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Public Service Commission

June 28, 2001

VIA AIRBORNE EXPRESS

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, D.C. 20426

RE: Docket No. ERO1-2205-000, Florida Power & Light and Tampa Electric Company,
Request for Approval of Transmission Pricing Plan

Dear Mr. Boergers:

Enclosed are an original and fourteen copies of the Florida Public Service Commission comments in the above docket. Please date stamp and return one copy in the enclosed, self-addressed envelope.

Sincerely,

Handwritten signature of Cynthia B. Miller.

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

Handwritten signature of Robert V. Elias.

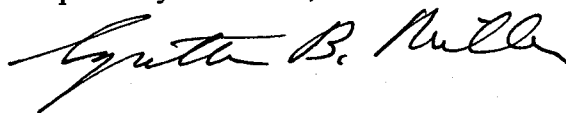
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Enclosures

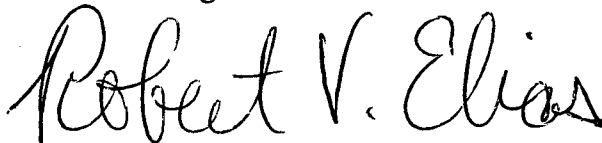
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developed in the FPSC dockets which, as noted, will not come to fruition until November. Thus, we urge FERC to consider this information from the FPSC proceedings as the FERC makes its final determinations in this proceeding. We believe that the information gathered by our proceedings could be beneficial to FERC, the stakeholders, and the ratepayers.

Respectfully submitted,



Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison



Robert V. Elias, Esquire
Division of Legal Services

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
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DATED: June 28, 2001

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Florida Power & Light Company
Tampa Electric Company

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Docket No. ER01-2205-000

**FLORIDA PUBLIC SERVICE COMMISSION
COMMENTS**

The Florida Public Service Commission (FPSC) filed a notice of intervention on June 21 and intends to actively participate in this docket. The FPSC files the following comments to alert the Federal Energy Regulatory Commission (FERC) that we have opened interrelated dockets regarding the impact on the retail ratepayers of the Joint Applicants' (Florida Power & Light, Tampa Electric Company, and Florida Power Corporation) participation in GridFlorida Regional Transmission Organization. To that end, the FPSC is currently compiling data and conducting analysis in preparation for our dockets as well as to augment FPSC participation in FERC proceedings related to GridFlorida. As a result of the fruits of this labor, the FPSC will have valuable input to share with the FERC. Recognizing the implementation deadlines established by FERC on the overall GridFlorida implementation, we have expedited our dockets, with decisions anticipated in November. Attached is the FPSC Order which delineates the procedure for resolution of the issues raised by the Joint Applicants in our dockets.

The petition filed by Florida Power & Light and Tampa Electric Company in this docket at FERC seeks a decision in 60 days. We believe the FERC would benefit from the information to be

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida transco"), and their effect on FPL's retail rates.

DOCKET NO. 001148-EI

In re: Review of Tampa Electric Company and impact of its participation in GridFlorida, a Florida Transmission Company, on TECO's retail ratepayers.

DOCKET NO. 010577-EI

In re: Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

DOCKET NO. 000824-EI
ORDER NO. PSC-01-1372-PCO-EI
ISSUED: June 27, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER GRANTING IN PART AND DENYING IN PART JOINT MOTION TO
ESTABLISH A DOCKET AS TO THE PRUDENCE OF THE FORMATION OF
AND PARTICIPATION IN GRIDFLORIDA, INC.

BY THE COMMISSION:

On May 11, 2001, Florida Power Corporation (FPC), Florida Power & Light Company (FP&L) and Tampa Electric Company (TECO)

filed a Joint Motion to establish a separate generic docket to determine, on an expedited basis, the prudence of the formation of, and their participation in, the GridFlorida Regional Transmission Organization (GridFlorida RTO). At the May 15, 2001, Agenda Conference, we voted to require FPC and FP&L to file Minimum Filing Requirements (MFRs) based on a proposed 2002 test year to address potential overearnings, as well as the impact of the proposed formation and participation in the GridFlorida RTO. A 2002 test year overlaps with the first year of planned operation of GridFlorida. The same data and subsequent discovery are required to address both overearnings and the impact of GridFlorida on the retail rates of FPC and FP&L. While TECO is not under a stipulation to address overearnings, a separate docket has been opened for it as well, to determine the likely effect of its participation in GridFlorida on its retail rates.

Joint Movants' Position

On October 16, 2000, the Joint Movants submitted their responses in compliance with the Federal Energy Regulatory Commission (FERC) Order No. 2000, requesting authorization from the FERC to create GridFlorida RTO, a for-profit RTO. These responses were supplemented on December 15, 2000. On March 28, 2001, the FERC issued its order provisionally granting RTO status to GridFlorida, finding that the compliance filing by the Joint Movants complied with the minimum characteristics and functions of an RTO as described in Order No. 2000. The order further directed the Joint Movants to make additional compliance filings reflecting ordered revisions within sixty days of the March 28, 2001, order.

On May 3, 2001, FPSC staff filed recommendations in Docket Nos. 000824-EI and 001148-EI which raised issues concerning the reasonableness of the utilities' committing their retail and wholesale loads to GridFlorida. The costs and rates relating to GridFlorida were also raised by FPSC staff.

The Joint Movants assert that the RTO issues are "...generic in nature and equally applicable to each of the Joint Movants." They further maintain that because issues have been raised regarding the prudence of forming and participating in GridFlorida, it is necessary that the issues be considered on an expedited and consolidated basis. The Joint Movants suggest that an expedited

proceeding would "minimize the period for which there is uncertainty as to the future development of GridFlorida, Inc."

RTO Issues

The form, function, and degree of participation by the Joint Movants in a peninsular Florida RTO were solely of their choosing. Although a number of important implementation details remain to be resolved, the FERC's March 28, 2001, order signaled the end of the overall design phase of a peninsular Florida RTO. The form and function of a peninsular Florida RTO has been defined. GridFlorida is to be a for-profit, stand-alone, transmission company.

GridFlorida is scheduled to become operational by December 15, 2001. However, the Joint Movants have recently issued a press release indicating that RTO development activities have been suspended pending the formal prudence investigations undertaken by this Commission. The many remaining issues concerning market design, RTO rates, and the work necessary to begin operation (staffing, computer programming, maintenance planning, etc.) cast further doubt as to whether the December 15, 2001, date is realistic. In addition, the Joint Movants have made the commitment to support the startup costs of GridFlorida, initially in the form of loans by the participants followed by a public sale of stock. These startup costs will likely also be included in RTO costs. This raises several issues which are clearly company specific.

While FPC, FP&L, and TECO are, at present, the only announced participants in GridFlorida, the involvement of each will be distinct. The commonality among them is that they each must comply with FERC Order No. 2000. FP&L and TECO plan to divest their transmission facilities to GridFlorida. Initially, FPC intends to retain ownership but turn over operational control of its transmission facilities to GridFlorida. FPC and FP&L have historically been transmission service providers to other peninsular Florida utilities. TECO has historically been a purchaser of intrastate and interstate transmission services. Each utility is likely to incur different levels of cost and receive different levels of benefits. Clearly, there are more differences among the Joint Movants than commonalities. Having chosen the form and function of GridFlorida through the collaborative process, each regulated utility must now demonstrate that its decision to

participate in GridFlorida is in the best interests of its retail customers. Just as it is not feasible to have joint rate cases, a generic docket is neither the best nor most efficient mechanism to determine the reasonableness and impact of individual participation in the RTO.

Examination of the impact of participation in the RTO cannot be complete without consideration of the general impact on rates of the costs related to the RTO. Consequently, considering the RTO issues within each individual docket is the best course.

Ratemaking

When assessing the impact of the RTO on ratepayers, there are two basic issues which we must address - prudence and cost recovery. In the context of a ratemaking proceeding, the issue of prudence has a very specific and limited meaning. In order to address this ratemaking aspect of prudence, we must look at:

- (1) the specific costs to be borne by the company's ratepayers;
- (2) the specific benefits that the company's ratepayers can expect to receive;
- (3) whether, on a company-by-company basis, the costs to be paid by the company's ratepayers are outweighed by the benefits they will receive; and
- (4) whether the timing of any recovery of costs through customer rates is commensurate with the timing of the benefits received.

Once the issue of prudence of costs has been addressed, the second issue is: Who should pay -- ratepayers or stockholders? If it is determined that the ratepayers should pay all or a portion of the costs associated with GridFlorida, we must determine whether cost recovery should take place in base rates or through recovery clauses. Finally, rate structure issues must be addressed to determine what percentage of total costs should be paid by each customer class. In addition to these general ratemaking issues, there are other issues linked to the specific nature of each

company's participation in GridFlorida, such as the decision to transfer the ownership of transmission facilities to GridFlorida. The decision to disaggregate the retail transmission function is a fundamental change in the way electricity is provided to Floridians. A determination that such actions are sound should be based on the best information available.

DECISION

We believe this review should take place in the current dockets, because there are more differences in determining the impacts of costs and benefits than there are commonalities. The need to comply with the FERC Order No. 2000 is what the Joint Movants have in common. The facts will differ for each company, and there will need to be determinations as to what the costs and benefits are for each individual company. The decision to conduct the review in the current dockets does not preclude consolidation for hearing at a later time if it subsequently appears more efficient.

We are mindful of the fact that the effort to form GridFlorida has taken place over the course of a year and a half. Even so, there is a need to have these answers before the Energy 2020 Study Commission finishes its work in December of 2001. Also, the determinations made in this review might be helpful to the Florida Legislature, if available before the upcoming 2002 regular legislative session. In any event, this review is necessary to provide guidance and minimize uncertainty in the marketplace.

We foresee these matters proceeding in two phases in each docket. Phase 1 will deal with the RTO related issues, and proceed on an expedited basis. We will not change retail rates or allocate any of the costs or benefits associated with GridFlorida in Phase 1. Each utility will file a petition specifically setting forth the issues it wants the Commission to decide, and the relief it seeks. Each petition should indicate the decisions that the utility believes it needs to proceed forward on the implementation of GridFlorida. The burden is on the utilities. We direct staff to work with the companies to determine the MFRs necessary to support the examination of the RTO related issues in this expedited portion of the proceedings. It should be further understood that any ruling or decision in Phase 1 shall not preclude us from taking

specific rate action in the Phase 2 ratemaking portion of the dockets.

Phase 2 will address the general rate proceedings initiated by this Commission in these dockets by our previous vote to require the filing of MFRs to address overearnings issues. Phase 2 also will include the specific ratemaking aspects, including but not limited to cost recovery, of the formation and participation in the GridFlorida RTO.

For these reasons, we grant the Joint Motion in part with respect to expediting the decision on GridFlorida and deny the Joint Motion with respect to establishing a separate generic docket to determine the prudence of the formation of and participation in the GridFlorida RTO. Each utility (FPC, FP&L, and TECO) shall, no later than June 28, 2001, file in the existing docket, a separate petition, specifically requesting such affirmative relief with respect to its participation in GridFlorida as it believes appropriate. No later than July 30, 2001, each utility shall file direct testimony and exhibits in support of its petition. The Commission will make a decision on each petition within 90 days of the filing of the utility's direct testimony and exhibits.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Motion to Establish a Separate Generic Docket to Determine, on an Expedited Basis, the Prudence of the Formation of and the Participation by FPC, FP&L, and TECO in GridFlorida is granted in part and denied in part, as set forth in this Order. It is further

ORDERED that each utility (FPC, FP&L, and TECO) shall, no later than June 28, 2001, file a separate petition, specifically requesting such affirmative relief with respect its participation in GridFlorida as it believes appropriate. No later than July 30, 2001, each utility shall file direct testimony and exhibits in support of its petition. The Commission will make a decision on each petition within 90 days of the filing of the utility's direct testimony and exhibits. It is further

ORDERED that these dockets shall remain open.

ORDER NO. PSC-01-1372-PCO-EI
DOCKETS NOS. 001148-EI, 010577-EI, 000824-EI
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By ORDER of the Florida Public Service Commission this 27th
day of June, 2001.

/s/ Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

DDH

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1)

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reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

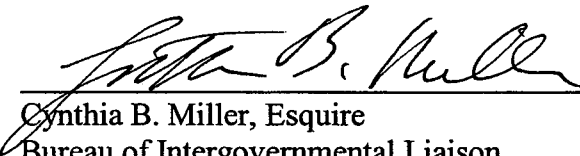
**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Florida Power & Light Company)
Tampa Electric Company)
_____)

Docket No. ER01-2205-000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of the Florida Public Service Commission is being sent today by U.S. Mail to all parties on the attached service list.



Cynthia B. Miller, Esquire
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FLORIDA PUBLIC SERVICE COMMISSION
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DATED: June 28, 2001

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