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From: Webb, Linda C. [LCWEBB@southernco.com]
Sent: Monday, July 30, 2001 3:48 PM
To: 'filings@psc.state.fl.us'
Subject: Docket No. 010441-EU, Territorial Dispute

ORIGINAL



073001 letter.pdf



TSA Testimony.pdf



MWH Testimony.pdf



TSS testimony.pdf

Attached is the official filing of

Gulf Power Company's Prepared Direct Testimony of T. S. Anthony, M. W. Howell, and T. S. Spangenberg to be filed in Docket No. 010441-EU. A total of four files are attached.

The letter document consists of two pages.
Mr. Anthony's testimony consists of 23 pages, including exhibit.
Mr. Howell's testimony consists of seven pages.
Mr. Spangenberg's testimony consists of 17 pages.

A true and certified hard copy will be mailed to the Division of the Commission Clerk and Administrative Services. Gulf looks forward to receiving your acknowledgement that this filing has been received.

<<073001 letter.pdf>> <<TSA Testimony.pdf>> <<MWH Testimony.pdf>> <<TSS testimony.pdf>>

Linda Webb
Gulf Power Company
8-420-6254
850-444-6254

Anthony
DOCUMENT NUMBER-DATE
09281 JUL 30 05
FPSC-COMMISSION CLERK

Howell *Spangenberg*
DOCUMENT NUMBER-DATE DOCUMENT NUMBER-DATE
1 09282 JUL 30 05 09283 JUL 30 05
FPSC-COMMISSION CLERK FPSC-COMMISSION CLERK

One Energy Place
Pensacola, Florida 32520

Tel 850.444.6111



ORIGINAL

July 30, 2001

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0870

Dear Ms. Bayo:

Re: Docket No. 010441-EI

Enclosed is Gulf Power Company's prepared direct testimony from the following to be filed in the above docket:

1. Timothy S. Anthony
2. M. W. Howell
3. Theodore S. Spangenberg

Sincerely,

The original physically signed version of this document is being retained by Gulf Power Company in accordance with the Electronic Filing Requirements of the Florida Public Service Commission

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

lw

cc: Beggs and Lane
Jeffrey A. Stone, Esquire

DOCUMENT NUMBER-DATE

09281 JUL 30 06

FPSC-COMMISSION CLERK

DOCUMENT NUMBER-DATE

09282 JUL 30 06

FPSC-COMMISSION CLERK

DOCUMENT NUMBER-DATE

09283 JUL 30 06

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to resolve territorial dispute)
with Gulf Power Company in Washington) Docket No.: 010441-EU
County by West Florida Electric Cooperative)
Association, Inc.)
_____)

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished this 30th day of July 2001 by U.S. Mail or hand delivery to the following:

Marlene Stern, Esquire
Staff Counsel
FL Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0863

John Haswell, Esquire
Chandler, Lang, Haswell,
& Cole, P.A.
211 N.E. 1st Street
P. O. Box 23879
Gainesville FL 32602

Richard Bellak, Esquire
Associate General Counsel
FL Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0863

Gerald Nemec
Enron Compression Services Company
1400 Smith Street
Houston, TX 77002-7361

Bill L. Bryant, Jr., Esquire
Katz, Kutter, Haigler, Alderman,
Bryant & Yon, P.A.
106 E. College Avenue, Suite 1200
Tallahassee FL 32301

Frank E. Bondurant, Esquire
P.O. Box 854
Marianna, FL 32447

Mr. William S. Rimes
P. O. Box 127
Graceville, FL 32440

The original physically signed version of this document is being retained by Gulf Power Company in accordance with the Electronic Filing Requirements of the Florida Public Service Commission

JEFFREY A. STONE
Florida Bar No. 325953
RUSSELL A. BADDERS
Florida Bar No. 0007455
BEGGS & LANE
P. O. Box 12950
Pensacola FL 32576
(850) 432-2451
Attorneys for Gulf Power Company

One Energy Place
Perisacola, Florida 32520

Tel 850.444.6111

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COMMISSION
CLERK



July 30, 2001

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0870

Dear Ms. Bayo:

Re: Docket No. 010441-EI

Enclosed is Gulf Power Company's prepared direct testimony from the following to be filed in the above docket:

1. Timothy S. Anthony
2. M. W. Howell
3. Theodore S. Spangenberg

Sincerely,

Susan D. Ritenour (lw)

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

lw

cc: Beggs and Lane
Jeffrey A. Stone, Esquire
Certified a True Copy.

Linda G. Malone
ASST. Secretary
GULF POWER COMPANY

This document was transmitted electronically to the Commission for official filing on July 30, 2001. This is a true and certified copy of the document filed electronically on July 30, 2001.

CCA note: Documents detached - letter only placed in correspondence. *lf*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to resolve territorial dispute)
with Gulf Power Company in Washington)
County by West Florida Electric Cooperative)
Association, Inc.)
_____)

Docket No.: 010441-EU

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I HEREBY CERTIFY that a copy of the foregoing has been furnished
this 30th day of July 2001 by U.S. Mail or hand delivery to the following:

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(850) 432-2451
Attorneys for Gulf Power Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

DOCKET NO. 010441-EU

PREPARED DIRECT TESTIMONY

OF

T. S. (Tim) ANTHONY

JULY 30, 2001



DOCUMENT NUMBER-DATE

0928 | JUL 30 2001

FPSC-COMMISSION CLERK

1 GULF POWER COMPANY

2 Before the Florida Public Service Commission
3 Prepared Direct Testimony and Exhibit of

4 T.S. (Tim) Anthony

5 Docket No. 010441-EU

6 Territorial Dispute in Washington County – Enron Compression Services

7 Date of Filing: July 30, 2001

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

9 A. I am T. S. (“Tim”) Anthony, Gulf Power Company (“Gulf Power”), One
10 Energy Place, Pensacola, Florida, 32520. I am Gulf Power Company’s
11 Cogeneration & Special Contract Administrator.

12 Q. Please describe your professional background and experience.

13 A. I have a Bachelor’s of Mechanical Engineering from Auburn University
14 and a Master’s of Management from Troy State University. I have been
15 employed with Gulf Power for over 20 years with professional and/or
16 supervisory responsibilities in Power Generation Performance
17 Engineering, Power Generation Maintenance, Industrial Marketing,
18 Cogeneration, and Power Contracts.

19 Q. What is the purpose of your testimony?

20 A. The purpose of my testimony is to support Gulf Power’s position in this
21 docket that the Enron Compression Services Company (“ECS”) was
22 entitled to choose Gulf Power as the electric service provider for a new
23 electric compression facility to be built in Washington County, Florida. I
24 will discuss the time frame for discussions between Gulf Power and ECS
25 regarding electric service to this new load and the circumstances that

1 culminated in ECS choosing Gulf Power as the electric supplier for this
2 new load and ultimately to this territorial dispute. Additional details
3 regarding these circumstances will be provided by Gulf Power's other two
4 witnesses in this proceeding, M.W. Howell and T.S. Spangenberg.

5

6 Q. Do you have an exhibit to which you will refer in the course of your
7 testimony?

8 A. Yes. I have one exhibit consisting of a copy of the joint petition for
9 declaratory statement filed by Enron Compression Services Company and
10 Gulf Power Company in Docket No. 010265-EI.

11

12 Q. Have you prepared an exhibit that contains information to which you will
13 refer in your testimony?

14 A. Yes, I have.

15 Counsel: We ask that Mr. Anthony's Exhibit be marked as
16 Exhibit No. _____ (TSA-1).

17

18 Q. When did Gulf Power first learn that ECS was interested in securing
19 electric service for a new facility to be constructed in northwest Florida
20 and what did Gulf do after it was contacted by ECS?

21 A. To the best of my knowledge, Gulf Power was initially contacted by ECS
22 in April 1996. At that time we learned that ECS was working with its
23 customer, Florida Gas Transmission ("FGT"), on plans to provide a new
24 electric powered compression facility as an alternative to new natural gas
25 fired compressors on FGT's natural gas pipelines through northwest

1 Florida. In response to that contact, Gulf Power expressed interest in the
2 project to ECS. There was not much activity on the project until the latter
3 part of 1998 when Gulf Power and ECS began a series of discussions
4 regarding the possibilities of electric service to such a new load. Gulf
5 Power worked with ECS on the project extensively in an effort to
6 demonstrate that the electric alternative was the most economic choice.
7 As part of the process, ECS asked questions about the type of facilities
8 that would need to be constructed in order to serve their new electric load
9 if the project was authorized. As part of these discussions, Gulf Power
10 worked with ECS on questions regarding reliability and quality of service
11 as well as the relative economics of electric service from Gulf. In the latter
12 part of the discussions, Gulf Power addressed questions from the
13 customer regarding the time frame for constructing facilities necessary to
14 serve their new electric load if the electric compression option was given
15 the final go ahead. After more than two years of Gulf Power working with
16 the customer on this project, ECS ultimately requested that Gulf provide
17 electric service from Gulf's existing 230,000 volt transmission system to a
18 new substation to be located on the customer's site in Washington
19 County, Florida at what is now known as Station 13A. ECS then entered
20 into a contract for electric service with Gulf Power. That contract was
21 signed on February 13, 2001.

22
23 Q. What is your understanding of the relationship between Gulf Power's
24 customer, ECS, and WFEC's customer, FGT?

25 A. Per my conversations with ECS, it is my understanding that ECS provides

1 compression services to natural gas pipelines. In connection with FGT's
2 planned capacity pipeline expansion known as the Phase V Expansion
3 scheduled for operation in the Spring of 2002, ECS will be providing the
4 required compression services. ECS will construct a new electric driven
5 compression support facility, which will be known as Station 13A. It will be
6 located in Washington County, Florida adjacent to an existing natural gas
7 fired compression facility known as Station 13, owned by FGT.
8 Station 13A will be installed on a mainline separate from the mainline that
9 is currently being served by Station 13.

10

11 Q. To your knowledge has ECS ever received electric service from any
12 electric utility within Washington County, Florida?

13 A. To my knowledge ECS has never received electric service from any
14 electric utility in Washington County, Florida or any other Northwest
15 Florida county.

16

17 Q. What is your understanding of the importance/impact of FGT's Phase V
18 Expansion project?

19 A. FGT owns and operates a natural gas pipeline that runs through Florida.
20 The Phase V Expansion is a scheduled expansion of FGT's gas pipeline
21 capacity through the construction of new pipeline segments and the
22 addition of new compression capability. ECS routinely emphasized the
23 significance of the FGT expansion project as it relates to serving natural
24 gas fired electric generation planned throughout Florida. Gulf Power's
25 electric generating plant located near Panama City, Florida is currently in

1 the process of adding a generating resource that will be fueled by natural
2 gas, which is expected to be served by FGT. It has been said that more
3 than 95% of the volume of natural gas to be transported via the new
4 pipeline expansion will serve natural gas fired electric generation in
5 Florida.

6
7 Q. Is it your understanding that the time frame for completion of construction
8 to allow for the provision of electric service is of high priority?

9 A. Absolutely! ECS has time and again expressed that the time frame for
10 providing electric service is of the highest priority. In fact, due to the
11 priority emphasis placed on project completion timing by ECS, coupled
12 with Gulf Power's expectation of a formal request for electric service from
13 ECS, Gulf Power began pre-engineering the construction project,
14 performed preliminary work to support the acquisition of easements and
15 right-of-way as well as long lead time equipment such as transformers,
16 etc. Absent these preliminary efforts Gulf Power would have no
17 reasonable opportunity of meeting the electric in-service date requested
18 by ECS. When concern was raised about the uncertainty created by
19 WFEC's apparent contention that it was the only electric utility entitled to
20 serve ECS at Station 13A and the impact this uncertainty could have on
21 the timing of the construction and other activities associated with the new
22 230,000 volt transmission line extending from Gulf Power's existing
23 230,000 transmission system to a new substation to be constructed on the
24 customer's site at Station 13A, ECS worked with Gulf to prepare a joint
25 petition for declaratory statement intended to resolve this uncertainty in an

1 expeditious manner. As shown by my exhibit TSA-1, that joint petition
2 was filed by ECS's attorney on behalf of ECS and Gulf Power on
3 February 26, 2001.

4
5 Q. In your opinion, what caused WFEC to file a territorial dispute?

6 A. It seems to me that WFEC filed a dispute because Gulf Power
7 successfully reached an agreement with ECS to serve the electric driven
8 compression to be installed at Station 13A. I contend that Gulf Power's
9 unyielding efforts to successfully compete against the natural gas driven
10 compression alternative surpassed WFEC's expectations regarding the
11 ability to achieve a win-win agreement with this customer. It is my
12 understanding that ECS contacted both AEC and WFEC around
13 December 1998, well in advance of signing an agreement with Gulf Power
14 but a lack of energetic interest on their part, coupled with a sincere
15 interest expressed by Gulf Power, lead ECS to pursue service from Gulf.

16
17 Q. Did Gulf Power provide special contractual arrangements to ECS in order
18 to encourage ECS to choose it as the electric service provider?

19 A. No; Gulf Power did not provide special contractual arrangements to ECS.
20 Per ECS's request for electric service and Gulf Power's statutory
21 obligation to serve, ECS will be receiving electric service via Gulf's Tariff
22 for Retail Electric Service.

23
24 Q. Which utility does the customer prefer to serve Station 13A?

25 A. As I stated earlier, it is my understanding that the customer contacted

1 both WFEC and AEC prior to pursuit of electric service arrangements with
2 Gulf Power. The contract signed with Gulf Power on February 13, 2001
3 clearly indicates to me that the customer prefers Gulf Power and has
4 chosen Gulf Power.

5

6 Q. Does this conclude your testimony?

7 A. Yes, it does.

8

9

10

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17

18

19

20

21

22

23

24

25

TSA-1 EXHIBIT NO. _____

which includes a
letter and petition
for a total of 14 pages

KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON

PROFESSIONAL ASSOCIATION

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February 26, 2001

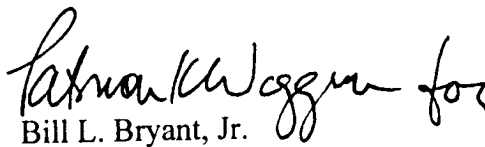
Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

Dear Ms. Bayo:

Enclosed are an original and fifteen copies of Gulf Power Company and Enron Compression Services Company's Joint Petition for Declaratory Statement to be filed with the Commission.

Also enclosed is a 3.5 inch double sided, high density diskette containing the Joint Petition in Adobe Acrobat 4.0 format as prepared on a Windows NT based computer.

Sincerely,


Bill L. Bryant, Jr.

BLB:deg
Enclosures

cc: Beggs and Lane
Jeffrey A. Stone
Enron Compression Services Company
Gerald Nemeo
Gulf Power Company
Susan D. Ritenour

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Joint petition of Enron Compression)
Services Company and Gulf Power Company)
for Declaratory Statement Concerning)
Eligibility of Public Utility to Serve Customer)
Pursuant to Section 366.03, Florida Statutes.)
_____)

Docket No.: 010265 -EI
Filed: February 26, 2001

JOINT PETITION FOR DECLARATORY STATEMENT

ENRON COMPRESSION SERVICES COMPANY ("ECS" or "the Customer"), by and through its undersigned counsel, and GULF POWER COMPANY ("Gulf Power"), by and through its undersigned counsel, hereby jointly petition the Florida Public Service Commission ("Commission") pursuant to Section 120.565, Florida Statutes and respectfully request the Commission's declaration that, on the facts set forth below, the Customer's request for electric service from Gulf Power is controlling in this case and, pursuant to that request, Gulf Power, the only public utility operating in the vicinity, is both obligated and entitled to furnish ECS with electric service pursuant to the rules and regulations of the Commission and the rates and other statements set forth in Gulf Power's Tariff for Retail Electric Service on file with and approved by the Commission. As grounds for the relief requested by this petition, ECS and Gulf Power (collectively "the Petitioners") respectfully show:

1. Notices and communications with respect to this petition should be addressed to:

For ECS:

Bill L. Bryant
Katz, Kutter, Haigler, Alderman,
Bryant & Yon, P.A.
106 E. College Avenue, Suite 1200
Tallahassee, FL 32301

For Gulf Power:

Jeffrey A. Stone, Esquire
Russell A. Badders, Esquire
Beggs & Lane
P. O. Box 12950
Pensacola, FL 32576-2950

with a copy to:

Gerald Nemece, Esquire
Enron Compression Services Company
1400 Smith Street
Houston, TX 77002-7361

with a copy to:

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

DOCUMENT NUMBER-DATE

02633 FEB 26 01

FPSC RECORDS/REPORTING

BACKGROUND

2. ECS is a wholly owned subsidiary of Enron North America Corp. with corporate headquarters located at 1400 Smith Street, Houston, Texas. ECS provides compression services to natural gas pipelines. As part of a planned expansion of pipeline capacity owned and operated by Florida Gas Transmission ("FGT") scheduled to go into commercial operation in the Spring of 2002 known as the Phase V Expansion, FGT is building new pipeline segments and adding new compression capability to its pipeline system. FGT's Phase V Expansion will require a new compression support facility to be known as Station 13a that will be located adjacent to an existing compression support facility known as Station 13 already located in Washington County as a support facility for an existing mainline. The existing compression capability at Station 13 is natural gas fired. Station 13a will be installed on a mainline that is separate from the mainline that is currently served by Station 13. ECS has a contractual obligation to provide compression services to FGT at Station 13a. The compression services ECS is to provide to FGT requires ECS to operate two new electric motors to be installed at Station 13a. Prior to the development of the new electric motor compression equipment at Station 13a which ECS will be using to provide compression services to FGT, ECS has neither required nor received electric service from any electric utility within Washington County, Florida or, more generally, within any of the counties of Northwest Florida.

3. Gulf Power is an investor-owned electric utility with corporate headquarters located at 500 Bayfront Parkway, Pensacola, Florida. Gulf Power owns, maintains and operates an electric generation, transmission and distribution system within the state of Florida through which it provides retail electric service to customers applying therefore upon terms as required by the Commission. Gulf Power began serving customers within Washington County in January 1926 when Houston Power Company assigned its franchise rights for Chipley, Florida, the county seat of Washington County, to Gulf Power. Gulf Power also began providing electrical service to customers in the unincorporated areas of Washington County, Florida in 1926 and has

consistently provided electric service to such customers for the more than seventy-six years since.

DECLARATORY STATEMENTS SOUGHT

4. Based on the background and facts set forth in this petition, ECS and Gulf Power respectfully request the Commission's declaration that:

The Customer's request for electric service from Gulf Power is controlling in this case and, pursuant to that request, Gulf Power is both obligated and entitled to furnish ECS with electric service pursuant to the rates, rules, regulations and other statements set forth in Gulf Power's Tariff for Retail Electric Service on file with and approved by the Commission.

STATUTES, RULES AND ORDERS INVOLVED

5. ECS and Gulf Power seek the Commission's declaratory statement regarding the obligation and eligibility of Gulf Power to honor the Customer request for electric service from Gulf Power. The requested declaratory statement involves the following statutes, rules and orders:

- a. Section 366.03, Florida Statutes, which provides that Gulf Power, as a public utility, shall furnish to each person applying for electric service, such service upon terms as required by the Commission.
- b. Section 366.04(5), Florida Statutes, which provides the Commission with jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure the avoidance of further uneconomic duplication of generation, transmission and distribution facilities.
- c. Section 366.04(2)(e), Florida Statutes, which provides the Commission with authority to resolve on its own motion any territorial dispute involving service areas between and among rural electric cooperatives, and other electric utilities under the Commission's jurisdiction.
- d. Rule 25-6.0441(2)(d), Florida Administrative Code, which allows the Commission to consider customer preference when resolving territorial disputes involving electric utilities under the Commission's jurisdiction, if all other factors are substantially equal.
- e. Gulf Coast Electric Cooperative v. Clark, 674 So.2d 120 (Fla., 1996), in which the Florida Supreme Court ruled that a utility, which built new facilities in order to serve

a new customer based on that customer's preference as to which of two competing utilities should provide electric service, had not engaged in a race to serve the customer requesting such electric service. The court further ruled that in the absence of (1) a utility's uneconomic duplication of facilities belonging to another utility or (2) the first utility having engaged in a "race to serve" a customer, the customer's preference or choice of utilities should be considered by the Commission as a significant factor in awarding the right to serve, despite small differences in other factors that may fall in the favor of the other utility.

FACTS

6. FGT owns and operates a natural gas pipeline running through Florida. FGT is in the process of expanding the capacity of its natural gas pipeline facilities through the construction of new pipeline segments and adding new compression capability. Part of this pipeline capacity expansion is intended to serve new natural gas-fired electric generating facilities known as Smith Unit 3 being built at Gulf Power's Smith Plant outside Panama City, Florida. The expanded pipeline capacity and the new Smith Unit 3 are both expected to begin commercial operation in the Spring of 2002. FGT's Phase V Expansion is also a critical component in the supply of natural gas to new natural gas-fired electric generating capacity being developed elsewhere in Florida. More than 95% of the volume of natural gas to be transported through the new pipeline expansion is going to natural gas-fired electric generating plants in Florida which contributes to the critical nature of meeting the Customer's requested in-service date for the new electric service.

7. As part of the pipeline facilities owned and operated by FGT, there is a pumping station in Washington County, Florida known as Station 13. The new expansion of FGT's pipeline capacity requires a new pumping station for the new pipeline to be located adjacent to Station 13. The new pumping station, to be known as Station 13a, plays a critical role in maintaining the flow of natural gas into Florida through the new pipeline addition. As noted

earlier in this petition, over 95% of the natural gas volume to flow through the new pipeline and compression facilities, including Station 13a, is destined for natural gas-fired electric generating plants in Florida including Smith Unit 3 being developed at Gulf Power's Smith Plant. The expansion of FGT's pipeline capacity requires the addition of new compression equipment at the new Station 13a. As an alternative to additional compression facilities fueled by natural gas, ECS has contracted with FGT to supply the needed compression through the use of new electric motor compressor drivers to be installed at Station 13a as part of the Phase V pipeline capacity expansion. The new electric motor driver equipment will be operated by ECS in order that ECS can fulfill its contractual obligations to supply compression services to FGT. Due to the reliability requirements under its contract with FGT, ECS will require electric service from a new electric substation to be built at Station 13a which must be connected to and fed by a 230 kilovolt transmission system. Due to the critical role that Station 13a will play in maintaining the flow of natural gas into Florida and the firm commitment by ECS for compression services to FGT, ECS requires the higher degree of reliability associated with service from a networked 230 kilovolt transmission system which is generally much more reliable than a 115 kilovolt transmission system. In addition, the newly installed electric motors ECS will use to supply compression services pursuant to its contract with FGT must, in accordance with the manufacturers recommendations, be started "across the line" which causes high current in-rush at the time of starting, resulting in voltage drop on the circuit connected to the motors. Due to this reduced voltage at the motor terminals during starting, it is unlikely that the motors could be started successfully on a reliable basis if service were provided from a transmission source operating at 115 kilovolts or less. In order to meet its service obligation to FGT, ECS needs to begin receiving electric service sufficient to begin testing the electric motors on or before

February 1, 2002.

8. Gulf Power owns and operates the only existing 230 kilovolt transmission line that runs through Washington County, Florida. Gulf Power's existing 230 kilovolt transmission line runs approximately six miles south of Station 13a. Gulf Power's existing 230 kilovolt transmission line is the only such facility within the immediate area of Station 13a. In fact, Gulf Power owns, maintains and operates all existing 230 kilovolt transmission facilities that are located in Northwest Florida, including those in Washington County. Based on ongoing negotiations and discussions with ECS and in anticipation of ECS's formal request for electric service from Gulf Power at Station 13a which was signed on February 13, 2001, Gulf began pre-engineering the required line extension, planning for required acquisition of required easements and rights-of-way, and tentative procurement of long lead time equipment such as transformers, etc. in October 2000. Without such preliminary efforts, Gulf Power would have no opportunity to meet the Customer's requested in-service date of the new electric service facilities. Based on such preliminary efforts, and ECS's formal request for electric service from Gulf Power dated February 13, 2001 Gulf has begun right-of-way acquisition, project engineering and equipment procurement in a concerted effort to meet the customer's requested in-service date. Due to the critical need for ECS to meet the required in-service date of its commitment to FGT and the lead times required to design and construct the required electric service facilities, Gulf Power could not delay such efforts pending final resolution of this petition for declaratory statement.

9. FGT is presently an electric service customer of West Florida Electric Cooperative ("WFEC") at Station 13, taking such service from a three phase 25 kilovolt distribution line fed primarily from a substation belonging to Alabama Electric Cooperative ("AEC") located near Bonifay, Florida in neighboring Holmes County, approximately 14 miles

away from Station 13. WFEC's present electric service to FGT at Station 13 will continue without change despite the new electric service ECS has requested from Gulf Power at Station 13a. The existing electric service to Station 13 is not adequate for and will not support the electric service requirements of the new electric motor compressor drivers for which ECS has requested electric service from Gulf Power. Despite the inadequacy of existing electric service facilities belonging to either WFEC or AEC to serve the anticipated electric load associated with the new electric motor compressor drivers to be installed at Station 13a, and notwithstanding any decision by ECS to request electric service from Gulf Power through an extension of facilities from Gulf Power's existing 230 kilovolt transmission system, WFEC put ECS on notice by letter dated January 29, 2001 that WFEC may dispute both ECS's right to choose electric supplier in this instance and Gulf Power's entitlement to provide electric service in response to that choice. WFEC's letter is surprising given the apparent lack of interest WFEC has previously displayed since first contacted about the possibility of serving the new electric load of Station 13a.

10. ECS contacted both WFEC and Gulf Power to discuss the proposed compression project at FGT's Station 13a in approximately December 1998. General discussions concerning the project were conducted. Shortly thereafter, ECS decided to focus its efforts on obtaining electric service from Gulf Power given those general discussions. ECS and Gulf Power have been involved in discussions and negotiations since that time. Although ECS had not made a final decision to request electric service from Gulf Power, the discussions with Gulf Power culminated in Gulf Power agreeing in October 2000 to move forward with pre-engineering the required line extension, planning for the acquisition of required easements and rights-of-way, and tentative procurement of long lead-time equipment such as transformers, etc. In late November 2000, Alabama Electric Cooperative (AEC) contacted ECS on behalf of

WFEC to express interest in serving the load. ECS indicated to AEC that ECS would review any proposal they wanted to send, but that the timing was late and ECS was expecting to formalize arrangements for electrical service very shortly and they would need to respond quickly with the general details of their proposal. ECS provided AEC a load profile on December 7, 2000. No proposal has been received from AEC or WFEC to date in response to the load profile sent on December 7, 2000.

DISCUSSION

11. As stated earlier in this petition, in order to meet the reliability requirements associated with the compression services ECS is to supply to FGT, a new tap into Gulf Power's existing 230 kilovolt transmission line and the construction of new facilities from the new tap to a new substation to be built at Station 13a is required. The availability of Gulf Power's existing 230 kilovolt transmission line in relatively close proximity to the site and Gulf Power's willingness to work with ECS during the pre-engineering phase of this project to ensure timely delivery of reliable electric service of sufficient character for the new electric motors has been instrumental to the creation of the new electric motor driven facility in Washington County.

12. Despite the foregoing, and notwithstanding the Customer's choice of Gulf Power as the utility to supply electric service to the new electric motor driven compression equipment, WFEC has threatened to delay the project through litigation that disputes both ECS's right to choose electric supplier in this instance and Gulf Power's entitlement to provide electric service in response to that choice. WFEC's threat of litigation creates uncertainty as to whether Gulf Power has the obligation and entitlement to furnish ECS with electric service as requested pursuant to the rates, rules, regulations and other statements set forth in Gulf Power's Tariff for Retail Electric Service on file with and approved by the Commission. Timely availability of the

requested electric service to ECS is critical to the ability of ECS to meet its contractual commitment to FGT which in turn is critical to the increased flow of natural gas associated with the Phase V expansion that is necessary to supply new natural gas-fired electric generating plants being built in Florida, including the new Smith Unit 3 at Gulf Power's Smith Plant. Therefore, in order to ensure that electric service is available in a timely manner consistent with the needs of ECS as the party requesting electric service, it is vitally important that the Commission resolve this uncertainty in an expedited manner as is contemplated by Section 120.565, Florida Statutes.

13. ECS's choice of Gulf Power as the electric supplier for the electric load associated with the new electric motor driven compression equipment to be located at Station 13a is consistent with the policy against further uneconomic duplication of generation, transmission and distribution facilities within Florida embodied within Section 366.04(5), Florida Statutes. Service of the new electric load from Gulf Power's existing 230 kilovolt system avoids the need for WFEC and/or AEC to construct duplicative 230 kilovolt transmission facilities in order to connect electric generation from outside of Florida to the new load in lieu of existing generation owned and operated by Gulf Power and the new generation being built at Gulf Power's Smith Plant which will itself be served by the enlarged natural gas pipeline capacity to which the new electric motor compressor drivers ECS will use to supply compression services is such an integral component. The electric service requirements of ECS cannot be met by WFEC and/or AEC through any of their existing facilities and any cost incurred to upgrade their existing electric facilities to 230 kilovolt capability would clearly be uneconomic in light of Gulf Power's existing electric facilities already in close proximity to the Customer's site that are presently fully capable of providing the required level of electric service.

14. Resolution of this matter through the issuance of the requested declaratory statement is consistent with administrative efficiency. As the only public utility providing electric service in Washington County, Gulf Power does not have discretion under Section 366.03, Florida Statutes to deny ECS's request for electric service as presented in this case. Failure to honor the request for electric service pursuant to the terms and conditions approved and required by the Commission as set forth in Gulf Power Company's Tariff for Retail Electric Service would expose Gulf Power to a possible complaint by ECS regarding the public utility's failure to fulfill the statutory obligation of service. Such a filing would entail further administrative proceedings to resolve the complaint and would likely result in failure to meet the required in-service date. The need for such adversarial litigation is avoided through this joint petition. In addition, the Commission has the power to preempt time consuming and costly litigation regarding any dispute that may be raised by WFEC regarding ECS's choice of Gulf Power as its electric supplier. This power of the Commission is not only inherent to Section 366.03, Florida Statutes which requires public utilities such as Gulf Power to provide electric service to any applicant upon terms as required by the Commission, but is also contemplated by Section 366.04(2)(e), Florida Statutes, which provides the Commission with authority to resolve on its own motion any territorial dispute involving service areas between and among rural electric cooperatives, and other electric utilities under the Commission's jurisdiction.

15. As in the case before the court in Gulf Coast Electric Cooperative v. Clark, 674 So.2d 120 (Fla., 1996), there has not been nor will there be any uneconomic duplication of existing facilities belonging to either WFEC or AEC if Gulf Power is allowed to honor the request of ECS that Gulf Power provide electric service to the new electric motor driven compression equipment to be located at Station 13a. There has not been any "race to serve" by

Gulf Power. As a result, the Customer's preference for electric supplier should be the controlling factor to be considered by the Commission in this case as it ultimately was in the case of the new prison built in Washington County decided by the Florida Supreme Court in Gulf Coast.

CONCLUSION

16. Timely resolution of any uncertainty through the issuance of the requested declaratory statement is consistent with meeting the interrelated needs of ECS for timely provision of electric service and Gulf Power's general body of customers who will be served by the new generation provided by Smith Unit 3 that will be served by the expanded natural gas pipeline capacity to which the new electric motor driven equipment operated by ECS is to be an integral component. An order by the Commission setting forth the declaration requested herein allows the petitioners to move forward with the project in a timely manner without the financial and regulatory uncertainty that would exist if the question raised by WFEC's threat of litigation is either left unresolved or is pursued through a territorial dispute. Consistent with the policy against further uneconomic duplication of generation, transmission and distribution facilities, ECS has chosen the only electric supplier with existing facilities adequate to serve the Customer's electric load in close proximity to the Customer's site. As the only public utility providing electric service in Washington County, Gulf Power is obligated under Section 366.03, Florida Statutes to provide electric service to ECS consistent with the Customer's request for electric service for the following reasons:

- ECS is a new customer whose electric service requirements constitutes new electric load not currently being served in Washington County, Florida;
- the reliability requirements of ECS are such that the most reasonable means of providing

the requested electric service is from a new substation fed from a networked 230 kilovolt electric transmission system;

- the proposed new substation and related 230 kilovolt transmission line tap would not constitute duplication of any existing electric transmission or distribution facilities in Washington County;
- in order to meet its service obligation to FGT, ECS needs to be capable of receiving the requested electric service for purposes of testing the new electric motors by February 1, 2002;
- Gulf Power owns and operates the only existing 230 kilovolt transmission system in Northwest Florida, including Washington County;
- Gulf Power has worked with and continues to work with the Customer in an effort to meet its requested in-service date for the new electric service facilities.

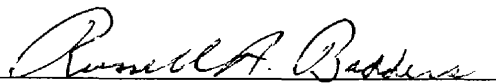
Under the relevant case law, there has been no “race to serve” nor will there be uneconomic duplication of existing facilities; therefore, the Customer’s preference of electric supplier is controlling in this case. Given the instrumental role played by Gulf Power in facilitating ECS bringing this new electric load to Washington County, and Gulf Power’s 75 years of history providing electric service to customers within Washington County, the Commission should grant the joint request of the Petitioners and issue the declaration sought herein.

WHEREFORE, Enron Compression Services Company and Gulf Power Company jointly request that the Commission declare that the Customer's request for electric service from Gulf Power is controlling in this case and, pursuant to that request, Gulf Power is both obligated and entitled to furnish ECS with electric service pursuant to the rates, rules, regulations and other statements set forth in Gulf Power's Tariff for Retail Electric Service on file with and approved by the Commission, or grant similar other relief as is just and reasonable consistent with this joint petition.

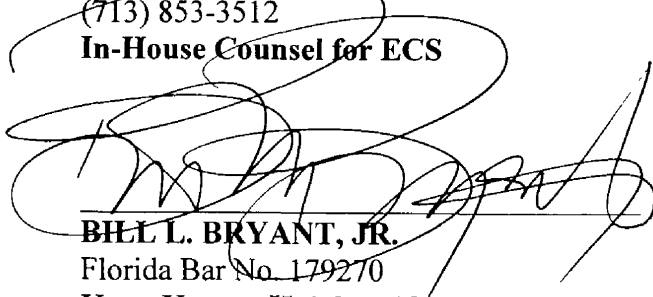
Respectfully submitted this 26 day of February, 2001.



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