

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company)
and impact of its participation in GridFlorida)
LLC, a Florida transmission company, on)
TECO's retail ratepayers)
_____)

DOCKET NO. 010577 EI
Filed: June 28, 2001

Petition to Intervene of Duke Energy North America

COMES NOW Duke Energy North America, by and through its undersigned counsel and submits its Petition to Intervene in the instant proceeding pursuant to Rules 25-22.039, 28-106.201(2) and 28-106.205, Florida Administrative Code, and as grounds therefore states:

1. The name, address and telephone number of the Petitioner is:

Duke Energy North America
5400 Westheimer Court
Houston, TX 77056-5310
Telephone: (713) 627-5400
Facsimile: (713) 627-4145

2. Copies of all pleadings, notices and orders in this Docket should be provided to:

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Tallahassee, FL 32302
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3. Statement of Substantial Interests.

A. Duke Energy North America (DENA) has a substantial interest in the outcome of this proceeding. DENA develops, owns and operates independent power facilities throughout the United States, including the State of Florida. DENA's affiliate, Duke Energy Ft. Pierce, LLC, is in the final permitting phase of a 640 megawatt simple cycle power plant to be located in St. Lucie County. Therefore, DENA has a direct and substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party.

B. DENA's injury is immediate. Agrico Chemical Co. v. Dept. of Env't'l. Reg., 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied 415 So.2d 1359 (Fla. 1982). The efficient and economic delivery of DENA's electricity is completely dependent upon DENA's access to adequate and reliable transmission facilities in the State. DENA's ability to develop and operate power projects in Florida is dependent, in part, upon an independent regional transmission organization (RTO) that is properly structured. A Florida RTO will address the myriad of operational and reliability issues confronting Florida industry participants and policymakers while endeavoring to eliminate discrimination in transmission services. A properly structured, independent RTO will have the ability to improve efficiencies in transmission grid management, improve grid reliability and consequently benefit consumers through lower electricity rates resulting from a wider choice of services and service providers. For these reasons, DENA has committed to participating in the Florida RTO proceedings, the GridFlorida Transco.

In January of 2000, the Federal Energy Regulatory Commission (FERC) adopted Order No. 2000¹, requiring each public utility that owns, operates, or controls facilities for the transmission of electricity in interstate commerce to make filings with respect to forming and participating in an RTO. The purpose of Order 2000 is to promote efficiency in wholesale electricity markets and ensure that electricity consumers pay the lowest price possible for reliable service. Pursuant to Order 2000, Florida Power & Light Company (FPL), Florida Power Corporation and Tampa Electric Company (TECO) (collectively Joint Applicants) coordinated an intensive stakeholder review process commencing in the first quarter of 2000, and during the ensuing months prepared and submitted to the FERC Order 2000 compliance filings establishing the framework for a for-profit transmission company that will own and operate Florida's transmission system. Pursuant to FERC's Order On RTO Compliance Filing, issued January 10, 2001, 94 FERC ¶61,020, Joint Applicants initiated the GridFlorida Board of Directors selection process. The consultant Accenture was retained by the Joint Applicants to commence the work of the Program Manager such as creating an operating budget and transition schedules. DENA participated extensively in the informal stakeholder process convened to vet and revise the numerous drafts of the GridFlorida proposal. In addition, DENA intervened in the FERC GridFlorida proceedings and commented extensively on Joint Applicants' compliance filings. DENA is a member of the GridFlorida Advisory Committee in the generator stakeholder group. As such, DENA has been active in the evolution of GridFlorida and supports GridFlorida's independent governance structure.

¹ Regional Transmission Organizations, 65 Fed. Reg. 809 (January 6, 2000), order on rehearing, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), appeal pending sub nom. Public Utility District No. 1 of Snohomish County v. Federal Energy Regulatory Commission, Nos. 00-1174, et al. (D.C. Cir.).

However, following the Public Service Commission's (PSC) decision to initiate separate, formal prudence investigations of the Joint Applicants' participation in GridFlorida, the Joint Applicants suspended all development activities stating that the resolution of the complex issues raised by the PSC creates uncertainty and is critical to the continued viability of GridFlorida. Joint Applicants' Notice of May 17, 2001, posted on the GridFlorida website. <gridflorida@frcc.com>. The PSC's prudency review immediately and directly impacts DENA because decisions made in this proceeding (1) have already caused the suspension of GridFlorida activities, and (2) will address transmission facilities, transmission system governance, transmission system functioning and transmission facility access. These issues are of crucial importance to DENA's development activities and DENA should be granted standing to participate in the RTO-related issues in this proceeding.

C. DENA's interest is of the type that this proceeding is designed to protect. Agrico, supra. In Phase I of this docket, numerous policy, factual and possibly jurisdictional issues are likely to be the subject of inquiry. For example, during the May 29, 2001 Agenda Conference, the Commission's stated intent with respect to this docket was, in part, to assist the Governor's Energy Commission and the Florida Legislature in answering questions related to net benefits and costs of the creation of an RTO. May 29 Agenda Conf. transcripts at 28 and 67. Because they relate directly to the legal impediments to the creation of a competitive wholesale market in Florida, DENA has a substantial interest in addressing the policy questions that will be before the PSC and which will ultimately be considered by the Governor's Energy Commission and the Florida Legislature.

The PSC's Office of Policy Analysis and Intergovernmental Liaison (PAI) has also proposed important preliminary policy issues in this docket. For example, the PSC has posed the extremely relevant question: what are the expected benefits attributable to facilitation of competition in the wholesale generation market resulting from the company's participation in GridFlorida? PAI FPL/FPC Rate Case Issues submitted on May 23, 2001. Through its Florida development affiliates, DENA has expended substantial resources and effort to facilitate wholesale competition in the state. The resolution of issues relating to the wholesale generation market in Florida are of paramount interest to DENA. A regional transmission organization that is properly structured in a manner that protects users and consumers will enable the benefits of competitive electricity markets to develop in Florida and ensure that electricity consumers pay the lowest price possible for reliable service.

While DENA has actively participated in the GridFlorida informal stakeholder process as well as the ongoing, formal GridFlorida Advisory Committee process, it recognizes that the critical forum on a going-forward basis is this process integral to, and recommendations and orders arising from, the Florida Public Service Commissions' deliberations. In this forum, critical issues will be addressed such as whether the facilitation of the development of an RTO would be in the best interests of the state as a whole and whether the form and function of GridFlorida is in the best interests of customers. May 24, 2001 Staff Recommendation pgs. 3 and 5. DENA has a significant interest in the analyses and resulting decisions addressing these and other RTO-related inquiries.

In sum, DENA has a direct and substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party. It is an interest that this proceeding is uniquely designed to address and DENA's interest is of sufficient immediacy to justify DENA's participation herein.

4. Limitation on DENA's Participation.

In its Response to Reliant Energy Power Generation, Inc's Petition To Intervene, filed in Docket No. 001148-EI on June 19, 2001, FPL acquiesced to Reliant Energy's intervention on the GridFlorida issues while "reserving its rights to object to Reliant Energy's standing to participate in other issues which FPL believes do not involve Reliant Energy's substantial interests." FPL Response, pg. 2. DENA believes that FPL's position regarding Reliant Energy's intervention in the GridFlorida issues is reasonable and consents to a similar limitation on its intervention in this docket. DENA's counsel contacted counsel for TECO and is authorized to represent that TECO has no objection to DENA's intervention in this docket subject to this limitation.

5. Statement of Disputed Issues of Material Fact.

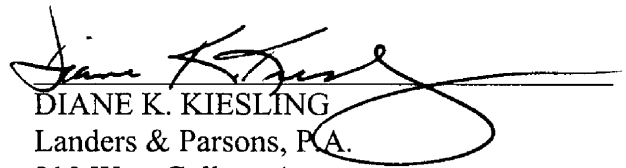
- A. What are the net benefits to customers of forming GridFlorida? (PAI's Preliminary Issue 1)
- B. What are the expected benefits attributable to the elimination of discrimination through open transmission access resulting from the company's participation in GridFlorida? (PAI's Preliminary Issue 2)
- C. What are the expected benefits attributable to economies of scale and scope resulting from the company's participation in GridFlorida? (PAI's Preliminary Issue 3)
- D. Will the establishment of GridFlorida stimulate the development of a competitive wholesale electricity market in Florida?
- E. What are the benefits to retail ratepayers of a robust, competitive wholesale power market?

F. Will the establishment of GridFlorida enhance Florida's grid reliability?

6. Ultimate Facts Alleged.

Ratepayers will benefit from a robustly competitive wholesale generation market. While legal impediments to the creation of a fully competitive wholesale market presently exist in Florida, nonetheless ultimately an RTO such as GridFlorida is needed to achieve a competitive wholesale market.

WHEREFORE, DENA respectfully requests the Florida Public Service Commission to enter an Order authorizing it to intervene with full-party status.



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CERTIFICATE OF SERVICE
DOCKET NO. 010577

I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or *Hand-delivery to the following parties on this 28th day of June, 2001.

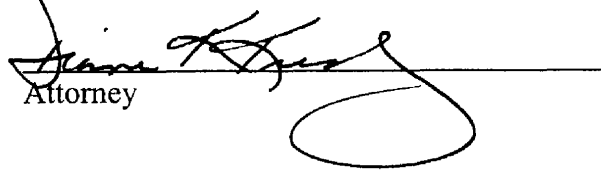
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|---|--|
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