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930885

ORIGINAL
FLORIDA PUBLIC
SERVICE COMMISSION

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MAIL ROOM



September 2, 1999

Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 930885-EU

Dear Ms. Bayo:

This letter is Gulf Power Company's report due under Commission Order No. PSC-98-0174-FOF-EU as modified by Order No. PSC-98-0793-PCO-EU. Specifically, the Commission found in Order No. PSC-98-0174-FOF-EU "... that the companies shall establish detailed procedures and guidelines addressing subtransmission, distribution, and requests for new service which are enforceable with the respective company. The procedures and guidelines shall take into account Commission precedent on resolving territorial disputes and shall be submitted to the Commission for review on or before July 31, 1998." Order No. PSC 98-0793-PCO-EU modified that deadline to be "... no later than six months following the date the final order of the Supreme Court of Florida in Case No. 92,479 is rendered." According to the applicable rules, the Supreme Court's decision was rendered March 5, 1999 when the period for filing a request for rehearing expired. Accordingly, the deadline for submitting procedures and guidelines to the Commission for review was changed by Order No. PSC-98-0793-PCO-EU to be no later than September 5, 1999.

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG 1
- LEG 1
- MAS 3
- OPC _____
- PAI _____
- SEC 1
- WAW _____
- OTH _____

Attached hereto are copies of two letters. The first is a letter from Gulf Power Company to Gulf Coast Electric Cooperative dated August 9, 1999. The second is Gulf Coast Electric Cooperative's response dated August 25, 1999. These letters summarize the results of efforts to reach agreement on "... detailed procedures and guidelines addressing subtransmission, distribution, and requests for new service ..." required by Order No. PSC-98-0174-FOF-EU. The parties have not been able to reach complete agreement. Although both companies are willing to notify the Commission that the two utilities are now in agreement with the principle that the present system has worked well

DOCUMENT NUMBER-DATE

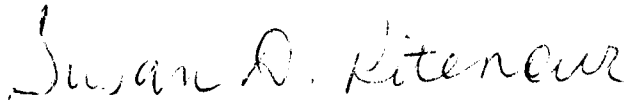
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FPC-RECORDS/REPORTING

As indicated in its August 25, 1999 letter, Gulf Coast Electric Cooperative apparently objects to the refinements set forth in GEH-3 on the basis that they would constitute a significant change to current rules and policy "... that would necessarily require the input of all the electric utilities in Florida if such policy statements or procedures were used." Gulf Power disagrees with this characterization. Adoption of guidelines and procedures set forth in GEH-3 for these two utilities would not affect other electric utilities and would be entirely consistent with the recent decisions of the Commission and the Florida Supreme Court in this case.

If anything further is required, please let us know.

Sincerely,



Susan Ritenour

cc: Robert V. Elias, Esquire
Jim Breman
John Haswell, Esquire
Patrick Floyd, Esquire
Roy Barnes

F.M. (Dusty) Fisher, Jr. One Energy Place
Vice President Power Delivery Pensacola, Florida 32520-0100
and Customer Operations Tel 850.444 6380



August 9, 1999

Mr. Roy Barnes, C.E.O./General Manager
Gulf Coast Electric Cooperative, Inc.
Post Office Box 220
Wewahitchka, FL 32465

Dear Mr. Barnes:

Re: Docket No. 930885-EU

Thank you for your letter of July 21, 1999, which was in response to my letter dated July 6, 1999. I had written to you in a further effort to schedule a meeting to begin the process to establish procedures and guidelines addressing subtransmission, distribution, and requests for new electric service as required by the Florida Public Service Commission in Order No. PSC-98-0174-FOF-EU. As noted in my letter, because the stay pending appeal granted by Order No. PSC-98-0793-PCO-EU expired by its own terms on March 5, 1999, we believe that the deadline for submitting the detailed procedures and guidelines to the Commission for review is now no later than September 5, 1999. I understand from your letter (copy attached) that GCEC now wishes to report to the Commission that it defers to the position taken by Gulf Power at the hearing that the Commission's existing guidelines for resolving territorial issues are adequate and should continue.

Throughout this proceeding, we have consistently expressed as our position that the Commission should decline to establish territorial boundaries between these two utilities because drawing "lines on the ground" is not in the public interest and is not necessary to prevent further uneconomic duplication of electric facilities. In fact, "lines on the ground" could actually lead to and compel the further uneconomic duplication of electric facilities, contrary to the specific statutory mandate the Commission is charged with enforcing. Our position has been and continues to be that future uneconomic duplication of electric facilities can be easily avoided by these two utilities through the application of and compliance with guidelines previously established by the Commission or through refinements such as those set forth in Exhibit GEH-3 or Exhibit GEH-4. As noted in your letter, the Commission's decision in this case as affirmed by the Florida Supreme Court rejected GCEC's position that a fixed territorial boundary is in the best interests of both utilities and the ratepayers of Northwest Florida. Specifically, the Commission stated:

Upon consideration of all the evidence, we find that a territorial boundary should not be established in south Washington or Bay Counties between Gulf Power and Gulf Coast. There is no assurance that a territorial boundary is going to be the most economic way of providing service. We have established that the facilities are commingled and that the incremental cost to serve additional customers is negligible. Thus, in the congested areas, a 'line on the ground' will cure neither past nor future duplication. In the undeveloped areas, a line on the ground will eliminate the flexibility the utilities need to determine which one is in the most economic position to extend service. That flexibility will result in the least cost service provision. It is inappropriate for us to draw lines in undeveloped areas in south Washington and Bay Counties where we do not know what the expansion patterns are going to be. The utilities are the entities with the best evidence of what their long-range plans are, what their systems are, and what is the most economic way of providing additional service.

Later in Order No. PSC-98-0174-FOF-EU the Commission stated:

Order No. PSC-95-0913-FOF-EU also stated that "[a] boundary is not necessarily required in areas where there is no conflict and none is reasonably foreseeable." (Order page 4, emphasis in original) In those areas, the utilities were encouraged to consider a wide range of solutions to accommodate future growth. Gulf Power has suggested criteria for the delineation of service territory in south Washington and Bay Counties. Gulf Power's guidelines, along with the established Commission precedent for determining service areas, can provide the utilities with the flexibility they need to address growth and it will result in the most economic method of providing service. Carving up the two counties, in this instance, will not result in the most economic provision of electric service. Rather, drawing lines on the ground would result in centralized planning by this Commission which is not the most economic way to determine the service areas because it does not take into account market forces which will dictate the manner in which some of the expansion of facilities is going to take place.

Based on the forgoing, we find that the companies shall establish detailed procedures and guidelines addressing subtransmission, distribution, and requests for new service which are enforceable with the respective company. The procedures and guidelines shall take into account Commission precedent on resolving territorial disputes and shall be submitted to the Commission for review on or before July 31, 1998.

As noted earlier, the deadline for submitting procedures and guidelines to the Commission for review was changed by Order No. PSC-98-0793-PCO-EU to be no later than September 5, 1999.

Mr. Roy Barnes, C.E.O./General Manager
Gulf Coast Electric Cooperative, Inc.
August 9, 1999
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Although we are willing to notify the Commission that our two utilities are now in agreement with the principle that the present system has worked well and should be continued, we are mindful of the direction provided by the Commission in Order No. PSC-98-0174-FOF-EU. Therefore, to be in full compliance with the Commission's order, we also propose that the refinements to the Commission's existing guidelines and policies set forth in Exhibit GEH-3 (copy attached) be submitted as proposed procedures and guidelines for Commission review as required by Order No. PSC-98-0174-FOF-EU.

If you are prepared to join us in the foregoing, I will notify the Commission and trust this will satisfy any remaining requirements of their order.

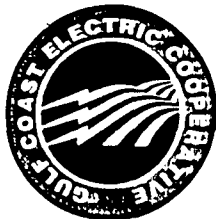
Sincerely,



jsa

Attachments (2)

cc: Florida Public Service Commission
Robert V. Elias, Esq.
Mr. Jim Breman



GULF COAST ELECTRIC COOPERATIVE, INC.

A Touchstone EnergySM Partner
July 21, 1999



Gulf Power Company
Dusty Fisher
One Energy Place
Pensacola, Florida 32520-0100

Dear Mr. Fisher:

Since we talked on May 17, I have reviewed some of the testimony from Gulf Power Company (G.P.C.) witnesses in our docket. Mr. Holland stated "It is our sincere belief that the method adopted by the legislature and this commission some 24 years ago for resolving such disputes has worked extremely well and should be continued." Mr. Weintritt stated "Furthermore, during the 24 years in which the Public Service Commission has had jurisdiction, there have been only six disputes, four of which were filed during a brief 27-month period ending in 1985." Throughout the testimony, it was G.P.C.'s position that the Public Service Commission (Commission) guidelines have served us well and should be continued.

Gulf Coast Electric Cooperative's position continues to be that a fixed territorial boundary is in the best interest of both utilities and the ratepayers of northwest Florida. Territorial agreements in place with other utility companies around the state are working very well.

The Commission entered several orders compelling the parties to reach an agreement fixing a boundary line on the ground in certain areas and that absent that agreement it would set those boundary lines. After a lengthy attempt to reach an agreement in which Gulf Power refused to agree to or set any boundary line on the ground, the hearing was conducted pursuant to the Commission's order. The Commission decided that it would not under the case presented fix a territorial boundary between the utilities. Upon appeal, the Supreme Court affirmed the decision of the Commission not to exercise its authority.

Even though our position has not changed, in the absence of a territorial agreement containing fixed boundaries, we would have to defer to Gulf Power's position that the previous method of resolving disputes continue until the Commission decides to utilize its authority and fix boundaries on the ground. As always, we trust that the disputes will be few and the guidelines honored and will continue to work on that direction. Since Gulf Power's testimony suggests that the method for resolving disputes is not "broken", no repair should be necessary.

If you continue to be in agreement with this, I will notify the Commission and trust this will satisfy any remaining requirements of their order.

Sincerely,

A handwritten signature in black ink that reads "Roy Barnes". The signature is written in a cursive style with a large, prominent "R" and "B".

Roy Barnes
C.E.O./General Manager

TERRITORIAL POLICY STATEMENT

1 THIS POLICY STATEMENT is adopted by the Florida Public Service Commission,
2 hereinafter referred to as the "Commission," this ____ day of _____, 19____
3 in order to govern the relationship between Gulf Power Company, a Maine corporation
4 qualified to do business in Florida, hereinafter referred to as "Gulf Power"; and Gulf Coast
5 Electric Cooperative, Inc., a Florida corporation, hereinafter referred to as "Gulf Coast".
6 Gulf Power and Gulf Coast shall collectively be referred to herein as "the Parties".

7 WITNESSETH:

8 WHEREAS, Gulf Power is an electric utility subject to regulation as a public utility by
9 the Florida Public Service Commission pursuant to the provisions of Chapter 366 of the Florida
10 Statutes; and

11 WHEREAS, Gulf Coast is a rural electric cooperative organized under Chapter 425 of the
12 Florida Statutes and is an electric utility pursuant to Chapter 366 of the Florida Statutes; and

13 WHEREAS, the Parties each own and operate electric facilities in Northwest Florida; and

14 WHEREAS, the Commission desires to avoid further unnecessary and uneconomic
15 duplication of electric facilities by the parties; and

16 WHEREAS, the Commission desires to avoid future disputes regarding the territorial
17 right to serve particular premises or contiguous groups of premises; and

18 WHEREAS, the Commission has authority pursuant to Chapter 366 of the Florida
19 Statutes to resolve territorial disputes between electric utilities as part of the Commission's
20 jurisdiction to assure the avoidance of further uneconomic duplication of generation,
21 transmission and distribution facilities;

22 NOW THEREFORE, the Commission orders and directs the parties to comply with the
23 following provisions:

24 (1) Neither of the Parties shall uneconomically duplicate the other's electric facilities.

25 (2) The Parties shall construct or extend distribution lines only when immediately
26 necessary to serve a new premises or a contiguous group of premises pursuant to a bona fide and
27 documented request for such service from a customer or developer, and shall not construct or
28 extend distribution lines to serve future, speculative growth in the absence of a bona fide and
29 documented request for such construction or extension by a customer or developer. Nothing in

30 this paragraph shall prevent a party from constructing facilities necessary in order to transmit
31 electrical energy between unconnected points on a party's lines when such is necessary for
32 reliability purposes. When such "point to point" facilities are constructed, no existing customers
33 served by the existing facilities of the other party nor any prospective customers immediately
34 adjacent to the existing facilities of the other party may be served by the "point to point"
facilities.

35 (3) Except where otherwise provided in this policy statement, neither of the Parties shall
36 construct or maintain electric distribution lines for the provision of retail electric service to any
37 premises then currently being provided retail electric service by the other party.

38 (4) Except as specified in paragraph five (5) of this policy statement, a new premises or
39 contiguous group of premises located within one thousand feet (1,000') of an existing electric
40 distribution line belonging to only one of the Parties, which electric distribution line and
41 associated electrical facilities are adequate and capable of providing the retail electric service
42 required by the new premises or contiguous group of premises, shall be served by the Party that
43 has such existing electric distribution line and associated electrical facilities. Under such
44 circumstances, said Party shall be the electrical supplier for such particular new premises or
45 contiguous group of premises and shall have an obligation to provide retail electric service
46 thereto. Except as specified in paragraph five (5) of this policy statement, the other party shall
47 not render retail electric service to such premises.

48 (5) Notwithstanding paragraphs three (3) and four (4), where a new premises or
49 contiguous group of premises require a combined electric load equal to or greater than 300 KVA,
50 under normal operations and within a five (5) year growth period from the date of initial service,
51 a written request to either Party by the owner or developer of certain new premises or contiguous
52 group of premises shall determine which Party shall be the retail electric supplier responsible for
53 providing electric service to such new premises or contiguous group of premises. The Party
54 requested by the owner or developer to provide retail electric service to the new premises or
55 contiguous group of premises may construct, operate and maintain facilities for the provision of
56 such electric service when the premises or contiguous group of premises are not, at the time the
57 request is made, being served by the other Party, or if being served by the other Party, are not
58 being served by electrical facilities and capabilities in place and belonging to the other Party that
59 are adequate for the service and capacity being requested by the owner or developer.

60 (6) Except as specified in paragraphs one (1), three (3) and four (4) of this policy
61 statement, customer preference shall determine which Party shall provide the initial retail electric
62 service to a premises. Nothing herein shall be construed to allow a party to commence electric
63 service to a customer who at the time such service is to commence is already receiving adequate
64 central station electric service from the other Party.

65 (7) When a Party receives a request for electric service that is governed by paragraph five
66 (5) of this policy statement and the new premises or contiguous group of premises is not located
67 within one thousand feet (1,000') of facilities belonging to the Party receiving the request for
68 service but is located within one thousand feet (1,000') of the other Party's facilities, the Party
69 receiving such a request for service shall give to the other Party notice in writing within five (5)
70 working days of receipt of said request for electric service. Such notice must set forth the type of
71 electric service requested, the date service is requested to commence, as well as the location of
72 the new premises or contiguous group of premises.

73 (8) The notice required by paragraph seven (7) to this policy statement begins a
74 suspension period in which the following procedures shall control:


75 (a) No new construction or extension of electrical facilities to provide permanent retail
76 electric service to the new premises or contiguous group of premises is to commence during the
77 suspension period.

78 (b) The party receiving notice pursuant to paragraph seven (7) of this policy statement
79 may request a meeting regarding the proposed electric service in which case such meeting shall
80 be held within ten (10) days of receipt of such notice. Any request for a meeting pursuant to this
81 paragraph shall be submitted to the other Party in writing. Failure of the Party receiving notice
82 pursuant to paragraph seven (7) to request such a meeting within five (5) working days of
83 receiving the notice shall constitute a waiver of all rights to serve the new premises or contiguous
84 group of premises by that Party, and the suspension period shall thereupon be terminated.

85 (c) At the meeting provided for in paragraph (8) (b) or within ten (10) days thereafter,
86 the Parties shall make a good faith attempt to resolve any dispute regarding which Party shall
87 provide electric service to the new premises or contiguous group of premises. Unresolved
88 disputes shall be submitted to mediation before the Commission Staff and, if necessary,
89 expedited hearing before the Commission. The issue to be resolved shall be limited to whether
90 the right to serve the new premises or contiguous group of premises is governed by paragraphs
91 one (1), three (3) or four (4) of this policy statement or is governed by customer preference as
92 provided in paragraphs five (5) and six (6) of this policy statement. In the event mediation of
93 the dispute has failed and as a result a contested dispute is presented to the Commission for its
94 resolution, the losing party shall pay the prevailing Party's costs of litigation including reasonable
95 attorney's fees.



GULF COAST ELECTRIC COOPERATIVE, INC.

A Touchstone Energy® Partner 

August 25, 1999

F. M. Fisher, Jr., Vice President
Power Delivery and Customer Operations
Gulf Power Company
One Energy Place
Pensacola, FL 32520-1011

RE: Docket No. 930885-EU, Commission Order No. 98-0174

Dear Mr. Fisher:

This will acknowledge your letter of August 9, 1999. While Gulf Coast Electric Cooperative, Inc. (GCEC) continues to maintain the position that the establishment of a territorial boundary between our two utilities is in the best interests of the rate payers of our two utilities, we again defer to the finding of the Florida Public Service Commission (Commission), which was upheld by the Supreme Court, that there was no need to draw any boundaries at this time. Hence, we agree to a joint response to the Commission's Order (98-0174) that the application of and compliance with the historical guidelines and procedures of the Commission which are currently in effect will avoid the further uneconomic duplication of electric facilities, as stated in the second paragraph of your letter. It is Gulf Power's position that the present system (existing guidelines and procedures of the Commission) of resolving disputes and the avoidance of further uneconomic duplication works well. Consequently, we do not see the need to complicate the resolution of this matter by suggesting new guidelines and procedures that are referenced in GEH-3 or 4. It is our view that GEH-3 and 4 are not simply refinements of current rules and policy, but represent significant changes that would necessarily require the input of all the electric utilities in Florida if such policy statements or procedures were proposed.

Both our utilities have incurred significant expenses in arriving at the point where we are now. As mandated by the Supreme Court, decided by the Commission, and stated by Gulf Power, (1) there is no present need for a boundary; and (2) the existing system of resolving disputes works well. We suggest that we agree to leave it at that and represent to the Commission that since the Commission has found that there is no need to draw a boundary and that since prior disputes were

F. M. Fisher, Jr., Vice President
August 25, 1999
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adequately resolved using the current system of policies, guidelines, and procedures, that Gulf Power and GCEC do not propose any changes to that system. We will be happy to draft a joint report for your review to be submitted to the Commission by September 5th.

Very truly yours,

A handwritten signature in cursive script that reads "Roy Barnes".

Roy Barnes
CEO and General Manager

RB/ps