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SCANNED *[Signature]*

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**ORIGINAL
FILE COPY**

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September 30, 1993

Steve Tribble, Clerk
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, FL 32399-0854

In Re: Petition of Gulf Power Company to Resolve a Territorial Dispute with Gulf Coast Electric Cooperative, Inc. Docket No. [REDACTED]

Dear Mr. Tribble:

I am enclosing herewith the original and 15 copies of the Answer of Gulf Coast Electric Cooperative, Inc. to Petition of Gulf Power Company and Motion to Dismiss and Motion to Strike which I would appreciate your filing in the appropriate docket file.

Very truly yours,

John H. Haswell

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG *TR/m* _____
- LIN *6* _____
- OTC _____
- RCH _____
- SEC *1* _____
- WAS _____
- OTH _____

JHH/gz
Enclosure

DOCUMENT NUMBER-DATE
10625 OCT-4 83
FILED ELECTRONICALLY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Gulf Power
Company to Resolve a Territorial
Dispute with Gulf Coast Electric
Cooperative, Inc.

Docket No. 930885-EU

ORIGINAL
FILE COPY

ANSWER OF GULF COAST ELECTRIC COOPERATIVE, INC.
TO PETITION OF GULF POWER COMPANY
MOTION TO DISMISS AND MOTION TO STRIKE

GULF COAST ELECTRIC COOPERATIVE, INC. ("GCEC" or "Gulf Coast",
or "The Cooperative"), by and through its undersigned attorneys,
responds to the petition of GULF POWER COMPANY as follows:

A. The name of the respondent and the respondent's address
and its principal place of business is:

Gulf Coast Electric Cooperative, Inc.
Post Office Box 220
Highway 22
Wewahitchka, FL 32465
(904) 639-2216

B. Notices and communications with respect to this docket
should be addressed to:

John H. Haswell, Esquire
CHANDLER, LANG & HASWELL, P.A.
211 N.E. 1st Street
P. O. Box 23879
Gainesville, FL 32602
(904) 376-5226
Florida Bar No. 162536

J. Patrick Floyd, Esquire
408 Long Avenue
Port St. Joe, FL 32456
(904) 227-7413

Hubbard W. Norris, General Manager
Gulf Coast Electric Cooperative, Inc.
Post Office Box 220
Highway 22
Wewahitchka, FL 32465
(904) 639-2216

DOCUMENT NUMBER-DATE

10625 OCT-48

FILED RECORDED & INDEXED

007

C. For answer to the Petition of GULF POWER COMPANY, GULF COAST says as follows with respect to each numbered allegation:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted that GCEC is a rural electric cooperative subject to the Commission's jurisdiction pursuant to 366.04(2)(e), Florida Statutes, and admitted further that the Public Service Commission has jurisdiction over GCEC for other limited purposes under Chapter 366.
5. Denied. Until 1950 there was no electric service provided to the general area of the dispute in south Washington County. Since Gulf Power Company refused to serve the area, GCEC began providing service in 1950 and constructed facilities to provide electric service on SR77 and CR279 (Vernon Road) adjacent to the disputed area in 1950, and GCEC has been providing such electric service from that time until the present.
6. Admitted that the Department of Corrections has developed plans to construct phase 1 of a correctional institute in the disputed area generally adjacent to SR77 and CR279 in south Washington County. Admitted further that in accordance with DOC requirements, the land on which the correctional institution is to be built was contributed by the County Commission of Washington County. Denied, however, that Gulf Coast "pledged" \$45,000 to the

county, but admitted that Gulf Coast has already granted and paid \$45,000 to Washington County to allow the county to complete the purchase of the land on which the Department of Corrections will construct the facilities. The grant by Gulf Coast is to advance the rural development of Washington County, to assist the local economy by providing funds to local government to bring new economic enterprises to a depressed area of the state, in the public interest. (See Exhibit "A", attached hereto.)

7. Without knowledge as to the date that Gulf Power made a proposal to the Department of Corrections, but admitted that on or about May 13, 1993, Gulf Coast discovered that Gulf Power had made such a proposal without informing the Cooperative.

8. Without knowledge as to the specifics of the allegations stated in Gulf Power's petition, but admitted that the Department of Corrections delegated its authority to state a preference for the electric utility provider to the County Commission of Washington County, thereby appointing the County Commission as the DOC's agent to select the utility which would provide electric service to the correctional institute.

9. Denied that GCEC and the County Commissioner's of Washington County have been involved in "negotiations," but admitted that GCEC offered a grant of \$45,000 to the County Commission of Washington County to assist the County Commission in purchasing the land for the correctional facility, in the same

fashion that GCEC made such a grant to the County Commission of Gulf County in 1990, for rural development.

10. GCEC denies Gulf Power's characterization of the Department of Corrections "acquiescence" to the County Commission's choice of electric provider. Admitted, however, that the Department of Corrections authorized the County Commissioner's of Washington County to select the electric service provider, and that the Washington County Commission selected Gulf Coast Electric Cooperative, Inc.

11. The Cooperative denies Gulf Power's allegation that the correctional institute will be "strategically" located anywhere, but admitted that the correctional institute is planned to be constructed adjacent to the intersection of SR77 and CR279, and further admitted that Gulf Power had distribution facilities on both SR77 and CR279, which facilities were constructed 20 years after the Cooperative's facilities on said road were constructed. The Cooperative is without knowledge as to whether or not Gulf Power had facilities in place adequate to provide independent alternate electric service from its Sunny Hills substation or Vernon substation. Further admitted that the Cooperative has electric facilities on the site itself, not merely adjacent thereto, but physically crossing over the proposed correctional institute site. On Gulf Power's Exhibit A, Gulf Power failed to

identify the "existing 10 line" as an existing facility of Gulf Coast Electric Cooperative, Inc.

12. Denied. The Cooperative cannot be required to remove and relocate any existing lines unless the Cooperative were to agree to do so voluntarily, or unless its facilities and easements were condemned in a properly filed eminent domain action. Consequently, regardless of which utility were to provide service to the site, in order to accommodate the Department of Corrections, the Cooperative would have to be compensated for the removal and relocation of its existing facilities, unless the Cooperative voluntarily waived that reimbursement. In addition, Gulf Power's allegation that the Cooperative would be required to cross Gulf's lines to provide service to the correction site is misleading. Gulf Power was the utility that first crossed over the Cooperative's lines in 1971. The Cooperative's facilities currently in place pre-existed any facilities of Gulf Power. The Cooperative is merely changing the access location to the property from its existing access off of CR279 to the point of service preferred by the Department of Corrections.

13. Denied.

14. Denied.

15. Denied.

MOTION TO DISMISS

GULF COAST ELECTRIC COOPERATIVE, INC., by and through its undersigned attorneys, respectfully requests that the Commission dismiss the petition of GULF POWER COMPANY for failure to state a cause of action and for lack of jurisdiction, and in support thereof says:

1. Gulf Power's petition admits that the Department of Corrections, acting through its agent either directly or by delegation, has selected, that is, indicated a customer preference for, Gulf Coast Electric Cooperative, Inc.

2. Gulf Power's petition fails to allege that its cost to provide the facilities necessary to serve the disputed area would be greater or lesser than the Cooperative's.

3. Gulf Power's petition fails to allege any ultimate facts to support its legal conclusion that Gulf Power is better able to expand services in the area to reliably and economically meet the area's future needs.

4. Gulf Power has failed to allege any ultimate facts to establish a claim that service to the disputed area by the Cooperative would in any fashion whatsoever result in the uneconomic duplication of distribution, transmission or generation facilities.

5. The Florida Public Service Commission has no jurisdiction over the rates of the rural electric cooperatives or municipal electric utilities. In addition, the Florida Public Service Commission has, as a matter of policy, refused to consider the rates charged by competing utilities in resolving a territorial dispute, and even if the Commission did have such a policy or legal authority, it would require a finding by the Commission that the rates of a particular utility were unreasonable, unjust, or unduly discriminatory.

WHEREFORE, Gulf Coast Electric Cooperative, Inc. respectfully requests that the Commission enter an order dismissing the petition of Gulf Power Company.

MOTION TO STRIKE

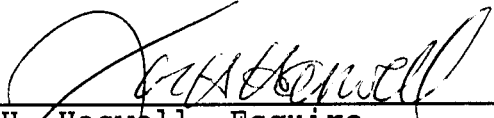
Gulf Coast Electric Cooperative, Inc., by and through its undersigned attorneys, respectfully requests that the Commission strike paragraph 13 of the petition of Gulf Power Company for the following reasons:

1. In paragraph 13 of Gulf's petition, Gulf alleges that if Gulf were to provide service to the Department of Corrections that the DOC would save approximately \$23,027. Not only is that claimed savings incorrect, but also it is totally irrelevant to the resolution of a territorial dispute.


2. The Commission has no jurisdiction over the rates of rural electric cooperatives or of municipal electric utilities. In addition, the Florida Public Service Commission has, as a matter of policy, refused to consider the rates charged by competing utilities in resolving a territorial dispute, and even if the Commission did have such a policy or legal authority, it would require a finding by the Commission that the rates of a particular utility were unreasonable, unjust, or unduly discriminatory.

WHEREFORE, pursuant to Rule 1.140(f) Florida Rules of Civil Procedures, Gulf Coast respectfully requests that paragraph 13 of the Gulf petition be stricken on the grounds that it is immaterial, impertinent, and irrelevant.

Respectfully submitted,



John H. Haswell, Esquire
CHANDLER, LANG & HASWELL, P.A.
211 N.E. 1st Street
P. O. Box 23879
Gainesville, FL 32602
(904) 376-5226
Florida Bar No. 162536

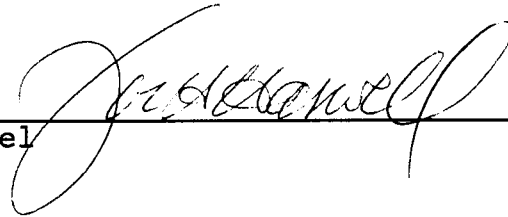


J. Patrick Floyd, Esquire
408 Long Avenue
Port St. Joe, FL 32456
(904) 227-7413
Florida Bar No. _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to G. EDISON HOLLAND, JR., ESQUIRE, P. O. Box 12950, Pensacola, FL 32576 and Legal Division, FLORIDA PUBLIC SERVICE COMMISSION, 101 E. Gaines Street, Tallahassee, FL 32301, by U.S. Mail this FIRST day of October, 1993.

Of Counsel





EARNESTINE MILLER
Clerk and Accountant
(904) 638-4333

WASHINGTON COUNTY
BOARD OF COUNTY COMMISSIONERS

POST OFFICE BOX 647 • CHIPLEY, FLORIDA 32428-0647

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District Five

WILLIAM S. HOWELL, JR.
Attorney

ROGER D. HAGAN
Administrator

September 28, 1993

H.W. Norris, General Manager
Gulf Coast Electric Cooperative, Inc.
Post Office Box 220
Wewahitchka, Florida 32465

Re: Washington County Prison Facility

Dear Mr. Norris:

This letter is to advise that the Board of County Commissioners of Washington County appreciate your cooperative's grant in the amount of \$45,000.00 to Washington County to make possible our purchase of the future site of Washington Correctional Institute. Your generous contribution to our County has allowed us to qualify for placement of a prison facility in Washington County. The Board of County Commissioners and citizens of our County appreciate your interest in our growth and development and assisting us in providing additional employment opportunities for our citizens.

As you know we have chosen Gulf Coast Electric Cooperative to provide electrical service to the facility because of your interest in our County's future growth and prosperity. On behalf of the Board of County Commissioners and the citizens of Washington County we wish to extend our heart felt thanks and appreciation.

Very truly yours,

Lenzy Corbin, Chairman
Board of County Commissioners

LC/nwh