC  
10 Staff in its third set of interrogatories described as  
11 a boundary line. Have you seen this exhibit before,  
12 sir?

13       A     Yes, I have.

14       Q     Did you participate in the preparation of  
15 it?

16       A     Yes, I did.

17       Q     Okay. Now, to calculate -- this exhibit  
18 shows a total of 95.97 minutes of interruption per  
19 customer on those maps listed; is that correct?

20       A     That's correct.

21       Q     Okay. Now, was that time that you arrived  
22 at obtained by dividing the cumulative minutes of  
23 interruption by the number of customers located on  
24 those maps?

25       A     Yes, it was.

1 Q Okay. Next I'd like to show you Page 2 of  
2 that same exhibit for the year 1992. (Hands document  
3 to witness.) And I would ask if you recognize this  
4 exhibit, as well.

5 A Yes, I do.

6 Q And did you also participate in the  
7 preparation of it?

8 A Yes, I did.

9 Q Okay.

10 MR. HASWELL: Mr. Chairman, I'd like to have  
11 this exhibit which apparently was a late-filed exhibit  
12 to Mr. Klepper's deposition, Pages 1 and 2, identified  
13 or marked for identification.

14 COMMISSIONER DEASON: They will be  
15 identified as Exhibit 7.

16 (Exhibit 7 marked for identification.)

17 Q (By Mr. Haswell) And, Mr. Weintritt, is it  
18 fair to say that the way the outage time or minutes of  
19 interruption per customer served on this Page 2 of 2  
20 was calculated the same way as Page 1 of 2?

21 A The arithmetic calculation was the same.  
22 The difference is the area and a much smaller time  
23 frame.

24 Q The way it was calculated was the same. You  
25 took the total number of customers on those maps and

1 divided it into the cumulative minutes of  
2 interruption?

3           **A**     That's correct.

4           **Q**     Okay. And I just want to clarify that our  
5 exhibit we've identified as Exhibit 7 is both of these  
6 pages?

7                   **COMMISSIONER DEASON:** Yes, sir.

8           **MR. HASWELL:** Thank you, sir. I'm trying to  
9 pare down some of my questions based on what has been  
10 asked.

11                   **COMMISSIONER CLARK:** Mr. Weintritt, let me  
12 ask you something. Is it your testimony that the  
13 reliability of service between Gulf Power and Gulf  
14 Coast in the area under consideration is materially  
15 different from each other?

16                   **WITNESS WEINTRITT:** That's --

17                   **COMMISSIONER CLARK:** Is one more reliable  
18 than the other?

19                   **WITNESS WEINTRITT:** That's my testimony and  
20 based on the documents and the way we keep the records  
21 that's the conclusion I draw. And also from living in  
22 that area, and I do; my house is on this map that's  
23 behind me here. And I don't have that statistically.  
24 I know we had the lights back on in this area the day  
25 after Hurricane Opal. I don't think the Cooperative



1 did. You know, it's not just a statistical numerical  
2 conclusion.

3           **COMMISSIONER CLARK:** I thought I heard you  
4 answer to one of Mr. Haswell's questions that you  
5 didn't know if the outage times were developed on the  
6 same basis between Gulf Power and Gulf Coast? You  
7 don't know if they are comparable figures?

8           **WITNESS WEINTRITT:** No, I don't know that.  
9 I didn't help compile the Co-op's figures.

10           **COMMISSIONER CLARK:** All right. Without  
11 developing comparable figures, how can we draw any  
12 conclusion that one is more reliable than the other?

13           **WITNESS WEINTRITT:** I can draw the  
14 conclusion from being there and living there. Can I  
15 prove it statistically? No, that's different.

16           **COMMISSIONER CLARK:** You have anecdotal  
17 evidence.

18           **WITNESS WEINTRITT:** I believe I do.

19           **COMMISSIONER CLARK:** Okay.

20           **Q**       **(By Mr. Haswell)** Okay. Mr. Weintritt, you  
21 also believe as Mr. Holland does, that least cost to  
22 serve is the rule the PSC should follow in deciding  
23 who should serve a new customer?

24           **A**       I am not sure I believe that's the rule they  
25 should follow. I believe it's the one they do follow.

1 Q Isn't it true that what you mean by least --  
2 do you have a definition of least cost of service?

3 A As I understand it, and as I believe the  
4 Commission has applied it, it's distribution cost, the  
5 incremental cost to serve a customer.

6 Q So that's whichever utility has the least  
7 cost to extend the last segment of distribution  
8 service to a new customer?

9 A That I believe is the way it's been applied.

10 Q And you also agree with Mr. Holland that  
11 your determination is also based on whether it is  
12 economical for the company to extend service?

13 A We do an economical calculation regardless  
14 of whether there is another utility on the scene.

15 Q But you do make a determination of whether  
16 it is economical for the company?

17 A Yes, we do.

18 Q And if your determination to serve a  
19 customer would require a crossing of another utility's  
20 facilities or building a line on the other side of the  
21 street where, let's say, Gulf Coast already has  
22 service on the other side, in your opinion, if you  
23 went ahead and served it, that still would not be  
24 uneconomic duplication?

25 A Not just because there was a crossing. By

1 itself that would not constitute uneconomic  
2 duplication.

3 Q Okay. Now, the revised guidelines that you  
4 refer to in your direct testimony, are those the  
5 guidelines referred to by Mr. Holland in GEH-2 and  
6 GEH-3?

7 A I believe I referred to GEH-3, yeah.

8 Q 3.

9 MR. STONE: For the record, I believe GEH-2  
10 was the --

11 MR. HASWELL: I'm sorry.

12 Q (By Mr. Haswell) Well, that would be GEH-3  
13 and GEH-4.

14 A I referred to GEH-3 in my testimony.

15 Q So your guidelines that you refer to do not  
16 include GEH-4?

17 A Not in my direct testimony they didn't, no.

18 Q So you agree with the 1,000-foot rule, that  
19 1,000 feet either side of the center line of the  
20 utility's existing facilities should be their, quote,  
21 "service area," subject to a 300 KVA load limit?

22 A Yes, I agree with that. It's worked well  
23 for many years.

24 Q Okay. So anything outside of that 1,000  
25 feet is customer choice?

1           **A**     Yes.

2           **Q**     And even inside the 1,000 feet corridor if a  
3 customer's load is equal to or greater than 300 KVA  
4 the customer can choose which utility?

5           **A**     That's the terms incorporated in that  
6 proposal, yes.

7           **Q**     And that 300 KVA limit, that's -- in your  
8 understanding of that, that's not necessarily one  
9 customer. That could be a number of customers whose  
10 loads were aggregated together?

11          **A**     That's correct.

12                   **MR. HASWELL:** I have no further questions at  
13 this time.

14                   **COMMISSIONER DEASON:** Staff.

15                                   **CROSS EXAMINATION**

16 **BY MS. JOHNSON:**

17           **Q**     Mr. Weintritt, can you describe for us the  
18 step-by-step procedure that Gulf Power Company uses  
19 upon a customer's initial request for electric  
20 service?

21           **A**     That's a broad question, but it may be a  
22 customer -- it depends on whether it is construction  
23 power, a mobile home, a ten-acre tract out in the  
24 woods. A customer service rep might be able to handle  
25 it by telephone. If there's any doubt in the phone

1 center's mind, they'll refer it to the engineer that  
2 works that area. The engineer would make an  
3 appointment with the proposed customer and visit the  
4 site. That's frequently necessary, particularly in an  
5 unserved area.

6 If that engineer has a doubt as to the  
7 application of company policies, he'll refer it to me.  
8 And if I'm not clear on it, I can talk to Mr. Holland  
9 or Mr. Stone. Is that an answer to your question  
10 or --

11 Q Is that the procedure?

12 A Very broadly speaking, yes. Very few get  
13 bubbled up. I mean, the field engineers handle the  
14 most of them.

15 Q And is this procedure in writing?

16 A Not to my knowledge.

17 **COMMISSIONER CLARK:** Can I ask you a  
18 question? How does the field rep know whether or not  
19 it's in compliance with the agreement, the 500 feet or  
20 1,000 feet. How would he know that?

21 **WITNESS WEINTRITT:** That's one reason that a  
22 field visit is often needed. A customer often can't  
23 tell you where their property even is. You wind up,  
24 particularly in a area with no defined street  
25 addresses, no cross streets, and it becomes a field

1 visit to look at survey corners and visually verify  
2 where Gulf Power's facilities are, where any other  
3 utility, if any, is present.

4           **COMMISSIONER CLARK:** Then if he concluded,  
5 he or she concluded, that it was within 1,000 feet of  
6 Gulf Power, they would conclude they can serve it?

7           **WITNESS WEINTRITT:** If the Cooperative  
8 already had a service active on that property, they  
9 wouldn't conclude that.

10           **COMMISSIONER CLARK:** All right. Let's  
11 assume that they don't have an active service there.

12           **WITNESS WEINTRITT:** Yes, they could do that.

13           **COMMISSIONER CLARK:** And there would be no  
14 one reviewing whether or not Gulf Coast's facilities  
15 might be nearby.

16           **WITNESS WEINTRITT:** That would be part of  
17 the -- 1,000 feet really is not a great distance.  
18 It's three spans of distribution. It's two-tenths of  
19 a mile. It doesn't require a long time to make that  
20 kind of determination.

21           **COMMISSIONER CLARK:** You would be able to go  
22 out and see it.

23           **WITNESS WEINTRITT:** Quickly.

24           **COMMISSIONER CLARK:** Okay.

25           **WITNESS WEINTRITT:** Any experienced engineer

1 could do that rapidly.

2 **COMMISSIONER CLARK:** Okay.

3 **Q (By Ms. Johnson)** Do you know whether or  
4 not Gulf Power Company has always handled each service  
5 request in the manner that you've described?

6 **A** We added 26,000 in Panama City in the last  
7 12 years. We should have handled them all that way; I  
8 don't know that every one was.

9 **Q** Staff is going to hand out at this time two  
10 exhibits. I'd like for you to take a look at them  
11 while we're handing them out. (Hands document to  
12 witness.)

13 **MS. JOHNSON:** Commissioner Deason, we'd like  
14 to have these marked for identification.

15 **COMMISSIONER DEASON:** Okay.

16 **MS. JOHNSON:** The first is the summary of  
17 responses to Staff's interrogatories.

18 **COMMISSIONER DEASON:** That will be  
19 identified as Exhibit 8.

20 **MS. JOHNSON:** And the second is the response  
21 to Staff's informal data request dated May 24, 1996.

22 **COMMISSIONER DEASON:** That will be  
23 Exhibit 9.

24 (Exhibits 8 and 9 marked for  
25 identification.)

1           **MR. STONE:** I apologize, Commissioner, I was  
2 busy making sure that we had appropriate copies  
3 distributed to people who can keep me straight, and I  
4 did not hear which was which.

5           **COMMISSIONER DEASON:** Exhibit 8 is the  
6 summary of responses and Exhibit 9 is the response to  
7 informal data request.

8           **MR. STONE:** Thank you very much. (Pause)  
9           Commissioner Deason, before the hearing  
10 there was a matter taken up with regard to one of  
11 these exhibits, and I need to discuss and make sure  
12 the question was resolved with the witness. May I  
13 approach the witness.

14           **COMMISSIONER DEASON:** Surely.

15           (Counsel has conference with witness.)

16           **Q**        **(By Ms. Johnson)** Have you had a chance to  
17 review them?

18           **A**        I'm still looking through the larger  
19 package. (Pause) Okay.

20           **Q**        With respect to Exhibit 8, that's the  
21 summary of responses to Staff's interrogatories. Were  
22 you involved in the preparation of the responses to  
23 those interrogatories?

24           **A**        An engineer under my supervision did the  
25 research for these dates, yes.



1 Q And in those interrogatories Staff  
2 identifies certain areas and asks the utilities to  
3 identify the date that the distribution lines were  
4 initially installed; is that correct?

5 A That's correct.

6 Q Having reviewed Exhibit No. 8, do you agree  
7 that the dates that are reflected in Exhibit 8 are  
8 correct, or if you have any corrections can you note  
9 those?

10 A Well, I do have one exception on there. We,  
11 to the best of our knowledge, we researched these  
12 dates. Some of the older, the 1950s, '40s, '30s work  
13 order records were spotty, to say the least, just due  
14 to their age. There may be an older job we couldn't  
15 find. But this reflects what we could document. The  
16 exception I have is to Area No. 11, it's on the second  
17 page. It's interrogatory 73. Along Titus Road  
18 westward from Highway 231, we constructed the initial  
19 part of that extension in 1946 and continued it in  
20 1962, completed it. So the 1962 year on there I don't  
21 think is accurate.

22 Q Are there any other corrections?

23 A No.

24 Q Were you involved -- I'd like for you to  
25 turn now to Exhibit No. 9.

1           A     Okay.

2           Q     Were you involved in the preparation of the  
3 responses to Staff's informal data requests that are  
4 shown in Exhibit No. 9?

5           A     I was involved in these, although some of  
6 them, the generation and cost questions are not best  
7 answered by me, I don't think.

8           Q     I'd like for you to turn to the first  
9 question that is shown on Exhibit No. 9.

10          A     Okay.

11          Q     Staff asked for the identification of the  
12 number of customers, energy sales and demand by  
13 customer class on an annual basis for the most recent  
14 five-year period in the disputed area.

15                   Can you explain for us how Gulf Power  
16 developed the demand kW amounts in the third column?

17          A     In the industrial column?

18          Q     The amount that I'm referring to for 1995  
19 would be under the Industrial Column, 761?

20          A     Right. I believe that's the sum of demand  
21 meter readings from the five customers involved.

22          Q     And was that same methodology used for the  
23 remaining years, '94, '93, '92 and '91?

24          A     For the industrial customers, yes.

25          Q     Do you know whether it's the sum over 12

1 months or the monthly average?

2           A     I'm reading the footnote to help refresh my  
3 memory on it.

4                     I don't remember, but -- to the best of my  
5 recollection it's peak demand and not an average for  
6 those metered customers.

7           Q     You stated that both utilities have added  
8 thousands of customers without a dispute. But are you  
9 aware of any disagreements between Gulf Power and Gulf  
10 Coast over which utilities should serve a particular  
11 customer that did not result in a territorial dispute  
12 filed with the Commission?

13           A     I'm aware of some customers whose choice --  
14 who fell in the area where either utility could easily  
15 serve them, and who may have chosen -- their choice  
16 may not have been appreciated by the other utility.  
17 You could characterize that as a disagreement.

18                     **MS. JOHNSON:** That's all that Staff has.

19                     **COMMISSIONER DEASON:** Redirect?

20                     **MR. STONE:** If I may, briefly.

21                                     **REDIRECT EXAMINATION**

22 **BY MR. STONE:**

23           Q     Mr. Weintritt, early on in the cross  
24 examination by Mr. Haswell you were asked a question  
25 about close proximity, the 1,000 foot definition, and

1 you were specifically asked the question about further  
2 duplication within that area. Do you recall that  
3 question on cross examination?

4 **A** Yes.

5 **Q** I believe you indicated in the form of your  
6 question for clarification you asked for a distinction  
7 between further duplication and further uneconomic  
8 duplication?

9 **A** That's correct.

10 **Q** What was the reason that you asked for that  
11 clarification?

12 **A** I believe there are cases where you could --  
13 if the utilities were 1,500 feet apart and one company  
14 builds 800 feet the other one would have to build 700,  
15 is that 100 feet uneconomic duplication? I don't  
16 think so when you're closing a gap. That's the kind  
17 of scenario I had in my mine.

18 **COMMISSIONER CLARK:** Mr. Weintritt, I take  
19 that to mean, you know, that's probably a small  
20 increment of cost to serve.

21 **WITNESS WEINTRITT:** That's correct.

22 **COMMISSIONER CLARK:** For that customer.

23 **WITNESS WEINTRITT:** And where the -- you  
24 know, I'm not a lawyer, so I don't use terms like "de  
25 minimis," but where it's just not a big deal compared

1 to the overall scheme of providing service to an area  
2 or a road. I don't see it's uneconomic when it's a  
3 relatively small number and everything else is  
4 substantially equal. And there have been a few  
5 examples like that of these 26,000 customers in these  
6 areas. And some have chosen the Cooperative and some  
7 have chosen Gulf Power, and so be it.

8           **COMMISSIONER CLARK:** Well, would you agree  
9 with me to the extent, you know, if 100 bucks occurs  
10 over and over again pretty soon you're talking about  
11 real money?

12           **WITNESS WEINTRITT:** \$100 being a service  
13 drop? The aid to construction calculation that we do  
14 in our tariff is -- does not contemplate even the  
15 transformer service drop or meter and that's hundreds  
16 of dollars. That has to happen to serve somebody.

17           **COMMISSIONER CLARK:** Well, I guess what I'm  
18 suggesting to you that while if you look at individual  
19 customers the amount might be de minimis for that  
20 customer. If that's repeated several times it begins  
21 to add up.

22           **WITNESS WEINTRITT:** I would agree. As you  
23 heard from Mr. Holland earlier, that if that stretched  
24 out and would end up being a mile down the road, that  
25 that wouldn't happen, and I don't think that has

1 happened over this period since 1947.

2 MR. STONE: May I proceed?

3 COMMISSIONER DEASON: Yes.

4 Q (By Mr. Stone) Mr. Weintritt, in reference  
5 to Exhibit GEH-3, Mr. Haswell asked you a series of  
6 questions with regard to the 1,000 foot, and the 300  
7 KVA and those questions. Do you recall that line of  
8 questions?

9 A Yes, I do.

10 Q He did not ask you about the provision in  
11 that document that says, "Neither party will  
12 uneconomically duplicate the facilities of another."

13 A That's correct, he did not.

14 Q Do you recall Mr. Holland's description of  
15 that particular provision in the exhibit?

16 A I recall Mr. Holland discussing that we  
17 would not uneconomically duplicate, yes.

18 Q You were handed a two-page document which as  
19 been labeled Exhibit 7. Do you have a copy of that in  
20 front of you?

21 A Okay.

22 Q I note there's a footnote on each page to  
23 provide further explanation for those numbers. Do you  
24 see those footnotes?

25 A Yes.

1           Q     Looking first at Page 1 of 2, which is, I  
2 guess, the chart for 1991, are you familiar with that  
3 footnote and the significance of what that information  
4 is?

5           A     Yes. That was -- you know, I had that  
6 footnote added to show how one single incident -- and  
7 I'm not a statistician, either -- but when you narrow  
8 a sample, single incidents can skew the results and  
9 the one vehicle hitting a pole, and that's a  
10 consequence of doing business along roads like Highway  
11 231, that's where that happened. It took us nearly  
12 five hours to repair. A large bit of the time is  
13 involved in waiting for the emergency personnel just  
14 to clear the accident scene before you can begin. If  
15 you excepted that, the 95 minutes would drop to more  
16 like 60 minutes.

17          Q     Looking at Page 2 of that exhibit there's a  
18 similar footnote, but different information with  
19 regard to the 1992 data. Are you familiar with that  
20 particular information and the explanation of that,  
21 significance of that information?

22          A     Yes. That one included a regulator failure  
23 inside the substation. That's not strictly a  
24 distribution outage since it happened in a substation.  
25 But we collect the statistics. Our customers don't

1 know whether they are out due to a substation or  
2 distribution, but we collect and report those  
3 statistics and analyze them, but that was merely to  
4 note that the one which contributed more than ten  
5 minutes to this total was, indeed, inside a fence, not  
6 on the distribution system.

7 Q Mr. Haswell asked you a question with regard  
8 to the Sunny Hills development that tended to call  
9 into question the decision to put in, I guess it was a  
10 25 MVA transformer. Do you recall that question?

11 A Yes, I do.

12 Q Are you familiar with any third-party  
13 documentation of the original plans to the Sunny Hills  
14 development?

15 A I've seen a newspaper article from that time  
16 frame.

17 MR. STONE: Commissioner Deason, may I  
18 approach the witness?

19 COMMISSIONER DEASON: Yes. (Hands document  
20 to witness.)

21 Q (By Mr. Stone) Mr. Weintritt, I have  
22 handed you a copy of a document, it's actually in two  
23 sets. Can you describe what I've handed to you?

24 A Yes. This is a Xerox copy of the Panama  
25 City News Herald, Monday, July 6th, 1970, Page 1B.



1           Q     And can you explain why it's handed out in  
2 the fashion it is as far as one single sheet is almost  
3 a legal length of paper and another document  
4 consisting of three pages stapled together?

5           A     That was the best the newspaper could do for  
6 us with the copy equipment and trying to copy from my  
7 microfiche their records. The single page, legal  
8 size, is a complete copy of the article about the  
9 Deltona project that was upcoming. The three stapled  
10 together are to provide continuity, to tie the date  
11 and page number to the article.

12           **MR. STONE:** At this time, Commissioner, I'd  
13 like to distribute this to everyone and have it marked  
14 as an exhibit.

15           **COMMISSIONER DEASON:** It will be identified  
16 as Exhibit 10.

17                     (Exhibit 10 marked for identification.)

18           Q     **(By Mr. Stone)** Mr. Weintritt, you say  
19 you've seen this article?

20           A     Yes, I have.

21           Q     And you have reviewed it. What is the  
22 significance of this article with regard to the Sunny  
23 Hills development?

24           A     It lends, I guess, credibility to the whole  
25 project and prospect in describing the Mackel Brothers

1 history in the state of Florida. Since they came into  
2 the business, they've built 25,000 houses elsewhere in  
3 Florida. In Deltona alone in seven years they had  
4 created a community of 7,000 persons from 1963 to  
5 1970. And with this information and the rest of the  
6 Deltona Corporation/Mackel Brothers history, it would  
7 be reasonable to conclude that Sunny Hills would be  
8 another success in their string of projects.

9 Q We have the whole article, but if you don't  
10 mind, would you read the next to the last paragraph in  
11 this article?

12 MR. HASWELL: I object to him reading the  
13 article. It says what it says. I don't think we need  
14 the witness to be reading parts of the article, unless  
15 Mr. Weintritt is the one who wrote it.

16 COMMISSIONER DEASON: Mr. Stone?

17 MR. STONE: Commissioner, Mr. Haswell is the  
18 one that called into question the circumstances under  
19 which the 25 MVA transformer was installed in Sunny  
20 Hills development. This article is offered as  
21 corroboration for the expectations when that  
22 transformer was installed. While I agree that the  
23 article is before you, I'm trying to draw your  
24 attention to the specific paragraph that will make  
25 this useful to the Commission.

1                   **COMMISSIONER DEASON:** Proceed.

2           **A**        "If the corporation achieves its goal of  
3 1,500 homes constructed during 1971, based on a figure  
4 of three persons per household, this would mean an  
5 instant city of 4,500 residents. The tract's  
6 population based on its first 20,000 lots would mean  
7 60,000 new residents. Based on the development's  
8 ultimate 64,000 lots at three person per household,  
9 that would be well more persons than currently reside  
10 in Bay, Calhoun, Franklin, Liberty, Wakulla, Gulf,  
11 Holmes, Jackson Walton and Washington Counties  
12 combined.

13           **Q**        Mr. Weintritt, based on evidence such as  
14 this article and other information that you have come  
15 to be aware of through the course of your career at  
16 Gulf Power Company, would you say it would be fair to  
17 say that the Sunny Hills development represented an  
18 exciting venture in Northwest Florida?

19           **A**        I'm quite sure it did.

20                   **COMMISSIONER CLARK:** An exciting adventure?  
21 Let me ask you, Mr. Weintritt, is it your testimony  
22 that your decision to put in that size transformer was  
23 not speculative because of what the developer  
24 projected as far as growth?

25                   **WITNESS WEINTRITT:** I don't think that it

1 was just developer's projection, I think it was this  
2 developer's success in the state of Florida elsewhere.  
3 This is not a fly-by-night outfit. They've been  
4 around 40 years.

5           **COMMISSIONER CLARK:** Therefore, it was not  
6 speculative for Gulf Power to put in that transformer?

7           **WITNESS WEINTRITT:** I don't believe it was.

8           **COMMISSIONER CLARK:** Okay. And that would  
9 be your definition of having a customer asking for  
10 service. If they project this kind of growth and they  
11 have had success before, you don't think it's  
12 speculative?

13           **WITNESS WEINTRITT:** And they didn't just  
14 project growth; they built the infrastructure. I  
15 mean, the roads are there, the golf course is there,  
16 the pump is there.

17           **COMMISSIONER CLARK:** I'm well aware that the  
18 infrastructure is there.

19           **WITNESS WEINTRITT:** All right.

20           **COMMISSIONER CLARK:** That was the point that  
21 you wanted to clarify; is that right, that this was  
22 not speculative because there was this kind of  
23 projection. Okay.

24           **MR. STONE:** I have no further questions.

25           **MR. HASWELL:** I have some recross.

1                   **COMMISSIONER DEASON:** Proceed.

2                   **RE CROSS EXAMINATION**

3 **BY MR. HASWELL:**

4           **Q**     Mr. Weintritt, when did you get this  
5 document that you just handed me as Exhibit 10?

6           **A**     The newspaper?

7           **Q**     Yes.

8           **A**     A couple of weeks ago, maybe, something like  
9 that.

10          **Q**     Did you get it from the newspaper?

11          **A**     Yes. We went down to the newspaper -- the  
12 library, actually.

13          **Q**     So you didn't get it out of the company  
14 records?

15          **A**     We had --

16          **Q**     Did you get it from the company records?

17          **A**     No, sir. These copies came from the Bay  
18 County Library.

19          **Q**     So to the best of your knowledge, the  
20 company did not use this newspaper article as a  
21 planning document, did it?

22          **A**     I doubt if the newspaper article itself was  
23 a planning document. To the best of my knowledge, the  
24 company had extensive discussions with the Deltona  
25 Corporation.

1 Q But you weren't around back there, were you?

2 A No, I wasn't.

3 MR. HASWELL: Okay. I have no further  
4 questions.

5 COMMISSIONER DEASON: Any further redirect?

6 MR. STONE: No, Commissioner.

7 COMMISSIONER DEASON: Very well. Exhibits.

8 MR. STONE: I would move the introduction of  
9 Exhibit 6 and Exhibit 10 into evidence.

10 COMMISSIONER DEASON: Without objection,  
11 Exhibit 6 --

12 MR. HASWELL: Excuse me. We would object to  
13 10 on relevancy, that this is not a company document  
14 and it's not something the witness identified in his  
15 direct testimony. He didn't write the article. All  
16 he did was go down to the newspaper and make a copy  
17 from the microfiche.

18 COMMISSIONER DEASON: Mr. Stone?

19 MR. STONE: Commissioner Deason, Mr. Haswell  
20 opened the door. He called into question the type of  
21 development that went into place at Sunny Hills. This  
22 is third-party corroboration of the type of  
23 development that was anticipated back at the time.  
24 It's a newspaper article. It is available to the  
25 public, and Mr. Weintritt wisely obtained a copy for

1 us in case this very issue came up.

2 **COMMISSIONER DEASON:** Objection overruled.

3 Exhibit 6 and Exhibit 10 are admitted.

4 (Exhibits 6 and 10 received in evidence.)

5 **COMMISSIONER DEASON:** Further exhibits?

6 **MR. HASWELL:** I think we move Exhibit 7.

7 **COMMISSIONER DEASON:** Without objection,

8 Exhibit 7 is admitted.

9 (Exhibit 7 received in evidence.)

10 **MS. JOHNSON:** Staff moves 8 and 9.

11 **COMMISSIONER DEASON:** Without objection,

12 Exhibits 8 and 9 are admitted.

13 (Exhibits 8 and 9 received in evidence.)

14 **COMMISSIONER DEASON:** Thank you

15 Mr. Weintritt.

16 We're going to conclude here in just a few  
17 minutes for today's session. But before we do there's  
18 something that I wanted to raise, so that the parties  
19 perhaps could consider it over the evening recess and  
20 perhaps give me some guidance tomorrow with your  
21 thoughts.

22 And the question is simply this: We've gone  
23 over some descriptions and we've seen maps and that's  
24 all very helpful. But it seems to me it would be more  
25 helpful to actually see some of the area that's

1 involved.

2           Now, procedurally it may be too burdensome  
3 with the procedural requirements and the noticing  
4 requirements and that sort of thing. But I just  
5 sitting here as one Commissioner, if it is going to be  
6 the result, and it may not be the result of this  
7 proceeding, but if it is going to be the result of  
8 this proceeding that we're going to actually be  
9 drawing lines on a map and saying this is a boundary,  
10 that it may be beneficial to see the actual physical  
11 area that is being put in question. Now, I'm not  
12 suggesting we go on a grand tour of every one of these  
13 areas, but a random sampling of some of the more  
14 representative areas that the parties could agree upon  
15 may be helpful.

16           Now, I raise this just as a point for the  
17 parties, and for Staff, to consider. I'm sitting here  
18 as one Commissioner thinking it would be helpful to  
19 me. I don't know if this is something that's been  
20 done in the past and if it is something that can be  
21 accommodated. But I ask that you think about it over  
22 the evening recess. If you have any thoughts or  
23 suggestions tomorrow, perhaps before we conclude the  
24 hearing we can discuss what our options are. It's  
25 something I would be interested in pursuing.



1                   With that we're going to recess for the  
2 evening. And we will reconvene tomorrow morning at  
3 9:30.

4                   (Thereupon, the hearing adjourned at  
5 4:43 p.m. to reconvene at 9:30 a.m., Wednesday,  
6 April 30th, 1997, at the same address.)

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8                   (Transcript continues in sequence in  
9 Volume 3.)

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