



Florida Power

A Progress Energy Company

ORIGINAL

ASSOCIATE GENERAL COUNSEL

JAMES A. MCGEE

June 12, 2001

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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RECORDS AND REPORTING

Re: Docket No. 000824-EI

Dear Ms. Bayó:

Enclosed for filing in the subject docket are an original and fifteen copies of Florida Power Corporation's Petition to Determine the Prudence of Formation of and Participation in GridFlorida.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in WordPerfect format. Thank you for your assistance in this matter.

Very truly yours,

James A. McGee

JAM/scc

Enclosure

cc: Parties of record

- APP _____
- CAF _____
- CMP _____
- COM 5 _____
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- ECR _____
- LEG 1 _____
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DOCUMENT NUMBER-DATE

One Progress Plaza, Suite 1500 • Post Office Box 14042 • St. Petersburg, Florida 33736-0442

Phone: 727.820.5184 • Fax: 727.820.5519 • Email: james.mcgee@pgnmail.com

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Submitted for filing:
June 12, 2001

**PETITION TO DETERMINE THE PRUDENCE OF
FORMATION OF AND PARTICIPATION IN GRIDFLORIDA LLC**

Florida Power Corporation ("Florida Power" or "the Company") hereby petitions the Commission for an order concluding that participation by Florida Power in a Regional Transmission Organization ("RTO") is the Company's most prudent course of action in light of the Federal Energy Regulatory Commission's (the "FERC") Order No. 2000. The Company further requests that this Commission find that the GridFlorida proposal, advanced jointly by Florida Power, Florida Power and Light ("FPL") and Tampa Electric Company ("Tampa Electric"), is prudent, given the parameters established by the FERC in its Order No. 2000. Pending review of this matter by the Commission, Florida Power is not in a position to move forward with the formation and commercial operation of GridFlorida LLC ("GridFlorida"). Therefore, Florida Power respectfully requests that the Commission set this matter for hearing on an expedited basis, consistent with its decision at the May 29, 2001 Agenda Conference. In support of this petition, Florida Power states as follows:

1. Petitioner, Florida Power, is a public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes. Florida Power's general offices are located at One Progress Plaza, St. Petersburg, Florida, 33701.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

2. All notices, pleadings and other communications required to be served on petitioner should be directed to:

James A. McGee, Esquire
Post Office Box 14042
St. Petersburg, FL 33733-4042
Facsimile: (727) 820-5519

For express deliveries by private courier, the address is:

One Progress Plaza
Suite 1500
St. Petersburg, FL 33701

3. As a regulated electric utility, Florida Power's reasonable and prudent costs for providing retail electric service are recoverable through rates and charges approved by this Commission. Florida Power is also a public utility subject to the jurisdiction of the FERC with respect to provision of wholesale electric service. Florida Power, in response to the provisions of Rule 28-106.201, F.A.C., states that this Petition is filed consistent with the Commission's decision at the May 29, 2001 Agenda Conference. However, at this time Tampa Electric is not aware of disputed issues of material fact. The actions of the FERC and the steps taken to develop GridFlorida as herein alleged warrant granting the relief requested, which is authorized pursuant to Sections 366.05, 366.06 and 366.076, Florida Statutes.

4. Pursuant to its authority under the Energy Policy Act of 1992, the FERC issued Order No. 2000, 65 Fed. Reg. 809, on December 20, 1999, which established a national policy that it is in the public interest for all jurisdictional public utilities that own, operate or control facilities for transmission of electric energy in interstate commerce to make certain filings with respect to the formation and participation in a RTO. Specifically the FERC directed all jurisdictional public utilities that owned,

operated or controlled interstate transmission facilities to file with the FERC by October 15, 2000 either (a) a proposal to participate in an RTO that would be operational no later than December 15, 2001, or (b) an alternative filing describing efforts to participate in an RTO, obstacles to RTO participation, and any plans and time tables for future efforts to overcome such obstacles.

5. Order No. 2000 makes it clear that the formation of RTO's is an integral part of a nationwide federal initiative:

“Our objective is for all transmission-owing entities in the Nation, including non-public utility entities, to place their transmission facilities under the control of appropriate RTOs in a timely manner.”

Order No. 2000 also makes it clear that while FERC initially is taking a voluntary approach to RTO formation, FERC may order jurisdictional entities to join an RTO if they fail to do so in accordance with Order No. 2000:

“Our adoption of a voluntary approach to RTO formation in this Final Rule does not in any way preclude the exercise of any of our authorities under the FPA to order remedies to address undue discrimination or the exercise of market power, including the remedy of requiring participation in an RTO, where supported by the record.”

* * * * *

“We conclude that the Commission possesses both general and specific authorities to advance voluntary RTO participation. We also conclude that the Commission possesses the authority to order RTO participation on a case-by-case basis, if necessary”

FERC Order No. 2000 is incorporated herein by reference.

6. On October 16, 2000, and supplemented on December 15, 2000, pursuant to §§ 203 and 205 of the Federal Power Act and FERC Order No. 2000, Florida Power, FPL and Tampa Electric (the “Joint Applicants”) submitted a joint response in compliance with Order No. 2000, requesting authorization from the FERC to

create GridFlorida LLC, a for-profit RTO. As proposed, GridFlorida would be a limited liability company and would (1) own, operate and control transmission facilities divested to it by transmission owners in exchange for a non-voting membership interest and (2) operate transmission facilities of other transmission owners that transfer operational control to GridFlorida pursuant to a Participating Owners' Management Agreement. If this proposal is implemented, Florida Power will transfer full operational control of its transmission facilities of 69 kV and above to GridFlorida while retaining ownership. FPL and Tampa Electric will transfer ownership and control of their respective transmission facilities of 69 kV and above to GridFlorida. Upon commencement of operation of GridFlorida, the Joint Applicants will obtain transmission service from GridFlorida.

7. The proposal contained in the Joint Applicant's Order No. 2000 compliance filing was not created in a vacuum. To the contrary, the proposal for the formation of GridFlorida was the product of many months of intense and detailed collaborative discussions, as required under Order No. 2000, with a wide range of market participants, including municipal utilities, rural electric cooperatives, existing and potential operators of Florida non-utility generation and FERC Staff. The FPSC was invited to, attended and participated in many of these public meetings. In addition, a number of presentations were made to the FPSC in order to keep it fully apprised of the GridFlorida proposal as it evolved.

8. On March 28, 2001, the FERC issued its Order in Docket No. RTO1-67-000 provisionally granting RTO status to GridFlorida. This FERC Order found that the October 16, 2000 compliance filing by the Joint Applicants, as modified on December 15, 2000, complied with the minimum characteristics and functions of an

RTO as described in Order No. 2000. In its March 28th Order, FERC also accepted various portions of the Joint Applicants' proposal, revised other portions of the proposal, and directed the Joint Applicants to make an additional compliance filing, reflecting ordered revisions, within sixty days of March 28, 2001.

9. On July 7, 2000, this docket was opened to review the earnings of Florida Power, including, among other issues, the impact of the Company's participation in GridFlorida. (See Staff's First Set of Interrogatories propounded to Florida Power Corporation.) Thereafter, proceedings were opened to review the impact of GridFlorida on FPL (Docket No. 001148-EI) and Tampa Electric (Docket No. 010577-EI).

10. On May 3, 2001, the Staff of this Commission filed recommendations in this docket with respect to Florida Power and in Docket No. 001148-EI with respect to FPL which directly challenged the prudence of Florida Power's and FPL's decisions to join an RTO in general, and to form and participate in GridFlorida in particular. The Staff concluded that the GridFlorida proposal was beyond the development stage and well into the implementation stage. However, this conclusion is incorrect. This Commission's determination that Florida Power's planned involvement in the GridFlorida RTO is prudent is a necessary prerequisite to Florida Power's continued participation in the formation of GridFlorida.

11. At its May 15, 2001 Agenda Conference, the Commission approved Staff's recommendations in both dockets, thereby squarely raising issues that challenge the prudence of the formation of and participation in GridFlorida. The Commission's action in these dockets has had the effect of arresting each company's

participation in GridFlorida given the possibility of future disallowance of each company's GridFlorida-related costs on grounds of imprudence.

12. On May 29, 2001, Florida Power, FPL and Tampa Electric made the compliance filing required by the FERC in its March 28th Order. In light of this Commission's decision to adopt the Staff's recommendations as they pertained to the prudence of participation in GridFlorida, Florida Power, FPL and Tampa Electric advised the FERC in their compliance filing as follows:

"Shortly before the date of this filing, the Florida Public Service Commission ("FPSC") initiated separate formal prudence investigations into the Applicants' participation in GridFlorida. The important and complex issues raised by the FPSC proceedings create uncertainty on several fronts, including the recovery of investments made by the Applicants to comply with Order No. 2000. The Applicants are concerned that they will be caught in a situation where the FPSC and this Commission will reach different conclusions as to whether the Applicants should participate in GridFlorida. Because resolution of these jurisdictional issues is critical to the continued viability of GridFlorida, the Applicants have suspended their RTO development activities until the potential jurisdictional conflicts are resolved. Furthermore, the stakeholder Board Selection Committee has decided to suspend the process whereby members of the independent Board of Directors are being selected. The Board Selection Committee determined that it would not be appropriate at this time to interview and attempt to select Board members. The uncertainty regarding GridFlorida's situation would necessarily affect the Board Selection Committee's ability to attract qualified candidates. In addition, Accenture has been contracted by GridFlorida as a Project Manager to develop the Phase I Blueprint stage. The Blueprint stage, which will be completed in the near future, involves developing a time line and a start-up and operating budget for GridFlorida. The Applicants have decided not to go forward at this time with a Project Manager for the next phase of the project, which involves designing the organization and selecting solution providers to perform the tasks identified in Phase I.

"Each of the Applicants remains prepared to implement GridFlorida, depending upon the resolution of the jurisdictional issues. The Applicants are committed to working with the FPSC and stakeholders to resolve the RTO issues as quickly as possible. However, the Applicants do not know how long it will take for the FPSC to

conclude its investigation or exactly what the impact of that proceeding ultimately will be on GridFlorida development. Once the Applicants know more, they will file a report with the Commission and, depending on how the jurisdictional conflicts are resolved, the Applicants will submit a revised implementation schedule, including a proposed date for the commencement of GridFlorida operations.”

13. Also on May 29, 2001, this Commission granted in part, and denied in part, the Joint Motion of Florida Power, FPL and Tampa Electric to establish a separate generic docket to determine on an expedited basis, the prudence of the formation of and participation by Florida Power, FPL and Tampa Electric in the GridFlorida RTO. The Commission denied the portion of the motion requesting the opening of a separate generic docket but granted the portion of the motion requesting an expedited review of the prudence of participation in GridFlorida by Florida Power, FPL and Tampa Electric. The Joint Applicants were each directed to file in their respective dockets a petition specifying the relief requested within 30 days of the Commission’s May 29th decision, and supporting testimony and exhibits within 60 days of the decision. The Commission stated that it would render its decision within 90 days following the filing of testimony and exhibits. The Commission then directed its Staff to review the petitions filed to determine how many of the issues could be consolidated for hearing on the prudence of the formation of and participation in GridFlorida.

14. Florida Power now finds itself in a potential jurisdictional dispute between two powerful governmental agencies that may have conflicting views on the formation, operation and value of a RTO. Florida Power has complied with the directives and policy determinations of the FERC in forming GridFlorida. However, the possibility of a disallowance of transmission costs has caused each of the Joint

Applicants to suspend their activities in connection with GridFlorida. It is imperative that Florida Power receive a definitive determination of prudence from this Commission before further progress can be made on the formation of the RTO.

15. It is important to identify the issues in this proceeding in order to enable the Commission to reach a decision in a timely way that gives Florida Power definitive guidance on the prudence of its participation in GridFlorida. Florida Power believes that the appropriate issues for the Commission's review of prudence are as follows:

- a. Is Florida Power's decision to participate in a RTO the most prudent alternative in light of FERC's Order No. 2000?
- b. Is the GridFlorida proposal advanced by Florida Power, FPL and Tampa Electric prudent, given the parameters established by FERC in its Order No. 2000?
- c. What are the benefits to the State of Florida associated with the GridFlorida proposal advanced by Florida Power, FPL and Tampa Electric for the formation and operation of a RTO?
- d. What are the estimated costs to Florida Power's retail customers for its participation in GridFlorida, and how should these costs be recovered?
- e. What factors support Florida Power's decision to transfer operational control of its transmission facilities of 69 kV and above to GridFlorida while retaining ownership?

16. In order to provide full and complete testimony within the expedited schedule that the Commission has approved, Florida Power requests that a Prehearing

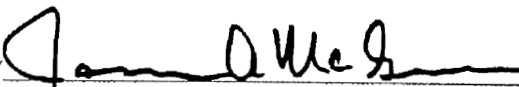
Conference be held as soon as possible so that the statement of issues in this case can be finalized.

WHEREFORE, Florida Power Corporation respectfully requests that this Commission:

1. Convene a Prehearing Conference as soon as possible to establish the issues to be addressed;
2. Establish a schedule for the completion of the requested prudence review;
3. Determine that the formation of and participation by Florida Power in GridFlorida is reasonable and prudent.
4. Provide such other relief as is herein requested.

Respectfully submitted,

FLORIDA POWER CORPORATION

By 

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Facsimile: (727) 820-5519

FLORIDA POWER CORPORATION

DOCKET No. 000824-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of Florida Power Corporation's Petition to Determine the Prudence of Formation of and Participation in GridFlorida has been furnished to the following individuals by regular U.S. Mail this 12th day of June, 2001.

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Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

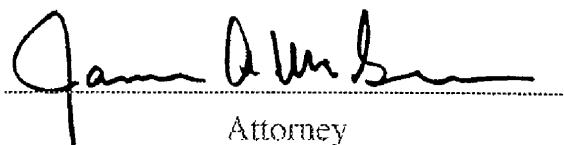
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