

ORDINANCE NO. 276

AN ORDINANCE TO BE ENTITLED

AN ORDINANCE GRANTING TO GULF POWER COMPANY, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO MAINTAIN AND OPERATE AN ELECTRIC PLANT AND AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF SPRINGFIELD AND TO CONSTRUCT, MAINTAIN, OPERATE AND EXTEND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN THE STREETS AND PUBLIC PLACES OF SAID CITY; AND PROVIDING THE TERMS AND CONDITIONS OF SUCH GRANT, SEVERABILITY CLAUSE, REPEALING CLAUSE AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF SPRINGFIELD, FLORIDA:

SECTION 1. Granting of Franchise Privilege. In

consideration of the benefits that will accrue to the City of Springfield and the inhabitants thereof, Gulf Power Company, a corporation under the laws of the State of Maine, its successors and assigns, hereinafter sometimes referred to as the Grantee, is hereby given, granted and vested with the right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in said City of Springfield a plant or plants and system for the generation, transmission and distribution of electric energy for all purposes whatsoever.

SECTION 2. Rights to Operate. The said Grantee, its successors and assigns, is hereby further given, granted and vested with the right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in said City of Springfield a system of poles, towers, conduits, cables, conductors, transforming stations fittings, appliances and appurtenances necessary or desirable to the transmission, distribution or sale of electric energy for all purposes whatsoever in, over, under, along, upon and across all streets, avenues, alleys, ways, bridges, and public places in

said City of Springfield, as they now exist or as they may hereafter be laid out or extended within the present and future limits of said City, together with the further right, privilege and franchise to construct, erect, suspend, install, extend, renew, repair and maintain and operate a system of poles, towers, conduits, cables, wires, conductors, transforming stations, generating stations, fittings and all appliances and appurtenances necessary or desirable to the generation and transmission within, unto, through, over and beyond said City of Springfield and to the furnishing, supplying and distributing to said City and the inhabitants and corporations both within and beyond the limits thereof, of electric energy for lighting, heating, power and all other purposes for which electric energy may be used now or hereafter, and for the purpose of extending its lines and furnishing electric energy beyond the limits of said City. Grantor retains the right to purchase or generate electric power for its own use but not for sale. The electric system, facilities and associated equipment and vehicles shall be located or re-located, erected or operated so as to interfere as little as possible with vehicular and pedestrian traffic over, along and across said public right-of-way, streets, alleys, bridges, and public places and with reasonable egress and ingress to abutting and adjoining property.

SECTION 3. Franchise Fee. As a further consideration for the granting of the rights, privileges and franchises hereby granted, the Grantee, its successors and assigns, shall pay to the City within thirty (30) days after the first day of each month a franchise fee of three (3) percent (%) of Grantee's revenue from the furnishing of electric service to customers served under its residential and commercial rate schedules within the corporate limits of the City collected during the preceding month. The franchise fee may be increased, decreased or eliminated by ordinance of the City Commission of the City of Springfield, Florida.

SECTION 4. Proper Operation. The poles, towers, conduits, cables, conductors, transforming stations, generating stations, fittings, appliances and appurtenances shall be constructed in accordance with good engineering practices and so as not to unreasonably interfere with the proper use and appearance of the streets, avenues, alleys, ways, bridges, and public places in the City and shall be maintained in reasonably good condition and repair.

SECTION 5. Excavation Maintenance and Restoration. Whenever the Grantee shall cause any opening or alteration to be made in any of the streets, avenues, alleys, ways, bridges, utilities or public places of the city for the purpose of installing, maintaining, operating or repairing any poles, towers, conduits, cables or other appliances, the work shall be completed at Grantee's expense within a reasonable time and the Grantee shall upon the completion of such work restore such portion of the streets, avenues, alleys, ways, utilities or other public places to as good condition as it was before the opening or alteration was so made.

SECTION 6. Hold Harmless. The Grantee shall hold the City harmless from any and all liability or damages resulting from the negligence of the Grantee, in the construction, maintenance or operation of said poles, towers, conduits, wires, cables and other appliances and appurtenances.

SECTION 7. Rates, Rules and Regulations.
(a) All rates for electrical service and the rules and regulations governing the receipt of said service within the Grantor's limits, established by the Grantee from time to time, shall be reasonable and shall at all times by subject to such public regulation as may be provided by law. The Grantee recognizes its obligations to provide electric energy and power service within the City on reasonable terms and

conditions at just, reasonable and nondiscriminatory rates to all who request said service during the term of this franchise and thereafter, as required by law or by duly constituted public regulatory body.

(1) The electrical customers of Grantee in the City of Springfield shall not be charged an electrical service rate that exceeds rates charged to other electrical customers of Grantee in the adjoining cities of Panama City, Cedar Grove, Callaway, or Parker, Florida.

(b) The Grantee agrees to file with the appropriate official of the City upon the request of the governing body of the City a complete set of rules and regulations and a complete set of tariffs or rate schedules under which electric service is provided within the City. Upon request from the governing body of the city, Grantee shall also furnish any revisions of rules, regulations and rates that have been adopted since the last previous filing, and Grantee will also furnish upon request of the governing body of the City its latest annual report to its stockholders.

(c) Grantor may, at its option and at its expense, and upon reasonable notice to Grantee, at any time within ninety (90) days after each anniversary date of this franchise examine the records of operations and accounting files, books, and records as such records relate to the calculation of the franchise fee payments to the Grantor, as provided herein. The examination of such books, accounts, records or other materials necessary to determination of compliance with the terms, provisions, and requirements of this franchise shall be during regular hours of business of the Grantee and at the corporate offices of the Grantee.

(d) The Grantee may, from time to time, declare, make and enforce reasonable rules and regulations as conditions for the sale, transmission and distribution by it

of electric energy.

SECTION 8. Interruption of Service. In the event the supply of electric energy should be interrupted or fail by reason of accident or any cause beyond the control of the Grantee, the Grantee shall, at its own expense, restore the service within a reasonable time and such interruption shall not constitute a breach of this franchise nor shall the Grantee be liable for any loss or damage by reason of such interruption or failure.

SECTION 9. Application for Electric Power Service.

Grantee shall accept applications for electric service during any working day. When there are electric service lines and transmission lines established and all permits, easements and inspections have been made and approved to a residence or a business, a person occupying that dwelling or operating such business shall be furnished electric power within the close of the following workday, including Saturdays, upon proper application and payment of deposit to Grantee.

Upon request by a residential or business owner, and all permits, easements and inspections have been made and approved, new lines shall be extended within the city boundaries and shall be complete and ready for customer within 30 days.

The time schedules set forth in this section shall not apply in case of an emergency or a delay caused by an act of God.

SECTION 10. Metering of Service. The Grantee shall install and maintain, free of charge, meters for measuring current, and shall have free access to the premises for the repairing, testing and maintaining the meters and appurtenances. Such meters shall remain the property of the Grantee.

SECTION 11. Term of Franchise. The term of the

franchise shall be for fifteen (15) years.

(a) There shall be at least annual meetings between the parties on the anniversary date of this agreement. During the meetings, the parties shall discuss problems that may have arisen during the preceding time and both parties agree to resolve and correct said problems. Any problems that arise between the parties should be corrected as soon as practical after notification and discussion of the problems. Minutes and records shall be maintained of all meetings between the parties.

SECTION 12. Forfeiture of this Franchise. Failure by the Grantee to comply in any substantial respect with any of the provisions, terms, or requirements of this Ordinance, shall be grounds for forfeiture of this franchise, but no such forfeiture shall take effect if the reasonableness and propriety thereof is timely protested and satisfactorily addressed or until a court of competent jurisdiction shall have found that the Grantee has failed to comply in a substantial respect with any of the provisions, terms or requirements of this Ordinance.

SECTION 13. Exclusivity of Ordinance Sections. Should any section or provision of this Ordinance or any portion hereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder, as a whole or any part hereof, other than the part declared to be invalid.

SECTION 14. Successors and Assigns. Whenever in this Ordinance either the City of Springfield or the Grantee is named or referred to, it shall be deemed to include the respective successor, successors or assigns of either, and all rights, privileges and obligations herein conferred shall bind and inure to the benefit of such successor, successors or assigns of the Grantor or the Grantee.

SECTION 15. Repealing Clause. All Ordinances or

parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 16. Written Acceptance by Grantee. The Grantee, its successors or assigns, shall, within thirty (30) days after this Ordinance shall take effect, file a written acceptance of the Ordinance with the City Clerk of the City.

SECTION 17. Effective Date. This Ordinance shall take effect February 27, 1987, and shall be published as required by law.

Adopted by the City Council of the City of Springfield, Florida, on this the 26 day of January, 1987.

Approved: Buddy McLemore
Buddy McLemore
Mayor

Attest:

[Signature]
City Clerk

Legal in form and valid if enacted:

[Signature]
City Attorney

ACCEPTANCE OF FRANCHISE

KNOW ALL MEN BY THESE PRESENTS that Gulf Power Company, a Maine corporation, hereby accepts the franchise offered by the City of Springfield pursuant to its Ordinance No. 276.

IN TESTIMONY WHEREOF Gulf Power Company has caused its duly authorized officers to execute this instrument for it and as its act and deed. This 30th day of January, 1987.

GULF POWER COMPANY

By *A. S. McCreary*
President

ATTEST:

Dorville D. Spornoble
Secretary



FLORIDA DEPARTMENT OF STATE
George Firestone
Secretary of State

Dorothy W. Glisson
Deputy Secretary For Elections

December 15, 1986

Springfield Police Dept.
P. O. Drawer 3717
Springfield, FL 32401

Dear Sir:

This will acknowledge receipt of the certified copy of Ordinance No. 274 annexing certain lands into the City of Springfield, which was filed in this office on December 11, 1986.

Kindest regards.

Cordially,

A handwritten signature in cursive script that reads "Liz Cloud".

(Mrs.) Liz Cloud, Chief
Bureau of Administrative Code

LC/vm