

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

FCC 05M-58

In the Matter of)	EB Docket No. 04-381
)	
Florida Cable Telecommunications Association, Inc.; Comcast Cablevision of Panama City, Inc.; Mediacom Southeast, L.L.C.; and Cox Communications Gulf, L.L.C.,)	04893
)	
Complainants,)	
)	
v.)	
)	
Gulf Power Company,)	
)	
Respondent.)	

ORDER

Issued: November 21, 2005

Released: November 22, 2005

A prehearing Status Conference was conducted on November 21, 2005. *Order* FCC 05M-54, released November 10, 2005. The conference dealt with the status of Gulf Power's compliance with discovery rulings in *Third Discovery Order* FCC 05M-56, released November 18, 2005. Also considered was the status of the Osmose survey of Gulf Power's poles.

It appears that evidence offered at hearing will be extremely extensive and time-consuming if conducted on the amount of attachment rent to be charged above marginal cost as to all poles which Gulf Power contends are at "full capacity". Also, more discovery will be needed, while hurricane Katrina has caused delay in completing the Osmose study. Based on a joint proposal to be offered by the private parties, subject to Comment by the Enforcement Bureau, the Presiding Judge will consider adjudication on the ultimate issue¹ through *Initial Decision* on an abbreviated evidentiary record, considering evidence and expert opinion based on a limited number of poles which Gulf Power contends are at "full capacity."

¹ "Whether Gulf Power is entitled to receive compensation above marginal costs for any attachments to its poles belonging to the Cable Operators [Complainants], and, if so, the amount of any such compensation." *Hearing Designation Order* at Para. 11.

Accordingly, IT IS ORDERED that by **December 9, 2005**, Gulf Power and the Complainants shall file and submit a joint proposed procedure for conducting the evidentiary hearing on a limited number of poles alleged to be at "full capacity," to be used for an *Initial Decision* under the Commission's rules of practice. 47 C.F.R. § 1.267 *et seq.*

IT IS FURTHER ORDERED that by **December 16, 2005**, the Enforcement Bureau shall file and submit Comments.

IT IS FURTHER ORDERED that a Prehearing Conference may be conducted formally or informally on **December 20, 2005**.²

FEDERAL COMMUNICATIONS COMMISSION³



Richard L. Sippel
Chief Administrative Law Judge

² The OALJ Paralegal Specialist will advise counsel for the parties of the time (and place if on-the-record).

³ Courtesy copies of this *Order* were transmitted to counsel for each of the parties by e-mail on the date of issuance.