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September 10, 2001

## **FEDERAL EXPRESS**

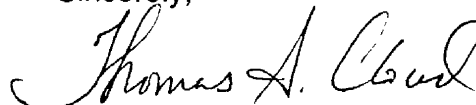
Blanca S. Bayó, Director  
Division of Records and Reporting  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0870

Re: Docket No. 001148 -EI  
Pre-Hearing Statement of Dynegy Mid-stream Services, Limited  
Partnership and Dynegy Inc.

Dear Ms. Bayó:

Enclosed please find the original and fifteen (15) copies of the Combined Pre-Hearing Statement of Dynegy Mid-stream Services, Limited Partnership and Dynegy Inc. in the above-referenced docket. A copy of this filing has also been provided on a 1.44MB floppy disc in Word Perfect 8.

Sincerely,



Thomas A. Cloud, Esquire

GRAY, HARRIS & ROBINSON, P.A.

TAC:gcj

Enclosure

cc: All individuals on docketing service list

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MELBOURNE



DOCUMENT NUMBER DATE

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TALLAHASSEE  
FPSC-COMMISSION CLERK

TAMPA

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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.

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Docket No.: 001148-EI

**COMBINED PREHEARING STATEMENT OF DYNEGY MID-STREAM  
SERVICES, LIMITED PARTNERSHIP and DYNEGY INC.**

Dynegy Mid-Stream Services, Limited Partnership and Dynegy Inc., together ("Dynegy"), in compliance with Florida Public Service Commission (the "Commission") Order No. PSC-01-1641-PCO-EI (the "Order"), hereby files the following as its prehearing statement with respect to the prehearing currently scheduled for September 17, 2001 on the above referenced docket ( the "Phase 1 Hearing") with respect to GridFlorida formation issues:

1. Dynegy does not currently anticipate calling any witnesses during the hearing on Phase I.
2. Dynegy does not anticipate using any exhibits as it will not be presenting any witness testimony.
3. As its basic position for Phase I of this docket, Dynegy believes that the Federal Energy Regulatory Commission ("FERC") superceded the Commission's jurisdiction over Florida Power & Light, Florida Power Corporation and Tampa Electric Company (the "GridFlorida Entities") for the purposes of the formation of GridFlorida when it took jurisdiction under FERC Order 2000 to review and approve the formation and form of GridFlorida. Although FERC Order 2000

provided discretion to the GridFlorida Entities as to the form and geographic orientation of any regional transmission organization (“RTO”) formed, participation in GridFlorida or a similar RTO is not discretionary. While it may be appropriate for the Commission to review the level of expenditures by the GridFlorida Entities related to the formation of GridFlorida, some or all of such expenditures should be considered as necessary and prudent expenditures which are ultimately recoverable from the customers of the GridFlorida Entities. There are cost benefits to be derived by wholesale and retail electric customers, transmission customers, municipal utilities, independent power producers and electric cooperatives from the robust wholesale electric power market that formation of GridFlorida would help to establish. Failure of the Commission to permit some or all costs associated with the formation of GridFlorida to be recoverable by the GridFlorida Entities would have a “chilling effect” on the formation of GridFlorida or any RTO as the means by which such savings may be realized.

4. The following are the issues of fact that Dynegy considers to be at issue for the Phase I Hearing and its position with respect to each such issue. No witnesses will be presented by Dynegy to address any of these issues.

A. **Fact Issue 1 - What are the benefits to Peninsular Florida associated with the utility’s (FPC, FPL, or TECO) participation in GridFlorida?**

Having a single, unbiased entity operating the transmission system in the state will provide better reliability to retail and wholesale electric customers within Florida by providing more effective transmission

congestion control, loop flow control, interconnection planning, emergency management, and more timely energy balancing and other ancillary services to generators.

- B. **Fact Issue 2 - What are the benefits to the utility's ratepayers of its participation in GridFlorida?** There are cost benefits to be derived by wholesale and retail electric customers, transmission customers, municipal utilities, independent power producers and electric cooperatives from the formation of GridFlorida in that "pancaked" transmission costs would be eliminated. Pancaked rates act as a deterrent to the purchase of wholesale power from cheaper sources. In addition, having a single entity operating the transmission system in Florida would provide savings through more coordinated transmission system upgrade costs. Finally, access by generators of more economical electric power to transmission on an equal basis with existing generators will introduce competition in Florida's wholesale energy supply and will likely reduce retail rates.
- C. **Fact Issue 3 - What are the estimated costs to the utility's ratepayers of its participation in GridFlorida?** Dynegy has no position on this point of fact.
- D. **Fact Issue 4 - Is FPC's decision to transfer operational control of its transmission facilities of 69 kV and above to GridFlorida while retaining ownership appropriate?** Dynegy has no position on this point of fact.

**E. Fact Issue 5 - Is a Regional Transmission Organization for the Southeast region of the United States a better alternative for Florida than the GridFlorida RTO.** Dynegy has no position on this point of fact.

5. The following are the issues of law that Dynegy considers to be at issue for the Phase I Hearing and its position with respect to each such issue. No witnesses will be presented by Dynegy to address any of these issues.

**A. Law Issue 1 - Is participation in a regional transmission organization (RTO) pursuant to FERC Order No. 2000 voluntary?** As stated above, FERC Order 2000 provided discretion to the GridFlorida Entities as to the form and geographic orientation of any RTO formed, but participation is not discretionary for a FERC regulated transmission utility.

**B. Law Issue 2 - Is Commission authorization required before the utility can unbundle its retail electric service?** Since FERC has established its jurisdiction over the GridFlorida Entities for the purposes of the formation of GridFlorida and has approved the formation and form of GridFlorida, Commission authorization is not required before the utility can unbundle its retail electric service with respect to transmission. The Commission's authority should be limited to the review and approval of the method by which the formation and other costs of the GridFlorida Entities and GridFlorida are imposed on the Commission approved rate designs and issues of reliability and availability of transmission service before and after GridFlorida's formation.

- C. **Law Issue 3 - Is Commission authorization required before the utility can stop providing retail transmission service?** To the extent that retail transmission service is being terminated by one provider and turned over to another provider pursuant to a FERC approved RTO formation plan, the Commission's authorization should be required only to the limited extent of protecting the consumer by reviewing and approving the least interruptive means by which such service is discontinued by one provider and turned over to a subsequent provider.
- D. **Law Issue 4 - Is Commission authorization required before the FPC can transfer operational control of its retail transmission assets?** To the extent that control of retail transmission assets is being turned over to GridFlorida by FPC pursuant to a FERC approved RTO formation plan, the Commission's authorization should be required only to the limited extent of (1) protecting consumers by reviewing and approving the means which are least interruptive to electric transmission service by which such control is turned over to GridFlorida and (2) review and approval of the treatment of costs associated with such a transfer of operations in the rate design of FPC.
- E. **Law Issue 5 - Is Commission authorization required before FPL/TECO can sell its retail transmission assets?** To the extent that ownership of retail transmission assets is being transferred pursuant to a FERC approved RTO formation plan, the Commission's authorization should be required only to the limited extent of (1) protecting consumers

by the review and approval of the means which are the least interruptive to electric transmission service by which such assets are transferred to the subsequent owner and (2) review and approval of the treatment of such a transfer of ownership in the rate design of the GridFlorida Entities.

6. The following are the questions of policy that Dynegey considers to be at issue for the Phase I Hearing and its position with respect to each such issue. No witnesses will be presented by Dynegey to address any of these issues.

- A. **Policy Issue 1 - What policy position should the Commission adopt regarding the formation of GridFlorida?** As a matter of policy, the Commission should (1) recognize the superceding authority of the FERC over FERC regulated transmission utilities relative to approval of RTO formation within Florida, (2) recognize the mandatory nature of the requirement of FERC Order 2000 that FERC regulated utilities form or join in an RTO, (3) acknowledge that some or all of the costs associated with the formation of GridFlorida or any RTO, due to the mandatory nature of such formation, be considered prudent compliance cost expenditures which are subject to reimbursement through the rates of the GridFlorida Entities, (4) focus Commission review of RTO formation to issues of impact to rate design, transmission availability and transmission reliability and (5) work towards the creation of a robust wholesale energy market in Florida.
- B. **Policy Issue 2 - Is TECO's/FPL's decision to transfer ownership and control of its transmission facilities of 69 kV and above to**

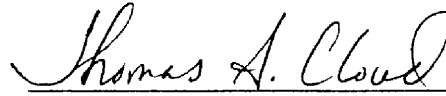
**GridFlorida appropriate?** FP&L's decision to transfer ownership and control of its transmission lines of 69kV and above to GridFlorida, while not the only option, is appropriate. Such transfer of assets to GridFlorida is appropriate in that (1) it will help to assure that GridFlorida, as the entity which will be responsible for transmission services and reliability in Florida, is financially sound, (2) it will help to establish GridFlorida as an acceptable credit risk for contracting with third parties, bond agencies and lenders, and (3) will force GridFlorida as an entity to be concerned with the cost, reliability and upkeep of its transmission assets as its primary means of income.

C. **Policy Issue 3 - Is the utility's decision to participate in GridFlorida prudent?** The utility's decision to participate in GridFlorida is prudent since FERC Order 2000 did not make the formation and/or participation in an RTO discretionary for any FERC regulated utility.

7. Dynegy has not stipulated to any statement of issues by the parties to this docket.
8. Dynegy Mid-Stream Services, Limited Partnership currently has no pending motions or other matters upon which action by the Commission has been requested. Dynegy Inc. currently has pending before the Commission its Renewed Petition to Intervene in this docket.
9. Dynegy currently has no pending requests or claims for confidential treatment by the Commission.
10. Dynegy has complied with all requirements of the Order.



WHEREFORE, Dynegy files this Phase I prehearing statement as required in the Order.



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### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the following parties of record and interested parties, this 10<sup>th</sup> day of September, 2001:

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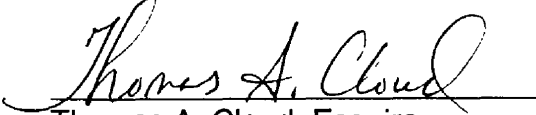
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A handwritten signature in cursive script that reads "Thomas A. Cloud". The signature is written in black ink and is positioned above a horizontal line.

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