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January 18, 2001

## BY FEDERAL EXPRESS

Honorable Thomas K. Kahn, Clerk  
United States Court of Appeals for the Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

*UNDKTD*

Re: Alabama Power Company v. Federal Communications Commission and United States  
Gulf Power Company v. Federal Communications Commission and United States,  
Consolidated Docket Nos. 00-14763-I and 00-15068-D

Dear Mr. Kahn:

Enclosed please find an original and four (4) copies of Alabama Power Company and Gulf Power Company's Opposition to Motion for 30-Day Extension of Briefing Schedule to be filed by the United States Court of Appeals for the Eleventh Circuit. Please stamp the confirmation copy of this pleading as filed and return it in the enclosed, self-addressed, stamped envelope provided for your convenience.

Thank you for your assistance and consideration in this matter.

Sincerely,

*Jennifer M. Buettner*

Jennifer M. Buettner

JMB/js

Enclosures

APP  
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**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

<b>ALABAMA POWER COMPANY,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>No. 00-14763-I</b>
	)	
	)	
<b>FEDERAL COMMUNICATIONS</b>	)	
<b>COMMISSION and the</b>	)	
<b>UNITED STATES</b>	)	
	)	
<b>Respondents.</b>	)	

**CERTIFICATE OF INTERESTED PERSONS AND  
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the FEDERAL RULES OF APPELLATE PROCEDURE and Eleventh Circuit Rule 26.1-1, it is hereby certified that the following persons or governmental agencies have been associated with or have an interest in the outcome of this case:

Adelphia (party to Docket No. 00-003 before the Federal Communications Commission)

Alabama Cable Telecommunications Association (party to Docket No. 00-003 before the Federal Communications Commission)

AT&T Cable Services (party to Docket No. 00-003 before the Federal Communications Commission)

Balch & Bingham, LLP (counsel for Petitioner)

Richard Beelend, Representative for Northland Cable Properties (party to Docket No. 00-003 before the Federal Communications Commission)

Jennifer M. Buettner (counsel for Petitioner)

Ramona Byrd, Representative for CVI of Alabama, Inc., d/b/a Time Warner Cable  
(party to Docket No. 00-003 before the Federal Communications Commission)

Cable One (party to Docket No. 00-003 before the Federal Communications  
Commission)

Cable Star Inc. (party to Docket No. 00-003 before the Federal Communications  
Commission)

Cablevision Services (party to Docket No. 00-003 before the Federal  
Communications Commission)

Cindy Cade, Representative for Comcast Cable (party to Docket No. 00-003 before  
the Federal Communications Commission)

John Russell Campbell (counsel for Petitioner)

Charter Communications, LLC (party to Docket No. 00-003 before the Federal  
Communications Commission)

Century Cullman Corporation (party to Docket No. 00-003 before the Federal  
Communications Commission)

Ford W. Clark, Representative for Time Warner Cable (party to Docket No. 00-003  
before the Federal Communications Commission)

Cole, Raywid & Braverman (counsel for parties to Docket No. 00-003 before the  
Federal Communications Commission)

Comcast Cable (party to Docket No. 00-003 before the Federal Communications Commission)

ComLink (party to Docket No. 00-003 before the Federal Communications Commission)

Geoffrey C. Cook (counsel for parties to Docket No. 00-003 before the Federal Communications Commission)

Coosa Cable Company (party to Docket No. 00-003 before the Federal Communications Commission)

Kathleen Costello, Acting Division Chief, Financial Analysis & Compliance, Cable Services Bureau Federal Communications Commission

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Peggy A. Dickinson, Representative for Cable Star, Inc. (party to Docket No. 00-003 before the Federal Communications Commission)

Lynne Greene Fraker, Representative for Phoenix Cable T.V. (party to Docket No. 00-003 before the Federal Communications Commission)

James Oglethorpe, Representative for Graceba Total Communication (party to Docket No. 00-003 before the Federal Communications Commission)

Federal Communications Commission (Respondent)

William H. Garner, Representative Twin County Cable (party to Docket No. 00-003 before the Federal Communications Commission)

Paul Glist (counsel for parties to Docket No. 00-003 before the Federal Communications Commission)

Lynn Goldman, Representative for Demopolis CATV Company (party to Docket No. 00-003 before the Federal Communications Commission)

John D. Gosch, Vice President for Cable One (party to Docket No. 00-003 before the Federal Communications Commission)

M. C. Grigsby, Representative for Century Cullman Corporation (party to Docket No. 00-003 before the Federal Communications Commission)

Mike Hugunin, Representative for Birmingham Division of Time Warner Cable (party to Docket No. 00-003 before the Federal Communications Commission)

James Cable Partners, LP (party to Docket No. 00-003 before the Federal Communications Commission)

Ron Johnson, VP of Operations for Charter Communications, LLC (party to Docket No. 00-003 before the Federal Communications Commission)

William Johnson, Deputy Bureau Chief, Cable Services Bureau, Federal Communications Commission

Brian Josef (counsel for parties to Docket No. 00-003 before the Federal Communications

Commission)

Keller and Heckman LLP (counsel for Petitioner)

Cheryl King, Staff Attorney, Federal Communications Commission

Raymond A. Kowalski (counsel for Petitioner)

Deborah Lathen, Chief, Cable Services Bureau, Federal Communications  
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Joseph Van Lerner, Representative for Mediacom, LLC (party to Docket No. 00-003  
before the Federal Communications Commission)

MediaCom, LLC (party to Docket No. 00-003 before the Federal Communications  
Commission)

Northland Cable Properties (party to Docket No. 00-003 before the Federal  
Communications Commission)

Scott Peden, General Manager for AT&T Cable Services (party to Docket No. 00-  
003 before the Federal Communications Commission)

Phoenix Cable T.V. (party to Docket No. 00-003 before the Federal Communications  
Commission)

Leonard J. Rozek, Representative for Comcast (party to Docket No. 00-003 before  
the Federal Communications Commission)

Daniel K. Shoemaker, President of DKS Holdings, Inc., (subsidiary to James Cable  
Partners, LP) (party to Docket No. 00-003 before the Federal Communications

Commission)

Sky Cablevision, Ltd. (party to Docket No. 00-003 before the Federal Communications Commission)

Jeffrey Smith, Representative for Coosa Cable Company and Cablevision Services (party to Docket No. 00-003 before the Federal Communications Commission)

Jim Smith, Representative for Time Warner Cable (party to Docket No. 00-003 before the Federal Communications Commission)

JoAnn Stone, Representative for Adelphia (party to Docket No. 00-003 before the Federal Communications Commission)

Time Warner Cable (party to Docket No. 00-003 before the Federal Communications Commission)

Time Warner Entertainment Advance Newhouse (party to Docket No. 00-003 before the Federal Communications Commission)

Andrew W. Tunnell (counsel for Petitioner)

Twin County Cable (party to Docket No. 00-003 before the Federal Communications Commission)

D. H. Ward, III, Representative for Sky Cablevision, Ltd. (party to Docket No. 00-003 before the Federal Communications Commission)

It also is certified that the following corporations have an interest in the outcome of this case:

Alabama Power Company (Petitioner)

Empresa Eléctrica del Norte Grande, S.A. (Edelnor) (affiliate of Petitioner)

Georgia Power Company (affiliate of Petitioner)

Gulf Power Company (affiliate of Petitioner)

Hidroeléctrica Alicura, S.A. (affiliate of Petitioner)

Integrated Communication Systems, Inc. (affiliate of Petitioner)

Mississippi Power Company (affiliate of Petitioner)

Mobile Energy Services Company, L.L.C. (affiliate of Petitioner)

Savannah Electric and Power Company (affiliate of Petitioner)

Southern Company Capital Trust I (affiliate of Petitioner)

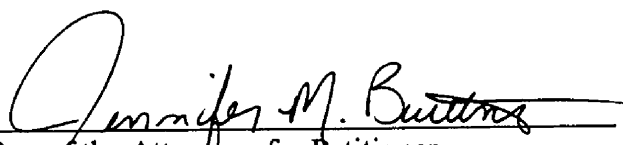
Southern Company Capital Trust II (affiliate of Petitioner)

Southern Electric Generating Company (affiliate of Petitioner)

Southern Electric International Trinidad, Inc. (affiliate of Petitioner)

Southern Investments UK P.L.C. (affiliate of Petitioner)

The Southern Company (parent of Petitioner)

  
One of the Attorneys for Petitioner  
Alabama Power Company



**OF COUNSEL**

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**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

<b>GULF POWER COMPANY,</b>	)	
	)	
<b>Petitioner,</b>	)	<b>No. 00-15068-D</b>
	)	
<b>vs.</b>	)	
	)	
<b>FEDERAL COMMUNICATIONS</b>	)	
<b>COMMISSIONS AND UNITED STATES,</b>	)	
	)	
<b>Respondents.</b>	)	
	)	

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AT&T Cable Services (party to Docket No. PA-00-003 before the Federal Communications Commission)

Balch & Bingham, LLP (counsel for Petitioner)

Richard Beelend, Representative for Northland Cable Properties (party to Docket No.

PA-00-003 before the Federal Communications Commission)

Beggs & Lane LLP (counsel for Petitioner)

Jane Belford, Representative of Mediacom Southeast LLC (party to Docket No. PA-

00-004 before the Federal Communications Commission)

Barry Breithaupt, Representative of Torrence Cablevision USA, Inc.

Jennifer M. Buettner (counsel for Petitioner)

Ramona Byrd, Representative for CVI of Alabama, Inc., d/b/a Time Warner Cable

(party to Docket No. PA-00-003 before the Federal Communications Commission)

Cable One (party to Docket No. PA-00-003 before the Federal Communications

Commission)

Cable Star Inc. (party to Docket No. PA-00-003 before the Federal Communications

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Cablevision Services (party to Docket No. PA-00-003 before the Federal

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Cindy Cade, Representative for Comcast Cable (party to Docket No. PA-00-003

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John Russell Campbell (counsel for Petitioner)

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Century Cullman Corporation (party to Docket No. PA-00-003 before the Federal Communications Commission)

Ford W. Clark, Representative for Time Warner Cable (party to Docket No. PA-00-003 before the Federal Communications Commission)

Cole, Raywid & Braverman (counsel for parties to Docket Nos. PA-00-003 and PA-00-004 before the Federal Communications Commission)

Comcast Cable (party to Docket No. PA-00-003 before the Federal Communications Commission)

Ronnie G. Colvin, Representative of Comcast Cablevision of Panama City, Inc. (party to Docket No. PA-00-004 before the Federal Communications Commission)

Comcast Cablevision of Panama City, Inc. (party to Docket No. PA-00-004 before the Federal Communications Commission)

ComLink (party to Docket No. PA-00-003 before the Federal Communications Commission)

Geoffrey C. Cook (counsel for parties to Docket No. PA-00-003 before the Federal Communications Commission)

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Kathleen Costello, Acting Division Chief, Financial Analysis & Compliance, Cable Services Bureau Federal Communications Commission

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Paul Glist (counsel for parties to Docket No. PA-00-003 before the Federal Communications Commission)

Bruce Gluckman, Representative of Mediacom Southeast LLC (party to Docket No. PA-00-004 before the Federal Communications Commission)

Lynn Goldman, Representative for Demopolis CATV Company (party to Docket No. PA-00-003 before the Federal Communications Commission)

John D. Gosch, Vice President for Cable One (party to Docket No. PA-00-003 before the Federal Communications Commission)

L. Keith Gregory, Representative of Cox Communications Gulf Coast, L.L.C. (party to Docket No. PA-00-004 before the Federal Communications Commission)

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William Johnson, Deputy Bureau Chief, Cable Services Bureau, Federal Communications Commission

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Andrew W. Tunnell (counsel for Petitioner)

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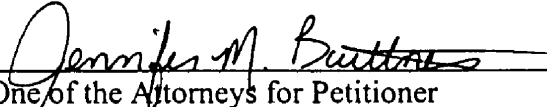
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The Southern Company (parent of Petitioner)

  
\_\_\_\_\_  
One of the Attorneys for Petitioner  
Gulf Power Company

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**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

**ALABAMA POWER COMPANY )  
and GULF POWER COMPANY, )**

**Petitioners, )**

**v. )**

**Consolidated Cases  
00-14763-I & 00-15068-D**

**FEDERAL COMMUNICATIONS )  
COMMISSION and the )  
UNITED STATES, )**

**Respondents. )**

**ALABAMA POWER COMPANY'S  
AND GULF POWER COMPANY'S  
OPPOSITION TO RESPONDENT'S MOTION  
FOR 30-DAY EXTENSION OF BRIEFING SCHEDULE**

Alabama Power Company and Gulf Power Company (“Petitioners”) submit this Opposition to Respondent Federal Communications Commission’s Motion for 30-Day Extension of Briefing Schedule. While the Petitioners empathize and identify with the arduous workload that counsel for Respondent FCC faces in the upcoming months, the Petitioners are strongly opposed to delaying judicial consideration of the issues the Petitioners have raised in their pleadings to this Court and the FCC. Extending the time before which review is had will further subject the Petitioners to the irreparable harm of an ongoing unconstitutional taking of their property.

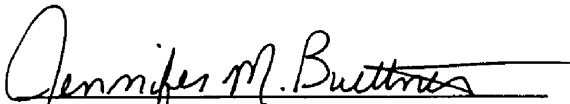
The Petitioners recognize that the Court routinely grants extensions of time for administrative hardships, particularly when the party requesting the extension is a governmental entity whose resources are limited. However, because the FCC's conduct in this case has resulted in an ongoing taking of their property without just compensation, the Petitioners oppose the Respondent's Motion. As the Petitioners have consistently demonstrated, the FCC has allowed the Complainant cable companies to remain attached to the Petitioners' poles without assuring that the Petitioners will receive just compensation for this taking. Therefore, the government has infringed on the Petitioners' constitutional rights, causing them to suffer harm which necessitates an immediate judicial remedy. Their position is thoroughly briefed in Alabama Power Company's Petition for Stay and Reply to the Oppositions to that Petition, both Respondents' Responses to the Motions to Dismiss, and Gulf Power Company's Motion for Extraordinary Relief and Reply to the Oppositions to that Motion.

Furthermore, the Petitioners strongly disagree with the FCC's statement regarding the effect of this Court's January 3, 2001 Order ("Order"). Contrary to the Respondent's suggestion, the Court has not ruled on the parties' positions and has never indicated that prolonging the proceedings will not adversely affect the Petitioners.

As Respondent's counsel suggests, the parties to this proceeding have attempted to reach an agreement regarding the FCC's request for an extended briefing schedule. However, in light of the Petitioners' legal position, the FCC's characterization of the Order, and the need for relief from the constitutional violation they are currently suffering, this Opposition is necessary.

For all of the reasons set out above and in the pleadings filed heretofore, the Respondent requests that the FCC's Motion to extend the briefing schedule be denied.

Respectfully submitted,



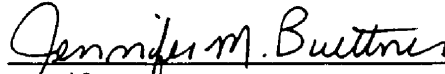
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Fax: 202-434-4653

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Opposition to Respondent's Motion for 30-Day Extension of Briefing Schedule served this 18<sup>th</sup> day of January 2001, in the manner indicated to the persons indicated below.

  
\_\_\_\_\_  
Jennifer M. Buettner

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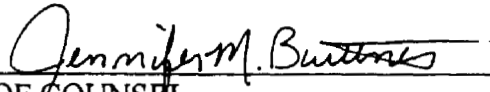
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OF COUNSEL