

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of Florida Power & Light)
Company's proposed merger with Entergy) Docket No. 001148-EI
Corporation, the formation of a Florida) Filed: June 28, 2001
transmission company ("Florida transco"),)
and their effect on FPL's retail rates.)
_____)

Petition to Intervene of Calpine Corporation

COMES NOW Calpine Corporation, on behalf of itself and its subsidiaries, 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:

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

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FPSC-RECORDS/REPORTING

3. Statement of Substantial Interests.

A. Calpine Corporation (Calpine) has a substantial interest in the outcome of this proceeding. Calpine develops, owns and operates independent power facilities throughout the United States, including the State of Florida. Calpine, through its development subsidiary, Calpine Construction Finance Company, L.P., plans to develop, own and operate two natural gas-fired combined cycle generating plants in Florida. The two plants are the Osprey Energy Center and the Blue Heron Energy Center. In addition, Calpine has identified two potential power plant sites which may be located in central and southwest Florida. The Osprey Energy Center is an approximately 529 megawatt natural gas-fired combined cycle unit to be located in the City of Auburndale in Polk County, Florida which is in the final stages of permitting. The Blue Heron Energy Center is a 1,058 megawatt natural gas-fired combined cycle generating unit to be located in Indian River County, Florida. The full output of the Osprey Energy Center is presently committed to Seminole Electric Cooperative, Inc., pursuant to a long-term power purchase agreement. Power produced from the other Calpine projects will be sold at wholesale to other utilities and power marketers for use in Peninsular Florida. In addition, Calpine owns through its subsidiaries, 100 percent of the ownership interests in the Auburndale Power Plant, a 150 megawatt natural gas and oil-fired qualifying cogeneration facility located in the City of Auburndale, Florida, immediately adjacent to the Osprey Energy Center site. Another Calpine subsidiary is developing the Auburndale Peaker Energy Center, a natural gas-fired and oil-fired, simple cycle peaking facility within the existing Auburndale Power Plant site. The Auburndale Peaker Energy Center is expected to achieve commercial in-service status in the first quarter of 2002 and its output will be sold in the wholesale market to Peninsular Florida retail-serving utilities.

As such, Calpine has a direct and substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party.

B. Calpine'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 Calpine's electricity is completely dependent upon Calpine's access to adequate and reliable transmission facilities in the State. Calpine'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, Calpine 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 (collectively

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.).

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 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. Calpine intervened in the FERC GridFlorida proceedings and commented extensively on Joint Applicants' compliance filings. For over a year, Calpine participated extensively in the informal stakeholder process convened to vet and revise the numerous drafts of the GridFlorida proposal. In addition, Calpine is one of two voting representatives on the GridFlorida Advisory Committee representing the generator stakeholder group. 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 Calpine 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 Calpine's development

activities and Calpine should be granted standing to participate in the RTO-related issues in this proceeding.

C. Calpine'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, Calpine 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. The resolution of issues relating to the facilitation of competition in the wholesale generation market in Florida are of paramount interest to Calpine. While Calpine 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. It is in

this forum that 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. Calpine has a significant interest in the analyses and resulting decisions addressing these and other RTO-related inquiries.

In sum, Calpine 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 Calpine's interest is of sufficient immediacy to justify Calpine's participation herein.

4. Limitation on Calpine's Participation.

In its Response to Reliant Energy Power Generation, Inc.'s Petition To Intervene, filed in this docket on June 19, 2001, FPL acquiesced to Reliant Energy's intervention in 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 interest." FPL Response, pg. 2. Calpine 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. Calpine's counsel contacted counsel for FPL and is authorized to represent that FPL has no objection to Calpine's intervention in this docket subject to this limitation.

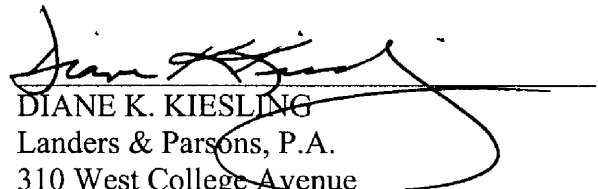
5. Statement of Disputed Issues of Material Fact.

- 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, Calpine Corporation 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. 001148-EI**

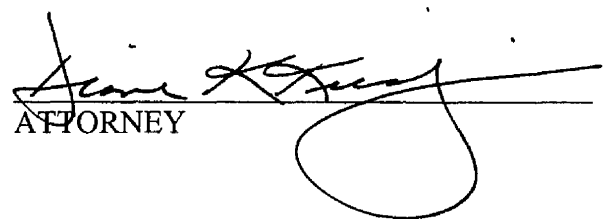
I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or *Hand-delivery to the following parties on this 28th day of June, 2001.

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