

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

In Re: Petition to Resolve)
Territorial Dispute with Gulf Coast)
Electric Cooperative, Inc. By) Docket No. 930885-EU
Gulf Power Company)

REBUTTAL TESTIMONY

OF

STEPHEN PAGE DANIEL

ON BEHALF OF

GULF COAST ELECTRIC COOPERATIVE, INC.

ACK _____

AFA _____

APP 1

CAF _____

CMU _____

CTR _____

EAG _____

LEG 1

LIN 3 + org

OPC _____

RCH _____

SEC 1

WAS _____

OTH _____

December 20, 1996

DOCUMENT NUMBER-DATE

13624 DEC 23 1996

FPSC-RECORDS/REPORTING

TABLE OF CONTENTS

	<u>Page</u>
I. <u>INTRODUCTION</u>	1
II. <u>MATTERS PRESENTED BY MR. KLEPPER</u>	3
A. ELECTRIC UTILITY INDUSTRY TRENDS AND CUSTOMER CHOICE ...	3
B. RATES AS A FACTOR IN ESTABLISHING A TERRITORIAL BOUNDARY	15
C. PROPER FUNCTION OF THE FPSC IN RESOLVING TERRITORIAL DISPUTES	21
D. HISTORICAL DIVISION OF CUSTOMER SERVICE BETWEEN GULF POWER AND GULF COAST	23
E. COMPETITION/NATURAL MONOPOLY/REGULATION	27
F. CUSTOMER CHOICE AND U.S. ECONOMIC SYSTEM	30
III. <u>MATTERS PRESENTED BY MR. HOLLAND</u>	32
A. GENERAL PROPOSITION OF ESTABLISHING A TERRITORIAL BOUNDARY	32
B. GULF POWER ALTERNATIVES TO A TERRITORIAL BOUNDARY	45
1. What is Gulf Power's Position?	45
2. Gulf Power's Proposed Territorial Policy Statement	46
3. Gulf Power's Proposed Policy Statement	52
IV. <u>MATTERS PRESENTED BY MR. WEINTRITT</u>	55
A. HISTORICAL METHOD FOR RESOLVING TERRITORIAL DISPUTES ..	55
B. GULF POWER'S PROPOSED TERRITORIAL POLICY GUIDELINES	61

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve)
Territorial Dispute with Gulf Coast)
Electric Cooperative, Inc. By) Docket No. 930885-EU
Gulf Power Company)

REBUTTAL TESTIMONY
OF
STEPHEN PAGE DANIEL
ON BEHALF OF
GULF COAST ELECTRIC COOPERATIVE, INC.

December 20, 1996

1 I. **INTRODUCTION**

2 Q. **PLEASE STATE YOUR NAME.**

3 A. Stephen Page Daniel.

4 Q. **DID YOU SUBMIT DIRECT TESTIMONY IN THIS PROCEEDING?**

5 A. Yes.

6 Q. **WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

7 A. My rebuttal testimony addresses certain matters raised by Gulf Power Company
8 (“Gulf Power”) witnesses Klepper, Holland, and Weintritt.

9 Q. **WHAT MATERIALS HAVE YOU REVIEWED IN PREPARATION FOR**
10 **PRESENTING YOUR REBUTTAL TESTIMONY?**

11 A. In addition to the information which I reviewed in preparation for presenting my
12 direct testimony (see Exhibit No. ____ (SPD-1), pp. 7-8), I have reviewed the
13 following information: (1) all of the prepared direct testimony of Gulf Power’s

1 witnesses submitted on October 15, 1996; (2) the direct testimony of Mr. Todd F.
2 Bohrmann on behalf of the Florida Public Service Commission (“Commission” or
3 “FPSC”) Staff; (3) the Commission’s November 4, 1996 Order No. PSC-96-1331-
4 PCO-EU (“Nov. 4 Order”); (4) the Commission’s November 18, 1996 Order
5 Denying Gulf Power Company’s Motion to Dismiss (“Nov. 18 Order”); (5) Gulf
6 Coast Electric Cooperative, Inc.’s (“Gulf Coast” or “GCEC”) Gulf Coast
7 responses to certain Gulf Power data requests; and (6) a number of old Gulf Coast
8 facilities maps showing the early development of the Gulf Coast system.

9 **Q. DO YOU HAVE ANY PRELIMINARY OBSERVATIONS CONCERNING**
10 **THE PURPOSE OF THIS PROCEEDING AS RELATED TO CERTAIN**
11 **MATTERS RAISED BY GULF POWER’S WITNESSES?**

12 A. Yes. Since the Commission issued Order No. PSC-95-0271-FOF-EU on March 1,
13 1995 (“March 1 Order”), it has been clear that the Commission’s intent was to
14 determine where the electric facilities of Gulf Power and Gulf Coast are
15 commingled or in close proximity and where further unnecessary and uneconomic
16 duplication of electric facilities may occur with the intention of establishing a
17 territorial boundary to eliminate territorial disputes. The Commission reaffirmed
18 this intent in its Nov. 4 Order and Nov. 18 Order.

19 Gulf Coast complied with the Commission’s directives by presenting both
20 the criteria for establishing a territorial boundary and a specific territorial
21 boundary. As will be discussed in more detail below, Gulf Power’s proposals do

1 not establish a territorial boundary to prevent territorial disputes between Gulf
2 Power and Gulf Coast.

3 **II. MATTERS PRESENTED BY MR. KLEPPER**

4 **A. ELECTRIC UTILITY INDUSTRY TRENDS AND CUSTOMER**
5 **CHOICE**

6 **Q. MR. KLEPPER STATES "THAT THE PUBLIC INTEREST WOULD BE**
7 **BETTER SERVED BY COMMISSION POLICIES AND DIRECTIVES**
8 **THAT ARE COMPATIBLE WITH EXISTING TRENDS IN THE**
9 **ELECTRIC UTILITY ENVIRONMENT AND ENCOURAGE, RATHER**
10 **THAN LIMIT, THE ABILITY OF NEW CUSTOMERS TO CHOSE**
11 **BETWEEN ELECTRIC SERVICE SUPPLIERS." PLEASE RESPOND TO**
12 **THIS GENERALIZED SUGGESTION.**

13 A. Mr. Klepper obviously is referring to the current debate in the electric industry
14 regarding restructuring and retail competition, which, if adopted in a given state,
15 would provide retail customer choice of electric suppliers. While there is talk of
16 Federal initiatives regarding retail competition, to date this issue is being
17 addressed on a state-by-state basis from a regulatory and legislative perspective.
18 Only a few states (e.g., California, New Hampshire, Pennsylvania, and Rhode
19 Island) have adopted statutes and/or regulations to implement retail competition
20 and customer choice at this time. A few states (e.g., Illinois and Michigan) are
21 conducting, or considering conducting, retail wheeling experiments to investigate

1 the advantages and disadvantages of retail competition. A large number of states
2 are in various stages of investigating and assessing whether and, if so, to what
3 extent retail competition should be implemented. This investigation and
4 assessment process generally focuses on a broad range of issues, including, but
5 not limited to, the following: the potential advantages and disadvantages to all
6 classes of retail customers; the costs of implementation; the constitutional,
7 statutory, contractual, and other impediments which must be addressed in
8 considering whether and, if so, how to implement retail competition; and
9 consideration of a myriad of implementation issues which would emanate from
10 retail competition. Finally, other states (e.g., Florida, North Carolina, South
11 Carolina, and Virginia) have made decisions not to proceed with implementation
12 of retail competition at this time, but instead, have decided to take a more cautious
13 “wait and see” approach.

14 The only clear “trend” at this time in the electric utility environment is the
15 efforts by several states (e.g., California, New Hampshire, Rhode Island, and
16 Pennsylvania) to initiate retail competition in hopes of mitigating their costs of
17 electricity which are among the highest in the nation. Otherwise, there remains to
18 be a lot of debate, analysis, and regulatory/statutory action before retail
19 competition were to become a reality in the majority of the states.

20 At best, it is premature to judge where retail competition will emerge in
21 the various states (other than those with definitive statutes and regulations) or how

1 retail competition will be implemented. Given this general status within the
2 industry, and the fact that Florida has elected to not proceed with retail
3 competition at this time, it is premature to make a decision in this proceeding
4 based on what might happen with regard to retail competition and customers'
5 rights to choose electric service suppliers in the future.

6 **Q. WHAT IS YOUR UNDERSTANDING OF THE CONCEPT OF**
7 **CUSTOMER CHOICE OF ELECTRIC SUPPLIERS AS IT RELATES TO**
8 **RETAIL COMPETITION?**

9 A. The provision of electric service is comprised of three (3) basic functions:
10 production (or generation) of power; transmission of power from the source to
11 load centers; and distribution of power to users within load centers. The
12 production or generation component of electric service (i.e., the commodity) is
13 generally recognized as becoming progressively more fungible in recent years.
14 With the power created through the production function now becoming a more
15 fungible commodity, there are proponents of retail competition which promote the
16 right of end-use customers to purchase power from alternative power suppliers.
17 This customer choice relates to the purchase of the commodity as contrasted with
18 the delivery (i.e., transmission and distribution) of that commodity to the end-
19 user.

20 For the most part, these proponents also recognize not only the monopoly
21 nature of transmission facilities used to deliver bulk power from the production

1 source to load centers but also the monopoly nature of distribution facilities used
2 to deliver the commodity from the transmission system to the end-users.

3 Accompanying this recognition of the monopoly nature of transmission and
4 distribution facilities is the further recognition of the desirability of avoiding
5 unnecessary and uneconomic duplication of such facilities used in the delivery of
6 the commodity from the power production source to the end user.

7 In essence, if retail competition is implemented, the retail sector of the
8 business is perceived to be headed toward a power function and a wires function,
9 with the latter being separated into transmission and distribution components.

10 This structure theoretically would allow an end-user (or group of end-users) to
11 shop for alternative power suppliers to provide the electricity commodity, with
12 that power being delivered over the traditional transmitting utility's transmission
13 and/or distribution facilities. At this stage of the debate, and in limited instances
14 of implementation of retail competition, there does not appear to be any serious
15 consideration of adopting customer choice policies which would extend to the
16 wires function and lead to head-to-head competition to provide delivery service
17 on a customer-by-customer basis with the attendant potential for unnecessary and
18 uneconomic duplication.

19 **Q. WHAT DO YOU CONCLUDE REGARDING THE SO-CALLED TRENDS**
20 **IN THE ELECTRIC UTILITY ENVIRONMENT REGARDING RETAIL**

1 **COMPETITION AND CUSTOMERS CHOOSING BETWEEN ELECTRIC**
2 **SERVICE SUPPLIERS AS IT RELATES TO THIS PROCEEDING?**

3 A. Whether retail competition and choice of electric service suppliers, as a general
4 proposition, should be implemented in Florida is a public policy issue which will
5 affect all of Florida, not just Gulf Power and Gulf Coast. Any decisions regarding
6 implementation of retail competition must be made in a state-wide context. It
7 would be inappropriate to make a determination with regard to the establishment
8 of a territorial boundary in this proceeding based upon a potential public policy
9 issue which has not been considered and resolved for all of Florida.

10 In any event, retail competition is not likely to remove the potential for
11 territorial disputes with regard to the wires or delivery function. Hence, even if
12 retail competition were implemented, it will continue to be in the public interest to
13 establish territorial boundaries, such as in this proceeding, to prevent territorial
14 disputes and unnecessary and uneconomic duplication. The establishment of a
15 territorial boundary between Gulf Power and Gulf Coast should be established
16 based on the facts in this proceeding and not speculation with regard to retail
17 competition which may or may not come about in Florida. If retail competition is
18 ultimately adopted in Florida, the Commission and the Legislature will be
19 required to establish procedures which address a wide array of issues, including
20 how existing and future territorial boundaries and boundary disputes associated
21 with the delivery function will be handled. In the meantime, the Commission

1 should proceed with the establishment of a territorial boundary in this proceeding
2 to prevent further territorial disputes and unnecessary and uneconomic duplication
3 of facilities as between Gulf Coast and Gulf Power.

4 **Q. ARE GULF POWER'S PROPOSED PROCEDURES FOR RESOLVING**
5 **TERRITORIAL DISPUTES CONSISTENT WITH THE CONCEPT OF**
6 **RETAIL COMPETITION AND CUSTOMER CHOICE OF ELECTRIC**
7 **SUPPLIERS WHICH YOU JUST DESCRIBED?**

8 A. No. Gulf Power appears to be proposing a one-time, irrevocable choice of
9 supplier for a given location. Gulf Power certainly does not appear to be
10 proposing that retail customers in general be given a continuing choice of power
11 suppliers as contemplated under the concept of retail competition discussed
12 above. Neither would a new consumer locating at existing premises be given a
13 customer choice of supplier under the concept of customer choice referred to by
14 Gulf Power, unless the nature of the service at a location changed such that the
15 facilities of the existing supplier were not capable of reliably serving the changed
16 load. In essence, Gulf's one-time, irrevocable customer choice is not even
17 remotely analogous to customer choice under retail competition as discussed
18 above. The dramatic distinctions in these two (2) types of customer choice
19 illustrate why the two (2) concepts should not be discussed interchangeably in
20 addressing the territorial boundary issue in this proceeding.

1 **Q. MR. KLEPPER ALLUDES TO HB 405 OF THE FLORIDA**
2 **LEGISLATURE, STATING THAT “HAD IT PASSED, [IT] WOULD**
3 **HAVE REMOVED ALL VESTIGES OF COMPETITION BETWEEN**
4 **UTILITY SUPPLIERS.” PLEASE RESPOND TO THIS POINT.**

5 A. First, it is my understanding that HB 405 was not passed; therefore, what it might
6 have done is irrelevant to this proceeding, in my opinion. In addition, the fact that
7 HB 405 was not passed, and therefore specific territorial boundaries were not
8 fixed among and between all utilities in Florida, does not mean that it is not in the
9 public interest to resolve territorial disputes through the fixation of territorial
10 boundaries, for example pursuant to Section 366.04 of the Florida Statutes and
11 Commission Rules 25-6.0439 et seq.

12 Second, the establishment of fixed territorial boundaries among and
13 between electric suppliers does not remove all vestiges of competition as alleged
14 by Mr. Klepper. Such a sweeping statement indicates a lack of familiarity with
15 the different types of competition which occur even where territorial boundaries
16 have been established. Yardstick competition occurs where each utility is mindful
17 of the prices charged by its neighboring utilities. This yardstick competition is
18 very important because of locational competition with regard to certain loads. For
19 example, many new commercial and industrial loads may have a choice as to
20 whether they locate their facilities in the service area of one utility as opposed to
21 another utility. To the extent electric service rates are a significant factor in such

1 locational decisions, competition between neighboring suppliers with established
2 service areas will exist. Also, some residential consumers likewise may have the
3 option of locating within the service area of one utility or another utility. Again,
4 if electric service rates are a major factor in such a decision, locational
5 competition exists.

6 Furthermore, competition among utility suppliers is not always limited to
7 electric suppliers for a consumer's energy needs. In some areas, gas competes as
8 a substitute for electricity for selected uses such as heating and water heating in
9 both homes and businesses. The establishment of electric utility service areas
10 does not preclude such competition between suppliers of energy substitutes in
11 providing customer choice of utility suppliers for at least certain portions of a
12 customer's energy needs.

13 Finally, self-generation provides another form of competition to electric
14 utility suppliers even where there are assigned service areas. Quite often, electric
15 utilities are faced with decisions regarding the evaluation of the cost to serve
16 certain customers and the pricing of services to those customers which have self-
17 supply options.

18 Contrary to what Mr. Klepper seems to imply, there is still considerable
19 competition as it relates to the supply of utility services even where assigned
20 electric service areas may exist. To date, public policy reflected in both Florida
21 Statutes and the Commission's Rules allow for the resolution of territorial

1 disputes, including establishment of territorial boundaries between neighboring
2 utilities such as Gulf Power and Gulf Coast. That statutory authority and the
3 implementing rules are based upon a public policy which has been determined to
4 be in the public interest, namely, the avoidance of unnecessary and uneconomic
5 duplication of facilities. Until alternative public policies promoting competition
6 are adopted in Florida, the decision in this proceeding regarding the establishment
7 of a territorial boundary between Gulf Coast and Gulf Power should be made
8 based upon the specific facts and policies presently in existence.

9 **Q. HAVE YOU REVIEWED MR. KLEPPER'S EXHIBIT NO. ___ (RLK-2)**
10 **AND HIS TESTIMONY REGARDING THAT EXHIBIT?**

11 A. Yes.

12 **Q. PLEASE RESPOND TO HIS CLAIM THAT THE "PRINCIPLES TO**
13 **GUIDE THE RESTRUCTURING OF THE ELECTRIC INDUSTRY"**
14 **PUBLISHED BY NARUC ENCOURAGE THE CONTINUATION OF**
15 **CUSTOMER CHOICE AS AN ALTERNATIVE TO ERECTING**
16 **TERRITORIAL BARRIERS.**

17 A. The National Association of Regulatory Utility Commissioners' ("NARUC")
18 "Principles to Guide the Restructuring of the Electric Industry" ("NARUC
19 Principles") reflect consensus principles which NARUC urges State and Federal
20 regulatory commissions and legislatures to be guided by as they develop and
21 implement new policies to govern the regulation, organization, and operation of

1 the electric utility industry as it moves toward reliance on greater competition in
2 the marketplace. The NARUC Principles do not address customer choice as an
3 alternative to erecting territorial barriers. Mr. Klepper's testimony blurs this issue
4 by implying that service area boundaries are inconsistent with restructuring of the
5 electric industry and the possible implementation of retail competition. For all the
6 reasons I discussed earlier, retail competition as contemplated by the NARUC
7 Principles relates principally, if not totally, to supply of the power commodity as
8 opposed to delivery (i.e., transmission and distribution) of that commodity to the
9 end-user. The NARUC Principles certainly are not endorsing head-to-head retail
10 competition for the transmission and distribution (i.e., wires) functions as part of
11 the continuing debate on electric industry restructuring.

12 The NARUC Principles were adopted as guideposts for State and Federal
13 policy makers to consider as new policies are developed and implemented.
14 NARUC's position is also very clear that such new policies should be developed
15 on a state-by-state basis rather than in a "one-size-fits-all" fashion (Exhibit No.
16 ____ (RLK-2), p. 8). Any policies adopted within a given state, such as Florida,
17 regarding territorial boundaries as part of new public policy regarding retail
18 competition should be considered at such time as the public policy has been
19 adopted and implemented. It is speculative at this juncture to attempt to resolve,
20 or avoid resolution of, the territorial boundary line issue in this proceeding based

1 on speculation as to what public policies might be adopted in Florida in the future
2 as to retail competition.

3 **Q. MR. KLEPPER DISCUSSES CERTAIN FEDERAL INITIATIVES**
4 **REGARDING THE ELECTRIC INDUSTRY, SPECIFICALLY ACTIONS**
5 **BY THE FEDERAL ENERGY REGULATORY COMMISSION (“FERC”)**
6 **TO CREATE A MORE COST EFFECTIVE ELECTRIC UTILITY**
7 **INDUSTRY AND PASSAGE OF THE ENERGY POLICY ACT OF 1992**
8 **(“EPAct”), WHICH ARE INTENDED TO PROMOTE ENERGY**
9 **EFFICIENCY BY CREATING AN INCREASINGLY MARKET-**
10 **ORIENTED ELECTRIC UTILITY ENVIRONMENT. PLEASE RESPOND**
11 **TO HIS COMMENTS REGARDING THESE INITIATIVES.**

12 A. The FERC, pursuant to the Federal Power Act, only regulates wholesale sales of
13 electricity (i.e., transactions in interstate commerce between resellers of power)
14 and transmission services in interstate commerce for the delivery of wholesale
15 power. The FERC has no responsibility for the regulation of retail sales, hence its
16 policies regarding the electric utility industry are limited. For example, the
17 FERC’s recently issued Order No. 888 establishing a new open-access
18 transmission policy¹, which is intended to promote competition in wholesale bulk

¹Promotion of Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, Docket No. RM95-8-000, and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Docket No. RM94-7-000, Order No. 888 (April 24, 1996).

1 power markets, is clearly restricted to FERC-jurisdictional services and not retail
2 service.

3 The EPAct did establish certain initiatives to create an increasingly
4 market-oriented electric utility environment, but, again, this Federal initiative
5 dealt primarily with matters regarding wholesale electricity sales and transmission
6 services.

7 These Federal initiatives, which are directed toward the wholesale bulk
8 power market, are intended to create a more competitive and efficient wholesale
9 bulk power marketplace. If this objective is achieved, the benefits of any reduced
10 cost of electric service should accrue to the retail ratepayers of electric utilities,
11 assuming they are voluntarily passed along to the ratepayers by those utilities or
12 required to be passed along by state regulatory authorities.

13 These Federal policies, however, are not directed at retail competition. To
14 the extent they might ultimately affect retail competition, it will be with regard to
15 the sale of power as opposed to competition in the delivery of power to the end-
16 user. In fact, one of the purposes of the EPAct was to increase the FERC's
17 authority with regard to transmission access in recognition of the monopoly nature
18 of transmission facilities. While distribution service was not addressed directly,
19 the same would apply and, in my opinion, is generally recognized within the
20 industry. Hence, even if these Federal initiatives do ultimately affect policy with
21 regard to service to end-users, there is absolutely no indication that retail

1 competition flowing therefrom will be directed toward head-to-head competition
2 in the delivery service (i.e., wires) function (i.e., transmission and distribution).

3 While Mr. Klepper's observation regarding the FERC initiatives and passage of
4 the EPAct are enlightening as to wholesale transactions, they do not relate to the
5 issue of establishing a territorial boundary between Gulf Coast and Gulf Power to
6 resolve territorial disputes and avoid unnecessary and uneconomic duplication of
7 facilities.

8 **B. RATES AS A FACTOR IN ESTABLISHING A TERRITORIAL**
9 **BOUNDARY**

10 **Q. MR. KLEPPER SUGGESTS THAT ESTABLISHMENT OF FIRM**
11 **TERRITORIAL BOUNDARIES WILL RESULT IN CITIZENS AND**
12 **BUSINESSES BEING CONSIGNED TO PAY HIGHER ELECTRIC**
13 **RATES AS A RESULT OF BEING SERVED BY GULF COAST. IS IT**
14 **INAPPROPRIATE TO USE ELECTRIC SERVICE RATES AND**
15 **CHARGES AS A BASIS FOR RESOLVING TERRITORIAL DISPUTES?**

16 A. Yes. There are a number of important reasons why rates and charges should not
17 be used. First, rate levels vary over time; therefore, the rates at any given point in
18 time are not necessarily indicative of the long-term comparative rate situation.
19 Even the simplistic rate comparisons appended to Mr. Holland's testimony
20 (Exhibit No. ____ (GEH-1)) show that the differentials between Gulf Coast's and
21 Gulf Power's rates have narrowed in the 1990-1995 period.

1 Second, rates alone do not reflect all factors associated with the final cost
2 to the electric consumer of electric service. Rural electric cooperatives, such as
3 Gulf Coast, are member-owned systems, and the equity in those systems belongs
4 to the member-owners. Any margins (i.e., revenues in excess of total operating
5 expenses) realized in a given year are assigned to the member-owners as
6 patronage capital which is ultimately refundable to those owners as a patronage
7 capital refund. This patronage capital (including any patronage capital of the
8 generation and transmission cooperative power supplier assigned to its
9 distribution cooperative members), which is assigned to each specific member-
10 owner as a capital credit, is like an investment which is returned at some point in
11 the future. This refund is the equivalent of an offset to the costs initially incurred
12 when rates were paid. This important factor, however, is not reflected in a
13 comparison of basic electric service rates and charges (such as those in Exhibit
14 ___ (GEH-1)).

15 To the extent one utility operates under an area coverage policy which
16 requires it to serve all consumers without contributions in aid of construction
17 ("CIAC") for permanent, standard service, such as Gulf Coast, and another utility
18 may charge a CIAC for line extensions beyond a certain distance or based on a
19 revenue/cost test, such as Gulf Power, the rates of the latter utility do not reflect
20 the added cost to those ratepayers who are charged CIACs. This factor also

1 contributes to the problem of attempting to use rates as a basis for determining
2 territorial boundaries.

3 The relationship between Gulf Coast and Gulf Power can be used to
4 demonstrate a third important reason why electric service rates and charges should
5 not be used to resolve territorial disputes. Gulf Coast, as with most member-
6 owned cooperatives, historically has served in less desirable areas. The density
7 (i.e., consumers per mile of line) is usually less compared to, for example, an
8 investor-owned system such as Gulf Power's system, which has substantially
9 more dense load and customers in more urbanized areas (e.g., Panama City).
10 Typically, there is proportionately less commercial and industrial load on
11 cooperative systems than investor-owned systems, as is the case here, and these
12 commercial and industrial loads are economically advantageous to a system. For
13 these and other reasons, cooperatives historically have served higher-cost-to-serve
14 areas.

15 The advantages of serving in more attractive areas as they now exist or
16 may develop in the future are obvious. If a utility is going to serve an additional
17 group of residential consumers, such as those in a subdivision in a disputed area,
18 it would much rather serve those in the subdivision, or higher density
19 environment, than to serve a similar number of customers scattered over a much
20 larger area. To the extent the new services have higher average usage than the
21 existing system, they also bring benefits. If Gulf Coast, as an example, were

1 never allowed the opportunity to serve such advantageous areas, because of the
2 establishment of a service area boundary or arrangement which precludes Gulf
3 Coast from serving such economically attractive areas, then Gulf Coast will
4 always be relegated to a higher-cost-to-serve status than its competing neighbor,
5 Gulf Power. Settling territorial disputes on the basis of electric rates, therefore,
6 sets in motion a sort of “death spiral” effect which assures that the higher cost
7 system will not be able to compete and, therefore, will not be allowed to serve in
8 disputed areas because its rates are higher than its neighboring utility’s rates. This
9 is the worst form of unfair competition.

10 Forcing Gulf Coast’s other customers (i.e., those left after the loss of more
11 desirable areas) to pay higher rates as a result of the resolution of territorial
12 disputes fails to recognize and take into account the effects on such customers as
13 part of the determination of whether a decision is in the public interest. Under
14 Mr. Klepper’s theory, the interests of these customers is essentially ignored.
15 Moreover, this sort of “resolution” invites cherry picking whereby an encroaching
16 utility seeks to serve only the best loads and most attractive service areas.

17 Third, Gulf Power’s cost to serve less dense, less desirable areas
18 (including areas less dense than its existing system) will be more than its cost to
19 serve more dense areas and more in line with Gulf Coast’s cost to serve. The
20 differences in Gulf Power’s and Gulf Coast’s rates do not capture this effect
21 because Gulf Power spreads the higher costs to serve these less desirable areas

1 over the charges to all customers through postage stamp rates (i.e., same rates to
2 all within a class, regardless of where situated). Using rates as a factor for
3 resolving territorial disputes would, therefore, be unfair, given this disparity in
4 system characteristics and the ratemaking process.

5 **Q. MR. KLEPPER ALLEGES THAT ESTABLISHMENT OF FIRM**
6 **TERRITORIAL BOUNDARIES IN THIS PROCEEDING WILL RESULT**
7 **IN CUSTOMERS SERVED BY GULF COAST BEING WITHOUT THE**
8 **BENEFIT OF ANY REGULATORY PROTECTION OR OTHER**
9 **MEANINGFUL MEANS OF REDRESS AS TO ELECTRIC RATES AND**
10 **RELIABILITY OF SERVICE. PLEASE RESPOND TO THESE**
11 **ASSERTIONS.**

12 A. The operation of electric cooperatives, including the establishment of rates and
13 policies regarding reliability, are far more democratic than any other regulatory
14 process of which I am familiar. First, the ratepayers are also the owners of these
15 systems. As the owners, they elect a board of directors from those member-
16 owners to establish the governance policies and to provide oversight with regard
17 to the execution of those policies. The board, in turn, hires a manager who is
18 charged with carrying out the day-to-day operations of the cooperative in
19 accordance with those policies established by the board.

20 Second, the board must approve all rates, charges, and service policies
21 regarding the rendition of electric service. I cannot think of any closer protection

1 of the ratepayer than to have individuals elected from the ranks of those ratepayers
2 to decide issues regarding the setting of electric rates. The same would certainly
3 be true regarding reliability of electric service.

4 Third, most, if not all, electric distribution cooperatives are organized and
5 exist as not-for-profit corporations. As such, they are not imbued with the
6 incentive to make a profit over and above the recovery of the cost of providing
7 electric service, as is the case with profit-making utilities. This factor serves as a
8 further check on the level of electric rates charged by cooperatives such as Gulf
9 Coast.

10 Fourth, since the ratepayers are also the owners of the distribution
11 cooperative, any equity that is generated in the corporation is assigned to and is
12 the property of those member-owner ratepayers. To the extent revenues for any
13 given period of time exceed the cost of providing electric service, the member-
14 owner ratepayers receive patronage capital assignments for their share of those
15 margins, and that patronage capital is ultimately repaid to the member-owner
16 ratepayers. Thus, there is no incentive for the cooperative to over-collect from the
17 ratepayers, given that all margins will simply be returned to those same
18 ratepayers.

19 Fifth, to the extent cooperatives such as Gulf Coast continue to secure
20 financing from the Rural Utilities Service ("RUS"), RUS will also exercise certain
21 oversight with regard to the operation of such cooperatives. Such oversight

1 includes not only financial matters, including rates, but also reliability through
2 oversight regarding the planning and construction aspects of the cooperative's
3 operations.

4 Sixth, this Commission also exercises certain oversight as to the electric
5 rates of cooperatives, including Gulf Coast. While this oversight is limited and
6 does not include the overall rate level of cooperatives, matters such as rate design
7 can impact intra-class and inter-class cost recovery and, therefore, the effects of
8 rates on the cooperatives' ratepayers. Also, the Commission exercises certain
9 authority regarding the safety of the cooperatives' facilities, which is a part of the
10 reliability function.

11 In sum, Gulf Coast's member-owner ratepayers are far from being
12 "without the benefit of any regulatory protection or other meaningful means of
13 redress" regarding electric rates and reliability of service as alleged by Mr.
14 Klepper.

15 **C. PROPER FUNCTION OF THE FPSC IN RESOLVING**
16 **TERRITORIAL DISPUTES**

17 **Q. MR. KLEPPER STATES THAT "THE PROPER FUNCTION OF THE**
18 **COMMISSION IS TO REVIEW TERRITORIAL DISPUTES FOR THE**
19 **PURPOSE OF DETERMINING WHETHER 'ALL OTHER FACTORS**
20 **ARE SUBSTANTIALLY EQUAL'." PLEASE COMMENT ON HIS**
21 **CONTENTION.**

1 A. Let me first note that the Commission obviously understands what its
2 authority is regarding resolution of territorial disputes, and it does not need either
3 Mr. Klepper or me telling the Commission what its authority may or may not be.
4 Even so, Gulf Coast does not feel that it can stand idly by and allow such
5 contentions by Mr. Klepper to go unchallenged.

6 Mr. Klepper's suggested "proper function" for the Commission would
7 effectively put the Commission in a very tight box with regard to the resolution of
8 territorial disputes. The Commission has a broad obligation to function in the
9 public interest, which is much broader than the impact which the resolution of an
10 individual territorial dispute at a given point in time may have on the affected
11 parties (both the vying utilities and the affected customer(s)). Florida Statutes,
12 § 366.04 (2) (e) states, in part, that:

13 In resolving territorial disputes, the Commission may consider, but
14 not be limited to consideration of, the ability of the utilities to
15 expand services within their own capabilities and the nature of the
16 area involved, including population, the degree of urbanization of
17 the area, its proximity to other urban areas and the present and
18 reasonably foreseeable future requirements of the area for other
19 utility services. (Emphasis supplied.)

20 In exercising its broad public policy obligation to act in the public interest, the
21 Commission's role in resolving territorial disputes is therefore very broad. As the
22 above citation indicates, the Commission has the authority to decide what factors
23 are relevant in a given situation (and, conversely, what factors are not relevant)
24 and what weighting to give to these factors. This may include not considering

1 specific factors cited in the statute and considering specific factors not cited in the
2 statute.

3 The Commission's authority under the Florida Administrative Code, § 25-
4 6.0439, et seq., is equally broad with regard to its authority to resolve territorial
5 disputes. This authority does not even require the Commission to consider
6 customer preference if all other factors are substantially equal. It may or may not
7 consider customer choice.

8 **D. HISTORICAL DIVISION OF CUSTOMER SERVICE BETWEEN**
9 **GULF POWER AND GULF COAST**

10 **Q. WAS GULF COAST FORMERLY A FULL-REQUIREMENTS**
11 **WHOLESALE CUSTOMER OF GULF POWER?**

12 A. Yes.

13 **Q. DID THE SERVICE RELATIONSHIP BETWEEN GULF POWER AND**
14 **GULF COAST ADDRESS IN CERTAIN RESPECTS THE DIVISION OF**
15 **RETAIL CUSTOMER SERVICE BETWEEN GULF POWER AND GULF**
16 **COAST?**

17 A. Yes. As indicated by a prior contract between Gulf Power and Gulf Coast
18 (Exhibit No. ___ (WCW-3)) and a Gulf Power FERC Electric Tariff (Exhibit No.
19 ___ (WCW-4)) under which Gulf Power received service, there were various
20 provisions in place which addressed duplication of facilities, sales for resale, and
21 service to towns.

1 Q. MR. KLEPPER ALLEGES THAT GULF COAST'S DESIRE FOR STRICT
2 TERRITORIAL BOUNDARIES IS INCONSISTENT WITH THIS
3 HISTORICAL CONTRACTUAL/TARIFF RELATIONSHIP REGARDING
4 GULF POWER'S AND GULF COAST'S RIGHTS TO PROVIDE
5 ELECTRIC SERVICE TO RETAIL CONSUMERS. PLEASE RESPOND
6 TO THIS ALLEGATION.

7 A. The short answer is that those contractual/tariff relationships no longer exist and
8 therefore are totally irrelevant to the Commission's stated intent to establish a
9 boundary line between Gulf Power and Gulf Coast where their facilities are
10 commingled or in close proximity or where further unnecessary and uneconomic
11 duplication may occur.

12 Both the contract and tariff provisions attached to Mr. Weintritt's direct
13 testimony, both of which are referred to by Messrs. Holland, Klepper, and
14 Weintritt, existed at a point in time when Gulf Coast basically had no viable
15 power supply alternative other than purchasing wholesale power from Gulf
16 Power. This was, in part, due to the monopoly nature of the electric industry in
17 general. As a consequence, entities such as Gulf Coast had limited bargaining
18 power when dealing with their monopoly power supplier. Because of this prior
19 structural barrier to entry within the wholesale bulk power marketplace, it would
20 be grossly unfair to attempt to force upon Gulf Coast so-called territorial
21 boundary and territorial dispute resolution procedures from contracts and tariffs to

1 which Gulf Coast was a party and customer but which Gulf Coast may have had
2 limited ability to object to, given its relative bargaining power. This is yet another
3 reason why these old contractual/tariff relationships should be discarded and
4 ignored as wholly inappropriate for consideration in this proceeding.

5 Furthermore, the types of provisions which were contained in the earlier
6 contract and tariff have been rejected by the FERC or removed voluntarily by
7 wholesale power suppliers under the threat of litigation over the anti-competitive
8 nature of such provisions. This has occurred since the effective date of the tariff
9 cited by Gulf Power, and may have occurred as to some companies prior to that
10 date. I am personally familiar with prior wholesale power supply relationships
11 which had such provisions which have subsequently been eliminated. I work for a
12 number of wholesale customers throughout the country which purchase under
13 various contractual and tariff arrangements, none of which, to my knowledge,
14 contain such restrictive provisions. For these reasons as well, this antiquated
15 service relationship has no validity as a basis for establishing a territorial
16 boundary in this proceeding.

17 Finally, Mr. Klepper's allegation that Gulf Coast is inconsistent by
18 seeking a territorial boundary given this historical position regarding the
19 respective utilities' rights to serve electric consumers is incorrect for two other
20 reasons. One, the Commission ordered this proceeding to establish a territorial
21 boundary between Gulf Power and Gulf Coast. Gulf Coast has attempted, in good

1 faith, to comply with that Commission directive. This change in circumstances
2 alone debunks any notion that somehow Gulf Coast has been inconsistent in its
3 position.

4 And two, Mr. Klepper's allegation completely ignores the major structural
5 difference between the wholesale bulk power marketplace and the current retail
6 marketplace in Florida. In recent years, the wholesale bulk power marketplace
7 has become more competitive, thereby allowing wholesale customers to seek
8 alternative power supply arrangements just as Gulf Coast did when it elected to
9 leave Gulf Power and secure its power supply from Alabama Electric
10 Cooperative, Inc. ("AEC"). Furthermore, wholesale bulk power markets have
11 become more competitive as a result of increased transmission access. Under
12 these market conditions, Gulf Coast is allowed to, and in fact did, shop for
13 alternative power supply. Conversely, the retail sale of power has been structured
14 around utilities being given the right to serve specified customers in return for the
15 obligation to serve those customers. This regulatory compact often involves the
16 specification of designated service areas for individual utilities. While Florida
17 does not have a statute requiring the designation or certification of service areas, it
18 has recognized the assignment of the right to serve customers through the
19 resolution of territorial disputes by the Commission. This process includes,
20 among other things, the determination of specific territorial boundaries between
21 competing utilities.

1 As a result of these substantially different structures with regard to the
2 market for wholesale and retail services, there is absolutely no inconsistency on
3 Gulf Coast's part with regard to how it perceives its rights as a wholesale
4 purchaser of power as opposed to its relationship with its retail customers. Mr.
5 Klepper's assertion simply should be rejected.

6 **Q. MR. KLEPPER AVERS THAT GULF POWER BELIEVES THE**
7 **HISTORICAL CONTRACTUAL AND TARIFF PROCEDURES**
8 **BETWEEN GULF POWER AND GULF COAST WHICH ADDRESSED**
9 **THE DIVISION OF RETAIL ELECTRIC SERVICE WERE FAIR AND**
10 **EFFECTIVE IN ALLOCATING RETAIL SERVICE ON A RATIONAL**
11 **AND ECONOMICALLY EFFICIENT BASIS IN GULF POWER'S VIEW.**
12 **PLEASE RESPOND TO THIS POINT.**

13 A. My subsequent rebuttal testimony directed to the prepared direct testimony of Mr.
14 Weintritt addresses in more detail the validity and effectiveness of those old
15 procedures. Those comments apply equally here in response to Mr. Klepper, but
16 are not repeated here for brevity.

17 **E. COMPETITION/NATURAL MONOPOLY/REGULATION**

18 **Q. MR. KLEPPER STATES THAT INSTITUTION OF A STRICT**
19 **TERRITORIAL BOUNDARY BY THE COMMISSION WOULD NOT BE**
20 **AN APPROPRIATE REGULATORY ACTION. DO YOU AGREE WITH**
21 **HIM AND HIS REASONS THEREFOR?**

1 A. No. For all the reasons stated in my direct testimony and, to the extent applicable,
2 in this rebuttal testimony, it would be in the public interest for the Commission to
3 establish a territorial boundary between Gulf Power and Gulf Coast where their
4 facilities are commingled or in close proximity and potential unnecessary and
5 uneconomic duplication may occur.

6 While I agree in general with Mr. Klepper that “the economic purpose of
7 regulation is to act as a surrogate for competition in circumstances, such as the
8 existence of natural monopoly conditions, where free market competition does not
9 exist” (Klepper Direct Testimony, p. 13, ll. 17-20), I disagree with how he
10 attempts to utilize this concept to justify not establishing a territorial boundary
11 between the entities.

12 Based on this concept, he then suggests that:

13 In those situations in Florida where customer choice is now
14 available, and where allowing the customer the opportunity to
15 make that choice will have no material adverse effect on pre-
16 existing customers, the Commission should recognize that the
17 market, rather than regulation will produce the more economically
18 efficient result. If territorial boundaries are erected, the economic
19 efficiencies widely expected to arise from the continuing
20 availability of customer choice will be precluded to the detriment
21 of both new and existing customers.

22 (Id., p. 15, ll. 1-11.) The fact that two entities may be vying to serve the same
23 customer does not mean that there is free market competition. That scenario
24 depicts one of oligopoly where there is a limited number of large suppliers in a
25 given market. So, the conditions that he postulates in his general proposition

1 about regulation as a surrogate for competition still exist in this environment. In
2 addition, the fact that a consumer has a one-time, irrevocable customer choice is
3 not at all suggestive of a free market competition environment where customers
4 have continuing choices from multiple suppliers with regard to a product or
5 service. Again, notwithstanding how he tries to paint the “facts,” distribution
6 service is still a natural monopoly function once a customer is signed up by a
7 supplier. Hence, suppliers, especially profit-motivated suppliers, have an
8 incentive to conduct themselves in a manner to lock up a customer through this
9 one-time, irrevocable choice process so that the customer no longer is purchasing
10 distribution (or power) service in a free market competition environment.

11 Finally, he claims that economic efficiencies widely expected to arise from
12 the “continuing” availability of customer choice will be precluded if a territorial
13 boundary is established. He has not demonstrated what economic efficiencies will
14 be gained or demonstrated how such economic efficiencies will be lost. He has
15 not addressed any of the planning impacts, which I have discussed in both my
16 direct and rebuttal testimonies, regarding uneconomic duplication due to
17 uncertainty of service area obligations. The facts simply do not support his theory
18 regarding whether natural monopoly conditions exist, to what extent his claim of
19 “customer choice” really reflects free market competition, or how the planning
20 realities lead to uneconomic duplication with certainty of service area obligations.

1 **F. CUSTOMER CHOICE AND U.S. ECONOMIC SYSTEM**

2 **Q. MR. KLEPPER STATES THAT "IT WOULD BE CONTRARY TO THE**
3 **FUNDAMENTAL ECONOMIC SYSTEM EMPLOYED IN THE UNITED**
4 **STATES IF AN INVESTOR OWNED, PROFIT SEEKING UTILITY**
5 **WERE DENIED THE OPPORTUNITY TO PURSUE AND EXPAND ITS**
6 **LEGITIMATE BUSINESS INTERESTS, WHILE AT THE SAME TIME**
7 **CAUSING THE DISADVANTAGED CONSUMER TO PURCHASE THE**
8 **DESIRED ELECTRIC SERVICE AT A HIGHER, ALBEIT SUBSIDIZED,**
9 **PRICE. PLEASE RESPOND TO THESE POINTS.**

10 A. First, although not explicitly stated, his comments imply that establishment of a
11 territorial boundary between Gulf Coast and Gulf Power in Florida would be
12 some major departure from common practice within the electric industry
13 nationally and within Florida under the "fundamental economic system employed
14 in the United States." This simply is incorrect. Many states have territorial laws
15 which establish certificated or assigned service areas to electric suppliers. Such
16 states include, by way of example, South Carolina, Tennessee, Virginia,
17 Nebraska, Kansas, Texas, Indiana, and Colorado. In Alabama, Georgia, and
18 Mississippi, three other examples of states which have such laws, Gulf Power
19 actually has affiliates (Alabama Power Company; Georgia Power Company and
20 Savannah Electric & Power Company; and Mississippi Power Company) that
21 have functioned for years under such statutes. What Mr. Klepper would

1 characterize as contrary to the fundamental economic system of the U.S. has, in
2 fact, been an integral part of it for years as to monopoly utility services.

3 Second, fixing a territorial boundary does not deny either Gulf Power or
4 Gulf Coast the opportunity to pursue and expand their legitimate business
5 interests. Growth is still anticipated for northwest Florida in both entities'
6 traditional service areas, and I know of no reason why such growth would be
7 eliminated as a result of establishing a territorial boundary. Such hyperbole by
8 Mr. Klepper does not address the issue in this proceeding on a rational, factual
9 basis and should be disregarded.

10 Third, Mr. Pratt addresses the subsidy accusation by Mr. Klepper to the
11 extent it warrants response. Nothing further need be said about this emotional,
12 political argument for which he has provided no support.

13 Fourth, I have addressed elsewhere why rates should not be a factor in
14 resolving territorial disputes. Even if rates were one of many factors to be
15 weighed in determining the public interest, no analysis of the rates of either
16 system over the long term has been presented to demonstrate any sustained
17 differences. Even if done, such studies must be viewed in the context of whether
18 Gulf Coast will be prevented by some policy of improving its competitive
19 advantage by being foreclosed from serving its traditional service area as it
20 develops and becomes more economically attractive.

1 **III. MATTERS PRESENTED BY MR. HOLLAND**

2 **A. GENERAL PROPOSITION OF ESTABLISHING A**
3 **TERRITORIAL BOUNDARY**

4 **Q. MR. HOLLAND STATES THAT MANDATING OF FIXED**
5 **TERRITORIAL SERVICE AREAS OR “LINES ON THE GROUND”**
6 **WOULD CONSTITUTE A REGRESSIVE RATHER THAN A**
7 **PROGRESSIVE POLICY ON THE PART OF THE COMMISSION. DO**
8 **YOU AGREE?**

9 **A.** No. Mr. Bohrmann, testifying on behalf of the Commission Staff, places in
10 proper perspective the history of disputes between Gulf Power and Gulf Coast,
11 indicating to me that these two entities have had a number of disputes over the
12 years which have led to various types of litigation. In addition, Mr. Dykes and
13 Mr. Gordon, testifying on rebuttal on behalf of Gulf Coast, described in detail a
14 number of instances where past guidelines have been violated when they were
15 supposed to be effective and ignored when they were no longer in effect. The
16 recent dispute over the Washington County Correction Institute illustrates further
17 the continuing nature of disputes between the parties.

18 Guidelines have been shown not to work. Moreover, the old guidelines
19 presented as part of Mr. Weintritt’s direct testimony assured that there would be
20 disputes over such matters as proximity of loads to existing facilities. Such
21 procedures are not necessary in light of the Commission’s statutory

1 responsibilities and associated rules related to the resolution of territorial disputes.
2 Simply having some additional set of guidelines, such as the old guidelines
3 repeatedly referred to by Gulf Power's witnesses, only adds another layer to the
4 process of resolving disputes when the parties compete for service area,
5 customers, and load. Such additional administrative burden is neither necessary
6 nor cost effective from either system's customers' perspective.

7 Contrary to Mr. Holland's assertion, the determination of a territorial
8 boundary clearly would obviate disputes in the future like those which have
9 repeatedly occurred in the past under the so-called old "guidelines."

10 **Q. WOULD THE ESTABLISHMENT OF A TERRITORIAL BOUNDARY**
11 **CONSTITUTE A REGRESSIVE POLICY IN LIGHT OF THE CURRENT**
12 **STATUS OF THE ELECTRIC UTILITY INDUSTRY AS CLAIMED BY**
13 **MR. HOLLAND?**

14 **A.** No. As I discussed earlier in response to similar contentions by Mr. Klepper,
15 there is no basis for trying to resolve the territorial boundary issue in this
16 proceeding based upon events which might transpire nationally, but more
17 particularly in Florida, in the future. Moreover, the implication in Mr. Holland's
18 and Mr. Klepper's testimony with regard to where the industry might be headed
19 with regard to competition blurs the lines between competition for sales of power
20 (i.e., a commodity) and the continuing monopoly wires service associated with the
21 delivery (i.e., transmission and distribution) of that commodity to consumers. My

1 response to Mr. Klepper on these matters is equally applicable to the contentions
2 of Mr. Holland, so I will not repeat them again here.

3 **Q. DOES EITHER THE TERRITORIAL POLICY STATEMENT (EXHIBIT**
4 **GEH-3) OR THE POLICY STATEMENT (EXHIBIT GEH-4) PROPOSED**
5 **BY GULF POWER RESULT IN THE DETERMINATION OF A SPECIFIC**
6 **TERRITORIAL BOUNDARY?**

7 A. No. Both sets of procedures only suggest mechanisms for resolving territorial
8 disputes as service to new customers is extended in the future. As new customers
9 secure service, the service areas would change from time to time. As I will
10 discuss in some detail later, there are a number of problems with the procedures
11 which make the proposals undesirable for establishing even an evolutionary
12 service area. Gulf Power's recommendations simply fall short of the mark of
13 establishing a territorial boundary where Gulf Power's and Gulf Coast's facilities
14 are commingled or in close proximity or where unnecessary and uneconomic
15 duplication may occur in the future. Neither of these claimed "innovative
16 methods" results in the determination of a territorial boundary as required by the
17 Commission's various orders in the proceeding.

18 **Q. WILL EITHER OF THE METHODS PROPOSED BY GULF POWER**
19 **RESULT IN THE AVOIDANCE OF FURTHER UNECONOMIC**
20 **DUPLICATION OF ELECTRIC FACILITIES AND IN FEWER**

1 **CONTESTED TERRITORIAL DISPUTES INVOLVING THE TWO**
2 **UTILITIES AS CLAIMED BY MR. HOLLAND?**

3 A. No. As to the avoidance of further uneconomic duplication, under these proposals
4 there would be a constant uncertainty as to which customers would be the
5 responsibility of either entity in the future. For all the reasons I gave in my direct
6 testimony and in my rebuttal testimony in response to various points raised by Mr.
7 Klepper and Mr. Weintritt, the planning process for generation, transmission, and
8 distribution facilities is frustrated by this uncertainty, which frustration can lead to
9 uneconomic duplication. I believe the points I made are quite clear as to how
10 uneconomic duplication will continue to occur absent clear delineation of a
11 territorial boundary between the two systems.

12 I fail to see how the procedures for resolving territorial disputes proposed
13 by Gulf Power will result in fewer contested territorial disputes in the future.
14 First, to avoid disputes under any procedure, the parties must be willing to live by
15 the rules. History indicates that there have been problems with regard to the old
16 guidelines presented by various Gulf Power witnesses, even though in my
17 opinion, those guidelines were much simpler than the ones proposed by Gulf
18 Power in this proceeding. Moreover, as both utilities grow closer and closer
19 together and become more and more entangled, the probability of disputes goes
20 up rather than down, notwithstanding some generalized procedure for attempting
21 to resolve any such disputes as they might occur.

1 I have found nothing to suggest that fewer contested territorial disputes
2 will result, as claimed by Mr. Holland. The only aspect of such additional
3 procedures which might arguably discourage contestation of territorial disputes is
4 the added costs associated with yet another layer of procedures. This, however,
5 simply invites both parties to challenge each other and push the procedures to the
6 limit, expecting that the other party will not choose to contest service to every
7 customer which might develop. This result certainly is not in the public interest
8 and therefore is not a constructive basis for adopting the procedures proposed by
9 Gulf Power.

10 **Q. MR. HOLLAND STATES THAT GULF POWER OPPOSES**
11 **GEOGRAPHICAL DELINEATIONS BECAUSE THIS WOULD BE**
12 **CONTRARY TO THE BEST INTERESTS OF THE GENERAL BODY OF**
13 **ELECTRIC CONSUMERS IN THE REGION BOTH NOW AND IN THE**
14 **FUTURE. PLEASE RESPOND TO THIS CONTENTION.**

15 **A.** He has made no empirical showing that all electric consumers in the region would
16 suffer under the establishment of a territorial boundary. The basis of his
17 allegation is not clear, although it is conceivable that he is relying on, among
18 other things, the differential in rates between Gulf Power and Gulf Coast. For all
19 the reasons I discussed in response to Mr. Klepper, rates should not be used as a
20 basis for determining a territorial boundary.

1 In addition, Mr. Holland cannot have in mind all of the ratepayers of Gulf
2 Coast when he makes this claim. To the extent Gulf Coast is deprived of the
3 opportunity to serve higher density areas as they develop, thereby averaging down
4 its distribution costs, its existing ratepayers are deprived of the opportunity to
5 lower their power costs. The same is true to the extent that Gulf Coast is
6 precluded from serving certain beneficial non-residential loads which may
7 develop in the area.

8 Gulf Power also cannot have in mind its existing ratepayers in high
9 density areas which will potentially pay higher rates as a result of Gulf Power
10 serving less attractive, lower density areas, many of which may be primarily
11 residential as opposed to more balanced loads. If all of these real factors are taken
12 into account, a broad claim that establishing a territorial boundary will
13 disadvantage the general body of electric consumers is a gross over-simplification
14 if not a total misstatement.

15 **Q. MR. HOLLAND CONTENDS THAT LINES ON THE GROUND WOULD**
16 **PRECLUDE GULF POWER FROM SERVING SOME NEW, FUTURE**
17 **ELECTRIC CUSTOMERS FOR WHICH IT WOULD ORDINARILY BE**
18 **THE ECONOMIC CHOICE TO EXTEND FACILITIES AND PROVIDE**
19 **ELECTRIC SERVICE. PLEASE COMMENT ON THIS STATEMENT.**

20 A. If a territorial boundary is established, customers will be served by the utility in
21 which their premises are located. There may be customers that would choose

1 Gulf Power were they not in the Gulf Coast service area; likewise, there may be
2 customers that would choose Gulf Coast were they not in Gulf Power's service
3 area. Everything is not going to be as one-sided as pictured by Mr. Holland.
4 Territorial boundaries have been established for years in Florida and many states
5 throughout the nation, as being in the public interest. There are no facts that I
6 have seen with regard to the areas at issue in this proceeding which distinguish
7 them in a way that the preclusion of such customer choice would be any different
8 than generally occurs in other areas of the State of Florida with regard to the
9 establishment of territorial boundaries, or in other states.

10 **Q. MR. HOLLAND AVERS THAT "LINES ON THE GROUND" WOULD**
11 **HINDER GULF POWER FROM FULFILLING ITS BASIC BUSINESS**
12 **OBJECTIVE OF PROVIDING REASONABLY PRICED ELECTRIC**
13 **SERVICE TO CUSTOMERS IN NORTHWEST FLORIDA THROUGH**
14 **THE ECONOMIES INHERENT IN THE FREE ENTERPRISE SYSTEM**
15 **AND THE PROFIT MOTIVE. PLEASE COMMENT ON THIS POINT.**

16 A. This statement is fraught with overtones which imply that Gulf Power has an
17 inalienable right as a "profit motivated" entity to serve whomever it desires in
18 Northwest Florida. I respectfully suggest that Gulf Power does not have such a
19 right and that it must abide by the Florida Statutes and the Commission's Rules
20 with regard to territorial disputes, including the establishment of territorial
21 boundaries by the Commission. There is nothing that gives Gulf Power the right

1 to serve solely because it is a profit-motivated entity. This implies that not-for-
2 profit businesses, such as Gulf Coast, do not have a right to exist and compete in
3 the free enterprise system. Were this the case, the various State (including
4 Florida) and Federal enabling statutes which permit the existence of not-for-profit
5 corporations, which include many businesses other than electric distribution
6 cooperatives, would not exist.

7 Gulf Power has also made no showing that not-for-profit entities would
8 somehow be unable to achieve economies in the free enterprise system. Based
9 upon my experience with hundreds cooperatives throughout the nation over the
10 last twenty-six (26) years, I have observed that most of these systems are run
11 efficiently and in the best interest of their consumers. Because of the competitive
12 pressures inherent in their providing service to less desirable service areas, these
13 systems have to operate as efficiently as possible to maintain as competitive a rate
14 structure as possible. Rest assured, if Gulf Power were to serve all of the areas
15 served by Gulf Coast, its rates would have to be higher because of the cost impact
16 due to the characteristics of Gulf Coast's service area. In sum, there has certainly
17 been no documentation in this proceeding that Gulf Coast is inefficient.

18 **Q. MR. HOLLAND ALLEGES THAT CUSTOMERS SERVED BY GULF**
19 **COAST AS A RESULT OF A TERRITORIAL BOUNDARY WOULD BE**
20 **DISADVANTAGED AND DISENFRANCHISED BY LINES ON THE**

1 **GROUND AND RELEGATED TO ESSENTIALLY UNREGULATED**
2 **RATES FOR ELECTRIC SERVICE. IS THIS CORRECT?**

3 A. I discussed in detail earlier the invalidity of the notion that Gulf Coast's rates are
4 not subject to regulatory oversight, including certain authority bestowed on the
5 Commission. Suffice it to summarize by saying that Gulf Coast's member-owner
6 ratepayers have oversight through their elected board representatives.

7 **Q. HAVE GULF COAST'S RATES BEEN HIGHER THAN GULF POWER'S**
8 **RATES AS A RESULT OF LACK OF REGULATORY OVERSIGHT BY**
9 **THE COMMISSION?**

10 A. Not to my knowledge, and Gulf Power has not provided any evidence that would
11 correlate the level of rates with its claimed lack of regulatory oversight of Gulf
12 Coast's rates.

13 **Q. DOES THE PAYMENT OF RATES BY GULF COAST'S MEMBERS,**
14 **WHETHER HIGHER OR LOWER THAN THE RATES OF GULF**
15 **POWER, DRAIN MONEY FROM THE ECONOMY OF NORTHWEST**
16 **FLORIDA?**

17 A. Absent an extremely complex and detailed economic analysis, it is impossible to
18 fully understand what effects rate charges have on the economy of Northwest
19 Florida. Several things are obvious, however, regarding rates paid by consumers
20 whether they are served by Gulf Power or Gulf Coast. A certain amount of those
21 dollars will potentially move outside the Northwest Florida economy in the form

1 of payments for goods and services. Portions of the amounts paid will continue to
2 circulate through the economy in the form of wages and salaries and purchases of
3 materials and supplies in that economy. As to Gulf Power, a portion of its rates
4 truly are profit as Mr. Holland has noted. Certain of these profits are transferred
5 to Gulf Power's parent company, the Southern Company, and used for purposes
6 beyond the economy of Northwest Florida. The simple point I am attempting to
7 make here is that Mr. Holland's accusation is somewhat akin to arguing about
8 how many angels can dance on the head of a pin. Absent detailed studies of how
9 the revenue of both Gulf Power and Gulf Coast circulate through or may be
10 drained from the economy of Northwest Florida, such generalizations should be
11 disregarded as unfounded.

12 **Q. MR. HOLLAND GIVES TWO EXAMPLES OF HOW HE BELIEVES**
13 **DRAWING LINES ON THE GROUND COULD LEAD TO RATHER**
14 **THAN PREVENT THE FURTHER UNECONOMIC DUPLICATION OF**
15 **FACILITIES. WOULD YOU PLEASE RESPOND TO THESE**
16 **EXAMPLES AND THE CONCLUSIONS HE DRAWS THEREFROM.**

17 **A.** One must first understand the implied concept of uneconomic duplication which
18 is being used to make the arguments presented by Mr. Holland. His consideration
19 of uneconomic duplication appears solely limited to the incremental cost to
20 connect a new consumer to existing facilities at a given point in time. This
21 definition fails to reflect all of the ways in which uneconomic duplication may

1 occur as a result of both Gulf Power and Gulf Coast vying to serve the same areas,
2 customers, and loads. Distribution facilities are not designed in such "bite-sized"
3 increments that look only at the incremental cost of adding a single new customer.
4 Feeder lines and substations must also be sized to handle new customers as well
5 as the load growth of existing customers. To the extent there is uncertainty about
6 where new customers will locate, and therefore who ultimately will serve those
7 customers, the potential exists for both utilities to plan their distribution facilities
8 to serve the same loads. The same is true with regard to transmission facilities,
9 and for the same reasons generation facilities.

10 Given his apparent definition of uneconomic duplication, it is easy to
11 come up with several simplified examples as to how only the last increment of
12 cost to connect a new customer could result in an apparent uneconomic
13 duplication of facilities. His analyses, however, ignore all of the upstream effects
14 on existing distribution facilities which have been planned to and must support
15 that new service, and the transmission facilities which ultimately support that new
16 service. His examples assume a grossly over-simplified utility planning process
17 which simply does not exist in the real world.

18 **Q. MR. HOLLAND CITES A LAW REVIEW ARTICLE (EXHIBIT GEH-2)**
19 **WHEREIN TWO COMMISSION STAFF MEMBERS COMMENT ON**
20 **THE PRESENT PROCEDURES OF THE COMMISSION FOR**

1 **RESOLVING TERRITORIAL DISPUTES. PLEASE COMMENT ON**
2 **THIS ARTICLE AS IT RELATES TO THIS PROCEEDING.**

3 A. This treatise was prepared by two attorneys for publication in a law review article
4 to address a certain issue at a particular point in time. There has been nothing to
5 indicate that the authors, or other FPSC Staff members, have taken the position
6 that the conclusions expressed in this article suggest that the Commission is
7 precluded or prevented from establishing territorial boundaries in general under
8 the procedures discussed therein or in this proceeding as ordered by the
9 Commission. It is basically a legal history of the Commission's authority over
10 and resolution of territorial disputes and discusses certain legislation which was
11 never adopted. Since I am not an attorney, I cannot comment from a legal
12 perspective on this document. There are several observations, however, with
13 regard to the article which are relevant from a technical perspective in addressing
14 the issue before the Commission in this proceeding.

15 First, even under the current procedures employed by the Commission, the
16 resolution of territorial disputes can result in the determination of a specific
17 territorial boundary. The article does not appear to imply otherwise.

18 Second, territorial disputes have been and continue to be resolved between
19 individual utilities, indicating that the facts and circumstances will be evaluated
20 on a case-by-case basis in making such decisions. To that end, the Commission
21 has determined that a territorial boundary will be established in this proceeding. I

1 can only conclude that, notwithstanding the general proposition presented in the
2 cited article, the Commission has the authority and intends to determine such a
3 territorial boundary.

4 Third, the cited article does not address any specific territorial disputes,
5 analyze any facts and circumstances specific to any cases, or draw any
6 conclusions with regard to the approval of territorial agreements, including the
7 establishment of territorial boundaries, in any such cases. In essence, the article
8 does not address the myriad of technical, economic, planning, and other
9 considerations which I have addressed at length in my direct and rebuttal
10 testimonies. The Commission no doubt will decide this case on the merits. The
11 treatise cited by Mr. Holland presents interesting historical information, but it
12 does not address the relevant points at issue in this proceeding related to the
13 determination of a specific territorial boundary between Gulf Power and Gulf
14 Coast.

15 **Q. CROSS-REFERENCING MR. WEINTRITT'S DIRECT TESTIMONY,**
16 **MR. HOLLAND REFERENCES PAST AGREEMENTS BETWEEN GULF**
17 **POWER AND GULF COAST WHICH CONTAIN PROVISIONS THAT**
18 **HE SUGGESTS IMPLICITLY, IF NOT EXPLICITLY, SERVED AS A**
19 **TERRITORIAL AGREEMENT BETWEEN THE PARTIES. PLEASE**
20 **COMMENT REGARDING THESE MATTERS.**

1 A. I address in detail in a subsequent section of my rebuttal testimony these old
2 guidelines in responding to Mr. Weintritt. All of those observations are equally
3 applicable here in response to Mr. Holland's testimony and are incorporated
4 herein by reference. Similar comments were made by Mr. Klepper on this topic,
5 and my responses to that testimony apply as well here and, consequently, are also
6 incorporated herein by reference.

7 **B. GULF POWER ALTERNATIVES TO A TERRITORIAL**
8 **BOUNDARY**

9 **1. What is Gulf Power's Position?**

10 **Q. HAS GULF POWER MADE A DEFINITIVE RECOMMENDATION TO**
11 **THE COMMISSION TO ESTABLISH A TERRITORIAL BOUNDARY?**

12 A. No. It has presented multiple methods of dealing with territorial disputes in the
13 future. Mr. Holland presents two new concepts which I will address
14 subsequently. He also implies that Gulf Power's first choice might even be one
15 identical to "the one that served each party and the general public well for many
16 years as part of the prior wholesale service contract between the two utilities"
17 (Holland Direct Testimony, p. 14, l. 23 - p. 15, l. 1). If he is suggesting that the
18 Commission also consider that option as part of the potpourri of methods
19 presented by Gulf Power, it should be rejected for all the reasons I have discussed
20 elsewhere in my rebuttal testimony.

1 Mr. Spangenberg, testifying on behalf of Gulf Power, also presents a
2 complicated, non-specific, six-category procedure for establishment of territorial
3 boundaries which would deal with service to new customers on a case-by-case
4 basis. Mr. Gordon addresses this six-category proposal.

5 The simple conclusion to be drawn from Gulf Power's multiple-method
6 presentation is that all such methods would continue to require case-by-case
7 territorial dispute resolution in certain instances and none would address the
8 uncertainties of the planning process which I have discussed extensively.

9 **2. Gulf Power's Proposed Territorial Policy Statement**

10 **Q. IS GULF POWER'S PROPOSED TERRITORIAL POLICY STATEMENT**
11 **(EXHIBIT GEH-3) AN ACCEPTABLE METHOD FOR ESTABLISHING**
12 **A TERRITORIAL BOUNDARY BETWEEN GULF POWER AND GULF**
13 **COAST?**

14 **A. No.**

15 **Q. PLEASE EXPLAIN.**

16 **A.** As the name of the document clearly notes, this is a policy statement and not a
17 specific boundary line proposal. For this reason alone, Gulf Power's proposal
18 does not deal with the Commission's directive to determine a territorial boundary
19 between the parties.

20 This generic concern is illustrated by examining the contents of some of
21 the provisions of this proposed Territorial Policy Statement. The following

1 observations demonstrate some of the fundamental problems with Gulf Power's
2 proposal.

- 3 • Paragraph (1) does not determine anything. It simply states that
4 “[n]either of the Parties shall uneconomically duplicate the others’
5 electric facilities.” Uneconomic duplication is not even defined.
6 Even if it were defined to the extent there were disputes, each
7 would have to be resolved on a case-by-case basis. This does not
8 advance the ball with regard to permanently resolving territorial
9 disputes like the ones which have arisen over the years between the
10 parties.

- 11 • Paragraph (2) provides in part that “[t]he Parties shall construct or
12 extend distribution lines only when immediately necessary to serve
13 a new premises or a continuous group of premises pursuant to a
14 bona fide and documented request for such service from a
15 customer or developer ...” (emphasis supplied). This provision is
16 ridiculous on its face. It would be impossible under this broad
17 restriction to plan the distribution facilities of the respective
18 parties’ systems for all the reasons I have discussed elsewhere in
19 my rebuttal testimony. A certain amount of planning and
20 construction of facilities is related to anticipated load growth in the
21 immediate vicinity of the particular facilities as well as beyond that

- 1 immediate vicinity where substation and feeder line facilities are
2 involved. This provision simply ignores this critical aspect of
3 system planning.
- 4 • Paragraph (2) also states in part that “[t]he Parties ... shall not
5 construct or extend distribution lines to serve future, speculative
6 growth in the absence of a bona fide and documented request for
7 such construction or extension by a customer or developer.” The
8 same comments in the preceding point hold with regard to this
9 point.
 - 10 • Paragraph (2) also implies that a party would only be allowed to
11 construct “... facilities necessary in order to transmit electrical
12 energy between unconnected points on a party’s lines when such is
13 necessary for reliability purposes.” Such forms of construction
14 might be necessary simply for load carrying purposes to supply
15 load growth in unconnected areas. This could be considered other
16 than a “reliability” purpose as envisioned by this provision.
 - 17 • The last sentence of Paragraph (2) refers to “customers
18 immediately adjacent to the existing facilities of the other party.”
19 This is a vague term which would be difficult to administer.
20 Moreover, it is not clear what happens with regard to a party’s
21 right to serve prospective customers which are not immediately

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

adjacent to the existing facilities of the other party and could be served from new facilities constructed to connect unconnected points.

- Paragraph (3) states that "... neither of the Parties shall construct or maintain electric distribution lines for the provision of retail electric service to any premises then currently being provided retail electric service by the other party." This provision is not clear as to what happens if a premises is vacated and the service disconnected by the existing supplier. This provision could be interpreted to allow the other party to extend service to this location when a new customer taking new service at the same location comes along. The last sentence in Paragraph (6) is similarly vague and troubling.
- Paragraph (4) is simply a "closer-to" policy, except for loads of a certain size excluded by operation of Paragraph (5). A "closer-to" policy results in a moving target with regard to facilities in place to serve loads. That is, once facilities are extended to serve a new customer, the area surrounding that new extension now becomes part of the closer-to determination with regard to future customers. For all the reasons I have described previously regarding planning for systems, such a fluctuating service area frustrates the ability to

1 plan adequate resources and facilities to serve load while avoiding
2 uneconomic duplication due to the uncertainties created by such
3 floating service areas.

- 4 • Paragraph (5) provides customer choice for "... a new premises or
5 contiguous group of premises [which] require a combined electric
6 load equal to or greater than 300 KVA, under normal operations
7 and within a five (5) year growth period from the date of initial
8 service" This provision is problematic for several reasons.
9 One, "combined electric load" is not defined. It could be
10 connected load, a summation of the individual non-coincident
11 loads of the multiple premises, or it could be the estimated
12 diversified load of all of the premises. Two, this combined electric
13 load must be estimated for a period of five (5) years. These
14 vagaries make application virtually impossible. Even if the
15 definition of terms could be clarified, the potential for disputes
16 over load estimates and rates of development over time (e.g., the
17 timing of build-outs in a given subdivision) would lead to disputes
18 as to whether or not customer choice should apply in a given
19 situation.

- 20 • Paragraph (5), specifically the last sentence, allows a change in the
21 provider of electric service at a given premises under certain

1 conditions. Again, this just invites the parties to engage in
2 confrontational activities. Furthermore, even if the facilities of a
3 party currently supplying a premise were inadequate for some
4 change of purpose and use of electricity at that location, the
5 existing supplier should continue to serve that location and have
6 the right to upgrade its facilities. Gulf Power's proposal would
7 simply put such situations up for grabs. Again, disputes are likely
8 to arise over the determinations which would have to be made in
9 such instances.

- 10 • Paragraph (6) basically throws open head-to-head competition for
11 any customer outside the defined "closer-to" corridor that is not
12 already receiving central station electric service. This creates
13 planning uncertainty for all the reasons I have discussed elsewhere,
14 such as the impacts associated with constantly changing service
15 area for a given party.
- 16 • The provisions of Paragraphs (7) and (8) establish a delay
17 procedure whereby the parties must confer before extending
18 service to certain premises. While service in a given instance may
19 not be time critical, such delay, and the obvious anticipation that
20 disagreements could arise, simply adds unnecessarily to the
21 process of extending service in a timely fashion consistent with

1 reasonable planning. This typifies Gulf Power's presentation of a
2 process as opposed to a boundary.

3 **3. Gulf Power's Proposed Policy Statement**

4 **Q. DOES GULF POWER'S PROPOSED POLICY STATEMENT (EXHIBIT**
5 **GEH-4) PROVIDE A TERRITORIAL BOUNDARY?**

6 A. No.

7 **Q. PLEASE EXPLAIN.**

8 A. Gulf Power's proposed Policy Statement is simply another "closer-to" mechanism
9 for determining which utility will serve a given customer. This proposal suffers
10 from many of the same general flaws as the proposed Territorial Policy Statement
11 which I just discussed. This method likewise adds another layer to the dispute
12 resolution process by establishing an intermediate process of mediation before the
13 Commission Staff, with ultimate dispute resolution continuing to be handled by
14 the Commission. In short, the proposed Policy Statement does not establish a
15 boundary; rather, it simply adds to existing procedures under the Commission's
16 Rules.

17 **Q. DO YOU HAVE SPECIFIC COMMENTS REGARDING PARTICULAR**
18 **PROVISIONS OF GULF POWER'S PROPOSED POLICY STATEMENT?**

19 A. Yes. Disputes would be resolved "... by determining which utility is able to serve
20 the customer at the lowest net cost to the utility." Although not clear, it appears
21 that this provision would be based solely upon the incremental cost to connect the

1 disputed service. If so, this would ignore all of the other up-stream costs to
2 provide service and the attendant effects on planning which I have discussed in a
3 number of contexts in both my direct and rebuttal testimony.

4 The proposed Policy Statement also provides that “[i]n determining which
5 utility is able to serve the customer at the lowest net cost to the utility, customer
6 contributions in aid of construction to extend service will be taken into account as
7 reductions to the utility’s gross cost to serve.” If this means that the net cost to
8 the utility is the gross cost less CIACs, this would distort (i.e., understate) the
9 actual cost to a utility of connecting the new customer. There is absolutely no
10 logic to this calculation in determining what is in the public interest, since that
11 public interest includes not only the effect on the existing ratepayers, but the new
12 customer.

13 The last sentence of the proposed Policy Statement provides that “[f]or
14 purposes of this policy, existing distribution lines shall be construed to mean
15 installed conductor of sufficient type and capacity to satisfy the service
16 requirements of the requesting customer without the necessity of any upgrades.”
17 This limitation would simply put more customers up for grabs where some
18 upgrades might be necessary to serve a given customer. If a utility is capable of
19 upgrading its existing facilities to serve a customer, this should be allowable as
20 part of an ongoing right to serve a given service area. Gulf Power’s proposed

1 limitation once again sets the stage for various types of disputes rather than
2 providing a boundary line upon which each party can base its system planning.

3 **Q. PLEASE COMMENT ON GULF POWER'S PROPOSAL TO ESTABLISH**
4 **A CUSTOMER CHOICE WHERE "... THE NET COST TO THAT**
5 **UTILITY OF EXTENDING SERVICE TO THAT CUSTOMER DOES**
6 **NOT EXCEED THE OTHER AFFECTED UTILITY'S NET COSTS OF**
7 **EXTENDING SERVICE TO THAT CUSTOMER BY AN AMOUNT**
8 **GREATER THAN \$15,000."**

9 A. Mr. Holland attempts to rely on the Florida Supreme Court's decision reversing
10 the Commission's decision regarding which utility should serve the Washington
11 County Correctional Institute. The Commission, in its Nov. 18 Order, squarely
12 rejected Gulf Power's argument as going beyond the bounds of reason and
13 common sense. As a footnote, I would add by way of illustration that it would be
14 totally illogical to consider such an arbitrary number as being reasonable
15 irrespective of whether service is being extended to a water pump in a pasture or a
16 5,000 KVA industrial load. Logic dictates that such an arbitrary proposal is
17 ridiculous on its face.

1 IV. MATTERS PRESENTED BY MR. WEINTRITT

2 A. HISTORICAL METHOD FOR RESOLVING TERRITORIAL
3 DISPUTES

4 Q. MR. WEINTRITT REFERS TO CERTAIN GUIDELINES UTILIZED BY
5 GULF POWER AND GULF COAST IN THE PAST TO DETERMINE
6 WHICH PARTY WOULD CONSTRUCT FACILITIES AND SERVE
7 CUSTOMERS, CITING EXHIBIT NOS. ___ (WCW-3) AND ___ (WCW-4).
8 ARE THOSE PROCEDURES RELEVANT TO THE ESTABLISHMENT
9 OF A TERRITORIAL BOUNDARY BETWEEN GULF COAST AND
10 GULF POWER IN THIS PROCEEDING?

11 A. No. For all the reasons given in response to Mr. Klepper's and Mr. Holland's
12 testimony concerning these past guidelines, which I incorporate herein by
13 reference, they are irrelevant and should be ignored for purposes of establishing
14 the territorial boundary in this proceeding.

15 Q. ARE THERE OTHER REASONS WHY THESE PAST GUIDELINES ARE
16 NOT INSTRUCTIVE WITH REGARD TO THE ESTABLISHMENT OF A
17 TERRITORIAL BOUNDARY BETWEEN GULF COAST AND GULF
18 POWER?

19 A. Yes. Those old guidelines, with certain exceptions, basically were "closer-to"
20 provisions. As a result, they did not establish a fixed territorial boundary; rather,
21 those guidelines required constant monitoring with regard to service to new

1 customers to administer the provisions and determine, in certain instances, which
2 party had the right to serve a given customer or area. As new facilities were
3 added, the potential dividing line between the parties changed as to the closer-to
4 concept. Moreover, the uncertainty as to where specific customers might locate
5 (i.e., closer to Gulf Power or Gulf Coast) created a situation where there could be
6 significant planning uncertainty as to new consumers and new load. The old
7 guidelines did not resolve such matters.

8 **Q. MR. WEINTRITT MAKES SEVERAL STATEMENTS AS TO HOW**
9 **WELL GULF POWER PERCEIVES THE OLD GUIDELINES FOR**
10 **RESOLVING TERRITORIAL DISPUTES TO HAVE WORKED IN THE**
11 **PAST. PLEASE COMMENT ON HIS OBSERVATIONS.**

12 A. Mr. Weintritt states that few territorial disputes have been referred to the
13 Commission for resolution in the past twenty-five (25) years. Staff witness
14 Bohrmann addresses in detail the territorial disputes which the Commission has
15 been asked to resolve between Gulf Power and Gulf Coast. He also places in
16 perspective these disputes by indicating that “no other combination of two utilities
17 has produced more territorial disputes” (Bohrmann Direct Testimony, p. 6, ll. 6-7)
18 since 1974.

19 What is unstated, however, by both Mr. Weintritt and Mr. Bohrmann are
20 the instances where disputes may have arisen that were not submitted to the
21 Commission for resolution. It is my understanding that there have been other

1 instances where disputes arose which were not submitted to the Commission. It
2 does not take extreme insight to understand that initiation of formal proceedings
3 to contest every territorial dispute which might arise under a given set of
4 guidelines is not cost effective. Seeking Commission resolution of each dispute
5 involving individual customers, unless they are substantially large, is simply not
6 cost effective. Therefore, if instances occurred where either utility perceived that
7 it had the right to serve a given customer that ultimately was served by the other
8 utility, the expense of litigating such situations may have precluded either utility
9 from challenging the other in those instances. While this may have been rational
10 as it relates to the cost of legal expenditures, this does not necessarily mean that
11 foregoing the right to serve an individual customer was consistent with past
12 planning practices, the overall economics of serving that utility's customers, or
13 the so-called guidelines.

14 The fact that few formal disputes arose does not necessarily indicate that
15 the procedures were always applied or worked well. As Messrs. Dykes' and
16 Gordon's rebuttal testimony on behalf of Gulf Coast indicates, there have been
17 other situations where the old guidelines were not followed by Gulf Power but
18 Gulf Coast did not initiate formal proceedings with the Commission. These
19 instances simply indicate that "how well" the past guidelines worked is in the eye
20 of the beholder.

1 **Q. DID THE OLD GUIDELINES CITED BY MR. WEINTRITT ESTABLISH**
2 **A TERRITORIAL BOUNDARY AS ORDERED BY THE COMMISSION**
3 **IN THIS PROCEEDING?**

4 A. Obviously, the old guidelines did not establish a territorial boundary, or the
5 parties would not be in this proceeding today. The old guidelines were simply a
6 complicated means of resolving territorial disputes in an environment where the
7 respective service areas of Gulf Coast and Gulf Power could constantly change
8 depending upon a number of factors. As acknowledged by even Mr. Weintritt,
9 disputes arose under those old guidelines, and as confirmed by Messrs. Dykes and
10 Gordon, other violations of those guidelines occurred. In contrast, these events
11 should not occur upon the establishment of a specific territorial boundary as
12 contemplated by the Commission.

13 **Q. WHY DO TERRITORIAL DISPUTE RESOLUTION GUIDELINES SUCH**
14 **AS A “CLOSER-TO” PROVISION OR “CUSTOMER CHOICE”**
15 **PROVISION FOR LOADS GREATER THAN A SPECIFIED SIZE NOT**
16 **RESOLVE THE POTENTIAL FOR UNECONOMIC DUPLICATION?**

17 A. I discussed in detail how uneconomic duplication may occur at the distribution
18 system level in my direct testimony (Exhibit No. ____ (SPD-1), pp. 13-14 and 21-
19 22). Uneconomic duplication of facilities is not limited solely to local distribution
20 facilities of two utilities which physically overlap or which may be in close
21 proximity. When two utilities compete to serve the same geographic area and,

1 therefore, the same customers and load, both not only must have adequate local
2 distribution facilities in the immediate area, they also must have adequate
3 distribution feeder line and substation capacity, transmission facilities capacity,
4 and generation and/or purchased power resources to serve the load. Given the
5 long planning horizons for the necessary facilities to serve, commitments of
6 resources generally occur far in advance of when the associated facilities actually
7 will be needed. In fact, the duplicative local distribution facilities, which have the
8 shortest lead times, represent only a portion of the uneconomic duplication that
9 occurs when two utilities attempt to serve the same area, customers, and load.
10 The other necessary facilities (i.e., production, transmission and other distribution
11 facilities) are usually the more costly part of any uneconomic duplication.

12 The "closer-to" concept simply does not take into account this
13 substantially more expansive uneconomic duplication which can occur. It ignores
14 the realities of system planning from the generator to the meter. Allowing
15 customer choice for loads in excess of a certain load size likewise introduces
16 planning uncertainties which lead to such uneconomic duplication. It is therefore
17 clear why such guidelines for resolving territorial disputes will not avoid the
18 potential for such unnecessary and uneconomic duplication.

19 **Q. DOES THE FACT THAT GULF COAST DOES NOT OWN**
20 **GENERATION OR TRANSMISSION FACILITIES AFFECT WHETHER**
21 **UNECONOMIC DUPLICATION OF SUCH FACILITIES WILL OCCUR**

1 **IN INSTANCES WHERE IT PLANS TO SERVE THE SAME LOAD AS**
2 **GULF POWER?**

3 A. No. Any uneconomic duplication of generation and transmission facilities as to
4 Gulf Coast simply will occur upstream on the system of AEC, Gulf Coast's power
5 supplier. Gulf Coast purchases all of its power (capacity and energy)
6 requirements from AEC, a generation and transmission cooperative that plans for
7 and serves the total loads of its members, which are located in Alabama and the
8 panhandle-area of Florida.

9 AEC plans for the anticipated load growth of its members, including Gulf
10 Coast and, in particular, load in the areas where Gulf Coast and Gulf Power may
11 be vying to serve the same load. To the extent Gulf Coast ultimately serves only a
12 portion of the load planned for by AEC, unnecessary and uneconomic duplication
13 of generation and transmission facilities will occur.

14 In comparison, Gulf Power's generation and transmission needs are
15 planned under one corporate umbrella (putting aside coordinated planning and
16 operations among the various affiliates of the Southern Company which include
17 Gulf Power). The same uneconomic duplication of generation and transmission
18 still occurs when Gulf Power plans for the total load in a given area but ultimately
19 secures the right to serve only a portion of that load.

1 **B. GULF POWER'S PROPOSED TERRITORIAL POLICY**
2 **GUIDELINES**

3 **Q. MR. WEINTRITT, AT PAGES 12-13 OF HIS PREPARED DIRECT**
4 **TESTIMONY, CLAIMS THREE (3) ADVANTAGES TO UTILIZING**
5 **GULF POWER'S PROPOSED SET OF GUIDELINES FOR RESOLVING**
6 **TERRITORIAL DISPUTES AS CONTAINED IN EXHIBIT NO. GEH-2.**
7 **PLEASE RESPOND TO EACH OF THOSE CLAIMED ADVANTAGES.**

8 A. Mr. Weintritt first claims that the guidelines contained in Exhibit No. GEH-2
9 offer all the advantages previously described for the FERC tariff provisions
10 (Exhibit No. ____ (WCW-4). For all the reasons cited in my earlier testimony in
11 response to Messrs. Klepper, Holland, and Weintritt on those old guidelines, they
12 are wholly inappropriate for use in judging the adequacy of determining a
13 territorial boundary in this proceeding. Nor do those guidelines, or the revised
14 guidelines as proposed by Gulf Power, consider and adequately address the
15 potential for unnecessary and uneconomic duplication for all the reasons I
16 described earlier.

17 Mr. Weintritt next suggests that the revised guidelines prohibit the
18 extension of distribution lines to serve future speculative growth. The
19 administration of such an amorphous concept would be difficult and time
20 consuming, if not impossible. The proposed provisions also do not provide a
21 logical, orderly, and economically workable planning process. This can be

1 illustrated by reference to Paragraph (2) of Gulf Power's proposed Territorial
2 Policy Statement (Exhibit No. GEH-3) which states, in part, as follows:

3 The Parties shall construct or extend distribution lines only when
4 immediately necessary to serve a new premises or a contiguous
5 group of premises pursuant to a bona fide and documented request
6 for such service from a customer or developer, and shall not
7 construct or extend distribution lines to serve future, speculative
8 growth in the absence of a bona fide and documented request for
9 such construction or extension by a customer or developer.

10 All distribution facilities are not planned in these little "bite-sized" increments as
11 contemplated by the above provision. If any effort is made to take into account
12 the orderly planning of all distribution facilities, including, for example,
13 distribution substations and feeders, it could deteriorate into a constant battle over
14 whether new or extended distribution facilities are speculative. The obvious
15 administrative unworkability of this type provision is sufficient to undermine Mr.
16 Weintritt's claimed advantage of prohibiting facilities extensions to serve
17 speculative growth. A specified territorial boundary, on the other hand, would
18 totally remove any incentive for Gulf Coast and presumably Gulf Power to extend
19 their systems based on speculative growth, to stake out territory, or to otherwise
20 engage in uneconomic actions that are not in the public interest.

21 Finally, Mr. Weintritt suggests that the revised guidelines provide the
22 advantage of offering a method to resolve disputes. The whole purpose of this
23 proceeding is to establish a territorial boundary which would obviate disputes.
24 The Commission currently has procedures to resolve territorial disputes. Simply

1 establishing some new set of procedures in lieu of or in addition to those already
2 available to the Commission is costly, administrative surplusage which neither
3 party nor their ratepayers need or should be forced to incur.

4 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

5 **A. Yes, at this time.**

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve)
Territorial Dispute with Gulf Coast)
Electric Cooperative, Inc. By) Docket No. 930885-EU
Gulf Power Company)

AFFIDAVIT
OF
STEPHEN PAGE DANIEL

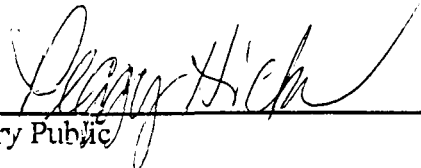
STATE OF GEORGIA)
) ss
COUNTY OF COBB)

Stephen Page Daniel, being first duly sworn, on oath, deposes and says that the foregoing prepared Rebuttal Testimony in Docket No. 930885-EU was prepared by him or under his supervision and that the information contained in such testimony and exhibits is true and correct to the best of his knowledge, information, and belief.



Stephen Page Daniel

Subscribed and sworn to before me this 18th day of December, 1996.



Notary Public

My Commission expires: Notary Public, Cobb County, Georgia.
My Commission Expires December 13, 1995.

FILE COPY


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve)
Territorial Dispute with Gulf Coast)
Electric Cooperative, Inc. by) Docket No. 930885-EU
Gulf Power Company)

REBUTTAL TESTIMONY AND EXHIBITS
OF STEPHEN PAGE DANIEL,
ON BEHALF OF
GULF COAST ELECTRIC COOPERATIVE, INC.

Gulf Coast Electric Cooperative, Inc. (Gulf Coast) hereby files the attached original Rebuttal Testimony and Exhibits of Stephen Page Daniel together with 15 copies thereof this 20th day of December, 1996.

Respectfully Submitted,



J. Patrick Floyd, Esquire
408 Long Avenue
P. O. Box 950
Port St. Joe, FL 32456
(904) 227-7413
Florida Bar No. 257001

John H. Haswell, Esquire
Chandler, Lang & Haswell, P.A.
P. O. Box 233879
Gainesville, FL 32602
(352) 376-5226
Florida Bar No. 162536

I HEREBY CERTIFY that a true copy of the following together with one copy of the Rebuttal Testimony and Exhibits of Stephen Page Daniel have been furnished this 20th day of December, 1996 by U.S. Mail or hand delivery to the following:

Vicki Johnson, Esquire
Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0863

Jeffrey A. Stone
Beggs & Lane
Post Office Box 12950
Pensacola, Florida 32576
Attorney for Gulf Power Co.

Roberta S. Bass
Division of Electric & Gas
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870



J. PATRICK FLOYD, ESQUIRE

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Resolve)
Territorial Dispute with Gulf Coast)
Electric Cooperative, Inc. By) Docket No. 930885-EU
Gulf Power Company)

AFFIDAVIT
OF
STEPHEN PAGE DANIEL

STATE OF GEORGIA)
) ss
COUNTY OF COBB)

Stephen Page Daniel, being first duly sworn, on oath, deposes and says that the foregoing prepared Rebuttal Testimony in Docket No. 930885-EU was prepared by him or under his supervision and that the information contained in such testimony and exhibits is true and correct to the best of his knowledge, information, and belief.



Stephen Page Daniel

Subscribed and sworn to before me this 18th day of December, 1996.



Notary Public

My Commission expires: Notary Public, Cobb County, Georgia.
My Commission Expires December 13, 1996

DN 13624-96
12/23/96