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

DISTRIBUTION CENTER  
06 JUN -9 AM 7:03

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.

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06 JUN -9 AM 9:47  
COMMISSION  
CLERK

To: Office of the Secretary  
Attn.: The Honorable Richard L. Sippel  
Chief Administrative Law Judge

**GULF POWER COMPANY'S NOTICE OF CAUSE TO MAINTAIN  
CONFIDENTIALITY OVER CERTAIN TRIAL EXHIBITS**

Gulf Power Company ("Gulf Power"), pursuant to the Presiding Judge's May 26, 2006  
Memorandum Opinion and Order, submits this Notice of Cause to Maintain Confidentiality Over  
Certain Trial Exhibits. Gulf Power requests permanent confidential treatment of only two trial

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- CTR \_\_\_\_\_
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- SGA \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

exhibits admitted into evidence at trial: **Gulf Power Exhibit 11** and **Complainants Exhibit 5**.<sup>1</sup>  
In response to the specific points raised on page seven of the May 26 Order, Gulf Power  
states as follows:

<sup>1</sup> Gulf Power Exhibit 11 is the Southern Company Overhead Distribution Construction Manual (the  
"Manual"); Complainants Exhibit 5 contains excerpts from the Manual.

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1. Identification of the specific information for which confidential treatment is sought.

**Response:** Southern Company Overhead Distribution Construction Manual. The entire Manual was marked and received into evidence as Gulf Power Exhibit 11. Excerpts from the Manual were marked and received into evidence as Complainants' Exhibit 5.

2. Description of the circumstances giving rise to the submission.

**Response:** Gulf Power offered the Manual (Gulf Power Exhibit 11) into evidence to disprove the erroneous assertion made by Complainants' engineering expert, Mickey Harrelson, that Gulf Power's specs were inconsistent with industry standard and Southern Company's own specifications, and to further highlight the inherently crowded nature of Gulf Power's poles. Gulf Power does not know why Complainants offered excerpts of the Manual (Complainants' Exhibit 5) into evidence, but presumes it was for the purpose of creating the misimpression that certain Gulf Power specifications were, in fact, inconsistent with Southern Company specifications.

3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret.

**Response:** The Manual falls into the category of "commercial" information. It is the intellectual property of Southern Company and its operating subsidiaries. As set forth in the Manual itself, any circulation of the Manual outside the company "must have the approval of the company's Corporate Distribution along with a properly executed CONFIDENTIALITY

AGREEMENT.” (See Exhibit A).<sup>2</sup> Except where necessary for the performance of company business (such as portions of the Manual being given to construction contractors and third-party attachers), the Manual is not generally circulated outside the company.

4. Explanation of the degree to which the information concerns a service that is subject to competition.

**Response:** The Manual concerns overhead distribution construction standards. While the Manual is not competitively sensitive like a vendor’s customer list, for example, it is confidential for other reasons. One such reason is the time and effort Southern Company and its operating subsidiaries put into developing the processes and specifications outlined in the Manual. Many of these are the result of substantial engineering work, performed at significant expense to Southern Company, as well as Gulf Power and the other operating companies. The Manual is the intellectual property of Southern Company, Gulf Power and the other operating subsidiaries.

5. Explanation of how disclosure of the information could result in substantial competitive harm.

**Response:** While “competitive harm” in the traditional sense may or may not result from disclosure of the Manual, public disclosure could harm Southern Company and its operating subsidiaries by allowing others in the overhead distribution arena access to years of confidential and proprietary engineering research and development.

<sup>2</sup> Exhibit A is attached hereto.

6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure.

**Response:** As set forth in the Manual, any circulation outside the company “must have the approval of the company’s Corporate Distribution along with a properly executed CONFIDENTIALITY AGREEMENT.” Also, as the parties to this proceeding are aware, the disclosure of the Manual was one of the subjects addressed in the December 15, 2005 telephone conference held with the Presiding Judge and counsel for the parties. Gulf Power objected to production of the Manual -- even under the protection of the February 17, 2005 Stipulation and Agreed Confidentiality Order -- due to the particularly sensitive nature of the Manual. This discussion led to the entry of a December 18, 2005 Order which specifically provided that the Manual “shall be considered Confidential Information” and that complainants’ use of the Manual was limited to “review and analysis by its expert witness(es).”

7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

**Response:** The Manual is not available to the general public. As set forth in paragraph 3 above, portions of this document are provided as necessary to contractors and third-party attachers, but any circulation of the Manual outside the company requires execution of the Confidentiality Agreement.

8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

**Response:** The Manual should remain permanently confidential and not available for public disclosure. Though certain aspects of the Manual are revised from time to time, the Manual (as a whole) is not expected to become “stale” at any point in the foreseeable future.

9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

**Response:** No prejudice (to other parties or the public) will result by maintaining the Manual as confidential. Further, the majority of the Manual will likely not need to be reviewed or cited in any Initial Decision, since only a few portions of the Manual even address joint use construction (one of the reasons Gulf Power objected to producing the entire Manual in the first place).

Respectfully Submitted,



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**Counsel for Respondent**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Notice of Cause to Maintain Confidentiality has been served upon the following by United States mail and E-mail on this the 5th day of June, 2006:

Lisa Griffin Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>	Shiela Parker Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>
Rhonda Lien Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>	Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 445 12th Street, SW Washington, D.C. 20554
James Shook Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>	David H. Solomon Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554
Director, Division of Record and Reporting Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, Florida 32399-0850	Federal Energy Regulatory Commission Docket Room 1A-209 888 First Street, NE Washington, D.C. 20426
John D. Seiver Geoffrey C. Cook Rita Tewari COLE, RAYWID & BRAVERMAN 1919 Pennsylvania Avenue, N.W. Suite 200 Washington, D.C. 20006 <b>Via E-mail</b>	

  
\_\_\_\_\_  
OF COUNSEL

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# EXHIBIT A

SOUTHERN COMPANY  
OVERHEAD DISTRIBUTION CONSTRUCTION MANUAL

GENERAL STATEMENTS

This Standards Book is the property of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company and is intended solely for the use of the respective company personnel and its assigns. Any sale, exchange, gift or otherwise must have the approval of the company's Corporate Distribution along with a properly executed CONFIDENTIALITY AGREEMENT.

This manual contains construction standards that have been developed for the purpose of standardization and good electric distribution practices. It has been developed through a collaborative process involving the input of individuals from each of the Southern Company operating companies, namely, Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company. In that process, each operating company has continually reviewed, approved and adopted each of the standards contained herein as its own. The review of each operating company has been conducted to assure conformity with the laws of the state in which the company operates and each operating company is solely responsible for the application of these standards on its own electrical system.

This manual provides a set of fundamental design standards covering methods and types of construction for overhead electric distribution lines. However, this manual does not necessarily cover every specific situation that might be encountered. From time to time, it may be necessary to deviate from these specifications to meet a particular condition, but in all cases, proper clearances, spacing, and adequate strength must be provided as required by the current edition of the National Electrical safety Code (NEC). Corporate Distribution should be contacted if there are any questions concerning situations not covered in this manual.

This manual is intended for application in new installations and extensions performed after the adoption of the manual by the operating company. All such installations and extensions shall comply with the current editions of the National Electric Safety Code (NEC) in effect at the time, with these standards, and with sound engineering judgment.

There are two manuals for each of the companies that participated in this collaborative process; one for overhead systems and one for underground systems. Each manual contains standards adopted by the particular company issuing the manual. The plates in each manual may be labeled either "Southern Company", or with the name of the company issuing the manual. Those labeled "Southern Company" reflect material that was developed as a result of the collaborative process described above and adopted by the company issuing the manual. Those labeled with the name of the individual company contain standards and practices adopted by the company issuing the manual.

SUBJECT OVERHEAD DISTRIBUTION

DETAIL GENERAL STATEMENTS

Date 02/26/99

REVISED 09-25-00 Gulf Power Exhibit 11

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