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VIA HAND DELIVERY

Blanca S. Bayo
 Director, Division of Commission Clerk and
 Administrative Services
 Florida Public Service Commission
 4075 Esplanade Way
 Room 110 Betty Easley Conference Center
 Tallahassee, Florida 32399

Re: Review of GridFlorida Regional Transmission Organization (RTO) Proposal.
 Docket No.: 020233-EI

Dear Ms. Bayo :

Please find enclosed for filing in the above-referenced docket the original and 15 copies of the following documents:

1. Petition to Intervene of the Seminole Member Systems **04994 MAY-8PM**
2. Seminole Member Systems' Request for Authorization of a Qualified Representative **04995 MAY-8PM**
3. Comments of Seminole Member Cooperatives Regarding GridFlorida Compliance Filing **04996 MAY-8PM**
4. Seminole Electric Cooperative, Inc.'s Request for Authorization of a Qualified Representative **04997 MAY-8PM**
5. Comments of Seminole Electric Cooperative, Inc. Regarding GridFlorida Compliance Filing. **04998 MAY-8PM**

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Blanca S. Bayo
May 8, 2002
Page 2

Please stamp the duplicate copy of this letter to acknowledge receipt of the attached.

Thank you for your assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'TJMA', with a long horizontal line extending to the right.

Thomas J. Maida

TJMA/lam
Enclosures

cc: All Parties of Record in Docket 020233-EI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of GridFlorida)
Regional Transmission) Docket No. 020233-EI
Organization (RTO) Proposal)

**COMMENTS OF SEMINOLE MEMBER COOPERATIVES
REGARDING GRIDFLORIDA COMPLIANCE FILING**

Pursuant to the "Order Establishing Procedure" issued by the Florida Public Service Commission ("FPSC" or "Commission") in this docket on April 3, 2002, the Seminole Member Cooperatives,^{1/} which have intervened separately in this proceeding, submit these comments for consideration by the Commission regarding the March 20, 2002 compliance filing by the GridFlorida Applicants.

Perspective

The first point to be made is that the Seminole Member Cooperatives bring a different perspective to this proceeding. We are not primarily transmission or generation owners, each of which groups has motivations that are entirely understandable but not necessarily consistent with what should be the FPSC's ultimate goal in this proceeding, namely the welfare of the retail electric consumer. The Seminole Member Cooperatives are distribution systems that are owned by their over 700,000 consumer-members, who use in excess of 12 billion kWh per year, and

^{1/} The Seminole Member Cooperatives are Central Florida Electric Cooperative, Inc., Clay Electric Cooperative, Inc., Glades Electric Cooperative, Inc., Lee County Electric Cooperative, Inc., Peace River Electric Cooperative, Inc., Sumter Electric Cooperative, Inc., Suwannee Valley Electric Cooperative, Inc., Talquin Electric Cooperative, Inc., Tri-County Electric Cooperative, Inc., and Withlacoochee River Electric Cooperative, Inc.

hence our sole interest in this proceeding is that the outcome be one that ensures a reliable power supply at a reasonable price for those consumers. If an RTO does not improve the lot of the retail consumer, then it should not happen. Our conclusion is that an RTO, *if* properly constructed, will benefit the retail consumer in the state and hence bring value to electric operations in the state. The purpose of these comments is to provide what we believe will be helpful input to the FPSC in achieving a common goal.

Background

The Seminole Member Cooperatives do not come to this exercise without relevant experience in addition to that gained from serving our retail consumer-owners. We have participated in the extended collaborative process which led to the GridFlorida filing at the FERC in Docket No. RT01-67; we have filed extensive comments with the FERC on the GridFlorida proposal; we participated in the mediation proceeding for the Southeast conducted by the FERC; we are represented by one of our members on the GridFlorida Advisory Committee; and we have participated in the limited stakeholder process that preceded the March 20, 2002 compliance filing in this proceeding. We understand the issues and the objectives of the different participant classes.

Governance

This Commission's December 20, 2001 Order has resulted in the filing of a non-profit ISO. We support that outcome. The Seminole Member Cooperatives believe that a for-profit transco could well have resulted in unhealthy conflicts of interest between the RTO, which would have a vested interest in maximizing income from its transmission asset base, and the other stakeholders in the process. We have suffered for years at the hands of for-profit

transmission owners, and we welcome the end of that era. The FPSC will have to be vigilant to ensure that true independence is the watchword of GridFlorida and that real control of the transmission assets is turned over to the RTO. This Commission has taken an important first step in that process. A not-for-profit RTO should share the same goals as the FPSC and the Seminole Member Cooperatives, namely low-priced and reliable service to the ultimate consumer.

Reliability

One area in which the Seminole Member Cooperatives have suffered over the years from being served at wholesale by investor-owned utilities is that these utilities were incented to discriminate against the Seminole Member Cooperatives in order to gain a competitive advantage. The most obvious area in which such discrimination has occurred is service reliability. The transmission service to our systems is substantially inferior to that provided to the investor-owned utilities' own retail load. We have chronicled the facts supporting this conclusion in testimony filed with the FERC. This situation must end.

The Seminole Member Cooperatives attempted to resolve this very serious problem in the FERC collaborative process, but the outcome was a major disappointment. The GridFlorida applicants filed with the FERC an Operating Protocol that perpetuated the preferential service reliability that they have historically enjoyed. And the FERC did not care to get involved in a meaningful fashion in what it may have perceived to be a predominantly local issue. We urge this Commission to exercise its legislative authority to address this issue, which the GridFlorida

applicants themselves argued was within this Commission's purview,^{2/} so that *all* retail customers in the state enjoy comparably reliable transmission service. The specifics of the problem and what needs to be done to achieve this important objective are set forth in the attachment to this pleading.

Transmission pricing

Another area in which the Seminole Member Cooperatives have experienced detrimental discrimination is in the area of transmission pricing. One of the goals of an RTO is to eliminate pancaking so that a truly competitive wholesale generation market exists, which in turn should be the source of real savings to retail consumers in the state. But the GridFlorida applicants want to perpetuate for five years the discriminatory pricing under which the Seminole Electric Cooperatives, as transmission dependent utilities ("TDUs"), contribute our load ratio share of the transmission costs of the IOUs *and* in addition pay for the entire costs of comparable transmission to get power from their grid to our delivery points. Such pancaked rates mean that our retail consumers are treated unfairly vis-a-vis the retail consumers served by the IOUs. There never was a rational basis for such unduly discriminatory treatment, and it must end immediately, not over an extended period. The transmission facilities owned by the Seminole Member Cooperatives, and by their full requirements supplier, Seminole Electric Cooperative, Inc., are every bit as much of the integrated Florida grid as the facilities of comparable voltage (*i.e.*, 230 and 69 kV) owned by the IOUs. The Seminole Member Cooperatives trust that this Commission's sense of fairness will dictate its support for the elimination now of this patent

^{2/} See GridFlorida Applicants' February 16, 2001 Answer in Docket No. RT01-67 at 50.

discrimination against retail consumers not served by the GridFlorida applicants.

Market design and market power

As this Commission has recognized in its December 20, 2001 Order, there is unquestioned market power in the hands of the GridFlorida applicants. That fact alone makes the imposition of truly competitive markets an impossibility. Thus, it is important to have in place *before* any such markets are instituted the appropriate structural mechanisms and market monitoring procedures. The Seminole Member Cooperatives believe that the Commission has made a good start on the former issue in its December 20, 2001 Order, and support the Commission in its continued vigilance to make sure that markets are only permitted to function in a fashion that protects the ultimate consumers from the exercise of market power. Hopefully, this Commission, in addition to overseeing the structural reforms necessary to protect against market power abuses, will also play a proactive role in the market monitoring process. The benefits that justify the implementation of RTOs in this country will come from lower generation costs that result from open access, non-discriminatory transmission and markets that function to produce truly competitive outcomes. The number one enemy of competitive outcomes is the existence (and use) of market power. Unquestioned market power exists in Florida, and thus preventing its use must be a primary goal of this Commission.

Planning

Another key area requiring FPSC attention is regional planning. The Planning Protocol submitted to the FERC as part of the GridFlorida filing and to this Commission in the prudence phase of this case was the result of an extended collaborative effort. That Planning Protocol delegated real authority and control of the regional planning process to the RTO. The

GridFlorida applicants now want to turn back the clock. The revised Planning Protocol submitted on March 20, 2002, once again puts the transmission owners in the planning driver's seat.

The GridFlorida applicants contend that this attempted coup is dictated by the change from a transco to an ISO. That argument is disingenuous in the extreme. There is nothing about an ISO that makes it less competent to handle regional planning than a transco. In fact, the reverse is true. An ISO will not benefit financially from enhanced transmission rate base, whereas a transco would have, and thus an ISO has no financial incentive to favor a transmission solution over the viable alternatives. An ISO is financially neutral and therefore is the best equipped to engage in responsible regional transmission planning. The FPSC must not permit its December 20, 2002 Order to be used as the launching pad for changes that were never intended by this Commission. This Commission did not address the Planning Protocol in its December 20 Order, and the GridFlorida applicants' attempt to use it to their own advantage as transmission owners must be thwarted.

Conclusion

The Seminole Member Cooperatives share this Commission's view that an RTO must benefit the ultimate consumer if it is to take control of the transmission in the state. An RTO may cause transmission rates to rise somewhat in the near term, but the end result, lower generation costs, which constitute the bulk of our power costs, should be well worth the trade-off. However, that will only be the case if the FPSC is vigilant not to permit the GridFlorida applicants to thwart the process envisioned by this Commission's December 20, 2001 Order. Markets can only work if the appropriate market power protections are in place; planning can

only work if the ISO is put in charge of the process; open access, non-discriminatory transmission is meaningless unless all such facilities are treated the same for both rate and reliability purposes. This Commission has it within its control to ensure proper outcomes. The Seminole Member Cooperatives urge the Commission to follow the course set in its December 20, 2001 Order and to take whatever additional steps are necessary to ensure that retail consumers - all retail consumers - in the state benefit from the creation of an RTO that meets the laudable goals set forth in the FERC's Order 2000.

Respectfully submitted,

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May 8, 2002

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Attachment

The Seminole Member Systems and Seminole Electric Cooperative presented irrefutable evidence at the FERC in Docket No. RT01-67-000 that Florida Power & Light Company (“FPL”) and Florida Power Corporation (“FPC”) have historically provided substantially inferior service to the Member Systems *vis-a-vis* the service provided to themselves.^{1/} The Member Systems’ testimony shows that in both absolute and relative terms, they are receiving delivery service from FPL and FPC that is unacceptably poor in terms of any measure of reliability that one chooses to use as the benchmark.^{2/} Despite this showing the FERC approved the inadequate and preferential reliability provisions of the GridFlorida applicants’ Operating Protocol, namely sections I.D.3 and 4 (Redline OATT Sheet Nos. 259-61). The Seminole Member Cooperatives will show below that the FERC’s acceptance in its March 28, 2001 Order in Docket No. RT01-67 of these sections of the Operating Protocol was error. In light of this Commission’s jurisdiction over such service reliability issues, it may opt to correct the FERC’s missteps, described below.

Not surprisingly, the GridFlorida applicants chose not to try to rebut the evidence presented by the Seminole Member Cooperatives but to argue its irrelevance to the RTO

^{1/} See testimony of witnesses High, Dyal, Hetherington, Brickhouse, Stallons, Wagner, and Welborn appended to the “Motion To Intervene and Protest of Seminole Member Systems” (“Member Protest”), filed in Docket No. RT01-67 on January 30, 2001. The Member Cooperatives have not been afforded an opportunity yet to file such testimony in this proceeding since the FPSC has only provided for comments and a workshop.

^{2/} *Id.*

proceeding.^{3/} Such an argument is unavailing because the first (and most significant) reliability measure set forth in the Operating Protocol is that GridFlorida will provide LSEs with transmission service that is at least as reliable as that experienced over the past three years.^{4/} Since the evidence presented by the Member Systems demonstrates conclusively that the reliability experienced over the past three years by the Member Systems is patently worse than that experienced by FPL and FPC, the relevance of this evidence to the GridFlorida applicants' proposal is self-evident.

- i. **The findings made by the FERC in accepting the GridFlorida applicants' proposal are contradicted by the unrebutted evidence of record and are without any support in the matters considered.**

The FERC's first finding in its March 28, 2001 Order (*mimeo.* at 41) on this issue is as follows:

GridFlorida's proposal requires that the level of service provided be at least equivalent to the reliability of the transmission system prior to GridFlorida assuming control. We agree that this is an appropriate standard for the formation of an RTO.

This finding by itself, if meant to stand as an independent finding that the test set forth in Section I.D.3 of the Operating Protocol is supportable in isolation, makes no sense in light of the uncontroverted evidence that this test simply ensures that the GridFlorida applicants will continue to receive the same superior service that they have historically provided themselves and that the Member Cooperatives will continue to receive the same inferior service that the

^{3/} Applicants' Answer at 44.

^{4/} OATT Attachment O, Section I.D.3, Redline Sheets 258-59.

applicants have afforded them.^{5/} Such discrimination is undue, and it is unlawful.

The March 28 Order in the ensuing paragraph recognizes that the Member Cooperatives have presented evidence that shows that the three-year benchmark test will result in preferences for the GridFlorida applicants and discrimination against the Member Cooperatives, but states in apparent justification that “the GridFlorida proposal contains a plan to address the reliability of the poorest performing points of delivery.” (*Mimeo.* at 41.) This assertion does not withstand scrutiny.

Presumably what the FPSC has reference to in the above quote is Section I.D.4 of the Operating Protocol (Redline OATT Sheets 260-61). That section provides that GridFlorida will address the problems of the points of delivery (“PODs”) that ranked in the worst 3% in terms of SAIFI and the worst 3% in terms of CAIDI. But the same section mandates that in calculating SAIFI, “the denominator shall be the sum of all customers served from all of GridFlorida’s PODs (total number of customers served by GridFlorida).” (Redline OATT Sheets 260-61.)^{6/} Thus, as demonstrated in the Member System testimony, the SAIFI test is *not*, contrary to what the FERC states in the March 28 Order, aimed at addressing “the reliability of the poorest

^{5/} See testimony of witnesses High, Dyal, Hetherington, Brickhouse, Stallons, Wagner, and Welborn, *passim*, appended to the Member Protest in FERC Docket No. RT01-67.

^{6/} In response to claims made by the GridFlorida applicants in their FERC Answer that their method of calculating SAIFI was consistent with IEEE standards, Seminole showed in its March 5, 2001 Response (at 11-12) that this claim was false. The FERC arbitrarily rejected the March 5, 2001 Member System Response (March 28 Order, *mimeo.* at 2), even though that was the *only* opportunity that the Member Cooperatives had to respond to the arguments of the applicants on the critical issue of reliability.

performing points of delivery.” (*Mimeo.* at 41.) Rather, because of the population bias built into the SAIFI calculation, it addresses those larger delivery points with lesser reliability problems, as Seminole witness Welborn demonstrated:

[I]f a delivery point serves 100,000 customers and experiences ten outages during a year, and assuming approximately 6,000,000 GridFlorida customers, the SAIFI for the delivery point would be .166 interruptions/customer. By contrast, a delivery point with 10,000 customers experiencing the same ten outages would result in a SAIFI of .0166 interruptions/customer. This would require that the smaller delivery point have 100 outages during the year – *i.e.*, to experience *ten times* worse reliability – to have a SAIFI as high as the larger delivery point in the example. This population bias, of course, can be easily corrected by substituting in the denominator the number of customers at the affected delivery point for the total GridFlorida customers. [7/]

Thus, only the CAIDI standard can be said to address the reliability of the poorest performing point of delivery, and in light of the limitation in Section I.D.4 that only the worst 3% of PODs in terms of CAIDI be addressed, clearly no real headway will be made in attacking the severest reliability problems in the State if that paltry percentage remains intact. The FERC erroneously ignored this incontrovertible fact.

The FERC in discussing the SAIFI and CAIDI tests, concluded as follows in its March 28 Order (*mimeo.* at 42):

Over time, this program will reduce any disparity that may have existed in the reliability of certain points-of-delivery. We find that the GridFlorida proposal appropriately balances the utilization of resources to maintain and improve the reliability of the transmission system both at points-of-delivery serving large and small numbers of customers.

7/ Welborn Testimony, appended to Member Protest in Docket No. RT01-67, at 11-12; emphasis in original.

This finding is patently erroneous. First, as to the statement that “[o]ver time, this program will reduce any disparity that may have existed in the reliability of certain points-of-delivery,” this ignores the fact that only the CAIDI test addresses the worst performing PODs, which means that the vast bulk of GridFlorida’s reliability budget will be spent maintaining the GridFlorida applicants’ superior reliability built into the existing system. This is obviously so because the most significant reliability dollars will go into ensuring that the already superior reliability of the applicants, based on the three-year benchmark test in Section I.D.3 of the Operating Protocol, does not decline; likewise, the dollars spent on addressing the worst 3% of PODs under the SAIFI test will benefit not those PODs with the worst reliability but those with the largest populations experiencing lesser reliability issues. This leaves only the token dollars that will be spent on the worst 3% of PODs on the basis of CAIDI to fix the serious reliability problems that have been built into the system by the GridFlorida applicants. Thus, the suggestion that “over time” this program will “reduce the disparity” that exists today, while perhaps true if literally construed and if infinity is the time reference, ignores the reality of the situation, which is that it will take an absurdly long time for the GridFlorida applicants’ proposal to have any felt impact on the numerous PODs in the State with serious reliability problems. The program set forth in the Operating Protocol was designed by the applicants to preserve their own superior reliability, not to produce parity with the Member PODs within a reasonable period of time, and the FERC’s acceptance of that program as one that will timely address the demonstrated reliability issues in the State was error as it is contradicted by the uncontroverted evidence of record.

Equally erroneous is the accompanying finding by the FERC in the March 28 Order that “the GridFlorida proposal appropriately balances the utilization of resources to maintain and improve the reliability of the transmission system both at points of delivery serving large and small numbers of customers.” (*Mimeo.* at 42.) This is glaringly false, unless by “balance[]” the FERC means that the vast bulk of the GridFlorida reliability budget will go toward maintaining the *status quo ante*, and not to addressing the serious reliability problems that are chronicled in the testimony of the Member Cooperatives. The FERC is sanctioning a one-sided program designed by the GridFlorida applicants to preserve their own superior reliability, to the competitive harm of the Member Cooperatives. The FERC’s failure to address this serious and obvious flaw in the Operating Protocol is error that should be corrected on rehearing.

ii. The FERC’s failure either to adopt the Member Cooperatives’ Proposal or to amend the applicants’ proposal was error.

The Member Cooperatives submitted for the FERC’s consideration an alternative proposal (“Member Proposal”), which is appended to Seminole witness Welborn’s testimony as Exhibit 4 in Docket No. RT01-67. The Member Proposal, which is described in detail in the Member Protest in Docket No. RT01-67 (at 34-37), requires that reliability data be calculated on a comparable basis so that the relevant information is available each month to compare reliability at PODs, at each LSE, and on a grid-wide (GridFlorida) basis; requires GridFlorida to use all of the significant reliability indices (SAIFI, SAIDI, CAIDI, and MAIFI) to determine the PODs that are receiving the most unreliable service, without any bias for population; requires GridFlorida, based on *its* analysis of the relevant reliability indices, annually to present plans for corrective

action to those PODs in the bottom 6%; and sets forth what happens if GridFlorida does not meet its commitments. The Member Proposal, in a nutshell, (i) addresses in a non-discriminatory fashion the pressing reliability problems found by GridFlorida to exist in the State without regard to the size of the system serving the customers that are experiencing the inconvenience (and in many instances financial harm) caused by the inferior service, whereas the GridFlorida applicants' proposal is fundamentally concerned with preserving their own reliability superiority over entities like the Member Cooperatives, and (ii) it does so in conservative fashion (*i.e.*, it only requires that GridFlorida address the worst 6% in terms of reliability).

The FERC, after reciting the GridFlorida applicants' assertion that "their proposal more efficiently identifies those points-of-delivery that require rededication,"^{8/} concluded summarily as follows (*mimeo.* at 42):

We agree and find that GridFlorida's proposal provides an appropriate balance for improving transmission system reliability. We further find that the alternative proposal by Seminole is less desirable and will not require its implementation

Only two points need be made. First, the finding that the GridFlorida applicants' proposal "provides an appropriate balance for improving transmission system reliability" has been shown above (and in the prior pleadings and accompanying testimony in Docket No. RT01-67) to be false, unless by balance the FERC means that the applicants have crafted a proposal that perpetuates the discriminatory and preferential practices in place prior to GridFlorida. The

^{8/} This blanket (and false) assertion was made in the GridFlorida applicants's Answer to the Member Cooperatives' Protest, which (as noted above) the Member Cooperatives were in effect precluded from answering by the FERC's rejection of all responses (March 28 Order, *mimeo.* at 2).

Member Cooperatives had assumed that the FERC would favor an approach that attempted to level the playing field, rather than one that ensured that a level playing field would likely never occur.

Second, as to the finding that “the alternative proposal by Seminole is less desirable and will not require implementation,” the FERC erroneously declined to address the specifics of the Member Cooperatives’ Proposal and discuss why a proposal that is the *only* proposal before it that addresses reliability on a non-discriminatory basis is “less desirable” than one that perpetuates favoritism by and on behalf of the historic transmission providers in the State.

In addition to sponsoring a proposal intended to correct the most glaring flaws in the GridFlorida applicants’ filing, the Member Cooperatives also indicated an alternative approach that the FERC could take if it wanted to preserve the three-year benchmark test (which so demonstrably favors the incumbent utilities) and at the same time provide some teeth for curing existing serious reliability problems. That alternative would remove from Section I.D.4 the requirement that the SAIFI test be calculated using as the denominator the total number of customers served by GridFlorida; this change would mean that the SAIFI test, like the CAIDI test, would have addressed those PODs *truly* experiencing serious reliability problems and would have meant that 6% of the PODs with the most dire reliability problems would have been addressed each year, rather than only 3%. The FERC did not comment on this proposal, much less explain why it failed to achieve the purposes that a just and reasonable, non-discriminatory and non-preferential reliability provision should strive to accomplish.

iii. The FPSC has the opportunity to rid the State of the historical reliability bias that is perpetuated in the Operating Protocol

The Seminole Member Cooperatives have long suffered severe reliability discrimination at the hands of the two major IOUs in the state. The discrepancy in the reliability of service at Cooperative transmission delivery points versus FPL or FPC delivery points is patent and without basis. Why should Florida consumers located behind distribution cooperative be expected to endure outages that are measured in hours versus the minutes of outages experienced by consumers behind FPL and FPC? There is no plausible excuse for such a reliability disparity.

Given the FERC's disinterest in fixing this problem, the only question is whether the FPSC, which presumably wants all retail consumers in the state to be provided comparably reliable service, will step up to address this issue. As far as this Commission's jurisdiction is concerned, it is noteworthy that the GridFlorida applicants themselves argued to FERC that "it is not clear whether the [reliability] issues raised by the Cooperatives are within this [Federal Energy Regulatory] Commission's purview" and that "much of the substance of the Cooperatives' claims may properly lie within the jurisdiction of the FPSC." (GridFlorida Applicants' February 16, 2001 Answer in Docket No. RT01-67 at 50.) Thus, the GridFlorida applicants are on record as stating their view that this Commission is the proper forum to address the Cooperatives' concerns.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by hand delivery (*) or U.S. Mail, on this 8th day of May, 2002, to the persons listed below:



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