

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

FCC 06M-19

In the Matter of

) EB Docket No. 04-381

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

) 05496

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) Complainants,
)

FCC Mail Room

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) v.
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) Gulf Power Company,
)

)
) Respondent.
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ORDER

Issued: June 12, 2006

Released: June 14, 2006

By *Memorandum Opinion and Order*, FCC 06M-14, released May 26, 2006, the Presiding Judge preliminarily ruled that “decisional evidence pertaining to the hearing issue should remain in the public domain.” *Id.* at Para. 8. Also, it was held to be in the interest of this case “to fully disclose the evidentiary record presented by the parties and relied on by the Presiding Judge.” *Id.* at Para. 13.

On June 5, 2006, Gulf Power Company’s Notice Of Cause To Maintain Confidentiality Over Certain Trial Exhibits (“Notice of Cause”) was filed. On June 7, 2006, Complainants’ Objection To The Confidential Treatment Of Gulf Power Exhibit 11 and Complainants’ Exhibit 5 was filed. On June 9, 2006, Gulf Power filed a Reply to Complainants’ Objections.¹

¹ The pleading cycle was set in *Order* FCC 06M-16, released June 8, 2006 (e-mail notice provided to all counsel on June 6, 2006).

Gulf Power is now seeking confidentiality only for Gulf Power Exh. 11, a book-length document entitled "Southern Company Overhead Distribution Construction Manual" ("Manual"). Gulf Power also seeks confidentiality for Complainants' Exh. 5, which consists of excerpts from the Manual. The Manual is not circulated outside the Southern Company complex of subsidiaries, which includes Gulf Power. Only portions of the Manual are made available to construction contractors and cable attachers on a limited need to know basis. The Manual requires that outside users "must have the approval of the company's Corporate Distribution along with a properly executed Confidentiality Agreement." Since commencement of discovery, Gulf Power has expressed concern for protecting the Manual as "commercial information," and as "intellectual property of Southern Company and its operating subsidiaries."

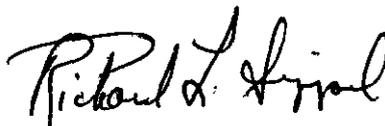
On June 12, 2006, discussion was conducted in a Telephone Conference held by the Presiding Judge and participated in by the parties. The Presiding Judge accepted Gulf Power's limited request for confidentiality as reasonable, and announced his decision to treat the Manual as confidential, including its excerpts in Complainants' Exh. 5. Counsel for Gulf Power also agreed to use as evidence only those portions of the Manual to be cited by Gulf Power in proposed findings. In order to facilitate confidentiality, excerpts of the Manual relied on by Gulf Power will be incorporated with Manual excerpts in Complainants' Exh. 5, to be filed in the record under seal. In addition, the complete Manual will be withdrawn from evidence as Gulf Power Exh. No. 11.²

Finally, the parties should use discretion in citing to the Manual in proposed findings which are not to be redacted unless further cause is shown.

Logistics of compliance with this ruling should be completed in open-court at an abbreviated hearing session scheduled for **June 15, 2006**. See *Order* FCC 06M-18.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION³



Richard L. Sippel
Chief Administrative Law Judge

² There should be retained in the evidentiary volume previously containing Gulf Power Exh. No. 11, only the cover page of the Manual for identification purpose, with appropriate indication that the Manual was withdrawn pursuant to this *Order*.

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