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Public Service Commission

February 25, 2002

VIA AIRBORNE EXPRESS

Honorable Pat Wood, III
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: Docket Nos. RT01-67-000, RT01-67-001, RT01-67-002, RT01-74-003, RT01-74-004, RT01-74-005, RT01-75-000, RT01-75-001, RT01-77-002, and RT01-100-000

Dear Chairman Wood:

The Florida Public Service Commission (FPSC) appreciates your request for input from the State Commissions regarding Regional Transmission Organizations (RTOs). The FPSC is committed to the development and implementation of an RTO to the extent that it will increase the efficiency of transmission planning and operations to the benefit of Florida's electric ratepayers and facilitate increased competition in Florida's energy markets for Florida. While we have determined that, for now, a peninsular Florida RTO is in the public interest, we are not precluding future consideration of a larger multi-state RTO.

In our final Order addressing formation of an RTO for Florida, we have determined:

As a policy matter, we support the formation of an RTO to facilitate the development of a competitive wholesale energy market in Florida. In the long-term, the efficiencies and benefits identified through our evidentiary hearing should put a downward pressure on transmission and wholesale generation rates, and, in turn, on retail rates. Accordingly, our decision in this Order is supportive of FERC's clear policy favoring RTO development. Given our responsibilities to regulate retail aspects of transmission, FERC's responsibilities to regulate wholesale aspects of transmission, and GridFlorida's effects on both, we believe that our decision contributes to the collaborative process necessary to ensure development of an RTO that satisfies both Federal and State policy concerns. We intend to work cooperatively with both FERC and the GridFlorida Companies toward this end.

We endorse the renewed efforts by the FERC to work in collaboration with State Commissions. It is important to recognize that State Commissions are not stakeholders, in the

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traditional sense, but are empowered through state and federal legislation, as is the FERC, to provide regulatory oversight to protect public interest. We look forward to partnering with the FERC to pursue our shared objectives.

One area where a collaborative approach between the FERC and State Commissions would be very effective is that of market monitoring. The FPSC and the FERC should work together to define market power, to develop measures of market power, and to identify instances of market abuse. Further, a collaborative effort should be used to develop appropriate remedies to address different degrees and types of market abuse. We believe this would be especially efficient where there is a single-state RTO such as GridFlorida. The FPSC has recently implemented an internal reorganization of staff and has created an Office of Market Monitoring and Strategic Analysis that is poised to serve in such a collaborative capacity. In addition, our Office of Federal and Legislative Liaison will continue to prepare our Federal filings and will be more active in interfacing with the FERC staff. A steering committee of FERC and State staff could be helpful in focusing market concerns requiring action by our respective agencies.

In the instant RTO proceedings, we have an ideal opportunity for this type of collaborative effort. Both the FPSC and the FERC must ensure that GridFlorida is structured and will operate in a manner consistent with the public interest and consistent with the national policy goal of establishing a competitive wholesale electric market. We believe collaboration in reaching this mutual objective is precisely what the authors of the Federal Power Act envisioned.

Another approach for facilitating State Commission input relates to participation in FERC hearings. Formal proceedings before the FERC Administrative Law Judges (ALJs) may take weeks or months. State Commission budgets cannot afford to send legal and technical staff to Washington, D.C. for lengthy periods of time. The cost of travel, lodging, and loss of staff time devoted to matters at the state level are too demanding. One option would be for the FERC to require that the ALJ set aside a day or two of a hearing for State Commission issues. State Commissions are not regular "stakeholders" or mere interested parties in FERC proceedings. States have statutory authority and requirements that must be implemented. Thus, it is inappropriate to treat State Commissions in the same manner as other parties. One way to resolve this would be to establish a set-aside date for State Commission participation in evidentiary proceedings. The adoption of this proposal would not have any affect on the interest of any other party to a proceeding; it is purely a matter of procedural scheduling.

Finally, views of State Commissioners could be conveyed to FERC more directly if discussions with FERC Commissioners were not considered prohibited *ex parte* communications. As previously stated, we believe that in the case of FERC proceedings, State Commissioners are not traditional parties or mere stakeholders. Rather, State Commissioners should be considered collegiate partners with the FERC due to the many objectives we have in common.

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A FERC-State Memorandum of Understanding (MOU) could be used to codify agreed upon working relationships. In Florida, coordination among state agencies is critical. We have found that a MOU helps to clarify agencies' roles and facilitates more effective coordination.

Thank you again for the opportunity to share these thoughts with you. Enclosed are our answers to your specific questions. Please do not hesitate to call if we may provide additional assistance.

Sincerely,

Lila A. Jaber
Chairman

LAJ:CBM:tf
Attachment

cc: Commissioner Linda K. Breathitt
Commissioner Nora M. Brownell
Commissioner William L. Massey
Charles D. Gray, NARUC

1. What RTO structure - a single RTO, multiple RTOs with seams agreements, or other - would most efficiently administer the transmission system and facilitate wholesale electric power sales to meet the needs of the Southeast?

On December 20, 2001, the Florida Public Service Commission (FPSC) issued Order No. PSC-01-2489-FOF-EI finding that Florida Power Corporation (FPC), Florida Power & Light Company (FPL), and Tampa Electric Company (TECO) (collectively, the GridFlorida Companies) were prudent in proactively forming a Peninsular Florida RTO. The FPSC further found that certain aspects of the proposed RTO, known as GridFlorida, were not in the best interest of Florida's retail ratepayers at this time, most particularly the transfer of ownership of transmission assets to GridFlorida. In addition, the FPSC determined that GridFlorida should be structured as an independent system operator (ISO). The GridFlorida Companies were directed to modify the GridFlorida proposal consistent with the terms of the FPSC Order and file a modified proposal with the FPSC within 90 days. Upon receipt of that filing, the FPSC will expeditiously provide a forum for finalization and approval of GridFlorida.

As a policy matter, the FPSC supports the formation of a single-state RTO to facilitate the development of a competitive wholesale energy market in Florida. It is the FPSC's belief that a single-state RTO, such as GridFlorida, will provide the necessary mechanism to enhance this market development.

2. If you think more than one RTO is appropriate in the Southeast, (a) how should market interface and reliability issues at the seams be resolved and (b) what should be the scope of the RTO that would include the electric utilities in your state?

The FPSC believes that a Peninsular Florida RTO is more appropriate for Florida's utilities and ratepayers than a larger, regional RTO at this time. The benefits of a regional RTO are not clear, and the possibility that a regional RTO would not adequately recognize and incorporate the unique characteristics of Florida in planning and operating decisions warrants concern. Florida's peninsular geography has motivated its electric utilities to be highly interconnected with each other because the region is considered an "ending point" of the nation's electric transmission grid. Because of Florida's relative isolation from national trading hubs, its electric utilities have a history of cooperation through the Florida Reliability Coordinating Council (FRCC) to coordinate transmission and maintain reliability. This cooperation is critical because the generation necessary to meet Florida's growing demand must be: (1) built within the state; (2) interconnected to the existing transmission network; and, (3) delivered in a reliable manner on the state's internal electric transmission grid. To date, interties with the rest of the nation are relatively few, and Peninsular Florida can only import, at a maximum, less than 10 percent of its total peak demand over the high-voltage transmission system. While Florida will continue to be mindful of opportunities to enhance the capacity and utilization of Florida's transmission interface with the rest of the nation, current demographic and economic conditions point to Peninsular Florida as being a natural market region.

The FPSC believes that the GridFlorida Companies would be prudent to evaluate participation in a larger Southeast regional RTO, and the FPSC has encouraged the GridFlorida Companies to continue participation in discussions concerning a Southeast regional RTO. The FPSC does not wish to foreclose the option of participation in a Southeast regional RTO by Florida's utilities.

3. Order No. 2000 permits hybrid RTO organizations.

- a) **If the functions specified in Order No. 2000 are shared or coordinated between an ISO and an independent transmission company (ITC), how would you suggest that those functions be apportioned? For example, which organization should perform planning and expansion, tariff administration, OASIS administration, market monitoring, security coordination, and interregional coordination? What role do you believe an ITC could or should play in the Southeast?**
- b) **If an ITC is appropriate for your region, is it necessary for an umbrella independent board to have ultimate responsibility for RTO functions?**
- c) **Does an ITC need to provide RTO functions to be a viable business, or can it own and invest in transmission with agreements on revenue requirements with the ISO or RTO umbrella organizations?**

Florida is not proposing to have a split-function RTO. In Order No. PSC-01-2489-FOF-EI, issued December 20, 2001, the Florida Public Service Commission (FPSC) found the proactive formation of GridFlorida prudent, and required the filing of a modified GridFlorida proposal within 90 days. In response to FERC Order No. 2000 Florida Power and Light Company (FPL), Florida Power Corporation (FPC), and Tampa Electric Company (TECO) developed a Peninsular Florida RTO proposal known as GridFlorida. The FPSC found that the companies were prudent in proactively forming GridFlorida. Certain aspects of the companies' proposal, however, were found to be not in the best interests of Florida's retail ratepayers at this time. These included the transfer of ownership of transmission assets to GridFlorida by FPL and TECO.

The FPSC believes that the benefits associated with the transco structure of GridFlorida can be achieved under an ISO structure in which participants would continue to own transmission assets while the RTO would have operational control over those assets. This more cautious, transitional approach was found to be more prudent for Peninsular Florida due to a number of uncertainties. At present, competition in the wholesale market is limited to incumbent generation providers, and to a limited class of independent power producers willing to risk building peaking units which are exempt from the Florida Electrical Power Plant Siting Act in the hope that a Florida competitive wholesale market will develop. In addition, there is uncertainty concerning whether Florida's utilities will be compelled to participate in a larger, regional RTO. The FPSC found that while a Peninsular Florida RTO is prudent at this time, it also recognized that a regional RTO may ultimately prove to be the most prudent.

Functions of GridFlorida to be reviewed in upcoming filings in response to FPSC order on GridFlorida:

Governance

GridFlorida, as proposed, would be governed by an independent board of directors, with none of the board members having any connections to any of the member companies or any other market participation. An advisory committee of stakeholders would also be formed which would make presentations to the board, prepare recommendations and reports to the board and senior management of the RTO, meet and confer with the senior management of the RTO, and have access to information concerning the operation of the RTO.

Short-Term Reliability

GridFlorida would assume the responsibility of Security Coordinator for Peninsular Florida in order to ensure short-term reliability of the transmission grid. The execution of these responsibilities would be subject to reliability standards set by the Florida Electric Reliability Coordinating Council, and the FPSC's statutory jurisdiction.

Balanced Schedules

In approving GridFlorida, the FPSC ordered that, in order to transition to a more competitive generation market, the RTO should start with balanced schedules as a foundation. The FPSC also ordered that as experience is gained and market participation increases, the RTO can evolve to un-balanced schedules, with prior FPSC approval, in order to ensure retail ratepayers are not adversely affected.

Balancing Energy Market

The FPSC ordered that the modified GridFlorida proposal shall utilize a "get what you bid" approach to congestion management. This method is preferable until the GridFlorida companies can demonstrate that sufficient participants exist and that localized market power has been adequately addressed.

Ancillary Services

Each Control Area may self-provide, with GridFlorida the provider of last resort for regulation, operating reserves, and balancing.

OASIS Administration

GridFlorida is to develop a single OASIS and independently calculate Total Transmission Capacity and Available Transmission Capacity at individual utility interfaces based on common data and methods of calculation.

Market Monitoring

A Market Monitoring Corporation is to be established as a separate non-profit board to monitor transmission-related rules of the road.

Planning and Expansion

GridFlorida is responsible for planning and directing necessary transmission expansions and upgrades, including substation interconnection points.

- 4. Order No. 2000 recognizes that wholesale electricity markets are becoming increasingly regional in nature and that new trading patterns are putting additional stress on the interstate transmission system. However, many of the functions that RTOs will be called upon to perform clearly have both regional and local implications (e.g., planning and expansion decisions which ultimately require the siting approval of one or more states). Do you have suggestions regarding how states can work with one another, with the RTO, and with the FERC to ensure that needed transmission infrastructure is sited and built in a timely manner? With regard to other RTO functions, are additional processes needed to ensure that states have the ability to fulfill their regulatory responsibilities or to adequately protect retail electricity customers?**

GridFlorida will be an electric utility subject to the FPSC's jurisdiction through a number of existing statutory processes. These include the Grid Bill which provides the FPSC jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida. The FPSC annually reviews utility Ten-Year Site Plans which include projections of load and resources needed to maintain and enhance reliability. Power plant siting statutes require the FPSC to determine the need for power and whether a proposed power plant is the most cost-effective alternative. The FPSC also reviews how the proposed power plant would be integrated into the grid. Transmission line siting statutes and rules require the FPSC to review the need for lines 230 kV and above. The FPSC has extensive experience in working with other states, Congress, and the federal government, including FERC, on issues of mutual interest. The FPSC routinely participates in cooperative efforts with institutions such as NARUC, SEARUC, FRCC and SERC.

- 5. What process do you believe would be the most efficient for obtaining the input of state commissioners in the Southeast on the issue of RTO formation?**

The FERC's recent efforts to obtain more input from State Commissions should be continued. There should be a collaborative/consultative approach to issues of mutual concern to the FERC and the State Commissions. The FPSC believes a FERC-State collaborative process would facilitate resolution of numerous jurisdictional issues. Local oversight and coordination of the affected jurisdictions is a way to assure that RTOs operate to further the national policy goal of developing a fully competitive wholesale market for electricity. The FPSC recognizes that FERC has limited resources to fully monitor nationwide the developments of RTOs. The State Commissions generally have the resources, the expertise, and the statutory responsibility to serve in this way.

For example, a consultative approach between the FERC and State Commissions on the issues of market monitoring would be very effective. FPSC staff could work with FERC staff to define market power, to develop measures of market power, and to identify instances of market abuse. Further, the FERC and State Commission staffs could develop proposed remedies to address different degrees and types of market abuse. We believe this would be especially efficient where

there is a single-state RTO. The Florida Public Service Commission has recently implemented a reorganization and created an Office of Market Monitoring and Strategic Analysis that is poised to serve in such a consultative capacity. In addition, our Office of Federal and Legislative Liaison will continue to prepare our Federal filings and will be more active in interfacing with FERC staff. A steering committee of FERC and State staff could address market concerns. Then, the staffs could present the recommendations to the respective State and Federal regulators for approval.

Another approach that could enhance cooperation between the FERC and State Commissions is a FERC-State Memorandum of Understanding. In Florida, coordination among state agencies is critical. We have found that a Memorandum of Understanding helps facilitate clarification of agencies' roles and coordination.

In the RTO proceedings, we have an ideal opportunity for this type of collaborative effort. The FPSC is interested in undertaking such an effort to assure that GridFlorida is regulated in the public interest, consistent with the national policy goal of establishing a competitive wholesale electric market. This is precisely what the authors of the Federal Power Act envisioned.

Finally, input from State Commissioners could be conveyed more directly if discussions with FERC Commissioners were not considered prohibited ex parte communications. We believe that in the case of FERC proceedings, State Commissioners are not traditional parties or merely stakeholders. Rather, State Commissioners should be considered partners with FERC due to the many objectives we have in common.

6. Please provide your ideas on ways in which state commissions can have input on RTO decisions.

As discussed in response to question four, GridFlorida will be an electric utility subject to FPSC jurisdiction per authority granted by Florida Statutes. The FPSC has, and will continue to encourage collaboration among the parties in the development of the RTO. These efforts, however, do not abrogate the FPSC of its statutory responsibilities to ensure reliable utility service at a reasonable cost. Regarding development of GridFlorida, the FPSC will review utility filings, in response to the order approving the formation of GridFlorida, which will address the structure of the RTO. The FPSC will have oversight over the RTO, specifically with regard to planning and expansion.

State Commissions hold evidentiary proceedings that provide valuable information. The FPSC has recently sent our GridFlorida Order to the FERC and will continue to provide the results of our proceedings on the RTO. The detailed information and evidence from a State Commission proceeding may be useful to the FERC for related Federal RTO decisions.

7. What actions -- either procedural or substantive -- do you believe the Commission could take to encourage the participation of public power entities in RTO formation in the Southeast?

No Comment.

- 8. With regard to the two models proposed in the Commission’s mediation hearings, the Collaborative Governance Model (CGM) and Independent System Administrator (ISA) model, which features of each model do you support or not support? In what way might your interests and objectives be preserved under each model?**

Much of the governance structure contained in the GridFlorida proposal submitted for FPSC approval were reflected in the CGM model. It is uncertain how the FPSC’s order stating a preference for an ISO structure will impact the governance provisions. In its order, the FPSC agreed with the GridFlorida proposal to establish an independent board of directors, and the formation of a stakeholder advisory committee.

- 9. Do you think the Collaborative Governance Model or “transco at the top” RTO structure could favor transmission solutions relative to generation or demand-side solutions to congestion on the grid, and could favor investment in transco-owned facilities relative to transmission operated but not owned?**

The FPSC has stated a preference for an ISO structure for GridFlorida, and believes it is important that, in the absence of competitive pressures or profit motive, performance measures and incentives should be developed for the RTO, regardless of structure.

- 10. Do you think that under the ISA model transmission owners’ preservation of some control over RTO functions through the System Administrator selection and removal process would affect independence?**

The FPSC has focused on the development and structure of the GridFlorida proposal. Uncertainty exists as to the applicability of this issue to the GridFlorida RTO.

- 11. Do you have any other suggestions or advice as to how the FERC should proceed in its efforts to complete RTO formation in the Southeast?**

The FERC should proceed cautiously in its efforts to complete RTO formation in the Southeast and should not make any major decisions with regard to RTO formation without first seeking input from State Commissions in affected areas. The FERC should recognize that Florida’s unique geographic conditions make it relatively isolated from national trading hubs and hence, more of a natural market region than most areas of the nation. Florida should not be forced to join a larger Southeastern RTO when the benefits of doing so have not been clearly demonstrated. The FERC should continue to actively seek and consider input from affected states with regard to RTO formation.

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

GridFlorida, LLC) Dockets No. RT01-67-000; RT01-67-001;) RT01-67-002)
Carolina Power & Light Company) Dockets No. RT01-74-003; RT01-74-004;) RT01-74-005)
Entergy Services Inc.) Dockets No. RT01-75-000; RT01-75-001)
Southern Companies Services, Inc.) Docket No. RT01-77-002)
Regional Transmission Organizations) Docket No. RT01-100-000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing letter from the Chairman of the Florida Public Service Commission will be sent today by U.S. Mail to all parties on the attached service list.

Cynthia B. Miller, Esquire
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DATED: February 25, 2002

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