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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

COMMISSION
CLERK

FLORIDA CABLE
TELECOMMUNICATIONS ASSOCIATION,
INC., COX COMMUNICATIONS GULF
COAST, L.L.C., et. al.

Complainants,

v.

GULF POWER COMPANY,

Respondent.

E.B. Docket No. 04-381

To: Office of the Secretary

Attn.: The Honorable Richard L. Sippel
Chief Administrative Law Judge

**GULF POWER'S ITEMIZATION OF EVIDENCE PROVIDED
THAT IS REFERRED TO IN THE DESCRIPTION OF EVIDENCE**

Gulf Power Company ("Gulf Power"), in compliance with the Presiding Judge's August 4, 2005 Discovery Order (p. 6), submits the following itemization of evidence provided that is referred to in the Description of Evidence:¹

CMP _____

COM _____

CTR _____

ECR _____

GCL _____

OPC _____

RCA _____

SCR _____

SGA _____

SEC 1 _____

OTH _____

Evidence concerning the 1998 - 2002 build-out for Knology of Panama City:

In the Description of Evidence, Gulf Power said it "seeks to present documentary and testimonial evidence concerning its most substantial make-ready project (Telecom or CATV) to date." (Description of Evidence, ¶ 4). During the May 27-28, 2005 document review, Gulf Power made available all of its make-ready documents, including the Knology make-ready

¹ Gulf Power's January 8, 2004 Description of Evidence listed nine categories of evidence it sought to present in satisfaction of the *Alabama Power v. FCC* test. This submission is an itemization of each category.

DOCUMENT NUMBER-DATE

08393 SEP-2 08

documents. Gulf Power also made available its attachment applications and permits, which would include those in connection with the Knology build-out.

- **Evidence concerning make-ready work for KMC Telecom II, Inc., Adelphia Business Solutions, and Southern Light, LLC:**

In the Description of Evidence, Gulf Power said it “seeks to present documentary and testimonial evidence concerning make-ready work for its other significant Telecom attachers (in addition to Knology).” (Description of Evidence, ¶ 5). During the May 27-28, 2005 document review, Gulf Power made available all of its make-ready documents, including the KMC, Adelphia and Southern Light make-ready documents. Gulf Power also made available its attachment applications and permits, which would include those in connection with the KMC, Adelphia and Southern Light build-outs.

- **Evidence concerning make-ready work for Gulf Power’s CATV attachers:**

During the May 27-28, 2005 document review, Gulf Power made available all of its make-ready documents, including CATV make-ready documents. Gulf Power also made available its attachment applications and permits, which would include those in connection with CATV build-outs.

- **Evidence concerning geographic overlap of CATV attachers:**

Gulf Power said in its Description of Evidence that it “seeks to introduce documentary (charts, work orders, etc.) and testimonial evidence of the geographic overlap of its CATV attachers.” (Description of Evidence, ¶ 7). Gulf Power has produced and/or made available attachment agreements for all of its CATV attachers. Gulf Power also made available all CATV

attachment applications and permits during the May 27-28, 2005 document review. Many of the agreements and permit applications identify geographic scope.

- **Evidence concerning Gulf Power’s load studies and business plan:**

Gulf Power has produced six Distribution Planning Studies. (See Bates labeled documents Gulf Power 00005 - 00809). Gulf Power also has produced its specifications plates. (See Bates labeled documents Gulf Power 00815 - 00825).

- **Photographic and engineering evidence depicting arrangements on distribution poles:**

In the Description of Evidence, Gulf Power said it “seeks to introduce evidence of what actual distribution poles look like, as well as testimony describing the pervasiveness of the depicted arrangements.” (Description of Evidence, ¶ 9). Gulf Power already produced such documents (see Bates labeled documents Gulf Power 002405 - 002420) and intends to produce more with the results of the Osmose audit.²

- **Testimony regarding the crowding on Gulf Power’s poles:**

Gulf Power already offered such testimony (see, e.g., Gulf Power’s Response to Interrogatory number 3), and Gulf Power intends to offer further testimony on this point both from fact and expert witnesses.

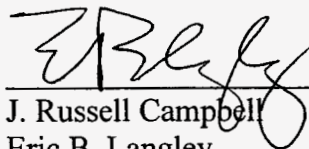
- **Evidence regarding the existence of an unregulated market for pole space:**

² Osmose is taking digital photographs of each “crowded”/“full capacity” pole identified, and creating a database which matches photographs with engineering data (measurements).

Gulf Power has produced attachment agreements, joint use agreements, and billing information for attachers who pay an unregulated rate. (See Bates labeled documents Gulf Power 00826 - 002309). Gulf Power also produced, in 2000, evidence regarding this unregulated market in connection with the expert testimony of Hank Wise. Gulf Power also provided information regarding the existence of an unregulated market for pole space in response to interrogatory numbers 40, 41, 41 & 45.

- **Other evidence bearing on the factors set forth in the Eleventh Circuit's test:**

In the Description of Evidence, Gulf Power asked “for an appropriate degree of flexibility in its evidentiary presentation” since it did not know “how the Commission intends to interpret the test (or even whether the Commission intends to continue its reliance on presumptions).” (Description of Evidence, ¶ 12). Gulf Power was not contemplating any specific category of evidence at that time, but certainly the Osmose audit and evidence regarding higher valued use would fall into the “other evidence” category (as well as other categories).



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Itemization Of Evidence Provided That Is Referred To In The Description Of Evidence has been served upon the following by Electronic Mail and by United States Mail on this the 31st day of August, 2005:

Lisa Griffin Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Via E-mail	Shiela Parker Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Via E-mail
Rhonda Lien Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Via E-mail	Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 445 12th Street, SW Washington, D.C. 20554
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