

Before the
Federal Communications Commission
Washington, D.C. 20554

SEP 23 6 53 PM '05

FCC 05M-43
04709

In the Matter of

**Florida Cable Telecommunications
Association, Inc.; Comcast Cablevision of
Panama City, Inc.; Mediacom Southeast,
L.L.C.; and Cox Communications Gulf,
L.L.C.,**

Complainants,

v.

Gulf Power Company,

Respondent.

DISPATCH
EB Docket No. 04-381

CLARIFICATION

Issued: September 21, 2005

Released: September 22, 2005

The *Discovery Order* FCC 05M-38, released August 5, 2005, stated:

Since this hearing is limited to "reasonable compensation" from rates charged for Complainants' CATV attachments, it would be unnecessary to consider evidence of change-outs relating to non-CATV attachments.

See Discovery Order at 10.

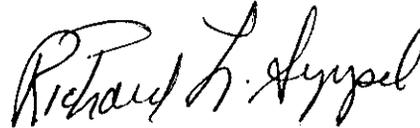
Gulf Power noted:

Gulf Power does not interpret the Discovery Order to mean that evidence regarding what other attachers pay for the same space occupied by complainants will be excluded as irrelevant. This would be legally incorrect, and at odds with Gulf Power's burden to demonstrate a more appropriate alternate rate.

See Gulf Power's Response to Complainants' Second Set of Requests for Production of Documents at 8.

There are related rulings noted in the *Discovery Order* at 5 (“other attaching entities”), and at 8 (“all attachers”) which required disclosure of information relating to non-CATV attachers. Therefore, in the interest of consistency in discovery rulings, relevant evidence relating to non-CATV pole attachments may be offered in evidence (subject to proffer of relevance). Such evidence will be considered and will be allotted an appropriate weight.¹

FEDERAL COMMUNICATIONS COMMISSION²

A handwritten signature in black ink that reads "Richard L. Sippel". The signature is written in a cursive style with a large initial 'R'.

Richard L. Sippel
Chief Administrative Law Judge

¹ *E.g.*, more weight might be accorded evidence of non-CATV attachers installed on the same poles as CATV attachers.

² Courtesy copies of this *Order* were transmitted to counsel for each of the parties by e-mail on the date of issuance.