



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

In re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida transco"), and their effect on FPL's retail rates.

DOCKET NO. 001148-EI

In re: Review of Tampa Electric Company and impact of its participation in GridFlorida, a Florida Transmission Company, on TECO's retail ratepayers.

DOCKET NO. 010577-EI

Filed: September 10, 2001

**DUKE ENERGY NORTH AMERICA'S  
PREHEARING STATEMENT OF ISSUES AND POSITIONS**

Duke Energy North America ("DENA"), pursuant to the Order Establishing Procedure (Phase 1) and Granting Joint Motion to Partially Alter Dates for Filing Testimony in these dockets, Order No. PSC-01-1549-PCO-EI, issued July 26, 2001, and Uniform Rule 28-106.211, Florida Administrative Code, hereby files its Prehearing Statement of Issues and Positions.

**A. Witnesses.**

None at this time.

**B. Exhibits.**

None at this time.

**C. Statement of Basic Position.**

The Commission should issue an order approving establishment of a regional transmission organization for Florida that integrates the characteristics and performs the functions of an RTO set forth in Order No. 2000. An appropriate, independent RTO could successfully address the existing impediments to

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efficient, reliable grid operation and foster wholesale competition which will benefit Florida ratepayers in form of lower electricity rates and increased products and services.

**D. Issues of Fact.**

**Issue 1:** Is participation in a regional transmission organization (RTO) pursuant to FERC Order No. 2000 voluntary?

**DENA:** Yes. Pursuant to FERC Order 2000, participation in an RTO is voluntary. However, FERC acknowledged that it may use its regulatory authority in other areas such as market power analyses, market-based rate authority, and merger requests to mandate RTO participation. Notwithstanding voluntary participation, the filing requirements of FERC Order 2000 are mandatory. Public utilities were required to file either an RTO proposal or a report on the impediments to RTO participation. In addition, in order to qualify as an RTO, applicants were mandated to comply with the minimum characteristics and functions and other specific RTO requirements of Order 2000.

**Issue 2:** What are the benefits to Peninsular Florida associated with the utility's (FPC, FPL, or TECO) participation in GridFlorida?

**DENA:** GridFlorida will facilitate achievement of the benefits of a competitive wholesale electricity market in Peninsular Florida thus ensuring that retail ratepayers will pay the lowest price possible for reliable service. Generally, GridFlorida will improve efficiencies in transmission grid management, improve grid reliability and remove remaining opportunities for discriminatory transmission practices. Specifically, GridFlorida will enhance access to, and use of, the transmission system by eliminating rate pancaking, providing efficiencies inherent in uniform interconnection procedures, coordinating planning functions, and enhancing transmission expansion and upgrade activities.

**Issue 3:** What are the benefits to the utility's ratepayers of its participation in GridFlorida?

**DENA:** An RTO will benefit ratepayers by enhancing grid reliability, reducing generation and transmission costs, and shifting some investment risk away from ratepayers. The foundation of a viable wholesale market is the transmission system because transmission is a natural monopoly. Thus, a fair, uniform and transparent system of rules and pricing signals governing the use of grid

coupled with appropriate maintenance and planning regulations provided by an RTO is necessary to enable viable competitive wholesale transactions. In general, a competitive wholesale market will lower consumers' generation costs because of increased supply options, the risk for which is borne by the market participants and not ratepayers. Likewise, unified transmission system operation, planning and maintenance will lower transmission costs through economies of scale and the elimination of duplicative, parochial practices. The specific price suppression effects produced by a reliable, competitive wholesale electricity market and a uniform transmission system arise from the timely and coordinated expansion of the transmission grid, the creation of spot energy and ancillary services markets, the elimination of pancaked rates, increased number and type of generation resources, and the mitigation of uneconomic parallel path flow and congestion management practices.

**Issue 4:** What are the estimated costs to the utility's ratepayers of its participation in GridFlorida?

**DENA:** No position at this time.

**Issue 5:** Is TECO's/FPL's decision to transfer ownership and control of its transmission facilities of 69 kV and above to GridFlorida appropriate?

and

Is FPC's decision to transfer operational control of its transmission facilities of 69 kV and above to GridFlorida while retaining ownership appropriate?

**DENA:** Yes. TECO's/FPL's decision to transfer ownership and control of their transmission facilities to GridFlorida was an appropriate business decision. Assuming the GridFlorida governance is properly organized and independent, it is appropriate for the entity that possesses responsibility for operating and maintaining transmission facilities to also own them. Facility ownership should provide greater financial strength, incentives to innovate and focused business acumen. Likewise, FPC's decision to retain ownership but transfer operational control of its transmission assets was an appropriate business decision. An effective RTO structure should be able to accommodate different business decisions while at the same time providing the centralized, nondiscriminatory control that is the hallmark of reliable, regionally operated transmission systems.

**Issue 6:** Is the utility's decision to participate in GridFlorida prudent?

**DENA:** Yes. Based on all the information available to the utilities at the time, the decision to participate in GridFlorida was prudent. While Order 2000 is voluntary, FERC indicated a willingness to leverage its regulatory authority as evidenced by its requirement of FPC that the company participate in an RTO as part of its merger approval. As such, the utilities were forced to decide whether to create a regional transmission organization or possibly be ordered to join that of another region. The utilities' decision to take control of the RTO process on behalf of Florida ratepayers and shareholders was reasonable and prudent.

**E. Policy Issues.**

**Issue 7:** What policy position should the Commission adopt regarding the formation of GridFlorida?

**DENA:** First, the Commission should memorialize a policy position that recognizes the benefits of a robust, competitive wholesale power market for Florida. Second, the Commission should acknowledge that there remain important transmission-related impediments to a competitive wholesale electricity market such as the engineering and economic inefficiencies, and the continuing opportunities for undue discrimination in the operation of the transmission grid. Third, the Commission should seek to establish an independent grid management structure that will ensure the development of competitive wholesale generation markets. The primary contribution of an RTO should be to operate the transmission system in a fair manner that facilitates growth, equal transmission access, just and reasonable transmission rates and comparability in the emergence of competitive, wholesale power markets. If GridFlorida meets these requirements, the Commission should embrace it and approve the proposal. If GridFlorida does not meet these requirements, the Commission should establish an RTO that does.

**Issue 11:** Is a Regional Transmission Organization for the Southeast region of the United States a better alternative for Florida than the GridFlorida RTO?

**DENA:** A large southeastern RTO will ultimately be critical to the development of a vibrant, competitive wholesale electric generation market in Florida with long-term benefits of reliability, lower prices and innovative services. Centralization of

transmission functions in a larger area will lead to greater economies of scale. Larger RTO's better reflect the natural markets, can ensure truly non-discriminatory transmission service and will instill confidence in the market that will support the billions of dollars of capital investment in generation and transmission that are required. Large RTO's foster market development, increased reliability, and lower wholesale electricity prices while smaller RTO's may develop incompatible structures and systems which do not fully reflect wholesale market trading patterns. Notwithstanding the long-term advantages of a Southeastern RTO, the Commission may wish to develop an RTO in a phased approach initially utilizing a Peninsular Florida model that is compatible with and will eventually merge with a larger Southeastern RTO.

**F. Issues of Law.**

**Issue 8:** Is Commission authorization required before the utility can unbundle its retail electric service?

**DENA:** This issue is moot insofar as FPL, FPC and TECO will continue to provide bundled retail electric service to their retail customers.

**Issue 9:** Is Commission authorization required before the utility can stop providing retail transmission service?

**DENA:** This issue is moot.

**Issue 10:** Is Commission authorization required before the FPC can transfer operational control of its retail transmission assets?

and

Is Commission authorization required before FPL/TECO can sell its retail transmission assets?

**DENA:** No position at this time.

**G. Stipulated Issues.**

DENA is not aware of any stipulated issues at this time.

**H. Pending Motions.**

At this time, DENA is aware of the following pending motions and petitions:

OPC - Response in Opposition to FPC's Proposal, filed on May 21, 2001 (Docket No. 000824)

CPV Atlantic - Petition to Intervene, filed on May 25, 2001 (Docket No. 001148).

Reliant Energy Power Generation, Inc. - Petition to Intervene, filed on June 7, 2001 (Docket Nos. 010577, 001148 and 000824).

FPL - Response to CPV Atlantic's Petition to Intervene, filed on June 8, 2001 (Docket No. 001148).

OPC - Response in Opposition to (FPL's, TECO's and FPC's) Petition to Determine Prudence of Formation of and Participation in GridFlorida, LLC., filed on June 15, 2001 (Docket Nos. 010577, 001148 and 000824).

Florida Industrial Power Users Group - Petition to Intervene, filed on June 18, 2001 (Docket No. 010577).

FPL - Response to Reliant's Petition to Intervene, filed on June 20, 2001 (Docket No. 001148).

CPV Atlantic, Ltd. - Petition to Intervene, filed on June 28, 2001 (Docket Nos. 010577 and 000824).

Duke Energy North America - Petition to Intervene, filed on June 28, 2001 (Docket Nos. 010577, 001148 and 000824).

Calpine Corporation - Petition to Intervene, filed on June 28, 2001 (Docket Nos. 010577, 001148 and 000824).

FPC - Motion for Reconsideration of the Requirement in Order PSC-01-1348-PCO-EI to Hold Revenues Subject to Refund, filed on July 2, 2001 (Docket No. 000824).

FPC - Request for Oral Argument on Motion for Reconsideration of Order PSC-01-1348-PCO-EI, filed on July 2, 2001 (Docket No. 000824).

OPC - Response in Opposition to FPC's Motion for Reconsideration, filed on July 6, 2001 (Docket No. 000824).

Florida Municipal Power Agency - Petition to Intervene, filed on July 6, 2001 (Docket No. 001148 and 000824).

Mirant Americas Development, Inc. - Petition to Intervene, filed on July 9, 2001 (Docket Nos. 010577, 001148 and 000824).

Enron Corporation - Petition to Intervene, filed on July 9, 2001 (Docket Nos. 010577, 001148 and 000824).

FPC - Response to the Petition to Intervene of CPV Atlantic, Ltd., filed on July 10, 2001 (Docket No. 000824).

PG&E National Energy Group Company - Petition to Intervene, filed on July 10, 2001 (Docket Nos. 010577, 001148 and 000824).

FPL (Butler) - Response to FMPPA's Petition to Intervene, filed on July 16, 2001, (Docket No. 001148).

Dynegy Inc. - Petition to Intervene, filed on July 18, 2001 (Docket No. 001148).

FPC - Response to PG&E's Petition to Intervene, filed on July 23, 2001 (Docket No. 000824).

FPL - Response to PG&E's Petition to Intervene, filed on July 23, 2001, (Docket No. 001148).

FPL - Response to Dynegy's Renewed Petition to Intervene, filed on July 24, 2001 (Docket No. 001148).

FPC - Response to FMPPA's Petition to Intervene, filed on July 25, 2001 (Docket No. 000824).

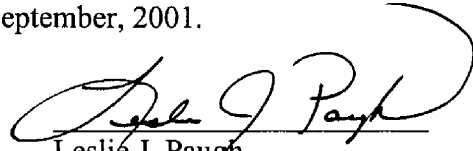
FPC - Response to Walt Disney World's Petition to Intervene, filed on July 25, 2001 (Docket No. 000824).

TECO - Motion for leave to file testimony and exhibits out of time, filed on August 16, 2001 (Docket No. 010577)

Seminole Electric Cooperative, Inc. - Petition to Intervene, filed on September 4, 2001 (Docket Nos. 010577, 001148 and 000824).



Respectfully submitted this 10<sup>th</sup> day of September, 2001.

A handwritten signature in black ink, appearing to read "Leslie J. Paugh", written over a horizontal line.

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## CERTIFICATE OF SERVICE

I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by \*Hand-delivery, facsimile transmission (\*\*) and U.S. Mail to the following parties on this 10<sup>th</sup> day of September, 2001.

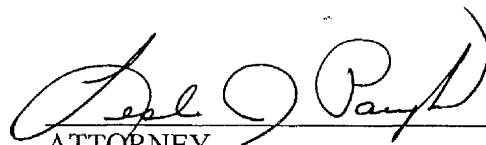
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