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

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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To: Office of the Secretary

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

**GULF POWER COMPANY'S REPLY TO COMPLAINANTS' OBJECTIONS TO  
MAINTAINING CONFIDENTIALITY OVER CERTAIN TRIAL EXHIBITS**

Gulf Power Company ("Gulf Power"), pursuant to the Presiding Judge's May 26, 2006

Memorandum Opinion and Order and June 6, 2006 Order, submits this Reply to "Complainants' Objection to the Continued Confidential Treatment of Gulf Power Exhibit 11 and Complainants Exhibit 5" (the "Objection") stating as follows:

1. The Presiding Judge's June 6, 2006 Order asked the parties to consider withdrawing Gulf Power Exhibit 11 - the Southern Company Overhead Distribution Construction Manual (the "Manual") -- and relying instead upon excerpts of the Manual contained in Complainants' Exhibit 5. Unfortunately, this suggestion is unworkable for at least two reasons. First, the excerpts contained in Complainants' Exhibit 5 do not contain all specifications discussed in Mr. Harrelson's testimony or that may be used in Gulf Power's

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proposed findings of fact and conclusions of law. Second, the Manual serves as evidence that: 1) Complainants' engineering expert, Mr. Harrelson, is wrong to suggest that Gulf Power's construction specifications and practices are in any way outdated, "lax," "unreasonable," "arbitrary" or out of line with the Southern Company specifications; and 2) Gulf Power's poles are inherently crowded and that existing electrical configurations demonstrate higher valued uses of Gulf Power's pole space. More than just the excerpts chosen by Complainants, as reflected in Complainants' Exhibit 5, are needed in evidence to support Gulf Power's case-in-chief and disprove Mr. Harrelson's erroneous assertions.

2. Complainants' Objection suggests that because Gulf Power shares the Manual with its third party contractors the Manual does not deserve confidential treatment. *See* Objection at 3. But, as explained in Gulf Power's June 6, 2006 filing and conceded in Complainants' Objection, Gulf Power requires that a Confidentiality Agreement be executed prior to sharing the Manual with any third party, thus maintaining the Manual's confidential nature. *See* Gulf Power's Notice of Confidential Treatment at pp 2-3; Objection at p. 3. It is axiomatic that Gulf Power's construction standards must be shared with those entities working on the pole network and the sharing of those standards, after obtaining a Confidentiality Agreement, in no way destroys the confidential and proprietary nature of the Manual.

3. At no point in their Objection do Complainants allege that they, another party or the general public will be prejudiced in any manner by maintaining the Manual as a confidential exhibit in the record.<sup>1</sup> To the contrary, Gulf Power's June 6 filing outlined the manner in which public disclosure of the Manual will result in harm to Gulf Power, its parent company and sister companies. *See e.g.* Gulf Power's Notice of Confidential Treatment at pp. 2-5. With Gulf Power

<sup>1</sup> In a June 6, 2006 e-mail the Bureau indicated that it has no objection to Gulf Power's Notice of Cause to Maintain Confidentiality Over Certain Trial Exhibits -- Gulf Power Exhibit 11 and Complainants' Exhibit 5.

showing harm and Complainants not even alleging prejudice, maintaining the Manual as a confidential exhibit appears to be the only fair and just resolution.

4. In an effort to resolve this dispute, however, Gulf Power proposes that it withdraw all portions of the Manual that are not identified in either its proposed findings of fact/conclusions of law or its reply findings. Thus, at the close of the parties' submissions on proposed findings of fact and conclusions of law, those portions of the Manual not identified or relied upon by Gulf Power will be withdrawn from Exhibit 11 and a revised Confidential Exhibit 11 will be submitted. Gulf Power maintains its position, however, that the portions identified and relied upon by either party remain confidential, including all of Complainants' Exhibit 5. Complainants cannot possibly claim prejudice by this offer of compromise.

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Reply to Complainants' Objection to Gulf Power's Notice of Cause to Maintain Confidentiality has been served upon the following by United States mail and E-mail on this the 9th day of June, 2006:

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