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

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

E.B. Docket No. 04-381

Complainants,

v.

GULF POWER COMPANY,

Respondent.

GULF POWER COMPANY'S NOTICE OF INTENT TO CROSS EXAMINE

Pursuant to the Presiding Judge's December 16, 2005 Scheduling Order (05M-60) (the "Scheduling Order"), Gulf Power Company ("Gulf Power") intends to cross-examine the following witnesses:

1. Michael Harrelson and Patricia Kravtin, each of whom presented written, pre-filed direct testimony on behalf of the Complainants. Complainants' counsel has agreed to produce these witnesses without subpoena.

CMP _____ 2. Bruce Burgess, Mark O'Ceallaigh, Shayne Routh and Jeff Smith, representatives
COM _____ of the Complainants whose deposition testimony has been designated by Complainants. See
CTR _____ FCC Procedural Rule 1.321(d)(3) ("To the extent that the affirmative direct case of a party is
ECR _____
GCL _____ made in writing pursuant to § 1.248(d), the deposition of any witness, whether or not a party,
OPC _____ may be used by any party for any purpose, *provided the witness is made available for cross-
RCA _____
SCR _____ examination.*") (emphasis added).

SGA _____
SEC 1
OTH _____

Despite requests by undersigned counsel, Complainants will not agree to produce their clients (parties to this proceeding) for cross-examination. Instead, Complainants appear to desire to attempt to circumvent Rule 1.321(d)(3) by re-casting designations of their clients as “cross-designations.” Given this impasse, Gulf Power is submitting Hearing Subpoenas for each witness (consistent with FCC Procedural Rules 1.336-1.338 and the Scheduling Order).

3. Gulf Power will produce, without requiring a hearing subpoena, the following witnesses for cross examination: Ben A. Bowen, Terry Davis, Michael R. Dunn, and Roger Spain. Complainants did not request that any other witness be made available.

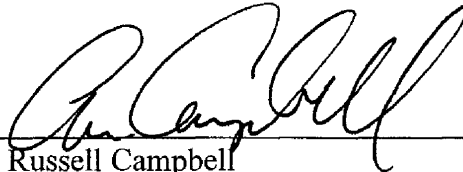
4. Gulf Power and Complainants have stipulated as to the authenticity of certain evidence in the case. Specifically, Complainants have agreed to the authenticity of the measurements and data taken by Osmose concerning Gulf Power’s poles. This evidence is captured in Exhibits 45-46 on Gulf Power’s Final Case-In-Chief Exhibit List, is embedded in other testimony, and may be referred to and/or summarized by various witnesses. As a result, Gulf Power will withdraw the testimony of Mr(s). Ken McVeary and David Barker (initially tendered for purposes of establishing the authenticity of the Osmose data).¹

For its part, Gulf Power has stipulated to the authenticity of the pole measurement data submitted by Complainants, represented as items 15-18 on Complainants Exhibit List.

The parties’ stipulation described herein relates to the authenticity and non-hearsay nature of the evidence only. Each party retains the right to raise other objections to the

¹ Gulf Power is re-examining the designations it submitted from the deposition of Mr. David Tessieri, also from Osmose. Gulf Power may withdraw some or all of those designations and re-tender portions as cross-designations to deposition testimony from Mr. Tessieri designated by Complainants. Gulf Power’s intent is to withdraw unnecessary testimony meant to authenticate evidence that is now subject to stipulation. This should not alter the import of Rule 1.321(d)(3). Contrary to Complainants’ assertion in their “Notice of Intent to Cross-Examine Respondent Gulf Power Company’s Witnesses,” Gulf Power’s approach is markedly different than the tactic being employed by Complainants. In any event, Complainants did not notice an intent to cross-examine Mr. Tessieri under any scenario.

admissibility of the evidence, including relevance. Each party also retains the right to make arguments concerning the weight to be afforded to any of the evidence that is ultimately admitted by the Presiding Judge.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of Gulf Power Company's Notice of Intent to Cross-Examine has been served upon the following by electronic mail and United States Mail on this the 7th day of April, 2006:

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