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June 21, 2002

**VIA HAND DELIVERY**

Blanca S. Bayo, Director  
Division of Records and Reporting  
Betty Easley Conference Center  
4075 Esplanade Way  
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Re: Docket No.: 020233-EI

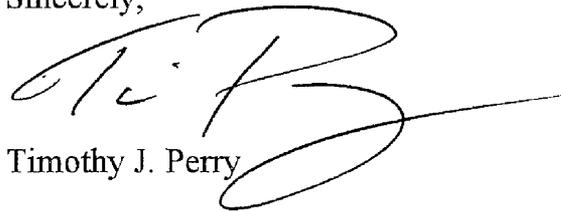
Dear Ms. Bayo:

On behalf of the Florida Industrial Power Users Group, enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Post-Workshop Comments of the Florida Industrial Power Users Group on the GridFlorida Filing.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me. Thank you for your assistance.

Sincerely,



Timothy J. Perry

TJP/bae  
Enclosure

DOCUMENT NUMBER DATE

06439 JUN 21 2002

FPSC-001 SUBMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of GridFlorida  
Regional Transmission  
Organization Proposal

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Docket No. 020233-EI  
Filed: June 21, 2002

**POST-WORKSHOP COMMENTS OF THE  
FLORIDA INDUSTRIAL POWER USERS GROUP  
ON GRIDFLORIDA FILING**

The Florida Industrial Power Users Group (FIPUG), pursuant to Order Establishing Procedure, Order No. PSC-02-0459-PCO-EI, files its comments on the GridFlorida filing made by the GridFlorida Companies on March 20 and 21, 2002, and the May 29, 2002, workshop presentations of the stakeholders.

**INTRODUCTION**

FIPUG provided its basic position in its pre-workshop comments. Prices will not benefit from competition until independent generation is able to compete fairly in the state. The comments and presentations of the "Haves" (transmission owners) and the "Have Nots" (transmission dependent utilities, merchants and retail customers) reinforce the concern that meaningful competition does not exist in Florida today and cannot exist in the future unless an independent system operator controls the transmission system and has authority to dispatch existing generation.

In their comments and workshop presentations the TDU's and Independent Merchants dissected the compliance plan filed by the three utilities which control the Florida Grid. These criticisms focused on the details of the plan that need to be revised to move toward a truly independent system. Retail customers will be the ultimate victims of a faulty plan, but presently can only standby with little direct insight into the operation of the system and no power to force changes except through the regulatory oversight of the Commission. FIPUG respectfully suggests three basic

operating principles that will help protect customers.

1. The Florida Commission should not abandon its regulatory authority over reliability. The Commission has the tools to mandate necessary construction of transmission facilities and to encourage generation supply. Without active oversight from the Commission there will be a regulatory void that neither FERC nor competition can fill. If government protection of regulated utilities allows demand to exceed supply, prices to retail customers will rise unfairly.

2. FERC has pricing authority for wholesale transactions, but the Commission can still protect consumers by disapproving imprudent transactions. A regulated utility stands in a fiduciary relationship to its customers. It is imprudent for a fiduciary to engage in self serving transactions that provide enhanced earnings to electric utility holding companies when less costly opportunities are available from independent sources.

3. The Commission should remove the cloak of secrecy from all transactions between utilities and their affiliates to expose sell low - buy high deals and other self serving business. It can identify imprudent transactions by establishing a transparent market for power exchange if such an exchange fails to develop without government intervention.

The Commission retains and should not abandon its existing authority to **ensure reliability, censure imprudence and provide sunshine** to penetrate the potential fog of self dealing under the umbrella of government protection.

#### **FIPUG'S POST-WORKSHOP RESPONSE TO STAFF DEFINED ISSUES**

1. **APPROPRIATENESS OF A NOT-FOR-PROFIT VERSUS FOR-PROFIT ISO:**

FIPUG favors a not-for-profit ISO.

2. **FLEXIBILITY OF THE RTO PLAN AND DOCUMENTS TO CHANGE OVER TIME:**

The independent system operator must retain flexibility to adjust to changing conditions,

subject to Commission oversight.

3. APPLICABILITY OF CODE OF CONDUCT TO GRIDFLORIDA:

If the ISO operates in the sunshine this will take care of itself.

4. MEETINGS OPEN TO THE PUBLIC:

Maintaining meetings open to the public is a necessity at all levels of operation.

5. PERFORMANCE INCENTIVES AND THE MECHANISM TO IMPLEMENT INCENTIVES:

Consideration of performance measures is premature until the independent ISO is in operation.

6. ROLE OF THE FLORIDA PUBLIC SERVICE COMMISSION:

To insure reliability, disapprove of imprudence and enforce sunshine.

7. CONSIDERATION OF DEMAND SIDE OPTIONS AND GENERATION ALTERNATIVES WHEN IDENTIFYING NEEDED EXPANSION AND MAINTAINING RELIABILITY:

Current conservation programs managed by utilities have created capacity shortage, increased prices and encouraged independent supply. But, government protection of regulated utilities has arrested independent supply, kept utility bills high, postponed fuel efficiency and frustrated environmental improvement. Until independent suppliers are permitted to build efficient plants there is no need to pursue further demand side management by regulated utilities, the incentives should shift to enhanced cogeneration incentives to customers.

8. AVAILABLE TRANSMISSION CAPACITY (ATC) AND THE ROLE OF PARTICIPATING OWNERS IN DETERMINING ATC:

The independent ISO should manage transmission capacity and identify constraints. If

prompt action is not taken by participating owners to alleviate constraints, the independent system operator should report the failure to the Commission which has authority under present law to mandate grid improvement.

9. USE OF PHYSICAL TRANSMISSION RIGHTS:

FMPA, Seminole and the independent merchants did an admirable job in their comments and presentations to highlight the potential dangers of the PTR model. The market model recommended by the independents appears to have promise, but it will not succeed unless there is a transparent market. All revenue to participating owners in excess of their authorized return on transmission assets should be used as a contribution in aid of transmission improvement or refunded to the appropriate customer base thereby avoiding an income tax impost on excess revenue.

10. METHOD FOR DETERMINING FLOWGATES:

The Locational Marginal Pricing Model may be superior to the Physical Transmission Rights approach, but further hearings and evidence should be received on this complex subject.

11. PRICING OF ANCILLARY SERVICES:

The pricing of ancillary services should be governed by the regulatory agency that has authority over the service. FIPUG endorses the RCID recommendation.

12. PROPOSED COST RECOVERY MECHANISM:

FIPUG supports OPC's comments on this subject.

13. INCLUSION OF TRANSMISSION DEPENDENT UTILITY (TDU) COSTS IN ZONAL RATES:

TDU's are entitled to compensation for the use of their assets, this compensation needs to be incorporated into the zonal rate to avoid pancaking.

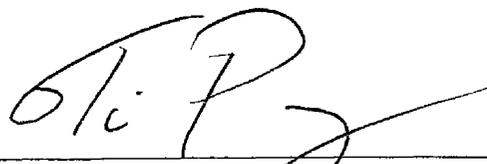
14. REVENUE SHIFTS RESULTING FROM THE DE-PANCAKING OF RATES:

For retail regulation, revenues in excess of authorized return should be used as a contribution in aid of transmission system improvement or refunded to customers.

## CONCLUSION

FIPUG supports the creation of an independent, non-profit ISO at the earliest possible date. Presently there are two regulatory watchdogs overseeing the operations of government protected utilities. The practical issues that will arise cannot be clearly identified in advance, therefore the Commission should retain as much jurisdiction as permitted by law to keep operations from falling into a regulatory abyss in which no regulatory agency can protect consumers. The creation of an ISO will enhance regulation because a technically proficient, "hands on" entity can undertake long range planning, quickly identify areas that need improvement and can seek authority from the Commission and FERC to remedy defects in the open access and current information transmission system.

The essential guidelines for consumer protection by the Commission are: 1. ensure supply reliability; 2. disapprove imprudent activities by regulated utilities that increase retail prices; 3. remove the cloak of secrecy from power trading transactions until a truly competitive wholesale power supply develops in Florida, and there is a transparent market in which buyers and sellers can trade their electric commodity.



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## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Post-Workshop Comments of the Florida Industrial Power Users Group on the GridFlorida Filing has been furnished by (\*) hand delivery and U.S. Mail to the following this 21st day of June 2002:

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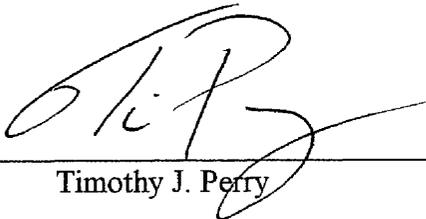
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