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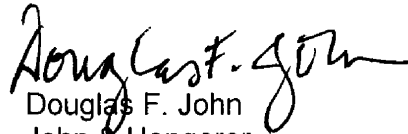
Re: ***In re: Review of GridFlorida Regional Transmission Organization (RTO)  
Proposal, Docket No. 020233-EI***

Dear Ms. Bayo:

Enclosed, please find an original and twenty (20) copies of the Post Workshop Comments of Lakeland Electric, Kissimmee Utility Authority, Gainesville Regional Utilities, and the City of Tallahassee, Florida, which is being filed in the above-captioned proceeding. Please date-stamp and return the five (5) extra copies *via* the enclosed postage pre-paid return envelope. I have also included a diskette containing an electronic form of this filing.

Thank you very much for your assistance and please do not hesitate to contact me at (202) 429-8809 if you have any questions.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of GridFlorida )  
Regional Transmission )  
Organization (RTO) Proposal )  
\_\_\_\_\_ )

Docket No. 020233-EI  
Filed: March 26, 2004

POST WORKSHOP COMMENTS OF LAKE LAND ELECTRIC,  
KISSIMMEE UTILITY AUTHORITY, GAINESVILLE REGIONAL UTILITIES,  
AND THE CITY OF TALLAHASSEE, FLORIDA

These Post Workshop Comments are filed by the City of Lakeland, Florida d/b/a Lakeland Electric (Lakeland), the City of Tallahassee, Florida (Tallahassee), Kissimmee Utility Authority (KUA), and the City of Gainesville, Florida d/b/a Gainesville Regional Utilities (GRU) -- collectively referred to herein as the Florida Municipal Group (FMG)<sup>1</sup> -- pursuant to the schedule agreed upon at the "Pricing Issues Workshop" convened on March 17 and 18, 2004, in the above-referenced proceeding.

COMMENTS

The FMG filed comments in this proceeding prior to the workshop,<sup>2</sup> and its members and counsel actively participated in discussions at the workshop. The comments below are intended to expand upon, rather than reiterate, positions previously expressed by the FMG.

ISSUE #1 - REGIONAL STATE COMMITTEE

Prior to the workshop, the FMG agreed with Applicants that the Florida Public Service Commission (FPSC) should serve as the Regional State Committee (RSC) for GridFlorida, but expressed reservations regarding the level of authority that was to be delegated to the FPSC. For example, the FMG questioned whether decision-making responsibilities could be delegated

<sup>1</sup> The FMG is an *ad hoc* advocacy group. Each member of the FMG has intervened independently in this proceeding and reserves the right to express individual views at any time.

<sup>2</sup> See Joint Response filed by FMG members in this proceeding on March 11, 2004 (FMG Pre-Workshop Response).

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to the FPSC, acting as the RSC, with regard to matters within the statutory jurisdiction of the Federal Energy Regulatory Commission (FERC).

Upon further reflection, and based on the discussion at the workshop, the FMG now feels that it is neither necessary nor prudent to establish an RSC within GridFlorida. The RSC concept, which is designed to facilitate coordination among multiple state commissions within a region, has little practical applicability in the context of a single-state Regional Transmission Organization (RTO). Similarly, the RSC model is intended to provide a vehicle for state commissions to act in an advisory capacity with regard to specific regional issues without compromising their individual state jurisdictional purviews.<sup>3</sup> By contrast, the draft proposal circulated by the Applicants would have the FPSC render decisions on virtually all GridFlorida issues, regardless of whether they fall within the FPSC's or FERC's jurisdiction. This approach raises a host of legal, jurisdictional, and practical issues. It is doubtful that such a broad delegation of authority would withstand judicial scrutiny and, even if it did, subjecting GridFlorida decisions to multiple layers of review – once by the FPSC and once by FERC – would likely be administratively unworkable.<sup>4</sup>

Although the FMG members agree that the FPSC should play a vital role in GridFlorida matters, there appears to be little practical value in creating a new RSC structure. Accordingly, the FMG members submit that, rather than creating a formal RSC to review and/or rule on all GridFlorida matters that are within the FERC's exclusive jurisdiction, a better approach would be to more precisely distinguish between (i) those GridFlorida matters that are subject to the FPSC's jurisdiction, which can then be dealt with by the FPSC under its existing regulatory structure, and

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<sup>3</sup> Thus, for example, an RSC in a multi-state region may endorse a regional transmission expansion plan developed by the RTO without obligating state regulators sitting on the RSC to approve components of that plan falling within their individual state's jurisdiction.

<sup>4</sup> It is possible, for example, that the FPSC in its role as the RSC would fully adjudicate a GridFlorida matter, render a decision, and have that decision subject to full judicial review within Florida, only to have that process rendered null by subsequent actions of FERC.

(ii) those GridFlorida matters that are not directly subject to FPSC jurisdiction, for which the FPSC can still play an advisory/facilitator role, but with respect to which the FPSC will not be the ultimate decision-making authority.

## **ISSUE #2 - JURISDICTIONAL RESPONSIBILITIES**

The FMG has the following additional comments on this issue as framed at the workshop. First, consistent with the comments in the preceding section, the decision-making table submitted by the Applicants should be modified (i) to preserve and clarify the FPSC's role with regard to matters within its jurisdiction – *e.g.*, setting of bundled retail rates for investor owned utilities participating in GridFlorida, planning responsibilities under the Grid Bill, etc., and (ii) to establish a more limited advisory role within the overall stakeholder process with regard to matters not within the FPSC's jurisdiction.

Second, participants at the workshop clarified that, in their view, the revenue requirements for nonjurisdictional utilities would be filed at FERC by GridFlorida for inclusion in the RTO's regional transmission rates. The FMG supports this understanding and would oppose any proposal that contemplates FPSC review of nonjurisdictional utility revenue requirements or rates derived therefrom. (While not submitting to FERC's jurisdiction under the Federal Power Act, FMG members would stand prepared to defend their individual utility revenue requirements before FERC as necessary to establish GridFlorida's rates.)

Third, the FMG members support comments made at the workshop suggesting that Applicants should open up their internal decision-making process to other transmission owners. It is inappropriate for one class of transmission owners to make seminal decisions on behalf of all transmission owners that may participate in GridFlorida. The justification offered by the Applicants has been that they will be responsible for making the Federal Power Act, Section 205 filing at FERC to establish an RTO in Florida and, as such, they should be the entities overseeing the process to develop that filing. This justification is no longer valid. The governance structures of most, if not all, other RTOs and Independent System Operators (ISO)

in the country have embraced equal participation by nonjurisdictional utilities even though such utilities do not have Section 205 filing rights. Moreover, it has been the practice of various other RTO developers to file a Petition for Declaratory Order at FERC prior to submitting an actual Section 205 filing.<sup>5</sup> Nonjurisdictional utilities should be invited to participate jointly in filing such a petition. Accordingly, if the decision is made to proceed with the development of GridFlorida, then the Applicants should offer other transmission owners in the state a seat at the planning table. This will require the development of a voting structure that does not overlook participation by municipal utilities or render such participation meaningless.

### **ISSUE #3 - PARTICIPANT FUNDING CONCEPT FOR GRIDFLORIDA**

In pre-workshop comments, the FMG stated that it generally supports the basic principle that those who cause and benefit from the construction of new facilities should bear the costs of such facilities, and noted that this principle may cut against the use of systemwide rates for the recovery of new facility costs. In this regard, it should be noted that no other RTO or ISO has implemented "Day 1" systemwide rates for new facilities and, in fact, many have developed pricing plans that regionalize facility cost recovery only if a regional benefit is demonstrated.<sup>6</sup>

### **ISSUE #4 - COST RECOVERY CONCEPT FOR GRIDFLORIDA**

No additional comments.

### **ISSUE #5 - CUT-OFF DATES FOR EXISTING TRANSMISSION FACILITIES AND AGREEMENTS**

In pre-workshop comments, the FMG reiterated its support for using December 15, 2000, as the cut-off date for defining "Existing Transmission Agreements," but did not state a position regarding the appropriate cut-off date for defining new facilities the costs of which are to be

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<sup>5</sup> See Petition for Declaratory Order filed jointly by the jurisdictional and nonjurisdictional SeTrans sponsors on June 27, 2002, in FERC Docket No. EL02-101-000.

<sup>6</sup> See, e.g., *New England Power Pool and ISO New England, Inc., et al.*, 105 FERC ¶ 61,300 at PP 3, 6 (2003) (approving an RTO pricing plan calling for regional cost support for facilities rated 115 kV and above, provided a facility is needed for regional reliability or produces net economic benefits to the region).

recovered in systemwide rates. As indicated at the workshop, the FMG now agrees with Staff that the cut-off date for new facilities should be January 1<sup>st</sup> of the year GridFlorida begins commercial operations. Using this date will minimize the facility costs that are socialized *via* the systemwide rate, to the extent such a rate is used. Moreover, although an earlier date may be appropriate for defining existing contracts – as parties could reasonably have relied upon the assumption that GridFlorida would be operational by a date certain when executing such contracts – the same cannot be said of intervening facility investment costs, which virtually all at the workshop agreed were incurred according to management decisions tied to the needs of individual utilities. In any event, FPSC Staff is encouraged to request a formal accounting to determine exactly what types of facilities and what level of costs will fall within the systemwide charge. Such an accounting would provide a quantitative framework for analyzing this issue further.

#### **ISSUE #6 - MITIGATION OF SHORT-TERM REVENUES CONCEPT FOR GRIDFLORIDA**

In comments submitted prior to the workshop, the FMG noted that the Applicants' proposal to provide compensation for lost wheeling revenue should be expanded to recognize that some entities are not currently receiving revenue for the wheeling services they provide in the form of unauthorized parallel path flows. To expand upon these comments, the FMG submits that, if a clear case of uncompensated parallel path use is established, a method for determining the fair value of such use should also be established, with such value then reflected in a revenue distribution or other mitigation remedy. Developing such a remedy will require more discussion, as well as more data, but there are models emerging from other RTOs and ISOs that are available as a starting point.<sup>7</sup> In addition, looking toward the next FPSC workshop, it will be important to ensure that uncompensated or under-compensated parallel path flows are not

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<sup>7</sup> For example, actual power flows (calculated using load flow analysis techniques) are taken into account when allocating revenue among transmission owners within the Midwest ISO.

perpetuated through the allocation of transmission rights for parallel flows, and that eliminating parallel flows is a stated objective of GridFlorida's transmission planning process.

**ISSUE #7 - REVIEW OF CURRENT REGULATORY / LEGISLATIVE ENVIRONMENT**

No additional comments.

**ISSUE #8 - CONTINUED REVIEW OF RTO COSTS AND BENEFITS**

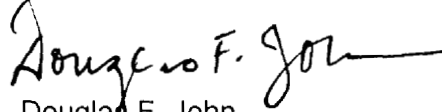
The FMG applauds the willingness of the Applicants to fund an ISO cost/benefit study. However, we would like to have a much more active role in planning the study, and in developing study philosophy and objectives – more than merely providing transmission, generating, and contract data and reviewing study assumptions, which appears to be the role the Applicants identified for us.

The FMG recommends that a Steering Committee be established, with membership comprised of stakeholders modeled after the structure of the GridFlorida Advisory Committee. This Steering Committee would work with the Applicants throughout the study scoping process, assumptions review, first output review, and preparation of the final report. Active participation in all phases of the study should enable parties to understand the methodologies that are being used, and to suggest possible improvements, thereby increasing the overall value and level of acceptance of the final report. In this way, forming a Steering Committee would lend an additional level of credibility to the study process and study results whatever they may be.

**CONCLUSION**

WHEREFORE, the FMG requests that the comments set forth above be taken into consideration by the FPSC when deciding matters at issue in this proceeding.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing letter has been furnished by U.S. Mail, this 26th day of March, 2004, to the following:

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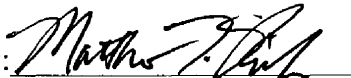
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