

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

CLERK, SUPREME COURT

By \_\_\_\_\_

DOCKET NO. 930885-20

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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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SECOND DAY - AFTERNOON SESSION

VOLUME 4

Pages 488 through 666

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER SUSAN F. CLARK

DATE: Wednesday, April 30, 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  
(904) 413-6732

APPEARANCES:  
  
(As heretofore noted.)

DOCUMENT NUMBER - DATE

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FPSC--RECORDS/REPORTING

## WITNESSES - VOLUME 4

1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
	<b>NAME</b>		<b>PAGE NO.</b>
	THEODORE S. SPANGENBERG, JR.		
	Direct Examination By Mr. Stone		491
	Prefiled Rebuttal Testimony Inserted		493
	WILLIAM C. WEINTRITT		
	Direct Examination By Mr. Stone		506
	Prefiled Rebuttal Testimony Inserted		508
	Cross Examination By Mr. Haswell		519
	RUSSELL L. KLEPPER		
	Direct Examination By Mr. Stone		521
	Prefiled Rebuttal Testimony Inserted		523
	Cross Examination By Mr. Floyd		538
	Cross Examination By Ms. Johnson		538
	G. EDISON HOLLAND, JR.		
	Direct Examination By Mr. Stone		541
	Prefiled Rebuttal Testimony Inserted		544
	Cross Examination By Mr. Haswell		562
	Cross Examination By Ms. Johnson		564
	STEPHEN PAGE DANIEL		
	Direct Examination By Mr. Haswell		569
	Prefiled Rebuttal Testimony Inserted		571
	WILLIAM S. DYKES		
	Direct Examination By Mr. Floyd		635
	Prefiled Rebuttal Testimony Inserted		638
	Cross Examination By Mr. Badders		652
	Cross Examination By Ms. Johnson		655

## EXHIBITS - VOLUME 4

NUMBER		ID.	ADMTD.
14	Composite Exhibit WCW-6 and 7	507	520
15	GEH-6	543	568
16	Composite Exhibit WSD-R1 through R12	637	665
17	Total Outage Time and Number of Customers During '91 and '92	655	(Withdrawn)
17	Gulf Coast Electric Cooperative Outage Data, 1991 and 1992	660	665

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

(Transcript follows in sequence from  
Volume 3.)

MR. STONE: May we proceed?

CHAIRMAN JOHNSON: Yes, go back on the  
record.

- - - - -

## THEODORE S. SPANGENBERG, JR.

was called as a rebuttal witness on behalf of Gulf  
Power Company and, having been duly sworn, testified  
as follows:

## DIRECT EXAMINATION

BY MR. STONE:

Q Mr. Spangenberg, you've previously testified  
today; is that correct?

A Yes, that's correct.

Q You prefiled rebuttal testimony in this  
proceeding dated December 20th, 1996?

A Yes, that's correct.

Q Do you have any changes or corrections to  
your prefiled rebuttal testimony?

A Yes, I have one minor correction. If you  
look on Page 3, Line 17 of that testimony, the phrase  
"at the northwest" should be "near the southeast."

Q Does that conclude your changes?

1           **A**     Yes, it does.

2           **Q**     If I were to ask you the questions contained  
3 in your prefiled rebuttal testimony with that change  
4 noted, would your responses be the same?

5           **A**     Yes they would.

6                   **MR. STONE:** We would ask that  
7 Mr. Spangenberg's prefiled rebuttal testimony, dated  
8 December 20, 1996, be inserted into the record as  
9 though read.

10                   **CHAIRMAN JOHNSON:** It will be so inserted.

11           **Q**     **(By Mr. Stone)** There are no exhibits  
12 attached to your prefiled rebuttal testimony.

13           **A**     No, there are not.

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## GULF POWER COMPANY

Before the Florida Public Service Commission  
Rebuttal Testimony of  
Theodore S. Spangenberg, Jr.  
Docket No. 930885-EU  
Date of Filing: December 20, 1996

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

A. My name is T. S. (Ted) Spangenberg, Jr. My business address is 500 Bayfront Parkway, Pensacola, Florida. I am employed by Gulf Power Company as their Residential Marketing Manager.

Q. Are you the same Ted Spangenberg that submitted direct testimony in this docket?

A. Yes, I am.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address points raised in the direct testimony of Stephen Page Daniel and Archie W. Gordon, both of whom testified on behalf of Gulf Coast Electric Cooperative (GCEC) in this docket.

Q. What comments do you have with regard to the testimony of Stephen Page Daniel?

1 A. Throughout his direct testimony Mr. Daniel seems to  
2 demonstrate a concern for the economics of providing  
3 electric service to consumers. However, his endorsement  
4 of Archie Gordon's territorial boundaries proposal  
5 totally ignores some key elements of the cost and  
6 economics of utility facilities expansion. Mr. Gordon's  
7 proposal would cause additional costs when compared to  
8 the method that I proposed in my direct testimony.

9

10 Q. How does Mr. Gordon's proposal cause those additional  
11 costs?

12 A. The way he has chosen to locate the territorial  
13 boundaries fails to fully recognize the character and  
14 capability of existing facilities, thereby causing  
15 unnecessary costs for facility expansion. A couple of  
16 examples will best demonstrate this flaw in his  
17 boundaries.

18 On map 2218-NW along Hwy 279 and near the north end  
19 of the map, Mr. Gordon proposes to set the boundary  
20 along the centerline of the highway based, supposedly,  
21 on this serving as some sort of natural boundary.  
22 Should a facility with 50 kW of 3-phase motor load  
23 locate at a point immediately to the east of the  
24 boundary, Mr. Gordon's proposal would not allow Gulf  
25 Power Company to serve the load, although Gulf Power

1 would otherwise be able to serve it without constructing  
2 any additional 3-phase primary line extensions.

3 Mr. Gordon's proposal would, instead, assign the load to  
4 GCEC, although GCEC's nearest 3-phase feeder is in  
5 excess of five miles away. Mr. Gordon's proposal would  
6 cause significant additional dollars to be spent,  
7 because he set the lines without any consideration for  
8 existing capability. Any time you assign exclusive  
9 territories based on the mere existence of facilities,  
10 without regard to their character, these diseconomies  
11 will occur. This example clearly shows that least cost  
12 does not result, efficiencies are thwarted, and the best  
13 interest of the public is not served.

14 One additional example will show the absurdity of  
15 Mr. Gordon's proposal. Suppose a wood products  
16 manufacturing facility with a total load of 200 kW  
17 desired to locate <sup>near the southeast</sup> ~~at the northwest~~ corner of map 2520.  
18 Mr. Gordon's proposal would assign this customer to GCEC  
19 and would likely require GCEC to add over three miles of  
20 new 3-phase feeder from their existing feeder on Hwy 77.  
21 On the other hand, my proposal would likely allow Gulf  
22 Power to serve the customer, requiring only 500 feet or  
23 so of feeder line from its Sunny Hills Substation.  
24 Obviously, Mr. Gordon's proposal, because it assigns  
25 exclusive territory on the basis of the current location

1 of single-phase lines, would cause significant  
2 uneconomic duplication of Gulf Power's facilities,  
3 clearly in violation of FPSC policy.

4 As is clearly demonstrated in this example,  
5 Mr. Gordon's proposal fails to consider some very basic  
6 cost issues that arise in the expansion of a  
7 distribution system. Unlike my method, Mr. Gordon's  
8 proposal very crudely constructs a set of boundaries  
9 that conveniently and uneconomically reserves vast  
10 amounts of essentially unserved areas for GCEC's  
11 exclusive service and totally ignores the varying  
12 capabilities of both Gulf Power's and GCEC's existing  
13 facilities.

14

15 Q. Does this conclude your rebuttal testimony?

16 A. Yes, it does.

17

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1           Q           (By Mr. Stone) Would you please summarize  
2 your testimony?

3           A           Steven Page Daniel reports in his direct  
4 testimony that providing electric service to consumers  
5 should be based on economics; yet, he endorses Archie  
6 Gordon's territorial boundary proposal without  
7 considering its serious economic flaws.

8                       Mr. Gordon's proposal would actually cause  
9 additional, unnecessary cost to be incurred in serving  
10 new customers because his proposal fails to recognize  
11 the character and capability of existing facilities  
12 when establishing his territorial boundaries. He  
13 fails to make any distinction between the smallest  
14 single-phase primary facility and the largest  
15 three-phase distribution feeder when he draws his  
16 boundaries.

17                      My testimony provides two specific examples  
18 where his proposed boundaries actually cause  
19 uneconomic duplication rather than avoiding it. And  
20 if you would, Commissioners, I'd like to step to the  
21 map to point these out.

22                      MR. FLOYD: Chairman Johnson, I'd object to  
23 that insofar as there was never any reference to maps.  
24 I mean, there was never any exhibits attached with  
25 respect to maps to this particular testimony. And

1 whenever -- with respect to the maps or lines that he  
2 is commenting about, he's commenting about those of  
3 Archie Gordon's exhibit. They did not choose to cross  
4 examine or question Mr. Gordon with respect to those  
5 particular lines. And furthermore, have refused to  
6 specify a line when asked on the interrogatories in  
7 this particular case. And I do not -- and if it was  
8 even addressed, that if they would go through and try  
9 to show other lines that might be more appropriate or  
10 places where they might be more appropriate, that it  
11 would be the equivalent of establishing where they  
12 think the lines should be, vis-a-vis the line that  
13 Mr. Archie Gordon did.

14           So I think in light of all of that, in  
15 particular since there is no attachment map to his  
16 particular rebuttal testimony, and since Mr. Gordon's  
17 testimony was there and the maps and everything at the  
18 time that they filed their rebuttal testimony, that  
19 his references to the -- his pointing out the map or  
20 using the map should be prohibited at this time.

21           **CHAIRMAN JOHNSON:** Mr. Stone.

22           **MR. STONE:** Chairman Johnson, I believe that  
23 Mr. Spangenberg is proceeding in his summary to bring  
24 demonstration to the testimony that begins on Page 2,  
25 Line 18, where he's making reference to maps that are

1 in the record and he's going to use a demonstrative  
2 aid in order to aid him in presenting his summary of  
3 that particular passage.

4 Mr. Floyd is mistaken when he believes that  
5 we're going to be offering alternative boundary lines.  
6 Mr. Spangenberg, as he has thus far said in his  
7 summary, is demonstrating why lines on the ground are  
8 not the proper solution.

9 CHAIRMAN JOHNSON: So you're taking Page 2,  
10 Line 18, when he references certain maps and you are  
11 -- now which maps will he used in order to demonstrate  
12 and graphically show us these references?

13 MR. STONE: He is going -- perhaps  
14 Mr. Spangenberg would be the better person to tell you  
15 what he's about to do. But he's about to show on the  
16 demonstrative aids present in the room the testimony  
17 that he has, so that you can see the area that he's  
18 referring to in words in his testimony. He's using a  
19 demonstrative aid to help you in your understanding of  
20 what is there in his testimony.

21 CHAIRMAN JOHNSON: I'm going to allow it,  
22 but to the extent, Mr. Floyd, that you believe it's  
23 supplemental testimony, I'll allow you to state  
24 objections as he attempts to demonstrate what he has  
25 provided to us in this written testimony.

1 I do caution the witness that this isn't the  
2 appropriate place to supplement your testimony, but we  
3 would like to have just a demonstrative showing of  
4 these particular statements.

5 **WITNESS SPANGENBERG:** Yes, Madam Chairman,  
6 I'll certainly do that. Beginning on Page 2, Line 18  
7 of my testimony --

8 **MR. FLOYD:** Excuse me. Chairman Johnson,  
9 could I ask you to add one more clarification there,  
10 that this continues to be a summary of the testimony  
11 as opposed to an elucidation of the testimony that  
12 he's providing.

13 **COMMISSIONER CLARK:** Certainly. I think the  
14 witness understands that.

15 **WITNESS SPANGENBERG:** Yes, ma'am.

16 On Map 2218, if we imagine that a customer  
17 load of approximately 50 kW were to locate on the east  
18 side of the highway there, on Highway 279, in order  
19 for Gulf Coast to serve that load, using Mr. Gordon's  
20 boundaries, it would be necessary for them to  
21 construct a three-phase line all the way from the  
22 intersection of Highway 77 and 279, a distance of over  
23 five miles. Whereas, Gulf Power Company has  
24 three-phase facilities adequate to serve that facility  
25 right here adjacent to the load, in fact, with no Gulf

1 Coast lines between Gulf Power's lines and the load in  
2 question.

3 Absent that boundary and under today's  
4 operating practices as described by Mr. Weintritt and  
5 Dykes, with oversight from this Commission, the load  
6 could be economically served by Gulf Power Company.

7 MR. FLOYD: Madam Chairman, I would object  
8 insofar as that particular testimony is not in the  
9 prefiled. And I don't know where that particular part  
10 is. Furthermore, the map that he refers to in his  
11 prefiled testimony is 2218-northwest, along Highway  
12 79. This that he has here looks like it covers the  
13 entire part of Washington County. So I certainly  
14 don't think that this is the same reference that he  
15 was talking about in his testimony, and I think this  
16 illustrates the problem with allowing this, as kind of  
17 an ambush, to go into other matters, when it was not  
18 done in the prefiled testimony and was not attached as  
19 an exhibit.

20 COMMISSIONER CLARK: Mr. Stone.

21 MR. STONE: Commissioner, the demonstrative  
22 aid that is up there is a series of maps that have  
23 been pasted together. I can assure you that if we  
24 need to go to the trouble to get the individual map  
25 that was referred to in the testimony, and you were to

1 take that individual map and lay it up there on that  
2 board you would find that it is, in fact, the same.

3           **COMMISSIONER CLARK:** I'm going to allow the  
4 testimony to stand. I find that this demonstrative  
5 aid is beneficial to the extent that there are issues  
6 that you can bring up in your cross. I'll allow you  
7 some latitude to do that, but I'll allow the testimony  
8 to stand.

9           **WITNESS SPANGENBERG:** Thank you.

10           In the second example imagine that a 200 kW  
11 wood pallet or furniture manufacturing facility were  
12 to locate here on this map, that map that's referenced  
13 in my testimony, Map 2520, just east of Gulf Power's  
14 of Sunny Hills substation require three-phase  
15 facilities to serve that. Gulf Coast Electric  
16 Cooperative's nearest three-phase facilities are way  
17 over here on Highway 77, a distance of over three  
18 miles away. Whereas, Gulf Power Company has a  
19 distribution substation immediately adjacent to the  
20 site. And Mr. Gordon's boundary would, in fact,  
21 preclude Gulf Power from serving that. And in that  
22 sense, his boundary, for Gulf Coast to have to then  
23 construct three-phase facilities to serve this load  
24 would, in fact, we believe, uneconomically duplicate  
25 Gulf Power's existing facilities. In that sense

1 Mr. Gordon's boundaries, which were drawn simply on  
2 the basis of single-phase lines would, in fact, cause  
3 uneconomic duplication rather than reduce it. Thank  
4 you.

5 MR. STONE: Tender for cross examination.

6 CHAIRMAN JOHNSON: Mr. Floyd.

7 MR. FLOYD: No questions.

8 CHAIRMAN JOHNSON: Staff.

9 MS. JOHNSON: No questions.

10 CHAIRMAN JOHNSON: Commissioners? Seeing  
11 none, no redirect?

12 MR. STONE: No redirect.

13 CHAIRMAN JOHNSON: And there were no  
14 exhibits?

15 MR. STONE: And no exhibits.

16 CHAIRMAN JOHNSON: You're excused. Thank  
17 you, sir.

18 (Witness Spangenberg excused.)

19 - - - - -

20 MR. STONE: Commissioners, Mr. Spangenberg  
21 has a funeral he would like to attend in Chipley, so  
22 based on you having excused him from the stand, I'd  
23 like to excuse him in allowing him to leave.

24 CHAIRMAN JOHNSON: Certainly.

25 Are there any other witnesses where there

1 will not be any cross or questions or have the parties  
2 collaborated on that to determine if there are any  
3 others that we can excuse?

4           **MR. STONE:** There has been no collaboration,  
5 Commissioner.

6           At this point, depending upon how the  
7 witnesses present themselves when they take the stand,  
8 I do not anticipate extensive cross of any of the  
9 Cooperative's witnesses. There may be some, but I  
10 don't anticipate it to be as extensive as the cross  
11 has been of the direct witnesses.

12           **MR. HASWELL:** We don't anticipate a whole  
13 lot of cross, either, of the Gulf Power witnesses, if  
14 they'll just answer the questions.

15           **MS. JOHNSON:** We have none or very little of  
16 the remaining witnesses.

17           **CHAIRMAN JOHNSON:** I didn't hear the other  
18 parties say they have none, so there will be some  
19 questions, then, for the remaining? We'll just go  
20 through them.

21           **MR. STONE:** Mr. Weintritt is taking the  
22 stand.

23

24

25

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

5                                   **DIRECT EXAMINATION**

6 **BY MR. STONE:**

7           **Q**     Mr. Weintritt, you are the same William C.  
8 Weintritt who previously testified on direct in this  
9 proceeding; is that correct?

10           **A**     Yes.

11           **Q**     Did you prefile rebuttal testimony in this  
12 proceeding dated December 20, 1996?

13           **A**     I did.

14           **Q**     Do you have any changes or corrections to  
15 your prefiled rebuttal testimony?

16           **A**     I do not.

17           **Q**     If I were to ask you the questions contained  
18 in your prefiled rebuttal testimony, would your  
19 responses be the same?

20           **A**     They would.

21                   **MR. STONE:** We would ask that  
22 Mr. Weintritt's prefiled rebuttal testimony dated  
23 December 20, 1996, be inserted into the record as  
24 though read.

25                   **CHAIRMAN JOHNSON:** It will be so inserted.

1           Q        (By Mr. Stone) Mr. Weintritt, were there  
2 some exhibits attached to your prefiled rebuttal  
3 testimony?

4           A        Yes there were.

5           Q        Would you please describe them for us?

6           A        There are two sets of our grid coordinate  
7 maps.

8           Q        And these are labeled WCW-6A through --

9           A        C.

10          Q        C. And WCW-7A through C?

11          A        That's correct.

12          Q        We would ask that these be identified with  
13 an exhibit number.

14                   **CHAIRMAN JOHNSON:** They will be given  
15 Exhibit No. 14, and a short-titled WCW -- "Composite  
16 Exhibit WCW-6 and 7."

17                   (Exhibit 14 marked for identification.)

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## 1 GULF POWER COMPANY

2 Before the Florida Public Service Commission  
3 Rebuttal Testimony of  
4 William C. Weintritt  
5 Docket No. 930885-EU

6 Date of Filing: December 20, 1996

7 Q. What is your name and job title with Gulf Power Company?

8 A. My name is William C. Weintritt and my job title is  
9 Power Delivery Manager.

10 Q. Are you the same William C. Weintritt that prepared  
11 direct testimony in this docket?

12 A. Yes, I am.

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

14 A. The purpose of my rebuttal testimony is to respond to  
15 statements made by Archie W. Gordon and explain why a  
16 continuous boundary line fully encircling Gulf Power's  
17 facilities is not in the best interests of the electric  
18 customers in Bay and Washington counties or Gulf Power.

19 I also will respond to statements made by Stephen  
20 Page Daniel and Todd F. Bohrmann and explain how utility  
21 lines may cross one another safely.

22  
23 Q. Do you have any exhibits to which you will refer in the  
24 course of your testimony?

25 A. Yes. I have two exhibits, each having three subparts.



1 territorial disputes between Gulf Power and GCEC as  
2 being "continuous"?

3 A. No. The only dispute between these two utilities in  
4 over ten years occurred over service to the Washington  
5 County Correctional Institute when GCEC duplicated the  
6 existing lines of Gulf Power along Highway 279. I  
7 hardly consider one dispute in over ten years as being  
8 "continuous".

9

10 Q. Page 7, lines 11 through 15 of Mr. Gordon's testimony,  
11 refers to a Department of Transportation map of Bay  
12 County, Florida, Exhibit No. \_\_\_\_ (AWG-2) where Mr. Gordon  
13 attempts to depict Gulf Power and GCEC electric  
14 facilities. Does this exhibit accurately depict Gulf  
15 Power's facilities?

16 A. No. I would estimate that less than one tenth of Gulf  
17 Power's facilities in Bay County are shown on  
18 Mr. Gordon's exhibit. The scale would not allow Gulf  
19 Power's facilities to be shown properly. This is an  
20 obvious attempt to distort the amount of facilities  
21 being shown as owned by Gulf Power in Bay County.

22

23 Q. Pages 8, 9 and 10 of Mr. Gordon's testimony are devoted  
24 to drawing a continuous boundary in Bay County to, as  
25 Mr. Gordon says, "provide closure". Is it necessary to

1 have a continuous boundary line throughout Bay County to  
2 prevent uneconomic duplication of facilities?

3 A. Absolutely not. The obvious intent of Mr. Gordon's  
4 proposed continuous boundary line in Bay County is to  
5 completely encircle Gulf Power's lines and prevent us  
6 from growing beyond where we presently have facilities.  
7 The "closure" that would be provided is that Gulf Power  
8 would be closed off from serving the vast amount of  
9 unserved area in Bay County and GCEC would be free to  
10 expand at will.

11

12 Q. What other problems do you have with this proposed  
13 "continuous" boundary line"?

14 A. Mr. Gordon's method establishes a fixed boundary line to  
15 be utilized in determining which company will provide  
16 service to all future customer loads based on the  
17 presence of distribution lines existing at this point in  
18 time without regard to the size and characteristics of  
19 the load that may develop in the future and regardless  
20 of the adequacy of those lines to serve future load.  
21 Mr. Gordon's method also eliminates customer choice and  
22 will deny many customers lower priced electric service  
23 with higher reliability even if uneconomic duplication  
24 of facilities is not an issue. Quite simply,  
25 Mr. Gordon's method prematurely determines the electric

1 supplier for an area without knowing which conditions  
2 might change drastically long before the service is  
3 needed.

4

5 Q. On page 11, Mr. Gordon describes six factors he  
6 considered in establishing a proposed territorial  
7 boundary line. Did Mr. Gordon fully utilize these  
8 factors in establishing his proposed boundary line?

9 A. No. In many instances topographical and geographical  
10 features were totally ignored. One such instance is on  
11 Map 2633. Mr. Gordon departs from Bayou George Creek  
12 then strikes out cross-country near the north end of  
13 Cemetery Road. This contrived boundary passes within  
14 100 feet of Gulf Power's facilities yet GCEC's lines are  
15 several thousand feet away. There are many other  
16 instances where the boundary was drawn immediately  
17 adjacent to Gulf Power's lines with GCEC's lines being a  
18 great distance away. One other such instance is on Map  
19 2731. In this case, Mr. Gordon has drawn a boundary  
20 within 100 feet of Gulf Power's facilities in Cedarwood  
21 Subdivision while GCEC's lines are thousands of feet  
22 distant. Other examples include utilizing through  
23 feeders to establish service rights where no service is  
24 presently being provided by GCEC. One such instance is  
25 shown on Map 2633 where, just east of the US Highway 231

1 bridge over Bayou George, Mr. Gordon's proposed boundary  
2 departs from the creek and apparently uses the presence  
3 of a "through feeder" to claim a parcel long served by  
4 Gulf Power. These three examples are shown in my  
5 exhibit WCW-6, pages a, b, and c, respectively.

6

7 Q. Do the problems previously described for Mr. Gordon's  
8 continuous boundary line in Bay County also apply to his  
9 description of a continuous boundary line in Washington  
10 County?

11 A. Yes. Again, one such example is on Map 2521 where  
12 Mr. Gordon's proposed boundary confines Gulf Power to  
13 Sunny Hills proper and allocates several square miles of  
14 unserved territory to GCEC. This is done  
15 notwithstanding GCEC's scant presence on this map.  
16 Another instance occurs at the west side of Map 2519.  
17 Here Mr. Gordon's arbitrary line lops off a Gulf Power  
18 line section with GCEC not even present on this portion  
19 of the map. Moreover, that Gulf Power line continues  
20 onto Map 2419 yet Mr. Gordon assigns Map 2419 in it's  
21 entirety to GCEC. GCEC is present only in the immediate  
22 vicinity of Highway 77, yet claims three and one-half  
23 square miles. These three examples are shown in my  
24 exhibit WCW-7, pages a, b, and c, respectively.

25

1 Q. Pages 11 and 12 of Mr. Daniel's testimony describe  
2 examples of the adverse impact of "needless  
3 duplication". Do you agree with Mr. Daniel's opinion?

4 A. No, I do not. Mr. Daniel's examples do not completely  
5 describe any of the situations he proposes. Mr.  
6 Daniel's example of an automobile leaving the roadway  
7 implies that this risk is greater only where duplicate  
8 electrical distribution lines exist. In fact, there  
9 almost always will be utility poles along both sides of  
10 any roadway which also has dwellings or businesses on  
11 both sides of that road. This situation is common  
12 throughout the entire country. In fact, where joint use  
13 agreements exist, those "duplicate" pole lines often  
14 have different owners, one being an electrical utility  
15 and the other a telecommunication utility. Poles on  
16 both sides of roads are necessary to provide sufficient  
17 safe clearance over the roadway for power and  
18 telecommunication lines crossing to serve consumers  
19 opposite the main line. There are numerous regulations  
20 governing the safe placement of any poles on public  
21 right-of-way. These include the Florida Department of  
22 Transportation Utility Accommodation Guide as well as  
23 County and Municipal ordinances adopting similar  
24 standards. These Guides contain permitting provisions  
25 which cause review and approval of most proposed pole

1 locations prior to any actual installation. The  
2 National Electrical Safety Code also contains language  
3 addressing safe placement of utility poles. Compliance  
4 with these safety standards will mitigate the hazard to  
5 the motoring public no matter the ownership or purpose  
6 of any utility pole.

7 Mr. Daniel also states that crossing lines can  
8 lead to voltage problems and equipment damage. It is  
9 true that unusual voltages can damage equipment, but the  
10 number of times when sagging lines cause the damage is  
11 so small as to be almost nonexistent. In my experience  
12 during the more than thirty years I have been associated  
13 with the electrical power industry in the southeastern  
14 states, the total number of damage cases due to crossing  
15 lines sagging into one another does not equal the damage  
16 caused by any average individual thunderstorm. In fact,  
17 one of the most frequent "crossers" of electrical  
18 distribution lines is the State of Florida. There are  
19 hundreds of traffic signals owned by the Florida  
20 Department of Transportation supported by messenger  
21 cables which cross in close proximity to Gulf Power's  
22 electrical lines. I am unaware of any instances of  
23 damage to those facilities due to sagging into each  
24 other. I suppose that the Department of  
25 Transportation's (DOT) engineers share my belief or they

1 would not have perpetuated these conditions for so many  
2 years. In addition to the Florida DOT, GCEC's own  
3 engineers seem indifferent to this supposed hazard.  
4 They have constructed a distribution system which  
5 crosses back and forth under Gulf Power's 115,000 volt  
6 and 230,000 volt transmission lines at many locations.  
7 Again, I suppose if they really thought that lines  
8 sagging into one another was a problem they would have  
9 pursued alternative designs. In any case, the NESC  
10 specifically addresses the grade of construction and  
11 clearance distances to be used when erecting crossing  
12 lines. Compliance with these design criteria will  
13 mitigate any risk to consumers or utilities alike.

14

15 Q. Does this conclude your rebuttal testimony?

16 A. Yes, it does.

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

3 A The purpose of my rebuttal is to explain why  
4 a boundary is not in the best interest of electric  
5 customers. I also explain how utility lines may cross  
6 one another safely.

7 Mr. Gordon has described Gulf Power as  
8 scarce in the rural areas of Bay and Washington  
9 Counties. In fact, Gulf Power's first service ever  
10 was rendered in Washington County in 1926. By 1940  
11 Gulf Power had extended service into areas of both  
12 south Washington and north Bay County. In addition to  
13 other customers in those areas, Gulf Power even  
14 provided the Cooperative with its initial service.  
15 Gulf Power continued to provide Gulf Coast total  
16 energy requirement until the Cooperative terminated  
17 that relationship in 1981.

18 Mr. Gordon's implication that Gulf Power  
19 served rural areas just prior to the Cooperative is  
20 not true. Gulf Power served rural customers for years  
21 prior to the existence of the Cooperative and  
22 continues to do so today.

23 The fixed boundary lines proposed by  
24 Mr. Gordon should not be adopted. In fact, no fixed  
25 lines should be drawn because customer choice will be

1 precluded and orderly economic expansion of the power  
2 distribution system will be hampered.

3           Since future development is uncertain at  
4 best, the flexible guidelines proposed by Gulf Power  
5 are essential. These guidelines allow choice, promote  
6 orderly expansion, and avoid uneconomic duplication  
7 resulting in no disputes.

8           There is no doubt that the safety of persons  
9 must be a primary factor in the placement of any  
10 utility facilities. The possibilities involving  
11 vehicles and crossing wires described by Mr. Daniel  
12 and Mr. Bohrmann do exist, but not just in areas with  
13 two utilities in proximity. For instance, there are  
14 many thousands of crossings with telecommunications  
15 utilities and there are poles on both sides of roads  
16 far away from any other electric companies. The state  
17 of Florida even crosses power lines and places poles  
18 on both sides of road at virtually every traffic  
19 signal. These possibilities are widely recognized and  
20 have led to the development of design criteria and  
21 construction rules which mitigate those dangers.  
22 These include the Department of Transportation's  
23 utility accommodation guide, similar county and  
24 municipal ordinances, and the National Electrical  
25 Safety Code, which has been adopted by this Commission

1 as a utility safety standard.

2 This standard is not written to assure  
3 economical placement of poles or to make line  
4 crossings efficient. It solely addresses safety  
5 concerns. The NESC states as its purpose "The purpose  
6 of these rules is the practical safeguarding of  
7 persons during the installation, operation or  
8 maintenance of electric supply and communication lines  
9 and associated equipment. These rules contain the  
10 basic provisions that are considered necessary for the  
11 safety of employees and the public under the specified  
12 conditions." Gulf Power follows these rules and  
13 constructs and maintains its facilities in a safe  
14 manner. That concludes my summary.

15 MR. STONE: We tender for cross examination.

16 CROSS EXAMINATION

17 BY MR. HASWELL:

18 Q Thank you, sir. Is the quote that you just  
19 cited in your summary listed in your rebuttal  
20 testimony, Mr. Weintritt?

21 A Is the quote listed in my rebuttal?

22 Q Right.

23 A I don't think the quote is. My reference is  
24 to the NESC is in my rebuttal.

25 Q Referring to your Exhibits WCW-6A, B and C

1 and WCW-7A, B and C, did you at any time discuss with  
2 Mr. Gordon whether or not he evaluated each one of the  
3 line segments that are referred in your circled areas?  
4 How each of his six criteria applied?

5       **A**     No, I did not.

6       **Q**     Okay. Did you or anybody from Gulf Power  
7 file any discovery requests, or request any deposition  
8 in this case that Mr. Gordon explain or evaluate how  
9 each of his six criteria applied to those areas  
10 identified by you in WCW-6 and WCW-7?

11       **A**     Not that I recall.

12       **Q**     (By Mr. Haswell) I have no further  
13 questions.

14               **CHAIRMAN JOHNSON:** Staff?

15               **MS. JOHNSON:** None.

16               **CHAIRMAN JOHNSON:** Commissioners? Redirect?

17               **MR. STONE:** No redirect. We would move the  
18 admission of Exhibit 14 into evidence.

19               **CHAIRMAN JOHNSON:** Show it admitted without  
20 objection.

21               (Exhibit 14 received in evidence.)

22               **CHAIRMAN JOHNSON:** Thank you, sir. You're  
23 excused.

24               (Witness Spangenberg excused.)

25               **MR. STONE:** Our next witness will be Russell

1 Klepper.

2 Commissioner, I need to approach the witness  
3 for a moment. May I?

4 CHAIRMAN JOHNSON: Go ahead. (Counsel  
5 approaches witness.)

6 - - - - -

7 **RUSSELL L. KLEPPER**

8 was called as a rebuttal witness on behalf of Gulf  
9 Power Company and, having been duly sworn, testified  
10 as follows:

11 **DIRECT EXAMINATION**

12 **BY MR. STONE:**

13 Q Mr. Klepper, would you please state your  
14 name and affiliation for the record?

15 A My name is Russell L. Klepper. I'm the  
16 principal of Rawson, Klepper & Company in a suburb of  
17 Atlanta.

18 Q And did you prefile rebuttal testimony in  
19 this proceeding dated December 20, 1996?

20 A Yes, I did.

21 Q Do you have any corrections or changes to  
22 your prefiled rebuttal testimony?

23 A I have two. First, I would withdraw on  
24 Page 1, Lines 11 through 14. The second change would  
25 be on Page 2, Line 14, the reference in my testimony

1 to Mr. Daniel's testimony should be to "Page 20,  
2 Lines 11 through 16," not to Page 11.

3 Q With these changes noted, if I were to ask  
4 you the questions contained in your rebuttal  
5 testimony, would your responses be the same?

6 A Yes, they would.

7 MR. STONE: We'd ask that Mr. Klepper's  
8 prefiled rebuttal testimony dated December 20, 1996,  
9 be inserted into the record as though read.

10 CHAIRMAN JOHNSON: It will be so inserted.

11 Q (By Mr. Stone) Mr. Klepper, am I correct  
12 that there are no exhibits to your prefiled rebuttal  
13 testimony?

14 A That's correct.

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

4

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

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

10

~~11 Q. Are you the same Russell L. Klepper that prepared and  
12 submitted direct testimony on behalf of Gulf Power  
13 Company in the second phase of this docket?~~

~~14 A. Yes, I am.~~

15

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

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

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

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

5    A.    Both GCEC witnesses assert in testimony that an  
6           appropriate consideration in the Commission's  
7           deliberations in the instant matter should be whether one  
8           of the two utilities "declined to provide service during  
9           the past historical operating period" (see Gordon  
10          testimony, page 11, lines 12-14) or "if a utility  
11          historically was not prepared to serve an area, or for  
12          any reason was not ready, willing, and able to serve an  
13          area, or refused to serve an area" (see Daniel testimony,  
14          page ~~11~~<sup>20</sup>, lines 11-16).

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

23

24    Q.    How do you respond to these assertions?

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

11

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

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

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

8

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

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

22

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

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

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

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

15

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

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

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

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

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

22

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

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

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

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

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

13 A.   Mr. Bohrmann's testimony reflects his concern that the  
14 electric service available to customers within the State  
15 of Florida should be safe, reliable, and cost effective.  
16       Gulf Power has had its operating expenses reviewed by  
17 this Commission on numerous occasions within the context  
18 of rate case and other proceedings. However, there is no  
19 evidence upon which this Commission can rely regarding  
20 the propriety of GCEC's costs.

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

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

8

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

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

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

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

24

1 Q. Does this conclude your rebuttal testimony?

2 A. Yes, it does.

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1           Q        **(By Mr. Stone)** Would you please summarize  
2 your rebuttal testimony?

3           A        Yes, good afternoon, Commissioners.

4                    Properly viewed, this case is not about the  
5 interests of Gulf Power versus the interest of Gulf  
6 Coast. Instead, this case should be about Florida's  
7 electric customers and how those customers should be  
8 served in the future.

9                    To a great extent Gulf Coast bases its  
10 arguments for strict territorial boundaries on its  
11 perception of historical presence and its desire for  
12 economic protection. By contrast Gulf Power  
13 acknowledges an increasingly competitive electric  
14 industry and premises its case on the overriding  
15 importance of economic efficiency.

16                   Throughout this proceeding Gulf Coast has  
17 sought to gain favor with this Commission by implying  
18 in its prefiled testimony that Gulf Power previously  
19 refused to provide electric service or otherwise  
20 failed to fulfill its obligation to serve the  
21 geographic areas where Gulf Coast and Gulf Power's  
22 facilities are now in close proximity.

23                   I'm here today to emphasize that such  
24 statements are wholly inaccurate and unsupported by  
25 any credible evidence.

1           Moreover, even if Gulf Coast's assertions  
2 were true, which they are not, the question of  
3 historical presence is irrelevant in the context of  
4 this proceeding. The Commission is aware that  
5 restructuring initiatives permeate the electric  
6 industry. If historical arrangements are no longer  
7 anticipated to lead to the greatest economic  
8 efficiency, then it is inappropriate to make decisions  
9 affecting future electric service customers by  
10 reference to preexisting industry structures that no  
11 longer apply.

12           However, if historical presence is deemed by  
13 the Commission to be an important factor in their  
14 decision, the truth is that Gulf Power has been  
15 providing retail electric service in Washington County  
16 since 1926, Gulf Power Company's very inception as an  
17 electric utility. In fact, from Gulf Power's  
18 inception until 1981, Gulf Power bore the  
19 preponderance of the electric service responsibility  
20 in this area even for Gulf Coast's retail customers by  
21 providing all generating and transmission facilities  
22 and incurring all attending expenses necessary to  
23 provide reliable wholesale service to Gulf Coast. In  
24 fact, Gulf Power continues to serve more rural  
25 customers in Northwest Florida than the four Northwest

1 Florida rural cooperatives combined.

2           Turning to the testimony of Mr. Bohrmann,  
3 the witness for the Commission Staff, his motives are  
4 commendable but his reasoning is flawed.  
5 Mr. Bohrmann's testimony reflects the Staff's concern  
6 that electric service to Florida consumers should be  
7 safe, reliable and cost-effective. However, he  
8 erroneously imputes those qualities to both Gulf Power  
9 and Gulf Coast.

10           This Commission has, within the context of  
11 numerous ratemaking proceedings, examined the  
12 cost-effectiveness of Gulf Power. However, because  
13 Gulf Coast is not rate regulated by this Commission  
14 and has never been subject to regulatory scrutiny of  
15 its cost, the presumption that Gulf Coast operates on  
16 a cost-effective basis is unsupported by evidence and  
17 renders Mr. Bohrmann's conclusions to be similarly  
18 unsupportive.

19           After all is said and done, the Commission's  
20 decision in this proceeding should reflect its  
21 regulatory responsibility to protect Florida's  
22 electric customers. With that objective, the  
23 Commission should decide whether the economic interest  
24 of future electric customers will be better served by  
25 continuing the existing policy of settling disputes on

1 the basis of optimum economic efficiency. Under this  
2 circumstance, the interests of future Florida electric  
3 customers will be better protected and preserved by  
4 maintaining one-time customer choice for new customers  
5 instead of drawing territorial boundaries. Thank you.

6 MR. STONE: Tender for cross examination.

7 CHAIRMAN JOHNSON: Any cross?

8 CROSS EXAMINATION

9 BY MR. FLOYD:

10 Q Mr. Klepper, you do not know -- according to  
11 you, you do not have any knowledge of any instance  
12 where Gulf Power has ever refused to provide service  
13 when requested, do you?

14 A I do not.

15 MR. FLOYD: I don't have any further  
16 questions.

17 CHAIRMAN JOHNSON: Staff.

18 CROSS EXAMINATION

19 BY MS. JOHNSON:

20 Q Do you have any evidence that Gulf Coast  
21 Electric Cooperative does not provide cost-effective  
22 service?

23 A Sure, there's lots of it.

24 Q What is it?

25 A Well, we could use, for example, that by any

1 standard test that's ever been done in the industry or  
2 any academic paper that anybody wished to look at,  
3 that Gulf Coast is clearly suboptimum in size. They  
4 are very small. They could, for instance, obtain  
5 tremendous economic efficiencies, even by combining  
6 with their rural electric cooperative brethren, but  
7 they apparently choose not to do so.

8           There's been a study done, for instance, in  
9 Kentucky which examined two rural cooperatives of  
10 similar size that were next to each other, and the  
11 study showed on an annual basis they would have more  
12 than a million dollars a year of savings from the  
13 administration -- savings from administration just in  
14 distribution operations and in meter reading and the  
15 meter reading customer accounting operations, even if  
16 they did not eliminate any duplicative management.

17           There are other examples in the power that  
18 they take from Alabama Electric Cooperative. For  
19 instance, there was a situation that occurred a few  
20 years ago where the City of Opelika, Alabama, had  
21 excess generating capacity and was attempting to annex  
22 service territory that was served by Opelika EMC,  
23 which is a member of Alabama Electric Cooperative, as  
24 is Gulf Coast. And the solution to that was that  
25 Alabama Electric Cooperative acquired that excess

1 generation that they didn't need at a cost of almost  
2 60 mills per kilowatt-hour and spread that cost over  
3 all of the customers, including the four Northwest  
4 Florida rural Electric Cooperatives.

5 I think that there's ample evidence that  
6 they are not as cost-effective as they could be or  
7 should be. I mean, I will cite -- I don't want to  
8 belabor the point, but I'll cite another example if  
9 you wish and it's from the first phase of this  
10 proceeding.

11 One of the big issues in this proceeding was  
12 the reeling up of the red sap line that went through  
13 the middle of the territory or the piece of land that  
14 I now the proceeding -- that is not the prison.

15 One of the questions that we asked and an  
16 answer that they provided, is that there was some  
17 customers on the back side of the prison site. They  
18 spent \$38,000 to reel up a line and rebuild the line  
19 around in order to serve the customers on the back  
20 side, which had aggregate revenues by their on  
21 information of annual revenues of \$2,200 a year. And  
22 they spent \$38,000 to maintain \$2,200 in revenues at a  
23 time when Gulf Power's existing facilities were only  
24 about 200 feet, and they could have transferred those  
25 customers on to Gulf Power for probably not more than

1 \$1,500. But instead they spent \$38,000 to maintain  
2 those customers. That is not a cost-effective way to  
3 operate.

4 Q As a result, have you conducted any specific  
5 analysis of Gulf Coast's operations, their overall  
6 operations?

7 A No, I have not.

8 MS. JOHNSON: Nothing further.

9 CHAIRMAN JOHNSON: Commissioners? No  
10 redirect?

11 MR. STONE: No redirect.

12 MR. FLOYD: No questions.

13 (Witness Klepper excused.)

14 MR. STONE: Our final witness is  
15 Mr. Holland.

16 - - - - -

17 G. EDISON HOLLAND, JR.

18 was called as a rebuttal witness on behalf of Gulf  
19 Power Company and, having been duly sworn, testified  
20 as follows:

21 DIRECT EXAMINATION

22 BY MR. STONE:

23 Q Would you please state your name and  
24 affiliation for the record?

25 A Yes. Ed Holland with Gulf Power Company.

1           Q     And you're the same Ed Holland who  
2 previously testified in this proceeding?

3           A     Yes, I am.

4           Q     Did you prefile rebuttal testimony in this  
5 proceeding dated December 20, 1996?

6           A     Yes, I did.

7           Q     Do you have any changes or corrections to  
8 that prefiled rebuttal testimony?

9           A     No, I do not.

10          Q     If I were to ask you the questions, would  
11 your responses be the same?

12          A     Yes.

13          Q     Did you have an exhibit attached to your  
14 prefiled rebuttal testimony?

15          A     Yes, I did.

16          Q     And is that exhibit identified as GEH-6?

17          A     That is correct.

18                **MR. STONE:** We would ask Mr. Holland's  
19 testimony be inserted into the record as though read.

20                **CHAIRMAN JOHNSON:** It will be so inserted.

21                **MR. STONE:** Could we have an exhibit number  
22 for GEH-6?

23                **CHAIRMAN JOHNSON:** It will be marked as  
24 Exhibit 15 and short title "GEH-6."

25                **MR. STONE:** Thank you.

(Exhibit 15 marked for identification.)

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## 1 GULF POWER COMPANY

2 Before the Florida Public Service Commission  
3 Rebuttal Testimony of  
4 G. Edison Holland, Jr.  
5 Docket No. 930885-EU  
6 Date of Filing: December 20, 1996

7 Q. What is your name and affiliation?

8 A. I am Ed Holland of Gulf Power Company.

9 Q. Are you the same Ed Holland that prepared direct  
10 testimony in this docket?

11 A. Yes, I am.

12  
13 Q. What is the purpose of your rebuttal testimony?

14 A. The purpose of my testimony is to respond to the  
15 testimony of the Commission Staff Witness, Mr. Todd  
16 Bohrmann and the Gulf Coast Electric Cooperative (GCEC)  
17 witness, Mr. Stephen Daniel.

18  
19 Q. Do you have any exhibits to which you will refer during  
20 the course of your rebuttal testimony?

21 A. Yes. I have one composite exhibit which is marked  
22 GEH-6.

23 Counsel: We ask that Mr. Holland's  
24 exhibit, GEH-6, be marked for  
25 identification as Exhibit 15.

1 Q. What are your concerns with the testimony of  
2 Mr. Bohrmann?

3 A. Mr. Bohrmann has improperly characterized Gulf Power's  
4 policy towards territorial issues. In addition, he has  
5 proposed a method for dealing with territorial issues  
6 that is inconsistent with the Commission's past  
7 practice.

8  
9 Q. How has Mr. Bohrmann improperly characterized Gulf  
10 Power's attitude towards territorial issues?

11 A. On Page 6 of his direct testimony, he cites statistics  
12 about the number of disputes between Gulf Power and  
13 GCEC, and then cites statistics about the number of  
14 disputes Gulf Power has been involved in compared to the  
15 other three large investor-owned utilities in the State.  
16 He makes a clear implication that Gulf Power has a  
17 predisposition towards disputes. That is plainly not  
18 the case.

19 Of the 11 disputes to which Mr. Bohrmann makes  
20 reference in his testimony (page 6, line 8), all of  
21 those occurred with rural electric cooperatives who have  
22 full requirements purchase obligations with Alabama  
23 Electric Cooperative (AEC), a foreign corporation not  
24 under the jurisdiction of this Commission. As a  
25 generation and transmission cooperative serving

1 distribution cooperatives in Alabama and Florida, AEC  
2 portrays its wholesale service area as the "51st state",  
3 graphically illustrating AEC's territorial mindset.  
4 This is shown by a promotional brochure which is my  
5 exhibit GEH-6. Interestingly enough, nine of those 11  
6 disputes occurred between 1981 and 1988, when the  
7 cooperatives, including GCEC, systematically terminated  
8 their various wholesale power delivery points from Gulf  
9 Power in favor of taking wholesale power from AEC. A  
10 more studied and objective consideration reveals that if  
11 any utility has had a predisposition for disputes it has  
12 been those that have made 30-year full requirements  
13 commitments to AEC.

14 Of the 11 disputes with all four of the electric  
15 cooperatives in Northwest Florida in the 22 years that  
16 the Commission has had jurisdiction over territorial  
17 disputes, there were eight in which Gulf Power either  
18 prevailed before the Commission or the complaint was  
19 voluntarily abandoned by the cooperative. This record,  
20 in and of itself, clearly demonstrates the validity and  
21 appropriateness of Gulf Power's actions. In spite of  
22 this, Mr. Bohrmann has apparently allowed the raw number  
23 of disputes to persuade him to succumb to GCEC's desire  
24 for "lines on the ground."

25 Gulf Power borders other utilities, such as Florida

1 Public Utilities-Marianna Division, City of Blountstown,  
2 and Florida Power Corporation, and has never had a  
3 territorial dispute with these other utilities. This is  
4 true notwithstanding the fact that there are no  
5 established territorial boundaries or "lines on the  
6 ground" between Gulf Power and these other neighboring  
7 utilities. This is further evidence that the existing  
8 mechanisms described by Mr. Weintritt in his direct  
9 testimony works well to avoid the further uneconomic  
10 duplication of facilities.

11

12 Q. How is Mr. Bohrmann's proposal for territorial  
13 boundaries inconsistent with the Commission's past  
14 practices in resolving territorial disputes?

15 A. Territorial disputes between electric providers in  
16 Florida have previously been resolved in one of two  
17 ways. First, the parties have come to agreement as to  
18 which entity should serve a customer or group of  
19 customers, and have submitted their agreement to the  
20 Commission for approval. Secondly, the parties have  
21 submitted their dispute to the Commission for decision  
22 as to which entity should serve the disputed customer or  
23 group of customers. The Commission has never actually  
24 drawn arbitrary lines on the ground between two  
25 utilities without the agreement of the affected

1 utilities. The Commission has wisely declined to  
2 exercise its jurisdiction over territorial matters when  
3 there is only an indication of a "potential" dispute.  
4 Mere allegations that a controversy is imminent are not  
5 sufficient. Instead, the Commission has historically  
6 limited itself to "actual and real" controversies. In  
7 Order No. 15348, issued November 12, 1985, in Docket  
8 No. 850132-EU, the Commission granted Gulf Power  
9 Company's Motion to Dismiss Chelco's amended petition  
10 with prejudice. That order states:

11 "Chelco also alleges that a territorial dispute  
12 between the two utilities now exists, and that a  
13 Commission determination of boundary lines is  
14 necessary under Subsection 366.04(2)(e), Florida  
15 Statutes. According to the amended petition, no  
16 controversy over customers or territory has yet  
17 occurred, but Chelco believes that such controversy  
18 is "imminent." However, Subsection 366.04(2)(e),  
19 Florida Statutes, speaks in terms of an existing  
20 territorial dispute, and unless and until an actual  
21 and real controversy arises, no statutory basis for  
22 interceding in a potential dispute exists."

23 Although Section 366.04(2)(e) was amended by the  
24 legislature in 1989 to clarify that the Commission could  
25 resolve a territorial dispute on its own motion (in

1 addition to acting on the petition of a utility), this  
2 amendment did not change the statute to abolish the  
3 requirement that an actual and real controversy exist.  
4

5 Q. These areas which Mr. Bohrmann has identified as areas  
6 of potential dispute are those in which he deems the  
7 distribution lines of each utility to be in close  
8 proximity. Do you agree with the premise that such  
9 areas warrant preemptive action by the Commission?

10 A. Absolutely not. There is apparently an assumption on  
11 the part of Mr. Bohrmann that the construction of the  
12 lines which are in close proximity occurred as a result  
13 of uneconomic duplication of facilities. In the vast  
14 majority of instances, this is simply not the case. For  
15 example, in many instances the lines came to be within  
16 close proximity as the result of the natural growth of  
17 both parties' distribution systems. In other instances,  
18 one or both parties constructed distribution facilities  
19 from one load center to another. As the load grew  
20 between these two points of service, it was economical  
21 for either party to provide electric service to these  
22 customers. Under this scenario, customer choice is the  
23 appropriate determining factor. The point is that  
24 uneconomic duplication has rarely, if ever, occurred in  
25 those areas where the lines are in close proximity and

1           that the service to new customers in those areas will  
2           not result in the "further uneconomic duplication of  
3           facilities."

4  
5    Q.    What concerns do you have with Mr. Bohrmann's specific  
6           proposal for territorial boundaries?

7    A.    As stated in my direct testimony, Gulf Power has serious  
8           concerns with any territorial arrangement, such as  
9           specific geographical delineations, which preclude a  
10          customer from receiving reliable, economical power from  
11          a utility that could provide that service without the  
12          further uneconomic duplication of electric facilities.  
13          Not only does Mr. Bohrmann propose specific geographical  
14          delineations, i.e. "lines on the ground", he  
15          specifically calls for them in areas where Gulf Power's  
16          and GCEC's "distribution lines are in close proximity of  
17          each other, commingled or both" (page 9, lines 1-2). He  
18          cites one example in which the lines of the two  
19          utilities are less than 100 feet apart (page 7, line 4).  
20          As I stated earlier, a basic flaw in Mr. Bohrmann's  
21          premise is that when facilities are in such close  
22          proximity, it is nearly impossible for uneconomic  
23          duplication to occur in the future. When distribution  
24          facilities are already within 100 feet of each other, a  
25          customer located anywhere between the two could be

1 served by either utility without any significant  
2 incremental duplication of the other's facilities, much  
3 less any uneconomic duplication.  
4

5 Q. Mr. Bohrmann also assumes that the drawing of lines will  
6 result in the forced transfer of customers. What is  
7 Gulf Power's position in this regard?

8 A. This Commission has historically rendered a finding of  
9 uneconomic duplication on the basis of a difference in  
10 the incremental capital investment of each utility to  
11 serve a new customer. In the case of existing  
12 customers, there is no incremental capital investment  
13 associated with continuing to serve them. In fact, a  
14 capital expenditure will likely be incurred to remove  
15 facilities if customers are transferred from one utility  
16 to another as seems to be Mr. Bohrmann's intent. It  
17 does not make economic sense to have Gulf Power spend  
18 additional capital funds to remove facilities so that  
19 customers who were once served by us can now have the  
20 displeasure of paying higher rates for less reliable  
21 electric service. I suspect the customers affected in  
22 this manner will not feel that their best interests are  
23 being served in any form or fashion.

24 If the Commission wishes to see some transfer of  
25 customers in cases where boundary lines are prescribed

1 over Gulf Power's objections, then the customers who end  
2 up on the "other" side of the line should be given a  
3 one-time choice of remaining with their historical  
4 utility or transferring over to the new utility. In  
5 areas where facilities are in close proximity or  
6 commingled, true economics and customer interest might  
7 best be served by polling all customers in the  
8 particular area to determine if there is a clear  
9 preference by a preponderance of customers in that  
10 general area for one utility or the other and allowing a  
11 one-time transfer of all customers in that area.

12 Although Mr. Bohrmann implies that the Commission  
13 has historically given little weight to customer  
14 preference (page 8, lines 18-20), the Commission has  
15 always yielded to customer preference when there were no  
16 other controlling factors. Even Mr. Bohrmann himself  
17 alludes to this past practice (page 8, lines 15-17).  
18 Moreover, the Supreme Court gave great weight to  
19 customer preference in the dispute over the prison which  
20 gave rise to this proceeding. It is difficult to see  
21 how the Court could sanction the forced transfer of  
22 customers against their wishes in situations where the  
23 differential in cost to serve is far less than that  
24 found in the case of service to the prison. In fact, as  
25 I stated earlier, the forced transfer could result in

1           increased capital costs to serve both existing and new  
2           customers in these areas.

3

4    Q.    How does Mr. Bohrmann respond to the several proposals  
5           for resolution of disputes made by you and the other  
6           Gulf Power witnesses?

7    A.    He does not.  With all of the apparent pitfalls  
8           associated with the drawing of lines, serious  
9           consideration should be given to Gulf Power's proposals.  
10           This is especially the case given current trends in the  
11           electric utility industry toward customer choice and the  
12           Commission's recent support for Alternative Dispute  
13           Resolution (See, Final Report of the Alternative  
14           Dispute Resolution Task Force, November 25, 1996.)  The  
15           Commission recently received the final report from the  
16           task force that it charged with studying the  
17           implementation of alternative dispute resolution ("ADR")  
18           procedures and policy at the Commission.  The task force  
19           recommended that the Commission encourage ADR whenever  
20           possible and that it adopt policies and procedures to  
21           further that objective [page 1 of the Final Report of  
22           the Alternative Dispute Resolution Task Force].  Most of  
23           the alternatives put forth by Gulf Power incorporate  
24           some type of ADR concept.  Gulf Power would certainly be  
25           amenable to exploring the application of the Task

1 Force's ADR proposal to territorial disputes. As the  
2 Final Report indicates, ADR can take many forms, up to  
3 and including binding arbitration. Application of ADR  
4 is certainly preferable from the customer's standpoint  
5 to the drawing of arbitrary lines on the ground.  
6 Moreover, if one of the Commission's goals in this  
7 proceeding is administrative efficiency, application of  
8 ADR to disputes would certainly achieve this goal. If  
9 only one dispute has been before the Commission in the  
10 last 11 years, it is unlikely that any would ever make  
11 it to the Commission with the use of the ADR process.

12  
13 Q. Moving now to the direct testimony of Mr. Stephen Page  
14 Daniel, does he advocate a reasonable solution to this  
15 matter?

16 A. No. Mr. Daniel's only solution to this matter is the  
17 setting of fixed geographical territorial boundaries.  
18 He has failed to point out any other solution such as  
19 those presented in the testimony of Gulf Power's  
20 witnesses. The solution offered by Mr. Daniel does not  
21 prevent the further uneconomic duplication of electric  
22 facilities, nor does it permit natural, economic growth  
23 of electric facilities for either of the involved  
24 utilities. The solutions proposed by Gulf Power permit  
25 the aforementioned goals and promote the Commission's

1 policy favoring alternative dispute resolution. Like  
2 the proposed policies and procedures of the Commission's  
3 task force, the solutions offered by Gulf Power require  
4 the parties (here Gulf Power and GCEC) to meet and to  
5 discuss the potential dispute in an effort to find a  
6 resolution of the matter short of actual litigation.  
7 Such a meeting would take place early in the case of a  
8 dispute, before facilities have been constructed. This  
9 would have a two-fold benefit in that the utilities  
10 would be able to resolve potential disputes without  
11 Commission involvement of time and resources and would  
12 prevent the further uneconomic duplication of  
13 facilities.

14  
15 Q. Do you agree with Mr. Daniel's apparent general concern  
16 for reducing a utility's cost to serve customers?

17 A. Yes. Throughout his testimony Mr. Daniel implies an  
18 apparent concern for controlling cost. Gulf Power  
19 certainly has such a concern. However, Mr. Daniel also  
20 claims throughout his testimony that the lack of  
21 exclusive territorial service rights increases costs,  
22 yet he provides no hard data to support that assertion.

23 If GCEC is concerned that Gulf Power's serving of  
24 electric customers near GCEC's lines adversely affects  
25 their cost structure, there is a solution that would

1 provide all of their customers in the area addressed by  
2 this docket with lower electricity costs. That would be  
3 for GCEC to pursue with Gulf Power the possibility of  
4 assigning all service rights in this area to Gulf Power  
5 with GCEC selling its distribution facilities in the  
6 area to Gulf Power. In fact, in the only previous  
7 circumstance where the Commission directed two utilities  
8 to resolve a territorial dispute cited by Staff Witness  
9 Bohrmann, the essence of the Commission approved  
10 resolution involved the transfer of electric facilities  
11 from Okefenokee REMC to Jacksonville Electric Authority.  
12

13 Q. Has GCEC ever approached Gulf Power about this  
14 possibility?

15 A. No. Although many of GCEC's customers have approached  
16 Gulf Power about this over the years, GCEC's official  
17 representatives have not done so.  
18

19 Q. Does Gulf Power have any data to indicate the amount  
20 that GCEC's current customers could save by effecting  
21 such a transaction?

22 A. No, we do not. We feel that it would be premature to  
23 perform such an analysis prior to GCEC showing a true  
24 concern for area integrity, economic considerations, and  
25 customer satisfaction by asking us to consider such a

1           proposal.

2

3    Q.    Would Gulf Power be willing to consider such a proposal?

4    A.    Yes, we would.  In doing so we would desire this  
5           Commission's oversight of such a transaction and the  
6           support of a majority of GCEC's customers who would be  
7           affected by such a transaction.

8

9    Q.    Does this conclude your pre-filed rebuttal testimony?

10   A.    Yes, it does.

11

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1           **Q**       **(By Mr. Stone)** Mr. Holland, would you  
2 please summarize your rebuttal testimony?

3           **A**       Yes.

4                   Gulf Power Company does not take the filing  
5 of territorial disputes lightly, and this (indicating)  
6 up here reflects that of the six disputes with Gulf  
7 Coast discussed in Mr. Bohrmann's testimony, Gulf  
8 filed only two of them and prevailed before the  
9 Commission on four. Of the 11 total disputes which  
10 Gulf has been a party since the Commission assumed  
11 jurisdiction of such disputes some 24 years ago, Gulf  
12 filed only three of them and has prevailed before the  
13 Commission or they have been voluntarily withdrawn in  
14 eight of those cases.

15                   This evidence certainly does not support a  
16 conclusion that Gulf has a propensity to create or  
17 file disputes.

18                   The evidence does support the conclusion  
19 that we have been very deliberate using primarily the  
20 direction given us by the Commission in deciding which  
21 new customers we should serve. This has been  
22 especially true in the past 12 years. In the vast  
23 majority of instances it is very clear to us whether a  
24 request for service should be honored or referred to  
25 the Cooperative. We believe it is likewise clear to

1 the Cooperative resulting in a minimum number of  
2 disputes that have come before this Commission.

3           The inescapable conclusion is that the  
4 present system is working and is working well.  
5 There's absolutely no valid basis to support  
6 abandonment of the current system in favor of lines on  
7 the ground.

8           Mandating lines on the ground in this  
9 proceeding would constitute a significant departure  
10 from past Commission practices without, from our  
11 perspective, any basis for such change. Very frankly,  
12 I would not have been surprised to have been involved  
13 in a proceeding such as this in the mid '80s when the  
14 filing of such disputes was occurring with moderate  
15 frequency. I am at a loss, however, at the need at  
16 this time. Significantly, even in the mid '80s this  
17 Commission refused to assert jurisdiction over the  
18 drawing of lines on the ground in an identical  
19 situation.

20           There the Commission determined that despite  
21 Chelco's allegation of a dispute over territory that  
22 no controversy over customers or territory has yet  
23 occurred -- and I'm not going to read the rest of that  
24 because Mr. Bohrmann read it into the testimony. But  
25 the bottom line is that the Commission determined in

1 that proceeding that no actual dispute or controversy  
2 existed and, therefore, they did not have jurisdiction  
3 at that point in time to remedy or to provide relief  
4 to Chelco.

5           If no justiciable dispute existed in the  
6 Chelco case in 1985, it certainly does not exist here  
7 today. We have repeatedly stated, and I will not  
8 belabor the point, that where the lines of the  
9 respective providers are in close proximity, it is  
10 extremely unlikely that uneconomic duplication will  
11 occur in the service to a new customer by either  
12 party.

13           This fact is the fundamental reasoning in  
14 many territorial schemes for the provisions which  
15 allows customer choice in those areas where both  
16 utilities are, for example, within a thousand feet of  
17 the customer requesting service.

18           This provision was a fundamental component  
19 in the wholesale tariff between Gulf and Gulf Coast  
20 and is an integral provision in the proposal made in  
21 my Exhibit 3 to my direct testimony. It is likewise  
22 consistent with the Supreme Court's decision in Phase  
23 I of this proceeding.

24           Mr. Bohrmann suggests that the drawing of  
25 lines in the areas suggested will require a forced

1 transfer of customers from one provider to the other.  
2 The drawing of such lines is wholly unjustified as is  
3 the forced transfer of customers. This Commission  
4 has, as in the Supreme Court in the prison case,  
5 determined that customer choice does matter.

6           Whereas here, there is no economic  
7 justification for removing this choice from the  
8 customer, and such a transfer will, in fact, be to the  
9 economic detriment of the general body of ratepayers.  
10 The proposed forced transfer should be rejected by the  
11 Commission.

12           Certainly if lines are to be drawn and  
13 customers are to be forced to take service which is  
14 less reliable and higher priced, they should be given  
15 notice and a chance to be heard before this  
16 Commission. Due process would require no less.

17           Commissioners, before making such a  
18 significant change in a process which has worked  
19 extremely well, we once again urge your serious  
20 consideration of the proposals made in the proceeding  
21 by Gulf. This Commission has wisely considered and  
22 adopted proposals to apply an alternative dispute  
23 resolution process to controversies which are brought  
24 before it.

25           Before choosing the onerous mandating of

1 lines on the ground, thus eliminating customer choice,  
2 even in the economic interest to the ratepayer, the  
3 Commission should give the alternative dispute  
4 resolution process a chance. Both of the proposals  
5 made in my direct testimony incorporate such a  
6 process. At the very most our efforts here should be  
7 to improve on a process which has worked well and has  
8 resulted in only one dispute between the parties in  
9 the last 12 years.

10 It should not be without far more cause than  
11 the Commission has before it today to eliminate  
12 customer choice, harm economic development,  
13 unjustifiably relegate customers, especially low  
14 income customers, to higher rates and in many cases  
15 cause uneconomic duplication which this Commission is  
16 charged by statute to prevent. This conclude my  
17 summary.

18 MR. STONE: We tenor for cross examination.

19 CROSS EXAMINATION

20 BY MR. HASWELL:

21 Q Mr. Holland, referring to your rebuttal  
22 testimony about solutions proposed by Gulf Power,  
23 those solutions in light of the FERC wheeling order on  
24 open access would not preclude Gulf Power from serving  
25 customers east of the ten-county area you described as

1 Gulf Power's territory, would it?

2 A Unless the -- you could drop a substation --  
3 and I think this is what you're getting at. You could  
4 drop a substation --

5 Q Would you mind answering yes or no and then  
6 explain it?

7 A Yes, maybe. How about that?

8 Or no maybe. Because I think it depends  
9 upon the situation.

10 I think there is a scenario, and I would  
11 commit to you today that Gulf Power Company has no  
12 plans and would not engage in that kind of activity --  
13 but with going in and providing wholesale service, not  
14 retail, but wholesale service to another customer  
15 located in that area.

16 Q East of the Apalachicola River?

17 A Sure.

18 Q Okay.

19 A But they could come in here and do the same.  
20 You can't do that. AEC -- Gulf Coast could not allow  
21 or AEC would not allow Gulf Coast or any of its  
22 wholesale customers to take service because of a  
23 30-year all requirements contract which would prevent  
24 that.

25 MR. HASWELL: I have no other questions.

1                   **CHAIRMAN JOHNSON:** Staff?

2                   **CROSS EXAMINATION**

3 **BY MS. JOHNSON:**

4           **Q**     Mr. Holland, would the definition for  
5 uneconomic duplication that's shown on Exhibit 12,  
6 which is Gulf Power's response to Gulf Coast's  
7 Interrogatory 27, is that definition the one that  
8 would apply to your rebuttal testimony as well?

9           **A**     Yes, it is, but if I could I'd like to  
10 elaborate on that.

11                   I heard the earlier testimony and examples  
12 that were given about what -- and help me out with the  
13 phrase that is used there. Is it economic efficiency  
14 or --

15           **Q**     It states "Uneconomic duplication is the  
16 duplication of one utility's facilities by another  
17 utility at a cost that is significantly above any  
18 corresponding exclusive benefit."

19           **A**     Okay. I would submit to the Commission and  
20 to the Staff that we would not engage in serving a  
21 customer where our incremental cost of subtransmission  
22 distribution facilities were significantly above the  
23 costs of the other utility without bringing that  
24 before the Commission for a determination.

25                   I would like, if I might -- and that is

1 basically the way the Commission has in the past, at  
2 least from our understanding, looked at least cost to  
3 serve.

4 I think if you look at Mr. Daniel's  
5 testimony, and again as I testified I think on direct,  
6 there are other costs that are associated with the  
7 provision of electric service. And if I might give  
8 you a hypothetical to illustrate.

9 Let's say in 1981 Gulf Coast terminated its  
10 wholesale service from Gulf Power Company and entered  
11 into a 30-year all requirements contract with AEC, and  
12 that that resulted in the loss of a 50-megawatt load  
13 to Gulf Power Company. We've got 50 megawatts of  
14 additional capacity on our system that we didn't have  
15 before. It's either got to serve another customer or  
16 additional load on our system or the cost of that has  
17 got to be passed on to the remaining ratepayers.

18 If there were a 50-megawatt customer that  
19 just so happened to locate in Gulf's service territory  
20 adjacent to where either Gulf or Gulf Coast could  
21 serve that load at the same incremental distribution  
22 cost or subtransmission and distribution cost, and  
23 Gulf Power Company has that 50 megawatts of load  
24 available to provide service, but that in order for  
25 Gulf Coast or AEC to provide that they would need to

1 either go out and buy or build an additional 50, I  
2 would argue that there is a corresponding exclusive  
3 benefit to Gulf Power Company which would inure to the  
4 benefit of all of the ratepayers of Northwest Florida.  
5 That's what we're talking about. And it is that kind  
6 of situation that we don't want to preclude ourselves  
7 from coming back to the Commission and making the  
8 argument that from an economic standpoint this makes  
9 economic sense for all of the ratepayers of Northwest  
10 Florida.

11 But I go back to my original answer, for the  
12 purposes that we are here today what Gulf Power  
13 Company looks at today is the incremental cost of  
14 distribution facilities to serve; we look at the  
15 comparative costs; we look again at the prior  
16 Commission orders, its rules and regulations. And I  
17 hate to oversimplify, but I would tell you it's not  
18 hard to make that call in, as I said earlier, 999  
19 cases out of a 1,000.

20 Q In your rebuttal testimony you discuss  
21 Mr. Bohrmann's testimony and you state that he's  
22 identified areas of potential dispute.

23 Isn't it correct that in his testimony  
24 Mr. Bohrmann only discusses one example?

25 A I would agree with that. I think that what

1 Mr. Bohrmann has attempted to do through the discovery  
2 process is identify areas where Gulf Power's and Gulf  
3 Coast's lines are in close proximity.

4 My point in my rebuttal testimony, and it  
5 speaks to his example as well as all these other  
6 examples, is that there is a presumption there that  
7 the location of those two lines adjacent to each other  
8 in close proximity is uneconomic duplication. I  
9 strongly disagree with that assumption.

10 I think in most cases, if not all of the  
11 cases, that if you go and look there was a valid  
12 reason for those distribution lines to have been  
13 constructed, and that the service off of those lines,  
14 incremental service off of those lines, is as the  
15 Supreme Court said is de minimis and would not  
16 constitute uneconomic duplication.

17 **MS. JOHNSON:** Nothing further.

18 **CHAIRMAN JOHNSON:** Commissioners? Redirect?

19 **MR. STONE:** No redirect?

20 **CHAIRMAN JOHNSON:** And there were no -- one  
21 exhibit.

22 **MR. STONE:** One exhibit, GEH-6, which was  
23 identified as Exhibit 15, and we would move that into  
24 evidence.

25 **CHAIRMAN JOHNSON:** It will be admitted

1 without objection.

2 (Exhibit 15 received in evidence.)

3 **CHAIRMAN JOHNSON:** Thank you, sir.

4 (Witness Holland excused.)

5 - - - - -

6 **MR. STONE:** Commissioner, that concludes our  
7 rebuttal case.

8 **CHAIRMAN JOHNSON:** I think we're then  
9 prepared to go on to Mr. Dykes.

10 **MR. HASWELL:** Our next witness is  
11 Mr. Daniel.

12 **CHAIRMAN JOHNSON:** Oh, Daniel.

13 **MR. HASWELL:** Before proceeding we may note,  
14 because on the Prehearing Order there are two little  
15 asterisks next to Mr. Daniel's name, by prior  
16 agreement with Gulf Power based on its withdrawal of  
17 the direct testimony of Russell Klepper, that portion  
18 of Mr. Daniel's rebuttal testimony that was directed  
19 to Mr. Klepper's direct testimony was withdrawn.

20 **CHAIRMAN JOHNSON:** Now they've already been  
21 stricken from the --

22 **MR. HASWELL:** We've already filed a  
23 stipulation withdrawing those comments as to  
24 Mr. Klepper's direct testimony.

25 - - - - -

1                                   **STEPHEN PAGE DANIEL**

2 was called as a rebuttal witness on behalf of Gulf  
3 Coast Electric Cooperative, Inc. and, having been duly  
4 sworn, testified as follows:

5                                   **DIRECT EXAMINATION**

6 **BY MR. HASWELL:**

7           **Q**     Okay. Are you the same Stephen Page Daniel  
8 who filed direct testimony -- excuse me, rebuttal  
9 testimony in this cause?

10           **A**     Yes.

11           **Q**     And if I ask you the same questions today  
12 that were asked, would your answers be the same?

13           **A**     Yes, except for one modest typographical  
14 correction on Page 61, actually two. On Lines 6 and 8  
15 on that page, the reference to "GEH-2" should be  
16 "GEH-3."

17                               **CHAIRMAN JOHNSON:** Lines 6 and 8?

18                               **WITNESS DANIEL:** Yes, Page 61, Lines 6 and  
19 8.

20           **Q**     **(By Mr. Haswell)** I'm sorry, that should be  
21 GEH-what?

22           **A**     3.

23           **Q**     3. And you have no other exhibits to attach  
24 -- to submit; is that correct?

25           **A**     That's correct.

1           **MR. HASWELL:** I would, therefore,  
2 respectfully request that the rebuttal testimony as  
3 modified by the stipulation with Gulf Power be  
4 inserted in the record as though read.

5           **CHAIRMAN JOHNSON:** We will show that  
6 inserted as modified in the Prehearing Order,  
7 Attachment 1, which reads, "Lines 3 of Page 3 through  
8 Lines 20 of Page 31 of the rebuttal testimony, will be  
9 withdrawn." Is that correct?

10           **MR. HASWELL:** (Nods head.)

11           **CHAIRMAN JOHNSON:** Okay. It will be so  
12 inserted.

13           **MR. HASWELL:** Thank you.  
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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve )  
Territorial Dispute with Gulf Coast )  
Electric Cooperative, Inc. By ) Docket No. 930885-EU  
Gulf Power Company )

REBUTTAL TESTIMONY  
OF  
STEPHEN PAGE DANIEL  
ON BEHALF OF  
GULF COAST ELECTRIC COOPERATIVE, INC.

December 20, 1996

1 I. INTRODUCTION

2 Q. PLEASE STATE YOUR NAME.

3 A. Stephen Page Daniel.

4 Q. DID YOU SUBMIT DIRECT TESTIMONY IN THIS PROCEEDING?

5 A. Yes.

6 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

7 A. My rebuttal testimony addresses certain matters raised by Gulf Power Company  
8 (“Gulf Power”) witnesses Klepper, Holland, and Weintritt.

9 Q. WHAT MATERIALS HAVE YOU REVIEWED IN PREPARATION FOR  
10 PRESENTING YOUR REBUTTAL TESTIMONY?

11 A. In addition to the information which I reviewed in preparation for presenting my  
12 direct testimony (see Exhibit No. \_\_\_ (SPD-1), pp. 7-8), I have reviewed the  
13 following information: (1) all of the prepared direct testimony of Gulf Power’s

1 witnesses submitted on October 15, 1996; (2) the direct testimony of Mr. Todd F.  
2 Bohrmann on behalf of the Florida Public Service Commission (“Commission” or  
3 “FPSC”) Staff; (3) the Commission’s November 4, 1996 Order No. PSC-96-1331-  
4 PCO-EU (“Nov. 4 Order”); (4) the Commission’s November 18, 1996 Order  
5 Denying Gulf Power Company’s Motion to Dismiss (“Nov. 18 Order”); (5) Gulf  
6 Coast Electric Cooperative, Inc.’s (“Gulf Coast” or “GCEC”) Gulf Coast  
7 responses to certain Gulf Power data requests; and (6) a number of old Gulf Coast  
8 facilities maps showing the early development of the Gulf Coast system.

9 **Q. DO YOU HAVE ANY PRELIMINARY OBSERVATIONS CONCERNING**  
10 **THE PURPOSE OF THIS PROCEEDING AS RELATED TO CERTAIN**  
11 **MATTERS RAISED BY GULF POWER’S WITNESSES?**

12 A. Yes. Since the Commission issued Order No. PSC-95-0271-FOF-EU on March 1,  
13 1995 (“March 1 Order”), it has been clear that the Commission’s intent was to  
14 determine where the electric facilities of Gulf Power and Gulf Coast are  
15 commingled or in close proximity and where further unnecessary and uneconomic  
16 duplication of electric facilities may occur with the intention of establishing a  
17 territorial boundary to eliminate territorial disputes. The Commission reaffirmed  
18 this intent in its Nov. 4 Order and Nov. 18 Order.

19 Gulf Coast complied with the Commission’s directives by presenting both  
20 the criteria for establishing a territorial boundary and a specific territorial  
21 boundary. As will be discussed in more detail below, Gulf Power’s proposals do

1 not establish a territorial boundary to prevent territorial disputes between Gulf  
2 Power and Gulf Coast.

3 **II. MATTERS PRESENTED BY MR. KLEPPER**

4 **A. ELECTRIC UTILITY INDUSTRY TRENDS AND CUSTOMER**  
5 **CHOICE**

6 **Q. MR. KLEPPER STATES "THAT THE PUBLIC INTEREST WOULD BE**  
7 **BETTER SERVED BY COMMISSION POLICIES AND DIRECTIVES**  
8 **THAT ARE COMPATIBLE WITH EXISTING TRENDS IN THE**  
9 **ELECTRIC UTILITY ENVIRONMENT AND ENCOURAGE, RATHER**  
10 **THAN LIMIT, THE ABILITY OF NEW CUSTOMERS TO CHOSE**  
11 **BETWEEN ELECTRIC SERVICE SUPPLIERS." PLEASE RESPOND TO**  
12 **THIS GENERALIZED SUGGESTION.**

13 A. Mr. Klepper obviously is referring to the current debate in the electric industry  
14 regarding restructuring and retail competition, which, if adopted in a given state,  
15 would provide retail customer choice of electric suppliers. While there is talk of  
16 Federal initiatives regarding retail competition, to date this issue is being  
17 addressed on a state-by-state basis from a regulatory and legislative perspective.  
18 Only a few states (e.g., California, New Hampshire, Pennsylvania, and Rhode  
19 Island) have adopted statutes and/or regulations to implement retail competition  
20 and customer choice at this time. A few states (e.g., Illinois and Michigan) are  
21 conducting, or considering conducting, retail wheeling experiments to investigate

1 the advantages and disadvantages of retail competition. A large number of states  
2 are in various stages of investigating and assessing whether and, if so, to what  
3 extent retail competition should be implemented. This investigation and  
4 assessment process generally focuses on a broad range of issues, including, but  
5 not limited to, the following: the potential advantages and disadvantages to all  
6 classes of retail customers; the costs of implementation; the constitutional,  
7 statutory, contractual, and other impediments which must be addressed in  
8 considering whether and, if so, how to implement retail competition; and  
9 consideration of a myriad of implementation issues which would emanate from  
10 retail competition. Finally, other states (e.g., Florida, North Carolina, South  
11 Carolina, and Virginia) have made decisions not to proceed with implementation  
12 of retail competition at this time, but instead, have decided to take a more cautious  
13 “wait and see” approach.

14 The only clear “trend” at this time in the electric utility environment is the  
15 efforts by several states (e.g., California, New Hampshire, Rhode Island, and  
16 Pennsylvania) to initiate retail competition in hopes of mitigating their costs of  
17 electricity which are among the highest in the nation. Otherwise, there remains to  
18 be a lot of debate, analysis, and regulatory/statutory action before retail  
19 competition were to become a reality in the majority of the states.

20 At best, it is premature to judge where retail competition will emerge in  
21 the various states (other than those with definitive statutes and regulations) or how

1 retail competition will be implemented. Given this general status within the  
2 industry, and the fact that Florida has elected to not proceed with retail  
3 competition at this time, it is premature to make a decision in this proceeding  
4 based on what might happen with regard to retail competition and customers'  
5 rights to choose electric service suppliers in the future.

6 **Q. WHAT IS YOUR UNDERSTANDING OF THE CONCEPT OF**  
7 **CUSTOMER CHOICE OF ELECTRIC SUPPLIERS AS IT RELATES TO**  
8 **RETAIL COMPETITION?**

9 A. The provision of electric service is comprised of three (3) basic functions:  
10 production (or generation) of power; transmission of power from the source to  
11 load centers; and distribution of power to users within load centers. The  
12 production or generation component of electric service (i.e., the commodity) is  
13 generally recognized as becoming progressively more fungible in recent years.  
14 With the power created through the production function now becoming a more  
15 fungible commodity, there are proponents of retail competition which promote the  
16 right of end-use customers to purchase power from alternative power suppliers.  
17 This customer choice relates to the purchase of the commodity as contrasted with  
18 the delivery (i.e., transmission and distribution) of that commodity to the end-  
19 user.

20 For the most part, these proponents also recognize not only the monopoly  
21 nature of transmission facilities used to deliver bulk power from the production

1 source to load centers but also the monopoly nature of distribution facilities used  
2 to deliver the commodity from the transmission system to the end-users.

3 Accompanying this recognition of the monopoly nature of transmission and  
4 distribution facilities is the further recognition of the desirability of avoiding  
5 unnecessary and uneconomic duplication of such facilities used in the delivery of  
6 the commodity from the power production source to the end user.

7 In essence, if retail competition is implemented, the retail sector of the  
8 business is perceived to be headed toward a power function and a wires function,  
9 with the latter being separated into transmission and distribution components.  
10 This structure theoretically would allow an end-user (or group of end-users) to  
11 shop for alternative power suppliers to provide the electricity commodity, with  
12 that power being delivered over the traditional transmitting utility's transmission  
13 and/or distribution facilities. At this stage of the debate, and in limited instances  
14 of implementation of retail competition, there does not appear to be any serious  
15 consideration of adopting customer choice policies which would extend to the  
16 wires function and lead to head-to-head competition to provide delivery service  
17 on a customer-by-customer basis with the attendant potential for unnecessary and  
18 uneconomic duplication.

19 **Q. WHAT DO YOU CONCLUDE REGARDING THE SO-CALLED TRENDS**  
20 **IN THE ELECTRIC UTILITY ENVIRONMENT REGARDING RETAIL**

1           **COMPETITION AND CUSTOMERS CHOOSING BETWEEN ELECTRIC**  
2           **SERVICE SUPPLIERS AS IT RELATES TO THIS PROCEEDING?**

3           A.     Whether retail competition and choice of electric service suppliers, as a general  
4           proposition, should be implemented in Florida is a public policy issue which will  
5           affect all of Florida, not just Gulf Power and Gulf Coast. Any decisions regarding  
6           implementation of retail competition must be made in a state-wide context. It  
7           would be inappropriate to make a determination with regard to the establishment  
8           of a territorial boundary in this proceeding based upon a potential public policy  
9           issue which has not been considered and resolved for all of Florida.

10                     In any event, retail competition is not likely to remove the potential for  
11           territorial disputes with regard to the wires or delivery function. Hence, even if  
12           retail competition were implemented, it will continue to be in the public interest to  
13           establish territorial boundaries, such as in this proceeding, to prevent territorial  
14           disputes and unnecessary and uneconomic duplication. The establishment of a  
15           territorial boundary between Gulf Power and Gulf Coast should be established  
16           based on the facts in this proceeding and not speculation with regard to retail  
17           competition which may or may not come about in Florida. If retail competition is  
18           ultimately adopted in Florida, the Commission and the Legislature will be  
19           required to establish procedures which address a wide array of issues, including  
20           how existing and future territorial boundaries and boundary disputes associated  
21           with the delivery function will be handled. In the meantime, the Commission

1 should proceed with the establishment of a territorial boundary in this proceeding  
2 to prevent further territorial disputes and unnecessary and uneconomic duplication  
3 of facilities as between Gulf Coast and Gulf Power.

4 **Q. ARE GULF POWER'S PROPOSED PROCEDURES FOR RESOLVING**  
5 **TERRITORIAL DISPUTES CONSISTENT WITH THE CONCEPT OF**  
6 **RETAIL COMPETITION AND CUSTOMER CHOICE OF ELECTRIC**  
7 **SUPPLIERS WHICH YOU JUST DESCRIBED?**

8 A. No. Gulf Power appears to be proposing a one-time, irrevocable choice of  
9 supplier for a given location. Gulf Power certainly does not appear to be  
10 proposing that retail customers in general be given a continuing choice of power  
11 suppliers as contemplated under the concept of retail competition discussed  
12 above. Neither would a new consumer locating at existing premises be given a  
13 customer choice of supplier under the concept of customer choice referred to by  
14 Gulf Power, unless the nature of the service at a location changed such that the  
15 facilities of the existing supplier were not capable of reliably serving the changed  
16 load. In essence, Gulf's one-time, irrevocable customer choice is not even  
17 remotely analogous to customer choice under retail competition as discussed  
18 above. The dramatic distinctions in these two (2) types of customer choice  
19 illustrate why the two (2) concepts should not be discussed interchangeably in  
20 addressing the territorial boundary issue in this proceeding.

1 Q. MR. KLEPPER ALLUDES TO HB 405 OF THE FLORIDA  
2 LEGISLATURE, STATING THAT "HAD IT PASSED, [IT] WOULD  
3 HAVE REMOVED ALL VESTIGES OF COMPETITION BETWEEN  
4 UTILITY SUPPLIERS." PLEASE RESPOND TO THIS POINT.

5 A. First, it is my understanding that HB 405 was not passed; therefore, what it might  
6 have done is irrelevant to this proceeding, in my opinion. In addition, the fact that  
7 HB 405 was not passed, and therefore specific territorial boundaries were not  
8 fixed among and between all utilities in Florida, does not mean that it is not in the  
9 public interest to resolve territorial disputes through the fixation of territorial  
10 boundaries, for example pursuant to Section 366.04 of the Florida Statutes and  
11 Commission Rules 25-6.0439 et seq.

12 Second, the establishment of fixed territorial boundaries among and  
13 between electric suppliers does not remove all vestiges of competition as alleged  
14 by Mr. Klepper. Such a sweeping statement indicates a lack of familiarity with  
15 the different types of competition which occur even where territorial boundaries  
16 have been established. Yardstick competition occurs where each utility is mindful  
17 of the prices charged by its neighboring utilities. This yardstick competition is  
18 very important because of locational competition with regard to certain loads. For  
19 example, many new commercial and industrial loads may have a choice as to  
20 whether they locate their facilities in the service area of one utility as opposed to  
21 another utility. To the extent electric service rates are a significant factor in such

1 locational decisions, competition between neighboring suppliers with established  
2 service areas will exist. Also, some residential consumers likewise may have the  
3 option of locating within the service area of one utility or another utility. Again,  
4 if electric service rates are a major factor in such a decision, locational  
5 competition exists.

6 Furthermore, competition among utility suppliers is not always limited to  
7 electric suppliers for a consumer's energy needs. In some areas, gas competes as  
8 a substitute for electricity for selected uses such as heating and water heating in  
9 both homes and businesses. The establishment of electric utility service areas  
10 does not preclude such competition between suppliers of energy substitutes in  
11 providing customer choice of utility suppliers for at least certain portions of a  
12 customer's energy needs.

13 Finally, self-generation provides another form of competition to electric  
14 utility suppliers even where there are assigned service areas. Quite often, electric  
15 utilities are faced with decisions regarding the evaluation of the cost to serve  
16 certain customers and the pricing of services to those customers which have self-  
17 supply options.

18 Contrary to what Mr. Klepper seems to imply, there is still considerable  
19 competition as it relates to the supply of utility services even where assigned  
20 electric service areas may exist. To date, public policy reflected in both Florida  
21 Statutes and the Commission's Rules allow for the resolution of territorial

1 disputes, including establishment of territorial boundaries between neighboring  
2 utilities such as Gulf Power and Gulf Coast. That statutory authority and the  
3 implementing rules are based upon a public policy which has been determined to  
4 be in the public interest, namely, the avoidance of unnecessary and uneconomic  
5 duplication of facilities. Until alternative public policies promoting competition  
6 are adopted in Florida, the decision in this proceeding regarding the establishment  
7 of a territorial boundary between Gulf Coast and Gulf Power should be made  
8 based upon the specific facts and policies presently in existence.

9 **Q. HAVE YOU REVIEWED MR. KLEPPER'S EXHIBIT NO. \_\_\_ (RLK-2)**  
10 **AND HIS TESTIMONY REGARDING THAT EXHIBIT?**

11 A. Yes.

12 **Q. PLEASE RESPOND TO HIS CLAIM THAT THE "PRINCIPLES TO**  
13 **GUIDE THE RESTRUCTURING OF THE ELECTRIC INDUSTRY"**  
14 **PUBLISHED BY NARUC ENCOURAGE THE CONTINUATION OF**  
15 **CUSTOMER CHOICE AS AN ALTERNATIVE TO ERECTING**  
16 **TERRITORIAL BARRIERS.**

17 A. The National Association of Regulatory Utility Commissioners' ("NARUC")  
18 "Principles to Guide the Restructuring of the Electric Industry" ("NARUC  
19 Principles") reflect consensus principles which NARUC urges State and Federal  
20 regulatory commissions and legislatures to be guided by as they develop and  
21 implement new policies to govern the regulation, organization, and operation of

1 the electric utility industry as it moves toward reliance on greater competition in  
2 the marketplace. The NARUC Principles do not address customer choice as an  
3 alternative to erecting territorial barriers. Mr. Klepper's testimony blurs this issue  
4 by implying that service area boundaries are inconsistent with restructuring of the  
5 electric industry and the possible implementation of retail competition. For all the  
6 reasons I discussed earlier, retail competition as contemplated by the NARUC  
7 Principles relates principally, if not totally, to supply of the power commodity as  
8 opposed to delivery (i.e., transmission and distribution) of that commodity to the  
9 end-user. The NARUC Principles certainly are not endorsing head-to-head retail  
10 competition for the transmission and distribution (i.e., wires) functions as part of  
11 the continuing debate on electric industry restructuring.

12 The NARUC Principles were adopted as guideposts for State and Federal  
13 policy makers to consider as new policies are developed and implemented.  
14 NARUC's position is also very clear that such new policies should be developed  
15 on a state-by-state basis rather than in a "one-size-fits-all" fashion (Exhibit No.  
16 \_\_\_ (RLK-2), p. 8). Any policies adopted within a given state, such as Florida,  
17 regarding territorial boundaries as part of new public policy regarding retail  
18 competition should be considered at such time as the public policy has been  
19 adopted and implemented. It is speculative at this juncture to attempt to resolve,  
20 or avoid resolution of, the territorial boundary line issue in this proceeding based

1 on speculation as to what public policies might be adopted in Florida in the future  
2 as to retail competition.

3 **Q. MR. KLEPPER DISCUSSES CERTAIN FEDERAL INITIATIVES**  
4 **REGARDING THE ELECTRIC INDUSTRY, SPECIFICALLY ACTIONS**  
5 **BY THE FEDERAL ENERGY REGULATORY COMMISSION ("FERC")**  
6 **TO CREATE A MORE COST EFFECTIVE ELECTRIC UTILITY**  
7 **INDUSTRY AND PASSAGE OF THE ENERGY POLICY ACT OF 1992**  
8 **("EPAcT"), WHICH ARE INTENDED TO PROMOTE ENERGY**  
9 **EFFICIENCY BY CREATING AN INCREASINGLY MARKET-**  
10 **ORIENTED ELECTRIC UTILITY ENVIRONMENT. PLEASE RESPOND**  
11 **TO HIS COMMENTS REGARDING THESE INITIATIVES.**

12 A. The FERC, pursuant to the Federal Power Act, only regulates wholesale sales of  
13 electricity (i.e., transactions in interstate commerce between resellers of power)  
14 and transmission services in interstate commerce for the delivery of wholesale  
15 power. The FERC has no responsibility for the regulation of retail sales, hence its  
16 policies regarding the electric utility industry are limited. For example, the  
17 FERC's recently issued Order No. 888 establishing a new open-access  
18 transmission policy<sup>1</sup>, which is intended to promote competition in wholesale bulk

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<sup>1</sup>Promotion of Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, Docket No. RM95-8-000, and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Docket No. RM94-7-000, Order No. 888 (April 24, 1996).

1 power markets, is clearly restricted to FERC-jurisdictional services and not retail  
2 service.

3 The EPAct did establish certain initiatives to create an increasingly  
4 market-oriented electric utility environment, but, again, this Federal initiative  
5 dealt primarily with matters regarding wholesale electricity sales and transmission  
6 services.

7 These Federal initiatives, which are directed toward the wholesale bulk  
8 power market, are intended to create a more competitive and efficient wholesale  
9 bulk power marketplace. If this objective is achieved, the benefits of any reduced  
10 cost of electric service should accrue to the retail ratepayers of electric utilities,  
11 assuming they are voluntarily passed along to the ratepayers by those utilities or  
12 required to be passed along by state regulatory authorities.

13 These Federal policies, however, are not directed at retail competition. To  
14 the extent they might ultimately affect retail competition, it will be with regard to  
15 the sale of power as opposed to competition in the delivery of power to the end-  
16 user. In fact, one of the purposes of the EPAct was to increase the FERC's  
17 authority with regard to transmission access in recognition of the monopoly nature  
18 of transmission facilities. While distribution service was not addressed directly,  
19 the same would apply and, in my opinion, is generally recognized within the  
20 industry. Hence, even if these Federal initiatives do ultimately affect policy with  
21 regard to service to end-users, there is absolutely no indication that retail

1 competition flowing therefrom will be directed toward head-to-head competition  
2 in the delivery service (i.e., wires) function (i.e., transmission and distribution).

3 While Mr. Klepper's observation regarding the FERC initiatives and passage of  
4 the EPAct are enlightening as to wholesale transactions, they do not relate to the  
5 issue of establishing a territorial boundary between Gulf Coast and Gulf Power to  
6 resolve territorial disputes and avoid unnecessary and uneconomic duplication of  
7 facilities.

8 **B. RATES AS A FACTOR IN ESTABLISHING A TERRITORIAL**  
9 **BOUNDARY**

10 **Q. MR. KLEPPER SUGGESTS THAT ESTABLISHMENT OF FIRM**  
11 **TERRITORIAL BOUNDARIES WILL RESULT IN CITIZENS AND**  
12 **BUSINESSES BEING CONSIGNED TO PAY HIGHER ELECTRIC**  
13 **RATES AS A RESULT OF BEING SERVED BY GULF COAST. IS IT**  
14 **INAPPROPRIATE TO USE ELECTRIC SERVICE RATES AND**  
15 **CHARGES AS A BASIS FOR RESOLVING TERRITORIAL DISPUTES?**

16 A. Yes. There are a number of important reasons why rates and charges should not  
17 be used. First, rate levels vary over time; therefore, the rates at any given point in  
18 time are not necessarily indicative of the long-term comparative rate situation.  
19 Even the simplistic rate comparisons appended to Mr. Holland's testimony  
20 (Exhibit No. \_\_\_ (GEH-1)) show that the differentials between Gulf Coast's and  
21 Gulf Power's rates have narrowed in the 1990-1995 period.

1           Second, rates alone do not reflect all factors associated with the final cost  
2 to the electric consumer of electric service. Rural electric cooperatives, such as  
3 Gulf Coast, are member-owned systems, and the equity in those systems belongs  
4 to the member-owners. Any margins (i.e., revenues in excess of total operating  
5 expenses) realized in a given year are assigned to the member-owners as  
6 patronage capital which is ultimately refundable to those owners as a patronage  
7 capital refund. This patronage capital (including any patronage capital of the  
8 generation and transmission cooperative power supplier assigned to its  
9 distribution cooperative members), which is assigned to each specific member-  
10 owner as a capital credit, is like an investment which is returned at some point in  
11 the future. This refund is the equivalent of an offset to the costs initially incurred  
12 when rates were paid. This important factor, however, is not reflected in a  
13 comparison of basic electric service rates and charges (such as those in Exhibit  
14 \_\_\_ (GEH-1)).

15           To the extent one utility operates under an area coverage policy which  
16 requires it to serve all consumers without contributions in aid of construction  
17 ("CIAC") for permanent, standard service, such as Gulf Coast, and another utility  
18 may charge a CIAC for line extensions beyond a certain distance or based on a  
19 revenue/cost test, such as Gulf Power, the rates of the latter utility do not reflect  
20 the added cost to those ratepayers who are charged CIACs. This factor also

1 contributes to the problem of attempting to use rates as a basis for determining  
2 territorial boundaries.

3 The relationship between Gulf Coast and Gulf Power can be used to  
4 demonstrate a third important reason why electric service rates and charges should  
5 not be used to resolve territorial disputes. Gulf Coast, as with most member-  
6 owned cooperatives, historically has served in less desirable areas. The density  
7 (i.e., consumers per mile of line) is usually less compared to, for example, an  
8 investor-owned system such as Gulf Power's system, which has substantially  
9 more dense load and customers in more urbanized areas (e.g., Panama City).  
10 Typically, there is proportionately less commercial and industrial load on  
11 cooperative systems than investor-owned systems, as is the case here, and these  
12 commercial and industrial loads are economically advantageous to a system. For  
13 these and other reasons, cooperatives historically have served higher-cost-to-serve  
14 areas.

15 The advantages of serving in more attractive areas as they now exist or  
16 may develop in the future are obvious. If a utility is going to serve an additional  
17 group of residential consumers, such as those in a subdivision in a disputed area,  
18 it would much rather serve those in the subdivision, or higher density  
19 environment, than to serve a similar number of customers scattered over a much  
20 larger area. To the extent the new services have higher average usage than the  
21 existing system, they also bring benefits. If Gulf Coast, as an example, were

1 never allowed the opportunity to serve such advantageous areas, because of the  
2 establishment of a service area boundary or arrangement which precludes Gulf  
3 Coast from serving such economically attractive areas, then Gulf Coast will  
4 always be relegated to a higher-cost-to-serve status than its competing neighbor,  
5 Gulf Power. Settling territorial disputes on the basis of electric rates, therefore,  
6 sets in motion a sort of "death spiral" effect which assures that the higher cost  
7 system will not be able to compete and, therefore, will not be allowed to serve in  
8 disputed areas because its rates are higher than its neighboring utility's rates. This  
9 is the worst form of unfair competition.

10 Forcing Gulf Coast's other customers (i.e., those left after the loss of more  
11 desirable areas) to pay higher rates as a result of the resolution of territorial  
12 disputes fails to recognize and take into account the effects on such customers as  
13 part of the determination of whether a decision is in the public interest. Under  
14 Mr. Klepper's theory, the interests of these customers is essentially ignored.  
15 Moreover, this sort of "resolution" invites cherry picking whereby an encroaching  
16 utility seeks to serve only the best loads and most attractive service areas.

17 Third, Gulf Power's cost to serve less dense, less desirable areas  
18 (including areas less dense than its existing system) will be more than its cost to  
19 serve more dense areas and more in line with Gulf Coast's cost to serve. The  
20 differences in Gulf Power's and Gulf Coast's rates do not capture this effect  
21 because Gulf Power spreads the higher costs to serve these less desirable areas

1 over the charges to all customers through postage stamp rates (i.e., same rates to  
2 all within a class, regardless of where situated). Using rates as a factor for  
3 resolving territorial disputes would, therefore, be unfair, given this disparity in  
4 system characteristics and the ratemaking process.

5 **Q. MR. KLEPPER ALLEGES THAT ESTABLISHMENT OF FIRM**  
6 **TERRITORIAL BOUNDARIES IN THIS PROCEEDING WILL RESULT**  
7 **IN CUSTOMERS SERVED BY GULF COAST BEING WITHOUT THE**  
8 **BENEFIT OF ANY REGULATORY PROTECTION OR OTHER**  
9 **MEANINGFUL MEANS OF REDRESS AS TO ELECTRIC RATES AND**  
10 **RELIABILITY OF SERVICE. PLEASE RESPOND TO THESE**  
11 **ASSERTIONS.**

12 A. The operation of electric cooperatives, including the establishment of rates and  
13 policies regarding reliability, are far more democratic than any other regulatory  
14 process of which I am familiar. First, the ratepayers are also the owners of these  
15 systems. As the owners, they elect a board of directors from those member-  
16 owners to establish the governance policies and to provide oversight with regard  
17 to the execution of those policies. The board, in turn, hires a manager who is  
18 charged with carrying out the day-to-day operations of the cooperative in  
19 accordance with those policies established by the board.

20 Second, the board must approve all rates, charges, and service policies  
21 regarding the rendition of electric service. I cannot think of any closer protection

1 of the ratepayer than to have individuals elected from the ranks of those ratepayers  
2 to decide issues regarding the setting of electric rates. The same would certainly  
3 be true regarding reliability of electric service.

4 Third, most, if not all, electric distribution cooperatives are organized and  
5 exist as not-for-profit corporations. As such, they are not imbued with the  
6 incentive to make a profit over and above the recovery of the cost of providing  
7 electric service, as is the case with profit-making utilities. This factor serves as a  
8 further check on the level of electric rates charged by cooperatives such as Gulf  
9 Coast.

10 Fourth, since the ratepayers are also the owners of the distribution  
11 cooperative, any equity that is generated in the corporation is assigned to and is  
12 the property of those member-owner ratepayers. To the extent revenues for any  
13 given period of time exceed the cost of providing electric service, the member-  
14 owner ratepayers receive patronage capital assignments for their share of those  
15 margins, and that patronage capital is ultimately repaid to the member-owner  
16 ratepayers. Thus, there is no incentive for the cooperative to over-collect from the  
17 ratepayers, given that all margins will simply be returned to those same  
18 ratepayers.

19 Fifth, to the extent cooperatives such as Gulf Coast continue to secure  
20 financing from the Rural Utilities Service ("RUS"), RUS will also exercise certain  
21 oversight with regard to the operation of such cooperatives. Such oversight

1 includes not only financial matters, including rates, but also reliability through  
2 oversight regarding the planning and construction aspects of the cooperative's  
3 operations.

4 Sixth, this Commission also exercises certain oversight as to the electric  
5 rates of cooperatives, including Gulf Coast. While this oversight is limited and  
6 does not include the overall rate level of cooperatives, matters such as rate design  
7 can impact intra-class and inter-class cost recovery and, therefore, the effects of  
8 rates on the cooperatives' ratepayers. Also, the Commission exercises certain  
9 authority regarding the safety of the cooperatives' facilities, which is a part of the  
10 reliability function.

11 In sum, Gulf Coast's member-owner ratepayers are far from being  
12 "without the benefit of any regulatory protection or other meaningful means of  
13 redress" regarding electric rates and reliability of service as alleged by Mr.  
14 Klepper.

15 **C. PROPER FUNCTION OF THE FPSC IN RESOLVING**  
16 **TERRITORIAL DISPUTES**

17 **Q. MR. KLEPPER STATES THAT "THE PROPER FUNCTION OF THE**  
18 **COMMISSION IS TO REVIEW TERRITORIAL DISPUTES FOR THE**  
19 **PURPOSE OF DETERMINING WHETHER 'ALL OTHER FACTORS**  
20 **ARE SUBSTANTIALLY EQUAL.'" PLEASE COMMENT ON HIS**  
21 **CONTENTION.**

1 A. Let me first note that the Commission obviously understands what its  
2 authority is regarding resolution of territorial disputes, and it does not need either  
3 Mr. Klepper or me telling the Commission what its authority may or may not be.  
4 Even so, Gulf Coast does not feel that it can stand idly by and allow such  
5 contentions by Mr. Klepper to go unchallenged.

6 Mr. Klepper's suggested "proper function" for the Commission would  
7 effectively put the Commission in a very tight box with regard to the resolution of  
8 territorial disputes. The Commission has a broad obligation to function in the  
9 public interest, which is much broader than the impact which the resolution of an  
10 individual territorial dispute at a given point in time may have on the affected  
11 parties (both the vying utilities and the affected customer(s)). Florida Statutes,  
12 § 366.04 (2) (e) states, in part, that:

13 In resolving territorial disputes, the Commission may consider, but  
14 not be limited to consideration of, the ability of the utilities to  
15 expand services within their own capabilities and the nature of the  
16 area involved, including population, the degree of urbanization of  
17 the area, its proximity to other urban areas and the present and  
18 reasonably foreseeable future requirements of the area for other  
19 utility services. (Emphasis supplied.)

20 In exercising its broad public policy obligation to act in the public interest, the  
21 Commission's role in resolving territorial disputes is therefore very broad. As the  
22 above citation indicates, the Commission has the authority to decide what factors  
23 are relevant in a given situation (and, conversely, what factors are not relevant)  
24 and what weighting to give to these factors. This may include not considering

1 specific factors cited in the statute and considering specific factors not cited in the  
2 statute.

3 The Commission's authority under the Florida Administrative Code, § 25-  
4 6.0439, et seq., is equally broad with regard to its authority to resolve territorial  
5 disputes. This authority does not even require the Commission to consider  
6 customer preference if all other factors are substantially equal. It may or may not  
7 consider customer choice.

8 **D. HISTORICAL DIVISION OF CUSTOMER SERVICE BETWEEN**  
9 **GULF POWER AND GULF COAST**

10 **Q. WAS GULF COAST FORMERLY A FULL-REQUIREMENTS**  
11 **WHOLESALE CUSTOMER OF GULF POWER?**

12 A. Yes.

13 **Q. DID THE SERVICE RELATIONSHIP BETWEEN GULF POWER AND**  
14 **GULF COAST ADDRESS IN CERTAIN RESPECTS THE DIVISION OF**  
15 **RETAIL CUSTOMER SERVICE BETWEEN GULF POWER AND GULF**  
16 **COAST?**

17 A. Yes. As indicated by a prior contract between Gulf Power and Gulf Coast  
18 (Exhibit No. \_\_\_\_ (WCW-3)) and a Gulf Power FERC Electric Tariff (Exhibit No.  
19 \_\_\_\_ (WCW-4)) under which Gulf Power received service, there were various  
20 provisions in place which addressed duplication of facilities, sales for resale, and  
21 service to towns.

1 Q. MR. KLEPPER ALLEGES THAT GULF COAST'S DESIRE FOR STRICT  
2 TERRITORIAL BOUNDARIES IS INCONSISTENT WITH THIS  
3 HISTORICAL CONTRACTUAL/TARIFF RELATIONSHIP REGARDING  
4 GULF POWER'S AND GULF COAST'S RIGHTS TO PROVIDE  
5 ELECTRIC SERVICE TO RETAIL CONSUMERS. PLEASE RESPOND  
6 TO THIS ALLEGATION.

7 A. The short answer is that those contractual/tariff relationships no longer exist and  
8 therefore are totally irrelevant to the Commission's stated intent to establish a  
9 boundary line between Gulf Power and Gulf Coast where their facilities are  
10 commingled or in close proximity or where further unnecessary and uneconomic  
11 duplication may occur.

12 Both the contract and tariff provisions attached to Mr. Weintritt's direct  
13 testimony, both of which are referred to by Messrs. Holland, Klepper, and  
14 Weintritt, existed at a point in time when Gulf Coast basically had no viable  
15 power supply alternative other than purchasing wholesale power from Gulf  
16 Power. This was, in part, due to the monopoly nature of the electric industry in  
17 general. As a consequence, entities such as Gulf Coast had limited bargaining  
18 power when dealing with their monopoly power supplier. Because of this prior  
19 structural barrier to entry within the wholesale bulk power marketplace, it would  
20 be grossly unfair to attempt to force upon Gulf Coast so-called territorial  
21 boundary and territorial dispute resolution procedures from contracts and tariffs to

1 which Gulf Coast was a party and customer but which Gulf Coast may have had  
2 limited ability to object to, given its relative bargaining power. This is yet another  
3 reason why these old contractual/tariff relationships should be discarded and  
4 ignored as wholly inappropriate for consideration in this proceeding.

5 Furthermore, the types of provisions which were contained in the earlier  
6 contract and tariff have been rejected by the FERC or removed voluntarily by  
7 wholesale power suppliers under the threat of litigation over the anti-competitive  
8 nature of such provisions. This has occurred since the effective date of the tariff  
9 cited by Gulf Power, and may have occurred as to some companies prior to that  
10 date. I am personally familiar with prior wholesale power supply relationships  
11 which had such provisions which have subsequently been eliminated. I work for a  
12 number of wholesale customers throughout the country which purchase under  
13 various contractual and tariff arrangements, none of which, to my knowledge,  
14 contain such restrictive provisions. For these reasons as well, this antiquated  
15 service relationship has no validity as a basis for establishing a territorial  
16 boundary in this proceeding.

17 Finally, Mr. Klepper's allegation that Gulf Coast is inconsistent by  
18 seeking a territorial boundary given this historical position regarding the  
19 respective utilities' rights to serve electric consumers is incorrect for two other  
20 reasons. One, the Commission ordered this proceeding to establish a territorial  
21 boundary between Gulf Power and Gulf Coast. Gulf Coast has attempted, in good

1 faith, to comply with that Commission directive. This change in circumstances  
2 alone debunks any notion that somehow Gulf Coast has been inconsistent in its  
3 position.

4 And two, Mr. Klepper's allegation completely ignores the major structural  
5 difference between the wholesale bulk power marketplace and the current retail  
6 marketplace in Florida. In recent years, the wholesale bulk power marketplace  
7 has become more competitive, thereby allowing wholesale customers to seek  
8 alternative power supply arrangements just as Gulf Coast did when it elected to  
9 leave Gulf Power and secure its power supply from Alabama Electric  
10 Cooperative, Inc. ("AEC"). Furthermore, wholesale bulk power markets have  
11 become more competitive as a result of increased transmission access. Under  
12 these market conditions, Gulf Coast is allowed to, and in fact did, shop for  
13 alternative power supply. Conversely, the retail sale of power has been structured  
14 around utilities being given the right to serve specified customers in return for the  
15 obligation to serve those customers. This regulatory compact often involves the  
16 specification of designated service areas for individual utilities. While Florida  
17 does not have a statute requiring the designation or certification of service areas, it  
18 has recognized the assignment of the right to serve customers through the  
19 resolution of territorial disputes by the Commission. This process includes,  
20 among other things, the determination of specific territorial boundaries between  
21 competing utilities.

1 As a result of these substantially different structures with regard to the  
2 market for wholesale and retail services, there is absolutely no inconsistency on  
3 Gulf Coast's part with regard to how it perceives its rights as a wholesale  
4 purchaser of power as opposed to its relationship with its retail customers. Mr.  
5 Klepper's assertion simply should be rejected.

6 **Q. MR. KLEPPER AVERS THAT GULF POWER BELIEVES THE**  
7 **HISTORICAL CONTRACTUAL AND TARIFF PROCEDURES**  
8 **BETWEEN GULF POWER AND GULF COAST WHICH ADDRESSED**  
9 **THE DIVISION OF RETAIL ELECTRIC SERVICE WERE FAIR AND**  
10 **EFFECTIVE IN ALLOCATING RETAIL SERVICE ON A RATIONAL**  
11 **AND ECONOMICALLY EFFICIENT BASIS IN GULF POWER'S VIEW.**  
12 **PLEASE RESPOND TO THIS POINT.**

13 A. My subsequent rebuttal testimony directed to the prepared direct testimony of Mr.  
14 Weintritt addresses in more detail the validity and effectiveness of those old  
15 procedures. Those comments apply equally here in response to Mr. Klepper, but  
16 are not repeated here for brevity.

17 **E. COMPETITION/NATURAL MONOPOLY/REGULATION**

18 **Q. MR. KLEPPER STATES THAT INSTITUTION OF A STRICT**  
19 **TERRITORIAL BOUNDARY BY THE COMMISSION WOULD NOT BE**  
20 **AN APPROPRIATE REGULATORY ACTION. DO YOU AGREE WITH**  
21 **HIM AND HIS REASONS THEREFOR?**

1 A. No. For all the reasons stated in my direct testimony and, to the extent applicable;  
2 in this rebuttal testimony, it would be in the public interest for the Commission to  
3 establish a territorial boundary between Gulf Power and Gulf Coast where their  
4 facilities are commingled or in close proximity and potential unnecessary and  
5 uneconomic duplication may occur.

6 While I agree in general with Mr. Klepper that "the economic purpose of  
7 regulation is to act as a surrogate for competition in circumstances, such as the  
8 existence of natural monopoly conditions, where free market competition does not  
9 exist" (Klepper Direct Testimony, p. 13, ll. 17-20), I disagree with how he  
10 attempts to utilize this concept to justify not establishing a territorial boundary  
11 between the entities.

12 Based on this concept, he then suggests that:

13 In those situations in Florida where customer choice is now  
14 available, and where allowing the customer the opportunity to  
15 make that choice will have no material adverse effect on pre-  
16 existing customers, the Commission should recognize that the  
17 market, rather than regulation will produce the more economically  
18 efficient result. If territorial boundaries are erected, the economic  
19 efficiencies widely expected to arise from the continuing  
20 availability of customer choice will be precluded to the detriment  
21 of both new and existing customers.

22 (Id., p. 15, ll. 1-11.) The fact that two entities may be vying to serve the same  
23 customer does not mean that there is free market competition. That scenario  
24 depicts one of oligopoly where there is a limited number of large suppliers in a  
25 given market. So, the conditions that he postulates in his general proposition

1 about regulation as a surrogate for competition still exist in this environment. In  
2 addition, the fact that a consumer has a one-time, irrevocable customer choice is  
3 not at all suggestive of a free market competition environment where customers  
4 have continuing choices from multiple suppliers with regard to a product or  
5 service. Again, notwithstanding how he tries to paint the “facts,” distribution  
6 service is still a natural monopoly function once a customer is signed up by a  
7 supplier. Hence, suppliers, especially profit-motivated suppliers, have an  
8 incentive to conduct themselves in a manner to lock up a customer through this  
9 one-time, irrevocable choice process so that the customer no longer is purchasing  
10 distribution (or power) service in a free market competition environment.

11 Finally, he claims that economic efficiencies widely expected to arise from  
12 the “continuing” availability of customer choice will be precluded if a territorial  
13 boundary is established. He has not demonstrated what economic efficiencies will  
14 be gained or demonstrated how such economic efficiencies will be lost. He has  
15 not addressed any of the planning impacts, which I have discussed in both my  
16 direct and rebuttal testimonies, regarding uneconomic duplication due to  
17 uncertainty of service area obligations. The facts simply do not support his theory  
18 regarding whether natural monopoly conditions exist, to what extent his claim of  
19 “customer choice” really reflects free market competition, or how the planning  
20 realities lead to uneconomic duplication with certainty of service area obligations.

1 **F. CUSTOMER CHOICE AND U.S. ECONOMIC SYSTEM**

2 **Q. MR. KLEPPER STATES THAT "IT WOULD BE CONTRARY TO THE**  
3 **FUNDAMENTAL ECONOMIC SYSTEM EMPLOYED IN THE UNITED**  
4 **STATES IF AN INVESTOR OWNED, PROFIT SEEKING UTILITY**  
5 **WERE DENIED THE OPPORTUNITY TO PURSUE AND EXPAND ITS**  
6 **LEGITIMATE BUSINESS INTERESTS, WHILE AT THE SAME TIME**  
7 **CAUSING THE DISADVANTAGED CONSUMER TO PURCHASE THE**  
8 **DESIRED ELECTRIC SERVICE AT A HIGHER, ALBEIT SUBSIDIZED,**  
9 **PRICE. PLEASE RESPOND TO THESE POINTS.**

10 A. First, although not explicitly stated, his comments imply that establishment of a  
11 territorial boundary between Gulf Coast and Gulf Power in Florida would be  
12 some major departure from common practice within the electric industry  
13 nationally and within Florida under the "fundamental economic system employed  
14 in the United States." This simply is incorrect. Many states have territorial laws  
15 which establish certificated or assigned service areas to electric suppliers. Such  
16 states include, by way of example, South Carolina, Tennessee, Virginia,  
17 Nebraska, Kansas, Texas, Indiana, and Colorado. In Alabama, Georgia, and  
18 Mississippi, three other examples of states which have such laws, Gulf Power  
19 actually has affiliates (Alabama Power Company; Georgia Power Company and  
20 Savannah Electric & Power Company; and Mississippi Power Company) that  
21 have functioned for years under such statutes. What Mr. Klepper would

1 characterize as contrary to the fundamental economic system of the U.S. has, in  
2 fact, been an integral part of it for years as to monopoly utility services.

3 Second, fixing a territorial boundary does not deny either Gulf Power or  
4 Gulf Coast the opportunity to pursue and expand their legitimate business  
5 interests. Growth is still anticipated for northwest Florida in both entities'  
6 traditional service areas, and I know of no reason why such growth would be  
7 eliminated as a result of establishing a territorial boundary. Such hyperbole by  
8 Mr. Klepper does not address the issue in this proceeding on a rational, factual  
9 basis and should be disregarded.

10 Third, Mr. Pratt addresses the subsidy accusation by Mr. Klepper to the  
11 extent it warrants response. Nothing further need be said about this emotional,  
12 political argument for which he has provided no support.

13 Fourth, I have addressed elsewhere why rates should not be a factor in  
14 resolving territorial disputes. Even if rates were one of many factors to be  
15 weighed in determining the public interest, no analysis of the rates of either  
16 system over the long term has been presented to demonstrate any sustained  
17 differences. Even if done, such studies must be viewed in the context of whether  
18 Gulf Coast will be prevented by some policy of improving its competitive  
19 advantage by being foreclosed from serving its traditional service area as it  
20 develops and becomes more economically attractive.

1     **III.   MATTERS PRESENTED BY MR. HOLLAND**

2           **A.    GENERAL PROPOSITION OF ESTABLISHING A**  
3           **TERRITORIAL BOUNDARY**

4     **Q.    MR. HOLLAND STATES THAT MANDATING OF FIXED**  
5           **TERRITORIAL SERVICE AREAS OR “LINES ON THE GROUND”**  
6           **WOULD CONSTITUTE A REGRESSIVE RATHER THAN A**  
7           **PROGRESSIVE POLICY ON THE PART OF THE COMMISSION. DO**  
8           **YOU AGREE?**

9     A.    No. Mr. Bohrmann, testifying on behalf of the Commission Staff, places in  
10           proper perspective the history of disputes between Gulf Power and Gulf Coast,  
11           indicating to me that these two entities have had a number of disputes over the  
12           years which have led to various types of litigation. In addition, Mr. Dykes and  
13           Mr. Gordon, testifying on rebuttal on behalf of Gulf Coast, described in detail a  
14           number of instances where past guidelines have been violated when they were  
15           supposed to be effective and ignored when they were no longer in effect. The  
16           recent dispute over the Washington County Correction Institute illustrates further  
17           the continuing nature of disputes between the parties.

18                   Guidelines have been shown not to work. Moreover, the old guidelines  
19           presented as part of Mr. Weintritt’s direct testimony assured that there would be  
20           disputes over such matters as proximity of loads to existing facilities. Such  
21           procedures are not necessary in light of the Commission’s statutory

1 responsibilities and associated rules related to the resolution of territorial disputes.  
2 Simply having some additional set of guidelines, such as the old guidelines  
3 repeatedly referred to by Gulf Power's witnesses, only adds another layer to the  
4 process of resolving disputes when the parties compete for service area,  
5 customers, and load. Such additional administrative burden is neither necessary  
6 nor cost effective from either system's customers' perspective.

7 Contrary to Mr. Holland's assertion, the determination of a territorial  
8 boundary clearly would obviate disputes in the future like those which have  
9 repeatedly occurred in the past under the so-called old "guidelines."

10 **Q. WOULD THE ESTABLISHMENT OF A TERRITORIAL BOUNDARY**  
11 **CONSTITUTE A REGRESSIVE POLICY IN LIGHT OF THE CURRENT**  
12 **STATUS OF THE ELECTRIC UTILITY INDUSTRY AS CLAIMED BY**  
13 **MR. HOLLAND?**

14 A. No. As I discussed earlier in response to similar contentions by Mr. Klepper,  
15 there is no basis for trying to resolve the territorial boundary issue in this  
16 proceeding based upon events which might transpire nationally, but more  
17 particularly in Florida, in the future. Moreover, the implication in Mr. Holland's  
18 and Mr. Klepper's testimony with regard to where the industry might be headed  
19 with regard to competition blurs the lines between competition for sales of power  
20 (i.e., a commodity) and the continuing monopoly wires service associated with the  
21 delivery (i.e., transmission and distribution) of that commodity to consumers. My

1 response to Mr. Klepper on these matters is equally applicable to the contentions  
2 of Mr. Holland, so I will not repeat them again here.

3 **Q. DOES EITHER THE TERRITORIAL POLICY STATEMENT (EXHIBIT**  
4 **GEH-3) OR THE POLICY STATEMENT (EXHIBIT GEH-4) PROPOSED**  
5 **BY GULF POWER RESULT IN THE DETERMINATION OF A SPECIFIC**  
6 **TERRITORIAL BOUNDARY?**

7 A. No. Both sets of procedures only suggest mechanisms for resolving territorial  
8 disputes as service to new customers is extended in the future. As new customers  
9 secure service, the service areas would change from time to time. As I will  
10 discuss in some detail later, there are a number of problems with the procedures  
11 which make the proposals undesirable for establishing even an evolutionary  
12 service area. Gulf Power's recommendations simply fall short of the mark of  
13 establishing a territorial boundary where Gulf Power's and Gulf Coast's facilities  
14 are commingled or in close proximity or where unnecessary and uneconomic  
15 duplication may occur in the future. Neither of these claimed "innovative  
16 methods" results in the determination of a territorial boundary as required by the  
17 Commission's various orders in the proceeding.

18 **Q. WILL EITHER OF THE METHODS PROPOSED BY GULF POWER**  
19 **RESULT IN THE AVOIDANCE OF FURTHER UNECONOMIC**  
20 **DUPLICATION OF ELECTRIC FACILITIES AND IN FEWER**

1           **CONTESTED TERRITORIAL DISPUTES INVOLVING THE TWO**  
2           **UTILITIES AS CLAIMED BY MR. HOLLAND?**

3           A.    No. As to the avoidance of further uneconomic duplication, under these proposals  
4           there would be a constant uncertainty as to which customers would be the  
5           responsibility of either entity in the future. For all the reasons I gave in my direct  
6           testimony and in my rebuttal testimony in response to various points raised by Mr.  
7           Klepper and Mr. Weintritt, the planning process for generation, transmission, and  
8           distribution facilities is frustrated by this uncertainty, which frustration can lead to  
9           uneconomic duplication. I believe the points I made are quite clear as to how  
10          uneconomic duplication will continue to occur absent clear delineation of a  
11          territorial boundary between the two systems.

12                    I fail to see how the procedures for resolving territorial disputes proposed  
13           by Gulf Power will result in fewer contested territorial disputes in the future.  
14           First, to avoid disputes under any procedure, the parties must be willing to live by  
15           the rules. History indicates that there have been problems with regard to the old  
16           guidelines presented by various Gulf Power witnesses, even though in my  
17           opinion, those guidelines were much simpler than the ones proposed by Gulf  
18           Power in this proceeding. Moreover, as both utilities grow closer and closer  
19           together and become more and more entangled, the probability of disputes goes  
20           up rather than down, notwithstanding some generalized procedure for attempting  
21           to resolve any such disputes as they might occur.

1 I have found nothing to suggest that fewer contested territorial disputes  
2 will result, as claimed by Mr. Holland. The only aspect of such additional  
3 procedures which might arguably discourage contestation of territorial disputes is  
4 the added costs associated with yet another layer of procedures. This, however,  
5 simply invites both parties to challenge each other and push the procedures to the  
6 limit, expecting that the other party will not choose to contest service to every  
7 customer which might develop. This result certainly is not in the public interest  
8 and therefore is not a constructive basis for adopting the procedures proposed by  
9 Gulf Power.

10 **Q. MR. HOLLAND STATES THAT GULF POWER OPPOSES**  
11 **GEOGRAPHICAL DELINEATIONS BECAUSE THIS WOULD BE**  
12 **CONTRARY TO THE BEST INTERESTS OF THE GENERAL BODY OF**  
13 **ELECTRIC CONSUMERS IN THE REGION BOTH NOW AND IN THE**  
14 **FUTURE. PLEASE RESPOND TO THIS CONTENTION.**

15 **A.** He has made no empirical showing that all electric consumers in the region would  
16 suffer under the establishment of a territorial boundary. The basis of his  
17 allegation is not clear, although it is conceivable that he is relying on, among  
18 other things, the differential in rates between Gulf Power and Gulf Coast. For all  
19 the reasons I discussed in response to Mr. Klepper, rates should not be used as a  
20 basis for determining a territorial boundary.

1           In addition, Mr. Holland cannot have in mind all of the ratepayers of Gulf  
2           Coast when he makes this claim. To the extent Gulf Coast is deprived of the  
3           opportunity to serve higher density areas as they develop, thereby averaging down  
4           its distribution costs, its existing ratepayers are deprived of the opportunity to  
5           lower their power costs. The same is true to the extent that Gulf Coast is  
6           precluded from serving certain beneficial non-residential loads which may  
7           develop in the area.

8           Gulf Power also cannot have in mind its existing ratepayers in high  
9           density areas which will potentially pay higher rates as a result of Gulf Power  
10          serving less attractive, lower density areas, many of which may be primarily  
11          residential as opposed to more balanced loads. If all of these real factors are taken  
12          into account, a broad claim that establishing a territorial boundary will  
13          disadvantage the general body of electric consumers is a gross over-simplification  
14          if not a total misstatement.

15       **Q. MR. HOLLAND CONTENDS THAT LINES ON THE GROUND WOULD**  
16       **PRECLUDE GULF POWER FROM SERVING SOME NEW, FUTURE**  
17       **ELECTRIC CUSTOMERS FOR WHICH IT WOULD ORDINARILY BE**  
18       **THE ECONOMIC CHOICE TO EXTEND FACILITIES AND PROVIDE**  
19       **ELECTRIC SERVICE. PLEASE COMMENT ON THIS STATEMENT.**

20       A. If a territorial boundary is established, customers will be served by the utility in  
21       which their premises are located. There may be customers that would choose

1 Gulf Power were they not in the Gulf Coast service area; likewise, there may be  
2 customers that would choose Gulf Coast were they not in Gulf Power's service  
3 area. Everything is not going to be as one-sided as pictured by Mr. Holland.  
4 Territorial boundaries have been established for years in Florida and many states  
5 throughout the nation, as being in the public interest. There are no facts that I  
6 have seen with regard to the areas at issue in this proceeding which distinguish  
7 them in a way that the preclusion of such customer choice would be any different  
8 than generally occurs in other areas of the State of Florida with regard to the  
9 establishment of territorial boundaries, or in other states.

10 **Q. MR. HOLLAND AVERS THAT "LINES ON THE GROUND" WOULD**  
11 **HINDER GULF POWER FROM FULFILLING ITS BASIC BUSINESS**  
12 **OBJECTIVE OF PROVIDING REASONABLY PRICED ELECTRIC**  
13 **SERVICE TO CUSTOMERS IN NORTHWEST FLORIDA THROUGH**  
14 **THE ECONOMIES INHERENT IN THE FREE ENTERPRISE SYSTEM**  
15 **AND THE PROFIT MOTIVE. PLEASE COMMENT ON THIS POINT.**

16 A. This statement is fraught with overtones which imply that Gulf Power has an  
17 inalienable right as a "profit motivated" entity to serve whomever it desires in  
18 Northwest Florida. I respectfully suggest that Gulf Power does not have such a  
19 right and that it must abide by the Florida Statutes and the Commission's Rules  
20 with regard to territorial disputes, including the establishment of territorial  
21 boundaries by the Commission. There is nothing that gives Gulf Power the right

1 to serve solely because it is a profit-motivated entity. This implies that not-for-  
2 profit businesses, such as Gulf Coast, do not have a right to exist and compete in  
3 the free enterprise system. Were this the case, the various State (including  
4 Florida) and Federal enabling statutes which permit the existence of not-for-profit  
5 corporations, which include many businesses other than electric distribution  
6 cooperatives, would not exist.

7 Gulf Power has also made no showing that not-for-profit entities would  
8 somehow be unable to achieve economies in the free enterprise system. Based  
9 upon my experience with hundreds cooperatives throughout the nation over the  
10 last twenty-six (26) years, I have observed that most of these systems are run  
11 efficiently and in the best interest of their consumers. Because of the competitive  
12 pressures inherent in their providing service to less desirable service areas, these  
13 systems have to operate as efficiently as possible to maintain as competitive a rate  
14 structure as possible. Rest assured, if Gulf Power were to serve all of the areas  
15 served by Gulf Coast, its rates would have to be higher because of the cost impact  
16 due to the characteristics of Gulf Coast's service area. In sum, there has certainly  
17 been no documentation in this proceeding that Gulf Coast is inefficient.

18 **Q. MR. HOLLAND ALLEGES THAT CUSTOMERS SERVED BY GULF**  
19 **COAST AS A RESULT OF A TERRITORIAL BOUNDARY WOULD BE**  
20 **DISADVANTAGED AND DISENFRANCHISED BY LINES ON THE**

1           **GROUND AND RELEGATED TO ESSENTIALLY UNREGULATED**  
2           **RATES FOR ELECTRIC SERVICE. IS THIS CORRECT?**

3           A.     I discussed in detail earlier the invalidity of the notion that Gulf Coast's rates are  
4                   not subject to regulatory oversight, including certain authority bestowed on the  
5                   Commission. Suffice it to summarize by saying that Gulf Coast's member-owner  
6                   ratepayers have oversight through their elected board representatives.

7           **Q.     HAVE GULF COAST'S RATES BEEN HIGHER THAN GULF POWER'S**  
8                   **RATES AS A RESULT OF LACK OF REGULATORY OVERSIGHT BY**  
9                   **THE COMMISSION?**

10          A.     Not to my knowledge, and Gulf Power has not provided any evidence that would  
11                   correlate the level of rates with its claimed lack of regulatory oversight of Gulf  
12                   Coast's rates.

13          **Q.     DOES THE PAYMENT OF RATES BY GULF COAST'S MEMBERS,**  
14                   **WHETHER HIGHER OR LOWER THAN THE RATES OF GULF**  
15                   **POWER, DRAIN MONEY FROM THE ECONOMY OF NORTHWEST**  
16                   **FLORIDA?**

17          A.     Absent an extremely complex and detailed economic analysis, it is impossible to  
18                   fully understand what effects rate charges have on the economy of Northwest  
19                   Florida. Several things are obvious, however, regarding rates paid by consumers  
20                   whether they are served by Gulf Power or Gulf Coast. A certain amount of those  
21                   dollars will potentially move outside the Northwest Florida economy in the form

1 of payments for goods and services. Portions of the amounts paid will continue to  
2 circulate through the economy in the form of wages and salaries and purchases of  
3 materials and supplies in that economy. As to Gulf Power, a portion of its rates  
4 truly are profit as Mr. Holland has noted. Certain of these profits are transferred  
5 to Gulf Power's parent company, the Southern Company, and used for purposes  
6 beyond the economy of Northwest Florida. The simple point I am attempting to  
7 make here is that Mr. Holland's accusation is somewhat akin to arguing about  
8 how many angels can dance on the head of a pin. Absent detailed studies of how  
9 the revenue of both Gulf Power and Gulf Coast circulate through or may be  
10 drained from the economy of Northwest Florida, such generalizations should be  
11 disregarded as unfounded.

12 **Q. MR. HOLLAND GIVES TWO EXAMPLES OF HOW HE BELIEVES**  
13 **DRAWING LINES ON THE GROUND COULD LEAD TO RATHER**  
14 **THAN PREVENT THE FURTHER UNECONOMIC DUPLICATION OF**  
15 **FACILITIES. WOULD YOU PLEASE RESPOND TO THESE**  
16 **EXAMPLES AND THE CONCLUSIONS HE DRAWS THEREFROM.**

17 **A.** One must first understand the implied concept of uneconomic duplication which  
18 is being used to make the arguments presented by Mr. Holland. His consideration  
19 of uneconomic duplication appears solely limited to the incremental cost to  
20 connect a new consumer to existing facilities at a given point in time. This  
21 definition fails to reflect all of the ways in which uneconomic duplication may

1 occur as a result of both Gulf Power and Gulf Coast vying to serve the same areas,  
2 customers, and loads. Distribution facilities are not designed in such "bite-sized"  
3 increments that look only at the incremental cost of adding a single new customer.  
4 Feeder lines and substations must also be sized to handle new customers as well  
5 as the load growth of existing customers. To the extent there is uncertainty about  
6 where new customers will locate, and therefore who ultimately will serve those  
7 customers, the potential exists for both utilities to plan their distribution facilities  
8 to serve the same loads. The same is true with regard to transmission facilities,  
9 and for the same reasons generation facilities.

10 Given his apparent definition of uneconomic duplication, it is easy to  
11 come up with several simplified examples as to how only the last increment of  
12 cost to connect a new customer could result in an apparent uneconomic  
13 duplication of facilities. His analyses, however, ignore all of the upstream effects  
14 on existing distribution facilities which have been planned to and must support  
15 that new service, and the transmission facilities which ultimately support that new  
16 service. His examples assume a grossly over-simplified utility planning process  
17 which simply does not exist in the real world.

18 **Q. MR. HOLLAND CITES A LAW REVIEW ARTICLE (EXHIBIT GEH-2)**  
19 **WHEREIN TWO COMMISSION STAFF MEMBERS COMMENT ON**  
20 **THE PRESENT PROCEDURES OF THE COMMISSION FOR**

1           **RESOLVING TERRITORIAL DISPUTES. PLEASE COMMENT ON**  
2           **THIS ARTICLE AS IT RELATES TO THIS PROCEEDING.**

3           A.     This treatise was prepared by two attorneys for publication in a law review article  
4           to address a certain issue at a particular point in time. There has been nothing to  
5           indicate that the authors, or other FPSC Staff members, have taken the position  
6           that the conclusions expressed in this article suggest that the Commission is  
7           precluded or prevented from establishing territorial boundaries in general under  
8           the procedures discussed therein or in this proceeding as ordered by the  
9           Commission. It is basically a legal history of the Commission's authority over  
10          and resolution of territorial disputes and discusses certain legislation which was  
11          never adopted. Since I am not an attorney, I cannot comment from a legal  
12          perspective on this document. There are several observations, however, with  
13          regard to the article which are relevant from a technical perspective in addressing  
14          the issue before the Commission in this proceeding.

15                 First, even under the current procedures employed by the Commission, the  
16          resolution of territorial disputes can result in the determination of a specific  
17          territorial boundary. The article does not appear to imply otherwise.

18                 Second, territorial disputes have been and continue to be resolved between  
19          individual utilities, indicating that the facts and circumstances will be evaluated  
20          on a case-by-case basis in making such decisions. To that end, the Commission  
21          has determined that a territorial boundary will be established in this proceeding. I

1 can only conclude that, notwithstanding the general proposition presented in the  
2 cited article, the Commission has the authority and intends to determine such a  
3 territorial boundary.

4 Third, the cited article does not address any specific territorial disputes,  
5 analyze any facts and circumstances specific to any cases, or draw any  
6 conclusions with regard to the approval of territorial agreements, including the  
7 establishment of territorial boundaries, in any such cases. In essence, the article  
8 does not address the myriad of technical, economic, planning, and other  
9 considerations which I have addressed at length in my direct and rebuttal  
10 testimonies. The Commission no doubt will decide this case on the merits. The  
11 treatise cited by Mr. Holland presents interesting historical information, but it  
12 does not address the relevant points at issue in this proceeding related to the  
13 determination of a specific territorial boundary between Gulf Power and Gulf  
14 Coast.

15 **Q. CROSS-REFERENCING MR. WEINTRITT'S DIRECT TESTIMONY,**  
16 **MR. HOLLAND REFERENCES PAST AGREEMENTS BETWEEN GULF**  
17 **POWER AND GULF COAST WHICH CONTAIN PROVISIONS THAT**  
18 **HE SUGGESTS IMPLICITLY, IF NOT EXPLICITLY, SERVED AS A**  
19 **TERRITORIAL AGREEMENT BETWEEN THE PARTIES. PLEASE**  
20 **COMMENT REGARDING THESE MATTERS.**

1 A. I address in detail in a subsequent section of my rebuttal testimony these old  
2 guidelines in responding to Mr. Weintritt. All of those observations are equally  
3 applicable here in response to Mr. Holland's testimony and are incorporated  
4 herein by reference. Similar comments were made by Mr. Klepper on this topic,  
5 and my responses to that testimony apply as well here and, consequently, are also  
6 incorporated herein by reference.

7 **B. GULF POWER ALTERNATIVES TO A TERRITORIAL**  
8 **BOUNDARY**

9 **1. What is Gulf Power's Position?**

10 **Q. HAS GULF POWER MADE A DEFINITIVE RECOMMENDATION TO**  
11 **THE COMMISSION TO ESTABLISH A TERRITORIAL BOUNDARY?**

12 A. No. It has presented multiple methods of dealing with territorial disputes in the  
13 future. Mr. Holland presents two new concepts which I will address  
14 subsequently. He also implies that Gulf Power's first choice might even be one  
15 identical to "the one that served each party and the general public well for many  
16 years as part of the prior wholesale service contract between the two utilities"  
17 (Holland Direct Testimony, p. 14, l. 23 - p. 15, l. 1). If he is suggesting that the  
18 Commission also consider that option as part of the potpourri of methods  
19 presented by Gulf Power, it should be rejected for all the reasons I have discussed  
20 elsewhere in my rebuttal testimony.

1 Mr. Spangenberg, testifying on behalf of Gulf Power, also presents a  
2 complicated, non-specific, six-category procedure for establishment of territorial  
3 boundaries which would deal with service to new customers on a case-by-case  
4 basis. Mr. Gordon addresses this six-category proposal.

5 The simple conclusion to be drawn from Gulf Power's multiple-method  
6 presentation is that all such methods would continue to require case-by-case  
7 territorial dispute resolution in certain instances and none would address the  
8 uncertainties of the planning process which I have discussed extensively.

9 **2. Gulf Power's Proposed Territorial Policy Statement**

10 **Q. IS GULF POWER'S PROPOSED TERRITORIAL POLICY STATEMENT**  
11 **(EXHIBIT GEH-3) AN ACCEPTABLE METHOD FOR ESTABLISHING**  
12 **A TERRITORIAL BOUNDARY BETWEEN GULF POWER AND GULF**  
13 **COAST?**

14 **A. No.**

15 **Q. PLEASE EXPLAIN.**

16 **A.** As the name of the document clearly notes, this is a policy statement and not a  
17 specific boundary line proposal. For this reason alone, Gulf Power's proposal  
18 does not deal with the Commission's directive to determine a territorial boundary  
19 between the parties.

20 This generic concern is illustrated by examining the contents of some of  
21 the provisions of this proposed Territorial Policy Statement. The following

1 observations demonstrate some of the fundamental problems with Gulf Power's  
2 proposal.

3 • Paragraph (1) does not determine anything. It simply states that  
4 "[n]either of the Parties shall uneconomically duplicate the others'  
5 electric facilities." Uneconomic duplication is not even defined.  
6 Even if it were defined to the extent there were disputes, each  
7 would have to be resolved on a case-by-case basis. This does not  
8 advance the ball with regard to permanently resolving territorial  
9 disputes like the ones which have arisen over the years between the  
10 parties.

11 • Paragraph (2) provides in part that "[t]he Parties shall construct or  
12 extend distribution lines only when immediately necessary to serve  
13 a new premises or a continuous group of premises pursuant to a  
14 bona fide and documented request for such service from a  
15 customer or developer ..." (emphasis supplied). This provision is  
16 ridiculous on its face. It would be impossible under this broad  
17 restriction to plan the distribution facilities of the respective  
18 parties' systems for all the reasons I have discussed elsewhere in  
19 my rebuttal testimony. A certain amount of planning and  
20 construction of facilities is related to anticipated load growth in the  
21 immediate vicinity of the particular facilities as well as beyond that

1 immediate vicinity where substation and feeder line facilities are  
2 involved. This provision simply ignores this critical aspect of  
3 system planning.

4 • Paragraph (2) also states in part that “[t]he Parties ... shall not  
5 construct or extend distribution lines to serve future, speculative  
6 growth in the absence of a bona fide and documented request for  
7 such construction or extension by a customer or developer.” The  
8 same comments in the preceding point hold with regard to this  
9 point.

10 • Paragraph (2) also implies that a party would only be allowed to  
11 construct “... facilities necessary in order to transmit electrical  
12 energy between unconnected points on a party’s lines when such is  
13 necessary for reliability purposes.” Such forms of construction  
14 might be necessary simply for load carrying purposes to supply  
15 load growth in unconnected areas. This could be considered other  
16 than a “reliability” purpose as envisioned by this provision.

17 • The last sentence of Paragraph (2) refers to “customers  
18 immediately adjacent to the existing facilities of the other party.”  
19 This is a vague term which would be difficult to administer.  
20 Moreover, it is not clear what happens with regard to a party’s  
21 right to serve prospective customers which are not immediately

1 adjacent to the existing facilities of the other party and could be  
2 served from new facilities constructed to connect unconnected  
3 points.

4 • Paragraph (3) states that "... neither of the Parties shall construct  
5 or maintain electric distribution lines for the provision of retail  
6 electric service to any premises then currently being provided retail  
7 electric service by the other party." This provision is not clear as  
8 to what happens if a premises is vacated and the service  
9 disconnected by the existing supplier. This provision could be  
10 interpreted to allow the other party to extend service to this  
11 location when a new customer taking new service at the same  
12 location comes along. The last sentence in Paragraph (6) is  
13 similarly vague and troubling.

14 • Paragraph (4) is simply a "closer-to" policy, except for loads of a  
15 certain size excluded by operation of Paragraph (5). A "closer-to"  
16 policy results in a moving target with regard to facilities in place to  
17 serve loads. That is, once facilities are extended to serve a new  
18 customer, the area surrounding that new extension now becomes  
19 part of the closer-to determination with regard to future customers.  
20 For all the reasons I have described previously regarding planning  
21 for systems, such a fluctuating service area frustrates the ability to

1 plan adequate resources and facilities to serve load while avoiding  
2 uneconomic duplication due to the uncertainties created by such  
3 floating service areas.

4 • Paragraph (5) provides customer choice for "... a new premises or  
5 contiguous group of premises [which] require a combined electric  
6 load equal to or greater than 300 KVA, under normal operations  
7 and within a five (5) year growth period from the date of initial  
8 service ... ." This provision is problematic for several reasons.  
9 One, "combined electric load" is not defined. It could be  
10 connected load, a summation of the individual non-coincident  
11 loads of the multiple premises, or it could be the estimated  
12 diversified load of all of the premises. Two, this combined electric  
13 load must be estimated for a period of five (5) years. These  
14 vagaries make application virtually impossible. Even if the  
15 definition of terms could be clarified, the potential for disputes  
16 over load estimates and rates of development over time (e.g., the  
17 timing of build-outs in a given subdivision) would lead to disputes  
18 as to whether or not customer choice should apply in a given  
19 situation.

20 • Paragraph (5), specifically the last sentence, allows a change in the  
21 provider of electric service at a given premises under certain

1 conditions. Again, this just invites the parties to engage in  
2 confrontational activities. Furthermore, even if the facilities of a  
3 party currently supplying a premise were inadequate for some  
4 change of purpose and use of electricity at that location, the  
5 existing supplier should continue to serve that location and have  
6 the right to upgrade its facilities. Gulf Power's proposal would  
7 simply put such situations up for grabs. Again, disputes are likely  
8 to arise over the determinations which would have to be made in  
9 such instances.

- 10 • Paragraph (6) basically throws open head-to-head competition for  
11 any customer outside the defined "closer-to" corridor that is not  
12 already receiving central station electric service. This creates  
13 planning uncertainty for all the reasons I have discussed elsewhere,  
14 such as the impacts associated with constantly changing service  
15 area for a given party.
- 16 • The provisions of Paragraphs (7) and (8) establish a delay  
17 procedure whereby the parties must confer before extending  
18 service to certain premises. While service in a given instance may  
19 not be time critical, such delay, and the obvious anticipation that  
20 disagreements could arise, simply adds unnecessarily to the  
21 process of extending service in a timely fashion consistent with

1 reasonable planning. This typifies Gulf Power's presentation of a  
2 process as opposed to a boundary.

3 **3. Gulf Power's Proposed Policy Statement**

4 **Q. DOES GULF POWER'S PROPOSED POLICY STATEMENT (EXHIBIT**  
5 **GEH-4) PROVIDE A TERRITORIAL BOUNDARY?**

6 A. No.

7 **Q. PLEASE EXPLAIN.**

8 A. Gulf Power's proposed Policy Statement is simply another "closer-to" mechanism  
9 for determining which utility will serve a given customer. This proposal suffers  
10 from many of the same general flaws as the proposed Territorial Policy Statement  
11 which I just discussed. This method likewise adds another layer to the dispute  
12 resolution process by establishing an intermediate process of mediation before the  
13 Commission Staff, with ultimate dispute resolution continuing to be handled by  
14 the Commission. In short, the proposed Policy Statement does not establish a  
15 boundary; rather, it simply adds to existing procedures under the Commission's  
16 Rules.

17 **Q. DO YOU HAVE SPECIFIC COMMENTS REGARDING PARTICULAR**  
18 **PROVISIONS OF GULF POWER'S PROPOSED POLICY STATEMENT?**

19 A. Yes. Disputes would be resolved "... by determining which utility is able to serve  
20 the customer at the lowest net cost to the utility." Although not clear, it appears  
21 that this provision would be based solely upon the incremental cost to connect the

1           disputed service. If so, this would ignore all of the other up-stream costs to  
2           provide service and the attendant effects on planning which I have discussed in a  
3           number of contexts in both my direct and rebuttal testimony.

4                     The proposed Policy Statement also provides that “[i]n determining which  
5           utility is able to serve the customer at the lowest net cost to the utility, customer  
6           contributions in aid of construction to extend service will be taken into account as  
7           reductions to the utility’s gross cost to serve.” If this means that the net cost to  
8           the utility is the gross cost less CIACs, this would distort (i.e., understate) the  
9           actual cost to a utility of connecting the new customer. There is absolutely no  
10          logic to this calculation in determining what is in the public interest, since that  
11          public interest includes not only the effect on the existing ratepayers, but the new  
12          customer.

13                    The last sentence of the proposed Policy Statement provides that “[f]or  
14          purposes of this policy, existing distribution lines shall be construed to mean  
15          installed conductor of sufficient type and capacity to satisfy the service  
16          requirements of the requesting customer without the necessity of any upgrades.”  
17          This limitation would simply put more customers up for grabs where some  
18          upgrades might be necessary to serve a given customer. If a utility is capable of  
19          upgrading its existing facilities to serve a customer, this should be allowable as  
20          part of an ongoing right to serve a given service area. Gulf Power’s proposed

1 limitation once again sets the stage for various types of disputes rather than  
2 providing a boundary line upon which each party can base its system planning.

3 **Q. PLEASE COMMENT ON GULF POWER'S PROPOSAL TO ESTABLISH**  
4 **A CUSTOMER CHOICE WHERE "... THE NET COST TO THAT**  
5 **UTILITY OF EXTENDING SERVICE TO THAT CUSTOMER DOES**  
6 **NOT EXCEED THE OTHER AFFECTED UTILITY'S NET COSTS OF**  
7 **EXTENDING SERVICE TO THAT CUSTOMER BY AN AMOUNT**  
8 **GREATER THAN \$15,000."**

9 A. Mr. Holland attempts to rely on the Florida Supreme Court's decision reversing  
10 the Commission's decision regarding which utility should serve the Washington  
11 County Correctional Institute. The Commission, in its Nov. 18 Order, squarely  
12 rejected Gulf Power's argument as going beyond the bounds of reason and  
13 common sense. As a footnote, I would add by way of illustration that it would be  
14 totally illogical to consider such an arbitrary number as being reasonable  
15 irrespective of whether service is being extended to a water pump in a pasture or a  
16 5,000 KVA industrial load. Logic dictates that such an arbitrary proposal is  
17 ridiculous on its face.

1 **IV. MATTERS PRESENTED BY MR. WEINTRITT**

2 **A. HISTORICAL METHOD FOR RESOLVING TERRITORIAL**  
3 **DISPUTES**

4 **Q. MR. WEINTRITT REFERS TO CERTAIN GUIDELINES UTILIZED BY**  
5 **GULF POWER AND GULF COAST IN THE PAST TO DETERMINE**  
6 **WHICH PARTY WOULD CONSTRUCT FACILITIES AND SERVE**  
7 **CUSTOMERS, CITING EXHIBIT NOS. \_\_\_ (WCW-3) AND \_\_\_ (WCW-4).**  
8 **ARE THOSE PROCEDURES RELEVANT TO THE ESTABLISHMENT**  
9 **OF A TERRITORIAL BOUNDARY BETWEEN GULF COAST AND**  
10 **GULF POWER IN THIS PROCEEDING?**

11 A. No. For all the reasons given in response to Mr. Klepper's and Mr. Holland's  
12 testimony concerning these past guidelines, which I incorporate herein by  
13 reference, they are irrelevant and should be ignored for purposes of establishing  
14 the territorial boundary in this proceeding.

15 **Q. ARE THERE OTHER REASONS WHY THESE PAST GUIDELINES ARE**  
16 **NOT INSTRUCTIVE WITH REGARD TO THE ESTABLISHMENT OF A**  
17 **TERRITORIAL BOUNDARY BETWEEN GULF COAST AND GULF**  
18 **POWER?**

19 A. Yes. Those old guidelines, with certain exceptions, basically were "closer-to"  
20 provisions. As a result, they did not establish a fixed territorial boundary; rather,  
21 those guidelines required constant monitoring with regard to service to new

1 customers to administer the provisions and determine, in certain instances, which  
2 party had the right to serve a given customer or area. As new facilities were  
3 added, the potential dividing line between the parties changed as to the closer-to  
4 concept. Moreover, the uncertainty as to where specific customers might locate  
5 (i.e., closer to Gulf Power or Gulf Coast) created a situation where there could be  
6 significant planning uncertainty as to new consumers and new load. The old  
7 guidelines did not resolve such matters.

8 **Q. MR. WEINTRITT MAKES SEVERAL STATEMENTS AS TO HOW**  
9 **WELL GULF POWER PERCEIVES THE OLD GUIDELINES FOR**  
10 **RESOLVING TERRITORIAL DISPUTES TO HAVE WORKED IN THE**  
11 **PAST. PLEASE COMMENT ON HIS OBSERVATIONS.**

12 A. Mr. Weintritt states that few territorial disputes have been referred to the  
13 Commission for resolution in the past twenty-five (25) years. Staff witness  
14 Bohrmann addresses in detail the territorial disputes which the Commission has  
15 been asked to resolve between Gulf Power and Gulf Coast. He also places in  
16 perspective these disputes by indicating that “no other combination of two utilities  
17 has produced more territorial disputes” (Bohrmann Direct Testimony, p. 6, ll. 6-7)  
18 since 1974.

19 What is unstated, however, by both Mr. Weintritt and Mr. Bohrmann are  
20 the instances where disputes may have arisen that were not submitted to the  
21 Commission for resolution. It is my understanding that there have been other

1 instances where disputes arose which were not submitted to the Commission. It  
2 does not take extreme insight to understand that initiation of formal proceedings  
3 to contest every territorial dispute which might arise under a given set of  
4 guidelines is not cost effective. Seeking Commission resolution of each dispute  
5 involving individual customers, unless they are substantially large, is simply not  
6 cost effective. Therefore, if instances occurred where either utility perceived that  
7 it had the right to serve a given customer that ultimately was served by the other  
8 utility, the expense of litigating such situations may have precluded either utility  
9 from challenging the other in those instances. While this may have been rational  
10 as it relates to the cost of legal expenditures, this does not necessarily mean that  
11 foregoing the right to serve an individual customer was consistent with past  
12 planning practices, the overall economics of serving that utility's customers, or  
13 the so-called guidelines.

14 The fact that few formal disputes arose does not necessarily indicate that  
15 the procedures were always applied or worked well. As Messrs. Dykes' and  
16 Gordon's rebuttal testimony on behalf of Gulf Coast indicates, there have been  
17 other situations where the old guidelines were not followed by Gulf Power but  
18 Gulf Coast did not initiate formal proceedings with the Commission. These  
19 instances simply indicate that "how well" the past guidelines worked is in the eye  
20 of the beholder.

1 Q. **DID THE OLD GUIDELINES CITED BY MR. WEINTRITT ESTABLISH**  
2 **A TERRITORIAL BOUNDARY AS ORDERED BY THE COMMISSION**  
3 **IN THIS PROCEEDING?**

4 A. Obviously, the old guidelines did not establish a territorial boundary, or the  
5 parties would not be in this proceeding today. The old guidelines were simply a  
6 complicated means of resolving territorial disputes in an environment where the  
7 respective service areas of Gulf Coast and Gulf Power could constantly change  
8 depending upon a number of factors. As acknowledged by even Mr. Weintritt,  
9 disputes arose under those old guidelines, and as confirmed by Messrs. Dykes and  
10 Gordon, other violations of those guidelines occurred. In contrast, these events  
11 should not occur upon the establishment of a specific territorial boundary as  
12 contemplated by the Commission.

13 Q. **WHY DO TERRITORIAL DISPUTE RESOLUTION GUIDELINES SUCH**  
14 **AS A “CLOSER-TO” PROVISION OR “CUSTOMER CHOICE”**  
15 **PROVISION FOR LOADS GREATER THAN A SPECIFIED SIZE NOT**  
16 **RESOLVE THE POTENTIAL FOR UNECONOMIC DUPLICATION?**

17 A. I discussed in detail how uneconomic duplication may occur at the distribution  
18 system level in my direct testimony (Exhibit No. \_\_\_ (SPD-1), pp. 13-14 and 21-  
19 22). Uneconomic duplication of facilities is not limited solely to local distribution  
20 facilities of two utilities which physically overlap or which may be in close  
21 proximity. When two utilities compete to serve the same geographic area and,

1           therefore, the same customers and load, both not only must have adequate local  
2           distribution facilities in the immediate area, they also must have adequate  
3           distribution feeder line and substation capacity, transmission facilities capacity,  
4           and generation and/or purchased power resources to serve the load. Given the  
5           long planning horizons for the necessary facilities to serve, commitments of  
6           resources generally occur far in advance of when the associated facilities actually  
7           will be needed. In fact, the duplicative local distribution facilities, which have the  
8           shortest lead times, represent only a portion of the uneconomic duplication that  
9           occurs when two utilities attempt to serve the same area, customers, and load.  
10          The other necessary facilities (i.e., production, transmission and other distribution  
11          facilities) are usually the more costly part of any uneconomic duplication.

12                   The "closer-to" concept simply does not take into account this  
13                   substantially more expansive uneconomic duplication which can occur. It ignores  
14                   the realities of system planning from the generator to the meter. Allowing  
15                   customer choice for loads in excess of a certain load size likewise introduces  
16                   planning uncertainties which lead to such uneconomic duplication. It is therefore  
17                   clear why such guidelines for resolving territorial disputes will not avoid the  
18                   potential for such unnecessary and uneconomic duplication.

19          **Q.    DOES THE FACT THAT GULF COAST DOES NOT OWN**  
20                   **GENERATION OR TRANSMISSION FACILITIES AFFECT WHETHER**  
21                   **UNECONOMIC DUPLICATION OF SUCH FACILITIES WILL OCCUR**

1           **IN INSTANCES WHERE IT PLANS TO SERVE THE SAME LOAD AS**  
2           **GULF POWER?**

3           A.    No. Any uneconomic duplication of generation and transmission facilities as to  
4           Gulf Coast simply will occur upstream on the system of AEC, Gulf Coast's power  
5           supplier. Gulf Coast purchases all of its power (capacity and energy)  
6           requirements from AEC, a generation and transmission cooperative that plans for  
7           and serves the total loads of its members, which are located in Alabama and the  
8           panhandle-area of Florida.

9                     AEC plans for the anticipated load growth of its members, including Gulf  
10           Coast and, in particular, load in the areas where Gulf Coast and Gulf Power may  
11           be vying to serve the same load. To the extent Gulf Coast ultimately serves only a  
12           portion of the load planned for by AEC, unnecessary and uneconomic duplication  
13           of generation and transmission facilities will occur.

14                    In comparison, Gulf Power's generation and transmission needs are  
15           planned under one corporate umbrella (putting aside coordinated planning and  
16           operations among the various affiliates of the Southern Company which include  
17           Gulf Power). The same uneconomic duplication of generation and transmission  
18           still occurs when Gulf Power plans for the total load in a given area but ultimately  
19           secures the right to serve only a portion of that load.

1           **B.     GULF POWER'S PROPOSED TERRITORIAL POLICY**  
2           **GUIDELINES**

3           **Q.     MR. WEINTRITT, AT PAGES 12-13 OF HIS PREPARED DIRECT**  
4           **TESTIMONY, CLAIMS THREE (3) ADVANTAGES TO UTILIZING**  
5           **GULF POWER'S PROPOSED SET OF GUIDELINES FOR RESOLVING**  
6           **TERRITORIAL DISPUTES AS CONTAINED IN EXHIBIT NO. GEH-~~2~~<sup>3</sup>**  
7           **PLEASE RESPOND TO EACH OF THOSE CLAIMED ADVANTAGES.**

8           A.     Mr. Weintritt first claims that the guidelines contained in Exhibit No. GEH-~~2~~<sup>3</sup>  
9           offer all the advantages previously described for the FERC tariff provisions  
10          (Exhibit No. \_\_\_ (WCW-4). For all the reasons cited in my earlier testimony in  
11          response to Messrs. Klepper, Holland, and Weintritt on those old guidelines, they  
12          are wholly inappropriate for use in judging the adequacy of determining a  
13          territorial boundary in this proceeding. Nor do those guidelines, or the revised  
14          guidelines as proposed by Gulf Power, consider and adequately address the  
15          potential for unnecessary and uneconomic duplication for all the reasons I  
16          described earlier.

17                   Mr. Weintritt next suggests that the revised guidelines prohibit the  
18          extension of distribution lines to serve future speculative growth. The  
19          administration of such an amorphous concept would be difficult and time  
20          consuming, if not impossible. The proposed provisions also do not provide a  
21          logical, orderly, and economically workable planning process. This can be

1 illustrated by reference to Paragraph (2) of Gulf Power's proposed Territorial  
2 Policy Statement (Exhibit No. GEH-3) which states, in part, as follows:

3 The Parties shall construct or extend distribution lines only when  
4 immediately necessary to serve a new premises or a contiguous  
5 group of premises pursuant to a bona fide and documented request  
6 for such service from a customer or developer, and shall not  
7 construct or extend distribution lines to serve future, speculative  
8 growth in the absence of a bona fide and documented request for  
9 such construction or extension by a customer or developer.

10 All distribution facilities are not planned in these little "bite-sized" increments as  
11 contemplated by the above provision. If any effort is made to take into account  
12 the orderly planning of all distribution facilities, including, for example,  
13 distribution substations and feeders, it could deteriorate into a constant battle over  
14 whether new or extended distribution facilities are speculative. The obvious  
15 administrative unworkability of this type provision is sufficient to undermine Mr.  
16 Weintritt's claimed advantage of prohibiting facilities extensions to serve  
17 speculative growth. A specified territorial boundary, on the other hand, would  
18 totally remove any incentive for Gulf Coast and presumably Gulf Power to extend  
19 their systems based on speculative growth, to stake out territory, or to otherwise  
20 engage in uneconomic actions that are not in the public interest.

21 Finally, Mr. Weintritt suggests that the revised guidelines provide the  
22 advantage of offering a method to resolve disputes. The whole purpose of this  
23 proceeding is to establish a territorial boundary which would obviate disputes.  
24 The Commission currently has procedures to resolve territorial disputes. Simply

1            establishing some new set of procedures in lieu of or in addition to those already  
2            available to the Commission is costly, administrative surplusage which neither  
3            party nor their ratepayers need or should be forced to incur.

4        **Q.    DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

5        **A.    Yes, at this time.**

1           **MR. HASWELL:** We tender the witness for  
2 cross examination.

3           **MR. STONE:** In the interest of time,  
4 Commissioners, I will dispense with my cross  
5 examination.

6           **CHAIRMAN JOHNSON:** Thank you. Staff.

7           **MS. JOHNSON:** None.

8           **CHAIRMAN JOHNSON:** Commissioners?  
9 Then you're excused.

10           (Witness Daniel excused.)

11                                   - - - - -

12           **MR. STONE:** Commissioner Johnson, I believe  
13 that the next witness that's coming up we have another  
14 attorney who is going to be primarily responsible, and  
15 he's not here. Could we take a brief recess so I  
16 could locate Mr. Badders?

17           **CHAIRMAN JOHNSON:** There's also Mr. Gordon.  
18 Is that same attorney going to --

19           **MR. STONE:** I'm not sure which witness you  
20 are calling next.

21           **MR. HASWELL:** Our next witness is, according  
22 to the order of witnesses, Mr. Dykes.

23           **CHAIRMAN JOHNSON:** I was just wondering if  
24 we could take them out of order.

25           **MR. STONE:** I don't think Mr. Badders has

1 gone far.

2 **CHAIRMAN JOHNSON:** We'll take a few moments.

3 **MR. STONE:** If we take a few moments, I can  
4 find him.

5 **CHAIRMAN JOHNSON:** Go off the record.

6 (Brief recess.)

7 - - - - -

8 **CHAIRMAN JOHNSON:** Are we prepared to go  
9 back on the record?

10 **MR. BADDERS:** I'm ready.

11 **MR. FLOYD:** We would call William S. Dykes.

12 **CHAIRMAN JOHNSON:** And all of your witnesses  
13 were also sworn yesterday, Mr. Floyd?

14 **MR. FLOYD:** Yes, they were. Thank you.

15 **CHAIRMAN JOHNSON:** Thank you.

16 - - - - -

17 **WILLIAM S. DYKES**

18 was called as a rebuttal witness on behalf of Gulf  
19 Coast Electric Cooperative, Inc., and, having been  
20 duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 **BY MR. FLOYD:**

23 **Q** Would you give us your name, please?

24 **A** William S. Dykes.

25 **Q** And, Mr. Dykes, you were one of the

1 witnesses who was sworn yesterday in this proceeding,  
2 correct?

3           A     Correct.

4           Q     Are you the same William S. Dykes who has  
5 filed rebuttal testimony in this case dated December  
6 20th, 1996?

7           A     Yes, I am.

8           Q     And do you have any additions, deletions or  
9 corrections to make to this prefiled testimony?

10          A     Yes, I do believe I have, two. On my  
11 rebuttal testimony, Page 6, Line 11, I need to  
12 withdraw "2,300" and insert "700." That's in feet.

13          Q     That is the only change in your rebuttal  
14 testimony, prefiled testimony itself, correct?

15          A     Right.

16          Q     Okay.

17          A     And I had an already exhibit.

18          Q     Excuse me, that's to a deposition that was,  
19 so we'll handle that in a different manner if we need  
20 to, Mr. Dykes.

21          A     Okay.

22          Q     Thank you. Are you sponsoring any exhibits  
23 as a part of your prefiled testimony?

24          A     What, in my rebuttal?

25          Q     Yes.

1           **A**     Yes.

2           **Q**     Okay.  If you were asked the same questions  
3 as is in the prefiled rebuttal testimony, would the  
4 answers given in that prefiled testimony be the same  
5 today?

6           **A**     Yes, they would.

7           **MR. FLOYD:**  I respectfully request that the  
8 rebuttal testimony of William S. Dykes be inserted  
9 into the record.

10           **CHAIRMAN JOHNSON:**  It will be inserted.

11           **MR. FLOYD:**  I would like to have Mr. Dykes  
12 exhibits that are WSD-1 through 12 marked for  
13 identification also.

14           **CHAIRMAN JOHNSON:**  They'll be identified as  
15 Exhibit 16 and short title "Composite Exhibit WSD-R1  
16 through R12."

17           **MR. FLOYD:**  Yes, please.

18                   (Exhibit 16 marked for identification.)

19

20

21

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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve )  
Territorial Dispute with Gulf Coast )  
Electric Cooperative, Inc. By ) Docket No. 930885-EU  
Gulf Power Company )

REBUTTAL TESTIMONY AND EXHIBITS  
OF  
WILLIAM S. DYKES  
ON BEHALF OF  
GULF COAST ELECTRIC COOPERATIVE, INC.

December 20, 1996

1 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A William S. Dykes, Box 8370, Southport, Florida 32409.

3 Q WHAT IS YOUR CURRENT EMPLOYMENT?

4 A I am the Manager of Engineering for the Southport District office of Gulf Coast  
5 Electric Cooperative, Inc. ("Gulf Coast").

6 Q ARE YOU THE SAME WILLIAM S. DYKES WHO TESTIFIED IN PHASE I OF  
7 THIS PROCEEDING?

8 A Yes, I am.

9 Q WHAT GEOGRAPHIC AREAS DOES THE SOUTHPORT OFFICE SERVE?

10 A Primarily Washington, Bay, Calhoun, and part of Walton Counties.

11 Q HOW LONG HAVE YOU BEEN EMPLOYED BY GULF COAST AND WHAT  
12 POSITIONS HAVE YOU HELD?

1 A I have been employed by Gulf Coast for 20 years. I started as a Mapping Technician,  
2 was promoted to Staking Engineer, then to Supervisor of Engineering in 1986. In  
3 1992 the title was upgraded to Manager of Engineering. A copy of my job description  
4 is attached as Exhibit <sup>COMP</sup> 16 (WSD-R1).

5 Q WHAT ARE YOUR DUTIES?

6 A My duties include system planning for the Southport distribution system, daily  
7 operational and maintenance functions, load forecasting, and monitoring our  
8 substations.

9 Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10 A The purpose of my testimony is to demonstrate that, contrary to the claims made by  
11 Mr. Weintritt in his direct testimony, there have been numerous occasions where Gulf  
12 Power has duplicated the facilities of Gulf Coast in providing service to consumers  
13 and where Gulf Coast has taken exception to Gulf Power's actions, although it has  
14 not been cost effective to litigate every territorial dispute. In addition, I will show that  
15 Gulf Power may not have abided by the territorial guidelines in the FERC Tariff  
16 [Exhibit \_\_\_ (WCW-4)] when they were in effect. I also intend to demonstrate that  
17 the number of disputes filed with the FPSC is no indication as to the number of times  
18 Gulf Power has duplicated the facilities of Gulf Coast.

19 Q HOW DO YOU INTEND TO MAKE THESE DEMONSTRATIONS?

20 A By referring to a number of events that have occurred during the course of my  
21 employment with Gulf Coast.

22 Q WHAT KINDS OF SITUATIONS DO YOU INTEND TO DISCUSS?

1 A I intend to review several examples where (1) Gulf Power duplicated the existing  
2 facilities of Gulf Coast in order to serve new consumers, (2) Gulf Power took action  
3 that resulted in the transfer of service from Gulf Coast to Gulf Power, (3) Gulf Power  
4 selectively referred consumers to Gulf Coast to avoid cost and possible complexities,  
5 even though Gulf Power was much closer to the applicant, and  
6 (4) Gulf Power extended its lines into areas already served by Gulf Coast, in order to  
7 serve new consumers, and crossed Gulf Coast's lines several times in doing so.

8 Q PLEASE DESCRIBE EXAMPLES OF WHERE GULF POWER DUPLICATED  
9 EXISTING GULF COAST FACILITIES TO SERVE NEW CONSUMERS.

10 A Perhaps one of the most obvious examples of duplication of service occurred in 1993,  
11 while this proceeding was in progress, involving service to Alliance Realty located on  
12 Highway 77, in south Washington County. This is shown on Gulf Power map No.  
13 2320, filed as part of Exhibit \_\_\_ (AWG-6) to Mr. Gordon's testimony. I have  
14 attached an excerpt from that map as Exhibit <sup>COMP</sup> 16 (WSD-R2). As indicated thereon,  
15 Gulf Coast had an existing line on the east side of the highway. Gulf Power's line was  
16 on the other side of the highway. In December 1993, Gulf Power constructed a  
17 primary (25 kV) single-phase extension approximately 121 ft. over Highway 77 and  
18 over the existing primary (25 kV) line of Gulf Coast to provide service to Alliance  
19 Realty. Gulf Coast's existing primary line was on the same side of the road as Alliance  
20 Realty and was within approximately 35 feet of the point of connection to Alliance  
21 Realty. By merely installing a transformer and constructing a service drop, Gulf Coast  
22 could have served the consumer at lower cost than was incurred by Gulf Power in

1 constructing an overhead primary extension to provide service. This site is located at  
2 mile marker 08.330 in the Greenhead community of south Washington County. The  
3 date that this occurred is established by a letter received from Gulf Power Engineer  
4 Donnell Collins dated December 1, 1993, a copy of which is attached as Exhibit <sup>COMP</sup>16  
5 (WSD-R3). Construction occurred a few days later.

6 Another similar situation occurred in 1984 in the Youngstown area on  
7 Highway 231 in Bay County. This is shown on Gulf Power map No. 2828, included  
8 in Mr. Gordon's Exhibit \_\_\_\_ (AWG-3), excerpts of which I have attached as Exhibit  
9 <sup>COMP</sup>16 (WSD-R4). As shown on this exhibit, according to the details shown on the map  
10 by Gulf Power, Gulf Power constructed 100 feet of underground primary under Gulf  
11 Coast's existing line to serve a new consumer. Again, since Gulf Coast could have  
12 provided service to the consumer with just a service drop and transformer, the cost  
13 incurred by Gulf Power to serve the consumer was considerably higher than would  
14 have been incurred by Gulf Coast.

15 Yet another similar situation occurred on Sweetbriar Road in Bay County in  
16 the 1977 time frame. This location is shown, although incorrectly, on Gulf Power  
17 Map No. 2633, also included in Mr. Gordon's Exhibit \_\_\_\_ (AWG-3), an excerpt of  
18 which is provided as Exhibit <sup>COMP</sup>16 (WSD-R5). Gulf Coast served a home at 7501  
19 Sweetbriar Road, occupied at the time by a Mr. Samuel Wirrick, at a point where I  
20 have located a solid rectangle (point 1). This is the same consumer that Gulf Power  
21 has designated with a Transformer Location Number ("TLN") number of 46/95. For  
22 some reason, possibly either for non-payment or by consumer request, Gulf Coast had

1 disconnected service to the consumer who was located within approximately 100 feet  
2 of the Gulf Coast line on the same side of the road. Gulf Power then extended its  
3 existing primary line from a point (approximately point 3) to this existing consumer,  
4 traversing some 1,200 feet, thus duplicating Gulf Coast's existing facilities which had  
5 been constructed to serve the house, and taking this consumer from Gulf Coast. In  
6 actuality, Gulf Power's transformer pole is located not at the 46/95 spot but  
7 approximately at point 2 where I have shown a solid triangle. It is also noteworthy  
8 that this would have violated the terms of the FERC tariff referred to in Mr.  
9 Weintritt's testimony as Exhibit \_\_\_ (WCW-4), that precluded Gulf Coast and Gulf  
10 Power from taking over services to a consumer served by the other.

11 Q WHAT DO YOU CONCLUDE FROM THESE EXAMPLES?

12 A All of these occurred in areas where Gulf Coast clearly had adequate facilities to serve  
13 the consumer. At considerably higher cost than would have been incurred by Gulf  
14 Coast, Gulf Power constructed lines duplicating the existing facilities of Gulf Coast.  
15 I can only conclude that Gulf Power has little regard as to whether it uneconomically  
16 duplicates the facilities of Gulf Coast, when it desired to serve a customer.

17 Q CAN YOU REFER TO ANY SITUATIONS WHERE GULF COAST HAS  
18 CONSTRUCTED FACILITIES WHICH DUPLICATED THE EXISTING  
19 FACILITIES OF GULF POWER?

20 A Yes. One particular instance comes to mind. In 1988, Gulf Power referred a Mr. C.O.  
21 Young to Gulf Coast for service. Mr. Young was seeking electric service at a location  
22 on the east side of Highway 231 south of Youngstown, at point 1 shown on the

1 excerpt of Gulf Power Map No. 2830 NW [included in Mr. Gordon's Exhibit \_\_\_\_  
2 (AWG-6)], which I have designated as Exhibit <sup>COMP</sup>16 (WSD-R6). At the time, Gulf  
3 Power had and currently shows a 3-phase line on the west side of Highway 231. At  
4 the time, Gulf Coast's line ended at approximately point 2. Gulf Power could have  
5 easily served Mr. Young who had obviously made Gulf Power his choice and to  
6 whom Gulf Power was closer in terms of facilities, by constructing a single-phase tap  
7 across Highway 231 and the adjacent railroad track. Instead, Gulf Power stated that  
8 it did not want to obtain the railroad crossing permit, and apparently with the idea of  
9 avoiding the cost and complexity of the road and railroad crossings, Gulf Power  
10 referred Mr. Young to Gulf Coast for service. Gulf Coast was required to construct  
11 a single-phase line approximately <sup>700</sup>~~2,300~~ feet to the site to finally provide service where  
12 Mr. Young had requested it.

13 Q IN THIS CASE, DO YOU BELIEVE GULF POWER COULD HAVE PROVIDED  
14 SERVICE AT LOWER COST THAN GULF COAST?

15 A Based on my experience, while there would have been some complications associated  
16 with the road and railroad crossing, I believe Gulf Power could have extended its  
17 facilities to serve Mr. Young at considerably less cost than Gulf Coast incurred.

18 Q DO YOU KNOW OF ANY SIMILAR SITUATIONS WHERE MAJOR ROADS  
19 AND/OR RAILROAD RIGHT-OF-WAYS WERE INVOLVED WHERE GULF  
20 POWER EXTENDED SERVICE?

21 A Yes. In fact at about the same time Mr. C.O. Young had requested service, Gulf  
22 Power extended a three-phase primary line from the west side of Highway 231, at the

1 intersection of Bayou George Dr., across the 4-lane highway and the railroad right-of-  
2 way and approximately 3,600 feet down Bayou George Dr. to serve the Sweetwater  
3 Village subdivision, that contained about 600 lots. This is shown on Gulf Power map  
4 No. 2633 [also included in Mr. Gordon's Exhibit \_\_\_ (AWG-3)], an excerpt of which  
5 is attached as Exhibit <sup>COMP</sup>16 (WSD-R7). At the time, Gulf Coast had primary facilities  
6 within 100 feet of the entrance to the subdivision. Incidentally, the original entrance  
7 to Sweetwater Village is not as depicted on Gulf Power's map which I used to  
8 prepare my Exhibit <sup>COMP</sup>16 (WSD-R7), but rather was a point further south on Bayou  
9 George Dr. where the road makes a sharp turn to the east. Where the road continues  
10 on through the sharp bend is the entrance to Sweetwater Village and Gulf Coast's  
11 existing line is shown as a dotted line just east of this point.

12 Gulf Coast initiated meetings with Gulf Power before Gulf Power began  
13 construction in an effort to discuss (1) the geographic location of the subdivision with  
14 respect to the existing facilities of Gulf Coast and Gulf Power and the avoidance of  
15 duplication of Gulf Coast's facilities, (2) the load requirements of the subdivision, (3)  
16 the type of electrical service the developer was requesting, and (4) the overall  
17 economics of service for the subdivision. In fact, this meeting was initiated by Mr.  
18 H.W. Norris, General manager of Gulf Coast, at the time. For the convenience of Gulf  
19 Power, we traveled some 100 miles to meet with Gulf Power officials in their  
20 Pensacola offices.

21 Q WHAT WAS THE RESULT OF THE MEETING?

1 A Gulf Power would not negotiate with Gulf Coast on any aspect of the Company's  
2 plans to serve the Sweetwater Subdivision and expressed no concern as to whether  
3 it would be duplicating the facilities of Gulf Coast in extending service to the  
4 subdivision. After the meeting, Gulf Power proceeded with construction of the line  
5 from Highway 231 down Bayou George Dr. and into the development. It appears that  
6 Gulf Power desires to serve higher density subdivisions and avoid costly and complex  
7 service to isolated individual customers such as Mr. C.O. Young, whom I discussed  
8 earlier.

9 Q DO YOU RECALL ANY OTHER SIMILAR SITUATIONS WHERE GULF  
10 POWER DUPLICATED GULF COAST'S EXISTING LINES TO PROVIDE  
11 SERVICE?

12 A There is an unusual situation that occurred at a development originally known as Deer  
13 Run Ranchetts on Highway 77 in south Washington County. This area is now known  
14 as Sunset Pines and is shown on Gulf Power map No. 2321 [included in Mr. Gordon's  
15 Exhibit \_\_\_ (AWG-6)], an excerpt of which is attached as Exhibit <sup>COMP</sup> 16 (WSD-R8). In  
16 1989, in response to a request from the developer, Gulf Coast crossed from the east  
17 side of the highway to the west side and crossed an existing Gulf Power line to serve  
18 this subdivision development. This subdivision lies in an area that had historically been  
19 Gulf Coast's traditional service area. In fact, Gulf Coast's line along the roadway had  
20 been in place since 1950 and Gulf Coast served consumers on both sides of Highway  
21 77. In 1971, Gulf Power constructed a three-phase primary line north along the  
22 eastern side of Highway 77 for the purpose of serving the Sunny Hills subdivision.

1 Gulf Coast viewed this as an invasion of its historic service area by Gulf Power and a  
2 duplication of Gulf Coast's three-phase line along the east side of Highway 77.

3 While it may appear today that Gulf Coast duplicated Gulf Power's facilities  
4 to serve the Deer Run Ranchettes (Sunset Pines) subdivision, Gulf Coast was merely  
5 continuing to extend service in an area that it had historically served. Gulf Power built  
6 its line on the west side of Highway 77, duplicating Gulf Coast's facilities. Given these  
7 circumstances, it did not appear appropriate for Gulf Coast to defer to Gulf Power to  
8 serve this subdivision.

9 Q WHAT CONCLUSION CAN YOU DRAW FROM THIS SITUATION?

10 A Gulf Coast has extended its facilities in an orderly fashion to provide service within  
11 its historic service area. Gulf Power has extended its facilities beyond its traditional  
12 service area and into areas already adequately served by Gulf Coast in an effort to  
13 capture the more lucrative loads and growth that it perceives to be occurring in south  
14 Washington and Bay Counties. Some of these extensions have been costly to Gulf  
15 Power and ultimately to its customers. For example, in the case of the Gulf Power line  
16 built south from the intersection of Hwy 279 and Hwy 77 along the west side of Hwy  
17 77 to serve the Leisure Lakes subdivision, a matter resolved in another territorial  
18 dispute which will be discussed in greater detail later in my testimony, the FPSC  
19 ordered Gulf Power not to serve any new consumers from the new three-phase line  
20 it had built, since it had uneconomically duplicated the facilities of Gulf Coast. In fact,  
21 within just the last few weeks Gulf Power removed the line.

1 Gulf Power's past actions raise serious concerns as to whether Gulf Power can  
2 be relied upon to fairly enforce territorial dispute procedures. A specific boundary  
3 would prevent the unnecessary duplication of service that has occurred in south  
4 Washington and Bay Counties and avoid any uncertainty as to enforcement of  
5 territorial dispute resolution procedures.

6 Q ARE THERE ANY OTHER AREAS WHERE GULF POWER HAS DUPLICATED  
7 GULF COAST'S FACILITIES?

8 A I recall three specific examples. In 1971, along Highway 279 in south Washington  
9 County, just south of the Town of Vernon, Gulf Power built several miles of line and  
10 paralleled Gulf Coast's existing line that had been in place since 1950. This is shown  
11 on Gulf Power maps 2218 NW, 2218 SE, 2220, 2221, 2320, and 2321 [included in  
12 Mr. Gordon's Exhibit \_\_\_ (AWG-6)]. In this case, Gulf Power crossed Gulf Coast's  
13 existing line approximately 27 times during the original construction and thereafter  
14 on Highway 279 and Highway 77, as part of the extension to serve Sunny Hills. It is  
15 noted that the cost to construct such crossings exceeds the cost were no such  
16 crossings are involved.

17 Another example took place in an area known as Saddlebags, within the Sunny  
18 Hills subdivision. During the early stages of development of Sunny Hills, Gulf Coast  
19 had a line that traversed some of the proposed lots and the planned golf course. In  
20 1980, Gulf Coast relocated this line to the dedicated roadway right-of-way along  
21 Washington Blvd., Deltona Blvd., and Elkcam Blvd. This is shown on Gulf Power  
22 maps numbered 2618 and 2518, copies of which were attached to Mr. Gordon's

1 testimony as part of Exhibit \_\_\_ (AWG-6). In 1984, Gulf Power built a single-phase  
2 line along the opposite side of the road right-of-way, paralleling Gulf Coast's existing  
3 line for a distance of approximately 3 miles to serve what today is only a handful of  
4 consumers that were in close proximity to Gulf Coast's existing line. In the process,  
5 Gulf Power crossed Gulf Coast's line six (6) times.

6 The third incident also took place along Highway 77 in south Washington  
7 County in an area known as Leisure Lakes. This incident was litigated before the  
8 FPSC as a territorial dispute in 1983 in Docket No. 830484-BU. Leisure Lakes lies  
9 three (3) miles west of Highway 77. Access to Leisure Lakes is via an unpaved road  
10 extending west from Highway 77. At the time the Leisure Lakes development began  
11 in 1983, Gulf Coast served the general area encompassed within the Leisure Lakes  
12 development from lines extending from the western side of Leisure Lakes. Gulf Coast  
13 also had a three-phase line in place along the eastern side of Highway 77. Even  
14 though Gulf Coast was closer to this development, located within its historic service  
15 area, Gulf Power constructed a substation and a three-phase line from a point north  
16 of Leisure Lakes, beginning at the intersection of Highway 279 and Highway 77 south  
17 to the access road to the development west of Highway 77, paralleling Gulf Coast's  
18 existing three-phase line the entire distance. Gulf Power then built a three-phase tap  
19 down the access road, westward into the Leisure Lakes area. Gulf Coast filed a  
20 petition with the Florida PSC to resolve a territorial dispute on this matter. The result  
21 was that service rights were awarded to Gulf Coast on the basis that Gulf Power had  
22 unnecessarily and uneconomically duplicated Gulf Coast's existing facilities. In the

1 FPSC's Order No. 13668, Gulf Power was prohibited from serving any consumers  
2 from the line built south along Highway 77. Later, Gulf Coast acquired Gulf Power's  
3 three-phase tap that extended west from Highway 77 into Leisure Lakes.

4 Q DO YOU KNOW OF ANY CASES WHERE GULF COAST HAS REFUSED TO  
5 PROVIDE SERVICE WHERE REQUESTED?

6 A Gulf Coast has an "area coverage" policy that has been in effect for many years.  
7 Under this policy, a copy of which is attached as Exhibit <sup>COMD</sup> 16 (WSD-R9), we will  
8 extend overhead service without charge to "permanent establishments." Service to  
9 non-permanent establishments and underground service may require contributions-in-  
10 aid of construction ("CIAC"). In instances where the requested service is remote from  
11 Gulf Coast's existing facilities, and in an area not historically served by Gulf Coast,  
12 and in an area generally served by Gulf Power, we would refer that applicant to Gulf  
13 Power.

14 Q CAN YOU CITE SOME EXAMPLES OF SUCH CASES?

15 A Yes. In August of 1996, Mr. Tommy Richardson requested service at his property  
16 located in northwest Bay County near the Bay County/Washington County line. Upon  
17 investigation, we determined that we would have to build 6.5 miles of single-phase  
18 line to provide the requested service. We also determined that an existing Gulf Power  
19 line was within two (2) miles of the site where service was requested. I then contacted  
20 Gulf Power (specifically, Mr. Tommy Forbes) and referred the service to Gulf Power.  
21 Mr. Forbes told me that Gulf Power would extend service but would require a  
22 \$10,000 CIAC to do so. I contacted Mr. Richardson and explained that the site was

1 closer to Gulf Power's service area and that Gulf Power should extend service. While  
2 Gulf Coast never refused to provide service to Mr. Richardson, it was felt that  
3 constructing a line to the location would have been an unnecessary and uneconomic  
4 duplication of Gulf Power's existing facilities.

5 In another similar situation, Ms. Kathleen Parker applied to Gulf Coast on  
6 May 6, 1996, for electric service in south Washington County, at a location  
7 approximately 4,000 feet south of Duma Jack Road. As indicated in my letter to Bill  
8 Weintritt of Gulf Power of May 13, 1996, a copy of which is attached as Exhibit <sup>Comp</sup>16  
9 (WSD-10), we determined that it would be more appropriate for Gulf Power to  
10 provide service, due to the considerably greater distance required for Gulf Coast to  
11 provide service, the fact that we would have to cross Gulf Power's line, and on the  
12 basis that the location seemed to be more in an area traditionally served by Gulf  
13 Power. As indicated in the letter, we referred the application to Gulf Power. The  
14 location where service was requested is depicted on Exhibit <sup>Comp</sup>16 (WSD-R11). As also  
15 indicated in the letter, Gulf Power agreed to extend service to Ms. Parker.

16 Q WHAT CONCLUSIONS DO YOU DRAW FROM THESE SITUATIONS?

17 A I believe that Gulf Coast acted responsibly in referring the two applicants for service  
18 to Gulf Power, as in both cases it prevented Gulf Coast from needlessly duplicating  
19 the existing facilities of Gulf Power.

20 Q HAVE THERE BEEN ANY INSTANCES WHERE SERVICE ONCE RENDERED  
21 BY GULF COAST HAS BEEN TRANSFERRED TO GULF POWER?

1 A Yes. On November 3, 1988, Mr. James Spikes requested service for a convenience  
2 store, known as "Big Bucks Store" located near the intersection of Deer Point Dam  
3 Road and County Road 2311 in Bay County. This location is shown on Gulf Power  
4 map No. 2533. I have provided an excerpt from this map which I have attached as  
5 Exhibit <sup>Comp</sup> 16 (WSD-12). Service was provided to the building site on the same date  
6 service was requested by extending a line from Gulf Coast's existing line running  
7 north along the west side of County Road 2311. After the Store was completed, we  
8 were contacted by Mr. Spikes again sometime before January 25, 1989 and advised  
9 that he had decided to take permanent service from Gulf Power. I personally  
10 contacted Mr. Spikes and discussed the matter with him. When I met with Mr. Spikes,  
11 he had a print-out generated by Gulf Power showing power costs at various usage  
12 levels. He also raised several issues and asked questions that led me to believe he was  
13 being prompted by Gulf Power. It was apparent to me that Mr. Spikes had been  
14 solicited by Gulf Power to disconnect service from Gulf Coast and to allow Gulf  
15 Power to provide service. As requested by Mr. Spikes, but reluctantly, Gulf Coast's  
16 service facilities were removed on January 27, 1989.

17 Q DOES THIS CONCLUDE YOUR TESTIMONY?

18 A Yes, it does.

1           **MR. FLOYD:** In the interest of time, we'll  
2 waive the summary to be provided by Mr. Dykes  
3 regarding his rebuttal testimony, and, therefore,  
4 submit him for cross examination at this time.

5           **CHAIRMAN JOHNSON:** Thank you.

6                           **CROSS EXAMINATION**

7 **BY MR. BADDERS:**

8           **Q**     Good afternoon, Mr. Dykes?

9           **A**     Good afternoon.

10          **Q**     In your testimony you allege several  
11 instances where you have determined that Gulf Power  
12 has uneconomically duplicated the facilities of Gulf  
13 Coast; is that correct?

14          **A**     That's correct.

15          **Q**     In fact, Mr. Dykes --

16          **A**     Correction on that, please. Facilities that  
17 have been duplicated.

18          **Q**     In fact, Mr. Dykes, you testify at Page 4,  
19 Lines 12 through 14, I'll quote "The cost incurred by  
20 Gulf Power to serve the consumers was considerably  
21 higher than would have been incurred by Gulf Coast."  
22 Is that correct?

23          **A**     What page was that?

24          **Q**     Page 4, Lines 12 through 14.

25          **A**     Lines what now?

1 Q 12 through 14.

2 A Yes, I did.

3 Q Well, Mr. Dykes, isn't it true that you have  
4 no inkling how much it would cost Gulf Power to serve  
5 any customer in the areas that you describe in your  
6 testimony?

7 A On a cost basis, that's the truth. But  
8 we're talking hundred foot of underground primary  
9 versus a service drop. It's clear it would cost much  
10 more for any utility. It would cost me Gulf Coast  
11 Electric Co-op to do more hundred feet underground  
12 primary hanging a transformer.

13 Q Mr. Dykes, do you recall having had your  
14 deposition taken on January 23rd --

15 A Yes, I do.

16 Q -- by Vicki Johnson, where we asked you a  
17 question. That question would be "In this evaluation  
18 process, would you determine who is the lowest cost  
19 provider, whether Gulf Coast or Gulf Power could serve  
20 the customer at least cost?" Do you recall that  
21 question?

22 A I don't remember. I'd have to --

23 Q Please turn to Page 14?

24 MR. FLOYD: Chairman Johnson, I believe that  
25 is an improper method of impeachment. Certainly you

1 can't use the deposition to ask him for his testimony.  
2 If he has something to ask and it's conflicting then  
3 bring it out, fine. But otherwise, that's an improper  
4 method to go straight to the deposition. I object to  
5 it.

6 **MR. BADDERS:** I believe he asked him if he  
7 had any inkling whatsoever about Gulf Power's cost to  
8 serve any customer, and he made the statement and then  
9 he went further and said "except for underground."

10 I believe when he reads his response to the  
11 question that was asked at his deposition it will  
12 reflect he did make the statement that he has no  
13 inkling what costs in any circumstances.

14 **CHAIRMAN JOHNSON:** I'll allow the question.

15 **Q** (By Mr. Badders) If you could, Mr. Dykes,  
16 please read your answer beginning at Line 15 through  
17 21 on Page 14.

18 **A** Page 14.

19 **Q** Actually, starting at Line 15, where,  
20 "That's difficult."

21 **A** And down to where?

22 **Q** Through Line 21.

23 **A** "That's difficult because I really wouldn't  
24 have an inkling on how much it would cost Gulf Power.  
25 I can only evaluate our side. Just in general terms

1 if it were a 1,000 feet and they were 4,000 feet, it  
2 would naturally be cheaper for us. If it came down to  
3 100 feet it gets into the de minimis."

4 **MR. BADDERS:** Thank you. No further  
5 questions.

6 **CHAIRMAN JOHNSON:** Staff.

7 **CROSS EXAMINATION**

8 **BY MS. JOHNSON:**

9 Q Mr. Dykes, I handed you, prior to your  
10 taking the stand, a document that's entitled "Total  
11 Outage Time and Number of Customers During 1991  
12 through 1992." Do you have that?

13 A Yes, I do. I've got to find it, though.  
14 Okay.

15 Q Were you responsible for the preparation of  
16 that document?

17 A Yes, it was under my direction.

18 **MS. JOHNSON:** Staff would like to have this  
19 marked for identification.

20 **CHAIRMAN JOHNSON:** It will be marked as  
21 Exhibit 17. A short title, "Total Outage Time and  
22 Number of Customers During '91 and '92."

23 (Exhibit 17 marked for identification.)

24 Q (By Ms. Johnson) And isn't it true that  
25 this document shows that for selected areas of Bay and

1 Washington County, that Gulf Coast customers  
2 experienced an annual total interruption of 1.2 hours  
3 in 1991, and 1.06 hours in 1992?

4       **A**     I believe this was replaced as a late-filed.  
5 I don't even have a copy of this up here with me now.  
6 So it's been a long time since I've seen this one.  
7 There has been one that was submitted to replace it.  
8 (Hands document to witness.)

9               **MR. STONE:** Chairman Johnson, if it was  
10 replaced, I'm certainly not on notice of it. I  
11 understand now what happened. This was delivered  
12 after I left Pensacola to come here.

13               **CHAIRMAN JOHNSON:** Okay.

14               **MR. FLOYD:** If I may be able to explain  
15 that.

16               **CHAIRMAN JOHNSON:** Get closer to the  
17 microphone. Is it on?

18               **MR. FLOYD:** I think it is. I'm just not  
19 close enough to it.

20               In reviewing the information that was filed  
21 by Gulf Power on this particular subject matter, it  
22 appeared that rather than what we perceived the  
23 question asked as to identify the customers who had  
24 outages, and then divide those customers who  
25 experienced outages in that area into the number of

1 hours. And it appears that Gulf Power had taken --  
2 that it appeared that Gulf Power had taken the total  
3 number of customers that are in that area, period,  
4 whether they had experienced an outage for not, and  
5 divided it into the total number of hours which, of  
6 course, produced less.

7           So what we did in looking at that we went  
8 back and then on the late-filed exhibit that we  
9 submitted yesterday we provided -- which has the same  
10 information, the total consumer hours, total outage,  
11 et cetera, but as far as the number it takes the total  
12 number of consumers in the area whether they had an  
13 outage or not and then divided it into the total  
14 outage time to provide a comparison of like figures.  
15 And that is why there is an update and we submitted a  
16 late-filed exhibit that explains that on the cover  
17 page yesterday.

18           **CHAIRMAN JOHNSON:** Staff, have you had the  
19 opportunity to review the late-filed? Do we still  
20 want to question on the original document?

21           **MS. JOHNSON:** Yes. Chairman Johnson,  
22 actually, the numbers that Staff wishes to have a part  
23 of the record are shown on the original. The  
24 modification that was -- the resubmittal that was done  
25 by the cooperative which deals with the calculation of

1 the average hours per consumer, Staff is not  
2 necessarily concerned with that. And when I asked  
3 them the question regarding the average hours, I  
4 mistakenly made that reference. We're concerned about  
5 the cumulative numbers that are shown which have not  
6 been changed by the modification of the exhibit.

7 **CHAIRMAN JOHNSON:** Mr. Floyd.

8 **MR. FLOYD:** Chairman, Thank you. That is  
9 correct. In fact, the numbers in '91 and '92 that are  
10 the first -- in the first total area do not change at  
11 all. The only thing that would change, of course,  
12 would be the average minutes outage per consumer.  
13 That's what's reflected in this subsequent one, to  
14 make sure everybody is on notice and up-to-date on the  
15 correct total average. But I think that Ms. Johnson  
16 said it exactly right, the actual data figures do not  
17 change up top, only the average down below.

18 **MS. JOHNSON:** I'll also add that Staff  
19 doesn't have any objection to the update being  
20 included in the record.

21 **CHAIRMAN JOHNSON:** Would we need to mark  
22 this separately or are you saying we should -- Exhibit  
23 17 should be the late-filed and not the original?

24 **MS. JOHNSON:** We don't have any objection to  
25 substituting the update for what we handed out.

1           **MR. FLOYD:** That's fine with us. If we  
2 could marked it for identification, we could use that  
3 as a substitute exhibit. Mr. Haswell points out to me  
4 it's No. 17.

5           **CHAIRMAN JOHNSON:** Staff counsel help me  
6 out, then. What will be marked as Exhibit 17?

7           **MS. JOHNSON:** What Staff will do is we'll  
8 withdraw the document that we had asked to be  
9 identified as Exhibit 17, and in its place we would  
10 like to have the document that was handed out which is  
11 the late-filed exhibit regarding Gulf Coast Electric  
12 Cooperative outage data for 1991, 1992 identified as  
13 an exhibit.

14           **CHAIRMAN JOHNSON:** We will then identify --  
15 we will show total outage time and number of customers  
16 '92 -- '91-92 as withdrawn, the original as withdrawn.

17           **MS. JOHNSON:** That's correct.

18           **CHAIRMAN JOHNSON:** And you've asked that we  
19 mark the late-filed exhibit regarding Gulf Coast  
20 Electric Cooperative outage '91 and '92 as Exhibit 17.

21           **MS. JOHNSON:** Yes. I think that would be  
22 clear for the record. The record would be clear on  
23 that.

24           **CHAIRMAN JOHNSON:** Okay. Then we'll mark  
25 that as exhibit 17.

1 (Exhibit 17 marked for identification.)

2 Q (By Ms. Johnson) Now with that  
3 clarification, Mr. Dykes, isn't it correct that for  
4 1991 Gulf Coast reports an outage time for the  
5 selected areas to be 80.87 hours?

6 A Just a second.

7 Q That's minutes.

8 A We're on the late-filed now?

9 Q Yes.

10 A Okay. 80.875.

11 Q And the number for 1992 would be? 136.83;  
12 is that correct?

13 A That's right.

14 MR. STONE: May I ask for one piece of  
15 clarification? I believe I heard Ms. Johnson ask if  
16 that was 80.875 hours, and then I thought I heard her  
17 say, that's minutes. And I wanted to make sure that  
18 she was not -- the record is unclear to me, and I'm  
19 not sure if she intended to say that the 80.875 was  
20 minutes or she was responding to someone else at  
21 counsel table.

22 MS. JOHNSON: I'll ask the witness that  
23 question.

24 Q (By Ms. Johnson) Are the numbers that are  
25 shown in the column that I identified in minutes or

1 hours?

2 A What I just answered would have been hours.

3 Q Thank you.

4 MR. STONE: Thank you for the clarification.

5 Q (By Ms. Johnson) In response -- well, on  
6 Page 2 of your rebuttal testimony you state that Gulf  
7 Power has duplicated the facilities of Gulf Coast.  
8 Can you tell us what steps you went through to arrive  
9 at that conclusion?

10 A Well, they were handled historically over a  
11 period of time. Naturally, you can't monitor all of  
12 your systems to see who is going where at the same  
13 time. So when it was discovered, however, whatever  
14 means, that there had been -- a duplication had  
15 occurred, I was instructed to go out and investigate  
16 it and get all of the necessary information and report  
17 back up the ladder to management.

18 Q Can you tell us what additional steps would  
19 have to be taken to determine if those duplicate  
20 facilities are uneconomic?

21 A Actually that level is above my  
22 responsibility. Our general management will assign  
23 whoever or whatever for those tasks.

24 Q In your rebuttal testimony you mentioned  
25 that boundary lines would avoid uncertainty as to

1 enforcement of territorial dispute resolution  
2 procedures. Can you explain what you meant by that?

3 A Yes. Would you mind giving me the page  
4 number and lines that you're referring to?

5 Q It's Page 10, Lines 2 through 5.

6 A Okay. Repeat the question again, please.

7 Q Can you explain what you meant when you said  
8 that "A territorial boundary would avoid uncertainty  
9 as to enforcement of territorial dispute resolution  
10 procedures?"

11 A Yes. I feel that's the only way to get a  
12 handle on duplication from either side or any utility.  
13 It's just geographics. It's a line. It's needed.

14 You can come up with a lot of different scenarios and  
15 a lot of different types of solutions, but I believe  
16 that a continuous line on the ground will handle it.

17 Q Are you aware of any disagreements between  
18 Gulf Power Company and Gulf Coast over which utility  
19 would serve a particular customer that did not result  
20 in a dispute filed with the Commission?

21 A Over the years there have been some, yes.

22 Q Can you discuss a few of those, please?

23 A I'd have to go to -- let me look at my  
24 notes, please. (Pause.)

25 Okay. And your question was that were not

1 litigated?

2 Q Yes.

3 A Okay. One of the more recent ones was a  
4 Alliance Realty in Washington County, south Washington  
5 County --

6 MR. STONE: Chairman Johnson, it's very  
7 distracting to us with all of the activity behind us,  
8 Mr. Floyd going back and forth to the witness. If he  
9 needs to speak with his witness to prepare his  
10 testimony, we would prefer that we take time out to  
11 have that done. Otherwise, we prefer that Mr. Floyd  
12 have a seat.

13 MR. FLOYD: I apologize, Chairman Johnson.  
14 I needed to give him documents, not confer with him on  
15 the testimony and that's what I did. My apology to  
16 the Commission.

17 CHAIRMAN JOHNSON: That's fine. There was a  
18 pending question.

19 MS. JOHNSON: He was about to answer, I'll  
20 let him continue.

21 Q (By Ms. Johnson) Should I repeat the  
22 question?

23 A Okay. You want me to just list those in a  
24 list fashion?

25 Q I just wanted you to discuss a few that

1 you're aware of?

2           A       Okay. Alliance Realty, south Washington  
3 County, where Gulf Power crossed our 25 kV three-phase  
4 feeder, Highway 77 feeder, with a single phase primary  
5 facility to serve a realty company that was, I  
6 believe, if I remember, as close as 36 feet to us on  
7 our side of the road. That's one.

8                    Another one would be what we call a saddle  
9 bags area. I think it's Elkcam Boulevard where we  
10 were asked by the Deltona Corporation to relocate a  
11 single-phase facility that went -- it was an old  
12 charter line and traversed through the golf course and  
13 through some of the lots and properties of Deltona.  
14 We were asked to move it out on Elkcam Boulevard, so  
15 we did that, by Deltona. And I think it was  
16 probably -- I'll just try to remember. I think a  
17 couple of years later Gulf built on the other side of  
18 the road, I believe for -- I believe it was miles to  
19 serve -- the load was light, I can't remember exactly  
20 where it ended up and what it was to serve, but  
21 there's very little distribution there.

22                    So that's another case where we have primary  
23 facilities. We've got it on one side of the road;  
24 they've got it on the other.

25                    The Big Bucks Store, on Highway 77-A in Bay

1 County, that's where we originally served the store  
2 owner, the customer, to construct and build the  
3 convenience store. And I can't recall exactly how it  
4 happened but, anyway, when the permanent hookup  
5 occurred, Gulf Power then took the service. And we  
6 were asked to remove our facility off of the property.

7 Q Are the three examples that you just cited  
8 located within the areas of dispute in this cause?

9 A Yes, they are.

10 MS. JOHNSON: We have nothing further.

11 CHAIRMAN JOHNSON: Commissioners? Any  
12 redirect?

13 MR. FLOYD: No redirect.

14 CHAIRMAN JOHNSON: Exhibits?

15 MR. FLOYD: We would like to move into the  
16 record Exhibit 16 and 17, please.

17 CHAIRMAN JOHNSON: Show 16 and 17 admitted  
18 without objection. Thank you.

19 MR. FLOYD: Thank you.

20 (Exhibits 16 and 17 received in evidence.)

21 (Witness excused.)

22 MR. HASWELL: As soon as Mr. Dykes is free,  
23 we're going to then call Mr. Gordon as our next  
24 witness.

25 CHAIRMAN JOHNSON: Yes, Mr. Dykes is

1 excused.

2 (Witness Dykes excused.)

3 - - - - -

4 (Transcript continues in sequence in

5 Volume 5.)

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