

August 22, 2001

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
VIA HAND DELIVERY

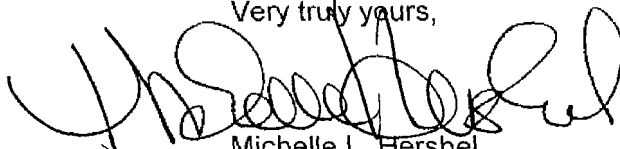
RE: In Re: Territorial Dispute Between West Florida Electric Cooperative
Association, Inc. and Gulf Power Company in Washington County, Florida
Docket No.: 010441-EU

Dear Ms. Bayo:

I am enclosing herewith the originals and fifteen (15) copies of the Pre-Hearing Statement filed on behalf of West Florida Electric Cooperative Association, Inc.

I am also enclosing a copy of this letter as an acknowledgement copy and would appreciate it if you would file stamp it and return it to me in the enclosed self-addressed/stamped envelope as an acknowledgement of the date the above Pre-Hearing Statement was filed. Please call me if you have any questions regarding this matter.

Very truly yours,



Michelle L. Hershel
for John H. Haswell

JHH/daj
Enclosures

cc: Frank E. Bondurant, Esquire
Attorney for West Florida Electric Cooperative Association, Inc.
William S. Rimes, Executive Vice President and CEO
West Florida Electric Cooperative Association, Inc.
Gary F. Clark, Vice President, Member Services
West Florida Electric Cooperative Association, Inc.
Jeffrey A. Stone, Esquire
Attorney for Gulf Power Company
Russell A. Badders, Esquire
Attorney for Gulf Power Company

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Territorial Dispute Between
West Florida Electric Cooperative
Association, Inc. and Gulf Power
Company in Washington County,
Florida.

Docket No.: 010441-EU

Date Filed: August 22, 2001

**PRE-HEARING STATEMENT OF
WEST FLORIDA ELECTRIC COOPERATIVE ASSOCIATION, INC.**

WEST FLORIDA ELECTRIC COOPERATIVE ASSOCIATION, INC. ("WFEC"), by and through its undersigned attorneys, files its Pre-Hearing Statement as follows:

A. *WITNESSES:* The names of all known witnesses that may be called by the party and the subject matter of their testimony:

Witnesses (Direct)

Subject Matter

William Rimes

Background of Mr. Rimes as CEO of West Florida; West Florida's structure, mission, and service areas, conditions that lead to the dispute. Other loads sought by GPC, historical service.

Russell L. Dunaway

Background of West Florida, ownership of AEC, AEC facilities, conditions that lead to the dispute, other disputes, customer service, access to GPC's 230 kV facility. West Florida's governance.

Gary F. Clark

Background of dispute, conditions and events that lead to the dispute; description of the area and review of dispute criteria; nature of area, historic service, attempts at resolution, boundaries.

Jeff Parish

AEC/WFEC's access to GPC's 230 kV transmission facility; AEC system, the Commission's prior resolution of AEC/GPC disputes, AEC's relationship to WFEC, adequate and reliable service.

Joseph E. Perry, III, P.E.

A review of existing and planned load in disputed area, adequate and reliable service, AEC/WFEC relationship.

Damon Morgan	Supporting Gary F. Clark's testimony on communications and information regarding Enron, ECS and FGT.
James A. Brook	Supporting Gary F. Clark's and Russell L. Dunaway's testimony on communications and information regarding Enron, ECS and FGT.
<i>Witnesses (Rebuttal)</i>	<i>Subject Matter</i>
Mark A. Cicchetti	Rebut positions presented by T.S. Spangenberg, Jr., address positions regarding boundaries of the disputed area, the nature of the area, and the general character and future expectations for the area for other utility services; rebuttal of facts and issues and conclusions made by Spangenberg regarding the Commission's resolution of this dispute.
Jeff Parish	Addressing issues raised by Anthony, Spangenberg, and Howell, regarding access to the 230 kV transmission facilities, ownership of the facilities, and reliable service by AEC/WFEC.
Michael K. Moore	Establish that contrary to Spangenberg's testimony, WFEC is fully capable of serving the additional load at Station 13-A with adequate and reliable service.
Joseph E. Perry, III, P.E.	Addressing the direct testimony of Anthony, Spangenberg, and Howell regarding WFEC's existing facilities, its historic service to the area, and its capabilities to extend service adequately and reliably to the disputed area.
Russell L. Dunaway	Rebuttal of Anthony, Spangenberg, and Howell on issues of adequate and reliable service, service capabilities, historic service, same customer issues, governance of WFEC.

B. EXHIBITS: Direct.

<i>Exhibit Number</i>	<i>Witness</i>	<i>Description</i>
_____ (WR-1)	William S. Rimes	Four county service area map.
_____ (WR-2)	William S. Rimes	Hinson Crossroads area.

_____ (WR-3)	William S. Rimes	Easement from Mr. Lee to West Florida.
_____ (RD-1)	Russell L. Dunaway	GPC letter to City of Sneads.
_____ (RD-2)	Russell L. Dunaway	West Florida's proposal to Enron – 1995.
_____ (RD-3)	Russell L. Dunaway	Enron (Brown) letter to Smith.
_____ (RD-4)	Russell L. Dunaway	Smith letter to Enron.
_____ (RD-5)	Russell L. Dunaway	Smith letter proposal to Enron.
_____ (RD-6)	Russell L. Dunaway	Large power rate.
_____ (RD-7)	Russell L. Dunaway	Withdrawal of tariff filing – PSC.
_____ (RD-8)	Russell L. Dunaway	Excerpts from FGT's FERC Phase V Expansion Project filing.
_____ (RD-9)	Russell L. Dunaway	Large power rate approved by PSC.
_____ (JP-1)	Jeff Parish	AEC letter to Southern Company Services.
_____ (JP-2)	Jeff Parish	Southern Company (Lucas) letter to AEC.
_____ (GC-1)	Gary F. Clark	Clark letter to Spangenberg – March 14, 2001.
_____ (GC-2)	Gary F. Clark	AEC/Morgan summary of call from Enron.
_____ (GC-3)	Gary F. Clark	Enron's e-mail description of project.
_____ (GC-4)	Gary F. Clark	Detailed description of disputed area.
_____ (GC-5)	Gary F. Clark	FGT's Station 13/Station 13-A diagram.
_____ (GC-6)	Gary F. Clark	Composite Exhibit of Photos of Station 13.
_____ (GC-7)	Gary F. Clark	Ariel view of the site.
_____ (GC-8)	Gary F. Clark	Title Report to the FGT site.

_____ (GC-9)	Gary F. Clark	FGT's facilities peak monthly demand.
_____ (MAC-1)	Mark A. Cicchetti	Statement of Qualifications.
_____ (MKM-1)	Michael K. Moore, P.E.	Statement of Qualifications.

C. WEST FLORIDA'S BASIC POSITION:

Gulf Power's six-mile planned extension into West Florida's territory is an attempt by Gulf Power to take an existing customer and territory from West Florida. The disputed area is the FGT site (Station 13) and an area within a four-mile radius of the site, which geographically constitutes the historic and current service area of West Florida. FGT is and has been a customer of West Florida at Station 13 in the disputed area for over 40 years. It is planning to expand its facilities, and whether it has signed contracts for "mechanical services" or not, the ultimate customer is FGT. WFEC itself and with its power supplier, AEC, of which WFEC is a partial owner, are wholly capable of providing the service needs of the disputed area, including ECS/FGT/Enron at no more cost than GPC. Service to the area by WFEC will be a benefit to WFEC's members.

D. WEST FLORIDA'S POSITION ON QUESTIONS OF FACT THAT HAVE BEEN IDENTIFIED AS ISSUES:

Issue 1: What are the boundaries of the service area that is the subject of this territorial dispute?

WFEC: An area within a four-mile radius of Hinson Crossroads an FGT site identified as Station 13, in Washington County, Florida. Rimes, Dunaway, Clark, Cicchetti.

Issue 2: What conditions have caused this dispute?

WFEC: West Florida's service to the disputed area began as early as 55 years ago, expanding to approximately 400 customers and service to FGT's site at Station 13 in 1962. FGT explored an expansion of its existing compression Station 13 in 1995 and discussed those plans with West Florida in 1995 – 1996, a clear recognition of West Florida's service area and existing service to the site. Without WFEC's knowledge, FGT/Enron or ECS then consulted with Gulf Power exclusively between 1996 and November 2000. Once West Florida discovered that Gulf Power was planning to extend facilities six-miles into West Florida's territory, West Florida advised FGT/ECS that it would be the service provider and requested details of the service requirements. FGT/ECS did not respond and ultimately have claimed that the details of the service are confidential. Following Gulf Power and ECS' joint filing of a Petition For Declaratory Statement, WFEC filed its Petition to resolve a territorial dispute. WFEC has, contrary to Gulf Power and ECS' claims, always expressed a keen interest in serving the additional load in

the disputed area, and indeed, has the responsibility to do so. Rimes, Dunaway, Clark, Morgan, Brook.

Issue 3: What is the existing and planned load to be served in the disputed area?

WFEC: The existing West Florida load is approximately 3000 kW. The load is projected to grow approximately 2% per year, reaching the level 4500 in the next 18 to 20 years. Perry, Parish, Clark.

Issue 4: What is the estimated cost for electric utility facilities to adequately and reliably serve the planned load in the disputed area?

WFEC: Because Gulf Power and ECS have refused to furnish the detailed service characteristics of the load as well as the contracts between the two, West Florida and AEC have not had the opportunity to independently evaluate the costs. Assuming that West Florida/ACE acquires Gulf's facilities that it is currently constructing, the cost should be no more than Gulf Power's cost. Perry, Parish, Cicchetti.

Issue 5: Are the planned electrical facilities additions and other utility services to be provided within the disputed area reasonably expected to cause a decline in the reliability of service to existing and future utility customers?

WFEC: No, and if service is provided by West Florida, it can be reasonably expected to cause an increase in the reliability of service as well as benefits to WFEC's members. Perry, Cicchetti.

Issue 6: What is the nature of the disputed area with respect to its population, the type of utilities seeking to serve it, degree of urbanization, proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services?

WFEC: Mr. Clark has a detailed exhibit, Exhibit _____ (GC-4) describing the area. In summary, the area is rural; there are approximately 390 services in the disputed area. There are no stores, shops, industries or businesses of any kind with the exception of Florida Gas Transmission Station 13, bait and tackle shop and a junkyard. The area is comprised mostly of single-family residences, fishing camps and farming operations. Currently there are no expectations for significant development of the area in the foreseeable future other than the expansion to Station 13 by ECS/FGT. There are no reasonably foreseeable future requirements for other utility services, and the site is not proximate to other urban areas. Clark, Cicchetti.

Issue 7: What utility does the customer prefer to serve the disputed area?

WFEC: As Gulf Power stated, by the execution of a contract between ECS and Gulf Power, ECS stated a preference for Gulf Power Company. However, ECS may not have chosen Gulf Power had West Florida been included in the discussions for service to the additional load. Rimes, Clark, Dunaway.

Issue 8: Will the actions of either West Florida or Gulf cause uneconomic duplication of electric facilities with regard to serving the load in the disputed area?

WFEC: Since either West Florida/AEC or Gulf Power would have to build the same facilities in to serve the customer at the customer's required level of service, neither would be uneconomically duplicating the other's service. However, if such facilities are constructed and owned by Gulf Power, opportunities will exist for Gulf Power to expand service from the transmission facility to serve other areas of West Florida's historic service area, thereby duplicating West Florida's service facilities. Perry, Cicchetti, Moore.

Issue 9: Does West Florida have the right of access, through its wholesale power provider or otherwise, to the same transmission facilities that Gulf proposes to tie into to provide service to the disputed area?

WFEC: Yes, by agreements with Gulf Power's parent company, Southern Company, and orders of the Federal Energy Regulatory Commission, and tariffs filed by Gulf Power and/or its parent company. Parish, Moore, Perry.

E. A STATEMENT OF EACH QUESTION OF LAW THE PARTY CONSIDERS AT ISSUE:

1. Whether WFEC/AEC has access to the Gulf Power 230 kV transmission facilities pursuant to Rules of the Federal Energy Regulatory Commission, through tariffs filed with the FERC, and pursuant to any contracts.

West Florida's Position: Yes.

2. Is it legally permissible for an existing customer of an electric utility to enter into a contract with a third-party arranger to provide electric service or mechanical service powered by electric service to the existing customer through another electric utility when the existing customer is clearly within the service area of its current electric utility provider?

West Florida's Position: No.

F. A STATEMENT OF EACH POLICY QUESTION THE PARTY CONSIDERS AT ISSUE:

1. To the extent that Legal Issue Number 2 may also be a policy issue, West Florida incorporates that question of law as a policy question with the same position.

G. *A STATEMENT OF ISSUES THAT HAVE BEEN STIPULATED TO BY THE PARTIES:*

None have been stipulated to.

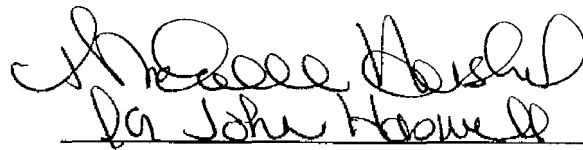
H. *A STATEMENT OF ALL PENDING MOTIONS OR OTHER MATTERS THE PARTY SEEKS ACTION UPON:*

There are currently matters pending on Gulf Power's request for confidential classification, and West Florida will be filing a Motion To Compel Discovery of the contracts between Gulf Power and ECS.

I. *A STATEMENT AS TO ANY REQUIREMENT SET FORTH IN THIS ORDER THAT CANNOT BE COMPLIED WITH:*

None known to West Florida. However, West Florida notes that only one (1) day has been set aside for the hearing of this matter – September 19, 2001. Considering the number of witnesses, exhibits, and issues involved, West Florida reasonably believes that the hearing will take more than one (1) day.

Respectfully submitted,



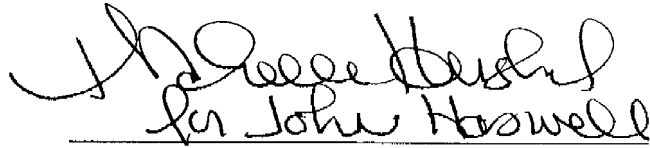
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Jeffrey A. Stone, Esquire and Russell A. Badders, Esquire, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32576-2950; Robert Elias, Esquire and Marlene Stern, Esquire, Legal Division, Florida Public Service Commission, Capital Circle Office Center, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by U.S. Mail, this 22 day of August, 2001.


for John Haswell

John H. Haswell, Esquire