

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
ORDER NO. PSC-01-1959-PHO-EI
ISSUED: October 1, 2001

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on September 17, 2001, in Tallahassee, Florida, before Commissioner Braulio L. Baez, as Prehearing Officer.

APPEARANCES:

JAMES P. FAMA, ESQUIRE, LeBoeuf, Lamb, Greene & MacRae, LLP, 1875 Connecticut Avenue, N. W., Suite 1200, Washington, D. C. 20009 and JAMES A. MCGEE, ESQUIRE, Florida Power Corporation, Post Office Box 14042, St. Petersburg, Florida 33733
On behalf of Florida Power Corporation (FPC).

MATTHEW M. CHILDS, ESQUIRE, Steel Hector & Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Florida Power & Light Corporation (FPL).

DOCUMENT NUMBER · DATE

12356 OCT-16

FPSC-COMMISSION CLERK

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LEE L. WILLIS, ESQUIRE, and JAMES D. BEASLEY, ESQUIRE,
Ausley & McMullen Law Firm, Post Office Box 391,
Tallahassee, Florida 32302 and HARRY W. LONG, JR.,
ESQUIRE, Tampa Electric Company, Post Office Box 111,
Tampa, Florida 33601

On behalf of Tampa Electric Company (TECO).

LESLIE J. PAUGH, ESQUIRE, Landers & Parsons, P.A., 310
West College Avenue, Tallahassee, Florida 32301

On behalf of Calpine Corporation (Calpine), Duke Energy
North America (DENA), Mirant Americas Development Inc.,
(Mirant).

JON C. MOYLE, JR., ESQUIRE, and VICKIE GOMEZ, ESQUIRE,
Moyle, Flanigan, Katz, Raymond & Sheehan, The Perkins
House, 118 North Gadsden Street, Tallahassee, Florida,
32301

On behalf of CPV Atlantic, Ltd. (CPV) and PG&E National
Energy Group (PG&E).

PETER ANTONACCI, ESQUIRE, Gray, Harris, & Robinson, P.
A., 301 S. Bronough Street, Suite 600, Tallahassee,
Florida 32302-3189

On behalf of Dyneqy Mid-Stream Services, Limited
Partnership and Dyneqy, Inc (Dyneqy).

BILL BRYANT, JR., ESQUIRE, and NATALIE FUTCH, ESQUIRE,
Katz, Kutter, Haigler, Alderman, Bryant & Yon, P.A., 106
East College Avenue, 12th Floor, Tallahassee, Florida
32301

On behalf of Enron Corporation (Enron).

SEANN M. FRAZIER, ESQUIRE, Greenberg Traurig, 101 East
College Avenue, Tallahassee, Florida 32301

On behalf of Publix Super Markets, Inc. (Publix).

JOSEPH A. MCGLOTHLIN, ESQUIRE, McWhirter, Reeves,
McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.
A., 117 South Gadsden Street, Tallahassee, Florida 32301

On behalf of Reliant Energy Power Generation, Inc.
(Reliant).

N. WES STRICKLAND, ESQUIRE, Foley & Lardner, 300 Park Avenue East, Tallahassee, Florida 32301
On behalf of Seminole Electric Cooperative (Seminole).

MICHAEL B. TWOMEY, ESQUIRE, Post Office Box 5256, Tallahassee, Florida 32314-5256
On behalf of Thomas P. and Genevieve E. Twomey (Twomey), and Buddy L. Hansen and Sugarmill Woods Civic Association, Inc. (Hansen).

DANIEL E. FRANK, ESQUIRE, Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, N. W., Washington, D. C. 20004-2415
On behalf of Walt Disney World Company (Disney).

JOHN W. MCWHIRTER, JR., McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold and Steen, P. A., North Tampa Street, Suite 2450, Tampa, Florida 33602 and VICKI GORDON KAUFMAN, McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold and Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group (FIPUG).

JOHN ROGER HOWE, ESQUIRE, Deputy Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

WM. COCHRAN KEATING, ESQUIRE, and ROBERT V. ELIAS, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff (Staff).

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

Opening statements, if any, shall not exceed ten minutes per party.

II. CASE BACKGROUND

On May 11, 2001, Florida Power Corporation ("FPC"), Florida Power & Light Company ("FPL"), and Tampa Electric Company ("TECO") filed a joint motion to establish a generic docket to determine, on an expedited basis, the prudence of the formation of and their participation in GridFlorida LLC ("GridFlorida"). By Order No. PSC-01-1372-PCO-EI, issued June 27, 2001, the joint motion was granted in part (with respect to expediting a decision concerning GridFlorida) and denied in part (with respect to establishing a generic docket). The Order directed that FPC, FPL, and TECO, each file by June 28, 2001, a separate petition in the respective earnings/rate review docket currently open for each utility. The Order referred to the proceedings to be held on each petition as "Phase 1" in these earnings/rate review dockets. This Prehearing Order addresses only the Phase 1 proceedings being conducted in these dockets, except to address petitions to intervene in the dockets generally.

On June 12, 2001, FPC, FPL, and TECO filed separate petitions in these dockets asking the Commission to determine the prudence of the formation of and their participation in GridFlorida, thus initiating the Phase 1 proceedings. By Order No. PSC-01-1485-PCO-EI, issued July 16, 2001, and Order No. PSC-01-1641-PCO-EI, issued August 10, 2001, the issues to be addressed in Phase 1 of each docket were established.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality

has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not

subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Commission Clerk and Administrative Service's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 75 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 75 words, it must be reduced to no more than 75 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. Each witness shall prepare an errata sheet incorporating all changes and or corrections to his/her prefiled testimony, if necessary. Each errata sheet will be marked as an exhibit, to be offered at the same time as the prefiled testimony and exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of prefiled testimony shall be limited to five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

Testimony prefiled for consideration in only one docket is noted by the particular docket number. Testimony prefiled for consideration in all three dockets is marked accordingly.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Mike Naeve	FPC, FPL & TECO (ALL DOCKETS)	2, 3, 5, 6, 7, 8, 9, 11

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
James J. Hoecker	FPC, FPL & TECO (ALL DOCKETS)	1, 2, 3
Mike Naeve, C. Martin Mennes, Henry I. Southwick, and Greg Ramon (Panel)	FPC, FPL & TECO (ALL DOCKETS)	2, 3, 5, 6
William Ashburn	FPC, FPL & TECO (ALL DOCKETS)	2, 3, 4
Bradford L. Holcombe	FPC, FPL & TECO (ALL DOCKETS)	4
Henry I. Southwick	FPC, FPL & TECO (ALL DOCKETS)	4, 6
Korel M. Dubin	FPL (DOCKET NO. 001148-EI)	4
C. Martin Mennes	FPL (DOCKET NO. 001148-EI)	4, 5
Henry I. Southwick	FPC (DOCKET NO. 000824-EI)	4, 5, 6
Thomas L. Hernandez	TECO (DOCKET NO. 010577-EI)	1, 3, 5, 6, 7
William Ashburn	TECO (DOCKET NO. 010577-EI)	3, 4, 6
Robert Mechler	Reliant (ALL DOCKETS)	2, 3, 7, 11

VII. BASIC POSITIONS

FPC:

(Docket No. 000824-EI)

The respective decisions made by the GridFlorida Companies to participate in an RTO and their specific decisions to participate in the GridFlorida RTO continue to be prudent and in the best interests of Florida ratepayers. Pursuant to its authority under the Energy

Policy Act of 1992, the FERC issued Order No. 2000, 65 Fed. Reg. 809, on December 20, 1999, which established a national policy that it is in the public interest for all jurisdictional public utilities that own, operate or control facilities for transmission of electric energy in interstate commerce to form and participate in regional transmission organizations. The GridFlorida Companies had a choice to make in the wake of FERC Order No. 2000. They could either proactively develop an RTO proposal that was tailored to the needs of the Florida market or face the prospect of ultimately being ordered by the FERC to participate in an RTO developed by others who did not have Florida's interests in mind.

Order No. 2000 makes it clear that the formation of RTO's is an integral part of a federal initiative to increase competition nationally in the wholesale generation market. Pursuant to the mandatory process established by the FERC in Order No. 2000, all jurisdictional utilities were required to make a filing on October 16, 2000, in which they either submitted a proposal to join an RTO or, in the alternative describe the specific obstacles to their participation and their plans for overcoming these obstacles.

FERC did not intend for utilities to simply be able to decide to opt out of RTO participation despite FERC's adoption of a "voluntary" approach to RTO formation in the first instance. This requirement was clearly intended to further FERC's policy goal that all transmission owners participate in an RTO.

The GridFlorida proposal advanced by the GridFlorida Companies was not created in a vacuum. To the contrary, the proposal for the formation of GridFlorida was the product of many months of intense and detailed collaborative discussions with a wide range of market participants, including municipal utilities, rural electric cooperatives, existing and potential operators of Florida non-utility generation and FERC Staff. FPSC staff members attended and participated in many of these public meetings. In addition, a number of workshops were

held before the FPSC in order to keep it fully apprised of the GridFlorida proposal as it evolved. The result was an RTO proposal with a Florida focus that meets the requirements of the FERC and creates significant benefits for Florida ratepayers.

In particular, the GridFlorida proposal eliminates pancaked rates for new transactions, depancakes existing transactions over a period of 10 years and provides for congestion management, leading to more efficient allocation of transmission capacity. These and other aspects of the GridFlorida proposal represent tangible benefits to ratepayers that will stimulate increased competition in the wholesale market.

The GridFlorida Companies have invested significant time and resources in developing an RTO proposal that is in compliance with FERC's Order No. 2000. The Grid Florida Companies submit that the Commission should determine that the decision to participate in and form GridFlorida is prudent and that the GridFlorida Companies' decisions with respect to the scope, form ownership structure and functions of GridFlorida are also prudent.

FPL:

(Docket No. 001148-EI)

(Same as FPC's Basic Position, above)

TECO:

(Docket No. 010577-EI)

(Same as FPC's Basic Position, above)

CALPINE:

(All Dockets)

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 efficient, reliable grid operation and foster wholesale competition which will

benefit Florida ratepayers in form of lower electricity rates and increased products and services.

CPV:

(All Dockets)

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 independent RTO, appropriately formed and operated, could successfully address impediments to an efficient, reliable electric transmission grid and could foster wholesale competition which should benefit Florida ratepayers in the form of lower electricity rates.

DENA:

(All Dockets)

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

MIRANT:

(All Dockets)

The Commission should issue an order approving establishment of a regional transmission organization 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 efficient, reliable grid operation and foster fair and equal wholesale competition for all market participants which will benefit Florida ratepayers in form of lower overall costs and enhanced products and services.

RELIANT:

(All Dockets)

An RTO such as GridFlorida, Inc. can provide benefits to peninsular Florida and end use customers through improvements in market performance (that will result in lower costs of generation), reliability, and planning. The Commission should have a high comfort level that such benefits will outweigh the incremental costs of the RTO: because the costs of generation are roughly 18 times more expensive than the total cost of transmission, only a very small decrease in the costs of generation will be sufficient to more than offset the incremental costs of the RTO. Given Florida's fleet of old, inefficient generating units, the investment in the RTO is therefore an opportunity to leverage greater decreases in costs of generation.

PG&E:

(All Dockets)

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 independent RTO, appropriately formed and operated, could successfully address impediments to an efficient, reliable electric transmission grid and could foster wholesale competition which should benefit Florida ratepayers in the form of lower electricity rates.

HANSEN:

(Docket No. 000824-EI)

The utilities' formation and participation in GridFlorida appears to result in a net increase in costs to provide the same level of transmission services currently being offered by these utilities under the status quo. The promoted benefits to be achieved by GridFlorida, to the extent they will actually be realized, can be obtained without GridFlorida through greater coordination of activities by these and other utilities through existing regulatory methods. Participation in GridFlorida is strictly a voluntary action and, thus, the utilities should not be heard to argue that all their resulting

investments and costs should be recovered from jurisdictional customers, irrespective of whether or not the benefits of GridFlorida exceed its costs. Since participation is voluntary, not mandatory, the utilities must demonstrate that the benefits to each utility's jurisdiction, firm customers from participation exceed, or at worst equal, the costs of participation. Any net economic costs or other detriments resulting from participation should be denied from recovery through jurisdictional rates and left to burden each utilities' shareholders as the result of managerial discretion.

DISNEY:

(Docket No. 000824-EI)

Walt Disney World is a consumer of electricity that purchases electric power from Florida Power Corporation (FPC). Walt Disney World also purchases power from a non-jurisdictional entity that acquires whole sale power through the transmission grid in Florida. Walt Disney World supports the IOU's participation in an RTO that is designed on reasonable terms and conditions that are beneficial to electricity consumers. At this time, it is premature to determine whether GridFlorida or a Southeastern RTO is such an RTO; the answer to that question depends on whether a Southeastern RTO materializes and the terms of operation and service proposed for the possible RTOs.

DYNEGY:

(Docket No. 001148-EI)

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.

SEMINOLE:

(All Dockets)

Seminole Electric supports the participation by Florida Power Corporation ("FPC"), Florida Power and Light Company ("FPL"), and Tampa Electric Company ("TECO") in a regional transmission organization ("RTO"). An appropriately structured RTO could benefit all market participants by providing centralized and coordinated grid planning, maintenance and expansion; improving grid reliability; eliminating discriminatory practices; improving access for wholesale market participants; and eliminating "pancaked" rates. While Seminole Electric takes exception to certain aspects of GridFlorida, nevertheless, as a general matter, Seminole Electric supports the formation of and participation by FPC, FPL, and TECO in the GridFlorida RTO. In addition, Seminole Electric would underscore the fact that the formation of GridFlorida, and participation by FPC, FPL and TECO therein, affect not only the retail customers of those entities, but also the retail customers of Seminole's member systems (and other similarly situated entities). Accordingly, Seminole Electric submits that the Commission should give the interests of all users and potential users of the GridFlorida transmission system equal consideration in judging the issues before it.

TWOMEY:

(Docket No. 001148-EI)

The utilities' formation and participation in GridFlorida appears to result in a net increase in costs to provide the same level of transmission services currently being offered by these utilities under the status quo. The promoted benefits to be achieved by GridFlorida, to the extent they will actually be realized, can be obtained without GridFlorida through greater coordination of activities by these and other utilities through existing regulatory methods. Participation in GridFlorida is strictly a voluntary action and, thus, the utilities should not be heard to argue that all their resulting investments and costs should be recovered from jurisdictional customers, irrespective of whether or not the benefits of GridFlorida exceed its costs. Since participation is voluntary, not mandatory, the utilities must demonstrate that the benefits to each utility's jurisdiction, firm customers from participation exceed, or at worst equal, the costs of participation. Any net economic costs or other detriments resulting from participation should be denied from recovery through jurisdictional rates and left to burden each utilities' shareholders as the result of managerial discretion.

FIPUG:

(All Dockets)

Florida utilities should be encouraged to participate in a truly independent southeastern regional transmission organization that will enable all power suppliers to operate freely with incumbent electric companies in a competitive wholesale market. Such an RTO should increase reliability and lower prices for retail consumers. This docket has been divided into two parts: Part I will address the issue of prudence; Part II will address the rate impact on retail consumers. Care needs to be taken that the action in Part I does not preempt the Commission from protecting retail consumers interest in Part II.

OPC:

(All Dockets)

Regardless of the direction taken by its federal counterpart, the Florida Public Service Commission cannot alter its fundamental approach to electric utility regulation in Florida unless and until changes are made to state law. The statutory framework under which the Commission has operated for many years results in electric utilities providing bundled retail service pursuant to Commission-approved tariffs, with the embedded transmission component provided over assets under the Commission's jurisdiction. The Legislature must reasonably expect past Commission practices will continue in the future and that the Commission will not take any action in these dockets which directly or indirectly permits or causes a change in matters subject to its historic jurisdiction.

The Federal Energy Regulatory Commission (FERC), in addition to its jurisdiction over wholesale sales of electricity, also exercises exclusive jurisdiction under the Federal Power Act ("FPA") over the transmission of electricity in interstate commerce. FERC, however, has never held that transmission service provided as part of bundled retail electric service amounts to transmission in interstate commerce subject to its jurisdiction. To the contrary, FERC has concluded that, where transmission service is part of the delivered price of electricity, it is strictly a matter of state oversight. This is true whether the bundled retail service involves the delivery of the transmission owner's own generation or power purchased from someone else. Where the transmission takes place over the transmission providers own facilities for delivery to the transmission providers own retail customers, it is a bundled retail sale of electricity and strictly a matter of state jurisdiction.

As long as transmission is bundled with traditional retail service (as it always has been in Florida), FERC is apparently without jurisdiction. Unbundling, however, gives FERC jurisdiction over retail transmission service:

[W]e have exclusive jurisdiction under the FPA over 'transmission in interstate commerce' by public

utilities, which includes the unbundled interstate transmission component of a previously bundled retail transaction. Our assertion of jurisdiction in such a situation arises only if the retail transmission in interstate commerce by a public utility occurs voluntarily or as a result of a state retail program. [Emphasis added; footnote omitted.] Order No. 888-A, FERC Statutes and Regulations, Regulations Preambles ¶ 31,048 at 30,226 (1996), mimeo at 143.

(States which instituted retail competition were chagrined when FERC asserted jurisdiction over their retail transmission service, something evidently not contemplated when they passed the competitive initiative. See Transmission Access Policy Study Group v. Federal Energy Regulatory Commission, 225 F. 3d 667 (D.C. Cir. 2000).)

Given that there is no "state retail program" in Florida at present, the ability of Florida's electric utilities to participate in GridFlorida would apparently turn on their ability to "voluntarily" place retail transmission assets under FERC's jurisdiction. However, the statutory underpinnings for the Commission's jurisdiction over electric utilities have not changed in their essential elements for many years. The Legislature has given no indication that it expects a lessening of electric utility oversight from this Commission. The current statutory scheme in Florida does not allow Florida Power & Light Company, Florida Power Corporation or Tampa Electric Company to act unilaterally to affect the terms or conditions of retail electric service. In short, these utilities are incapable of acting "voluntarily" to transfer away state regulation of retail transmission service.

The fact that these utilities are powerless to act without Commission approval, however, does nothing to establish the Commission's own authority to allow retail transmission service to be removed from state control. As noted above, the legislative directive under which the

Commission has operated for many years has always resulted in bundled retail service. Certainly, FERC's actions at the federal level cannot directly affect the Commission's statutory duty to regulate all aspects of retail electric service as an attribute of the State's police power. Just as an agency is incompetent to interpret the constitutionality of a statute it must administer, an agency cannot divest itself of statutory responsibilities. Until the Legislature declares otherwise, the Commission should not allow Florida's electric utilities to unbundle their retail transmission service or transfer ownership or operational control of their transmission assets to GridFlorida. The final order in this docket should direct Florida Power & Light Company, Florida Power Corporation, and Tampa Electric Company to continue providing bundled retail electric service to their customers.

STAFF:

(All Dockets)

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

Certain of the issues established for hearing in each docket (Issues 1, 7-9, and 11) are generic issues of law and policy that appear to apply equally to each of the three dockets that are the subject of this Prehearing Order. Also, some parties have intervened in all three dockets, with each such party taking the same positions on the issues in each docket. However, because there are company-specific issues (Issues 2-6 and 10) to resolve in each separate docket and the parties vary by docket, issues and positions are listed by docket to avoid confusion. Although this creates some repetition in this Prehearing Order, it is consistent with the Commission's decision in Order No. PSC-01-1372-PCO-EI to address the reasonableness of each individual utility's

participation in GridFlorida under the separate dockets rather than a generic docket.

A. DOCKET NO. 000824-EI

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

POSITIONS:

FPC: Order No. 2000 established a federal policy that all transmission owners join an RTO. Although Order No. 2000 stops short of mandating RTO participation, the GridFlorida Companies faced the substantial likelihood that, if they refused to propose an RTO, they ultimately would be forced to do so by FERC, either directly or through ever increasing penalties. The GridFlorida Companies did not believe that RTO participation was voluntary in the long run. Thus, the choice faced by the GridFlorida Companies was not whether to join an RTO, but whether to proactively develop an RTO that was tailored to meet the needs of Florida or ultimately be forced to join an RTO that they had no role in shaping.
(Witnesses: Naeve, Hoecker, Hernandez)

CALPINE: 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.

CPV: No position at this time.

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.

MIRANT: 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.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: Yes.

HANSEN: Participation in a regional transmission organization by Florida's investor-owned utilities is entirely voluntary, requiring that these utilities must clearly demonstrate that their jurisdictional customers receive net economic benefits, or, at a minimum, are treated neutrally, if jurisdictional customers are to be required by the Commission to pay the substantial start-up and

transitional costs predicted by the utilities or any net increase in annual operating costs.

DISNEY: The Federal Energy Regulatory Commission (FERC), which has jurisdiction over the transmission of electricity in interstate commerce by investor-owned utilities (IOU's), expects all IOUs to join and participate in RTOs. However, FERC's Order No. 2000 denominates participation as voluntary.

FIPUG: No position at this time.

OPC: Yes.

STAFF: Yes.

ISSUE 2: What are the benefits to Peninsular Florida associated with the utility's participation in GridFlorida?

POSITIONS:

FPC: Anticipated benefits include: (1) eliminating pancaked rates, (2) more efficient planning on a regional basis; (3) the ability to improve regional reliability through regional operations; (4) the creation of a real-time balancing market and ancillary services markets that are market based; (5) a congestion management proposal that leads to more efficient allocation of transmission capacity; (6) improved emergency response; and (7) more efficient treatment of loop flows. (Witnesses: Naeve, Hoecker, Ashburn)

CALPINE: An RTO will facilitate greater system efficiencies from the existing supply infrastructure as well as provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry, including elimination of remaining opportunities for discriminatory transmission practices. Specifically, a

properly designed RTO will enhance access to, and use of, the transmission system and facilitate the least cost supply of power by eliminating rate pancaking, restrictive transmission policies and market participant control of the transmission grid and replacing them with a Florida-wide optimization of supply, transparent market signals and independent system operation. Further, Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

CPV: An RTO, if properly implemented, will provide greater system efficiencies from the existing supply infrastructure. Additionally, it should provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry. Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

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.

MIRANT: Generally, GridFlorida will improve efficiencies in transmission grid management, improve grid reliability, promote transparent and efficient competitive power markets, 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, enhancing transmission expansion and upgrade activities, and improving parallel path flows.

RELIANT: By eliminating the pancaking of transmission rates and encouraging entry of more participants, the RTO can lower transaction costs and increase revenues. Regional planning will lead to a system better optimized for local and regional (including the movement of bulk power) needs. Better management of parallel flows and congestion by the RTO will translate into greater reliability. A truly regional market served by more participants will lead to the economic displacement of Florida's aging fleet of highly inefficient units. All of these advantages will result in lower costs to ratepayers, as well as dramatically lower impacts on the environment. Moreover, because the TOTAL cost of transmission is roughly 1/18 of the costs of generation, the opportunity is present to achieve significant net savings for ratepayers. The extent of the savings will be a function of the depth and liquidity of the wholesale market-- attributes the Commission should strive to enhance as it supports the RTO. (Witness: Mechler)

PG&E: An RTO, if properly implemented, will provide greater system efficiencies from the existing supply infrastructure. Additionally, it should provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry. Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection

procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

SEMINOLE: GridFlorida has the potential to benefit all market participants by providing centralized and coordinated grid planning, maintenance and expansion; improving grid reliability; eliminating discriminatory practices; improving access for wholesale market participants; and eliminating "pancaked" rates.

HANSEN: The stated benefits to be realized by Peninsular Florida associated with the utilities' participation are clearly only potential in nature and vague as well. Furthermore, it is not clear that the benefits promoted by the utilities to be gained by their participation in GridFlorida could not be realized at a smaller cost without the formation of GridFlorida.

DISNEY: As explained by FERC, a well-designed RTO can enhance the efficient and reliable operation of the transmission grid and lead to a more robust and reliable electricity market, resulting, ultimately, in lower-cost, reliable electric service to consumers. The details of the RTO's design are critical.

FIPUG: A truly independent regional RTO will enable all power suppliers to operate freely with incumbent electric companies in a competitive wholesale market resulting in lower prices and greater reliability for consumers.

OPC: The Commission can only speak to this issue within the scope of its own jurisdiction. At this level, the Commission must assume, in the absence of legislative directives, that the policy of this state is to continue all regulation of retail transmission service under the Commission's continued oversight. As such, there are no benefits to Peninsular Florida associated with participation in GridFlorida.

STAFF: No position at this time.

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

POSITIONS:

FPC: FPC envisions two types of benefits which may be flowed through to ratepayers through FPC's annual formula calculation of its transmission revenue requirements: (1) as a result of a more vibrant wholesale market, FPC may engage in more economy transactions with respect to generation costs, which would result in lower fuel costs or additional sales margins; and (2) savings associated with any reduction in FPC transmission system costs.
(Witness: Southwick)

CALPINE: An RTO will benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. First, since an RTO will consider all resources under its control in assuring reliability and selecting the least cost supply solutions, it will inherently be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning will lower transmission costs through economies of scale and the elimination of duplicative, parochial practices. Second, an RTO will provide the operational independence and infrastructure necessary to facilitate a viable competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne by the market participants and not ratepayers. The specific benefits 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 access to generation resources, and the elimination of inefficient congestion management practices.

CPV: An RTO should benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. Since an RTO should consider all resources under its control in assuring reliability and selecting the least cost supply solutions without regard to economic benefit to any utility affiliate, it is expected to be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning should lower transmission costs through economies of scale and the elimination of duplicative practices. An RTO will provide the operational independence and infrastructure necessary to facilitate a viable, competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne primarily by the market participants.

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.

MIRANT: 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, fair, uniform and transparent transmission protocols and pricing signals governing the use of the grid coupled with appropriate maintenance and planning regulations provided by an RTO are 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.

RELIANT: By eliminating the pancaking of transmission rates and encouraging entry of more participants, the RTO can lower transaction costs and increase revenues. Regional planning will lead to a system better optimized for local and regional (including the movement of bulk power) needs. Better management of parallel flows and congestion by the RTO will translate into greater reliability. A truly regional market served by more participants will lead to the economic displacement of Florida's aging fleet of highly inefficient units. All of these advantages will result in lower costs to

ratepayers, as well as dramatically lower impacts on the environment. Moreover, because the TOTAL cost of transmission is roughly 1/18 of the costs of generation, the opportunity is present to achieve significant net savings for ratepayers. The extent of the savings will be a function of the depth and liquidity of the wholesale market-- attributes the Commission should strive to enhance as it supports the RTO. (Witness: Mechler)

PG&E: An RTO should benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. Since an RTO should consider all resources under its control in assuring reliability and selecting the least cost supply solutions without regard to economic benefit to any utility affiliate, it is expected to be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning should lower transmission costs through economies of scale and the elimination of duplicative practices. An RTO will provide the operational independence and infrastructure necessary to facilitate a viable, competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne primarily by the market participants rather than by captive ratepayers.

SEMINOLE: No position at this time.

HANSEN: Benefits to the jurisdictional, especially residential, customers of these utilities, let alone "net benefits," resulting from the utilities' participation in GridFlorida have not been adequately demonstrated.

DISNEY: See response to Issue 2.

FIPUG: A truly independent regional RTO will enable all power suppliers to operate freely with incumbent electric companies in a competitive wholesale market resulting in lower prices and greater reliability for consumers.

OPC: None are readily identifiable at this time. Certainly no benefits have been identified which would fully offset the increased costs caused by participation in GridFlorida.

STAFF: No position at this time.

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

POSITIONS:

FPC: The total incremental start-up costs are estimated to be \$136 million. The amounts allocated to GridFlorida Companies' retail customers are as follows:
FPL: approximately \$70 million
FPC: approximately \$32.7 million
TECO: approximately \$16.9 million

Incremental annual operating costs are estimated to be \$52 million for the first full year of operation in the End State mode allocated to GridFlorida Companies' retail customers as follows:

FPL: approximately \$26.8 million
FPC: approximately \$11 million
TECO: approximately \$7.5 million
(Witnesses: Southwick, Dubin, Holcombe and Ashburn)

CALPINE: Specific data related to cost analyses are not available to Calpine. However, as a general matter, costs of providing wholesale electric service should be lower under an RTO than continued sub-region specific tariffs and localized system operation.

CPV: No position at this time.

DENA: No position at this time.

MIRANT: No position at this time.

RELIANT: Reliant Energy has accepted the estimates of the petitioners for purposes of commenting on the potential for net savings to end use customers.

PG&E: No position at this time.

SEMINOLE: No position at this time.

HANSEN: These customer parties, will for the moment, accept each utilities' statement of estimated costs to its ratepayers for its participation in GridFlorida, to include the stated increases in jurisdictional rates.

DISNEY: Only the IOUs can answer this question initially. Walt Disney World reserves its position pending completion of the hearings on this issue. Walt Disney World is concerned about the level of claimed start-up and initial operating costs.

FIPUG: RTO start-up costs should be amortized over the remaining life of the transmission system. No costs should be allocated to retail customers until transmission assets are unbundled and base rates adjusted in proportion to the charges GridFlorida will impose for assets now in utility rate base.

OPC: No position at this time.

STAFF: No position at this time.

ISSUE 5: Is FPC's decision to transfer operational control of its transmission facilities of 69 kV and above to GridFlorida while retaining ownership appropriate?

POSITIONS:

FPC: Pursuant to FERC Order No. 2000, RTOs must be given complete operational control over the transmission assets of participating utilities. The GridFlorida Companies concluded that it would be in the best interest of the GridFlorida Companies and their ratepayers to relinquish

control over all of their 69 kV and above transmission facilities. A uniform demarcation point is a reasonable approach to achieve fairness and equal access to the transmission system of the RTO. Furthermore, there is a benefit to aligning the ownership of the transmission facilities with the responsibility for operating and maintaining those facilities. This alignment also results in the entity that is responsible for decisions regarding expansion and other capital expenditures also being an owner of facilities with the responsibility for obtaining the necessary financing. For this reason, Tampa Electric and FPL have provisionally decided to transfer their transmission assets to GridFlorida. In contrast, FPC has determined that its business interests are best served if it remains the owner of its transmission facilities for the time being. In the final analysis, both courses of action are reasonable and prudent. The facilities operated by GridFlorida will be operated at the same level of efficiency, reliability and safety, and the GridFlorida Companies will receive the same level of high quality transmission service, whether or not transmission assets are divested. (Witnesses: Panel, Naeve, Mennes, Southwick and Hernandez)

CALPINE: While Calpine expects that the respective companies will substantiate their own business decisions, an effective RTO structure should be able to accommodate different business decisions while at the same time providing the centralized, independent control that is the hallmark of reliable, regionally operated transmission systems. Confidence in the operation of a competitive wholesale market cannot be achieved unless it is operated by an independent entity that is not a market participant. TECO's/FPL's decision to transfer ownership and control of their facilities to GridFlorida, and FPC's decision to retain ownership but transfer operational control of its transmission assets are consistent with these needs.

CPV: No position at this time.

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.

MIRANT: 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 given the uncertainties in the emerging electricity markets. Retention of ownership provides FPC with flexibility to respond to regulatory as well as economic changes. 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.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

HANSEN: Based upon the "evidence" presented to date, it is difficult to ascertain whether transferring ownership (TECO/FPL) or retaining ownership (FPC) is the most appropriate manner in which a utility should participate in GridFlorida. Despite the testimony submitted thus far, it would appear that there should only be one "most appropriate," or preferable ownership decision and that, therefore, both the TECO/FPL and FPC decisions cannot be correct. The "prudent" course of ownership should be the one that results in the least cost for transmission service to be charged back to the utilities' jurisdictional customers. Under no circumstances should the sale of transmission-related assets to GridFlorida or the transfer of operational control result in a return on investment on those assets to either the for-profit GridFlorida or FPC that is greater than the reasonable and prudent amount required under the Commission's "rate of return regulation" under current conditions. Lastly, it would appear that the sale of assets will be more difficult to reverse than a mere transfer of control of assets should the GridFlorida experience prove unrewarding.

DISNEY: A properly functioning RTO must have control of transmission assets. FERC has adopted a "functional" test rather than a simple 69-kV test of whether specific facilities are to be classified as transmission or local distribution. Walt Disney World does not object to the Florida IOUs using a 69-kV rule of thumb for classifying their own facilities, so long as that rule of thumb is not deemed by anyone to replace FERC's "functional" test for other utilities that may participate in an RTO.

FIPUG: FIPUG believes independent control of the transmission system is beneficial to consumers. The retail rate impact issues resulting from ownership transfer will be addressed in Part II of this docket.

OPC: No. Moreover, the companies cannot make such a decision without prior Commission authorization. Inasmuch as such an authorization may effectively divest the Commission of jurisdiction over retail transmission assets, the

Commission cannot allow either the unbundling or the transfer.

STAFF: No position at this time.

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

POSITIONS:

FPC: Yes. It was prudent for the GridFlorida Companies to make the decision to submit their own proposal rather than take the substantial risk that they later would be forced to join an existing RTO which the GridFlorida Companies did not participate in developing. If the GridFlorida Companies later were forced to join an existing RTO, they would have to take that RTO as they found it, and would have minimal input into its essential features. By contrast, there have been considerable benefits to Florida ratepayers resulting from the GridFlorida Companies' decision to form their own RTO and to develop their own proposal. (Witnesses: Naeve, Panel, Hoecker, Ashburn and Hernandez)

CALPINE: 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.

CPV: Yes.

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.

MIRANT: 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.

RELIANT: No position.

PG&E: Yes.

SEMINOLE: Yes. As a general matter, Seminole Electric believes that participation in GridFlorida by FPC, FPL and TECO is prudent. Seminole Electric does, however, take exception to certain aspects of GridFlorida, as set forth in Seminole Electric's pleadings in the proceedings before the Federal Energy Regulatory Commission ("FERC").

HANSEN: Based upon the start-up costs predicted by the utilities and the resulting increases in jurisdictional rates, it appears that these utilities' jurisdictional customers will receive net economic detriments by their utilities' participation in GridFlorida and that, therefore, each utilities participation should be found to be imprudent.

DISNEY: The answer depends on whether the RTO is properly designed to achieve the benefits expected by FERC. It remains to be seen whether a GridFlorida or a Southeastern RTO will be more reasonable.

FIPUG: Yes, but not as good as participation in a larger more comprehensive RTO.

OPC: No.

STAFF: No position at this time.

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

POSITIONS:

FPC: The Commission should conclude that the GridFlorida Companies have been prudent in their planning of the proposed GridFlorida RTO and that commercial operation of GridFlorida, as proposed, would be in the best interest of Florida ratepayers. A swift and unequivocal finding that the formation and operation of GridFlorida is prudent is in the best interest of Florida ratepayers. (Witness: Naeve, Hernandez)

CALPINE: First, the Commission should memorialize a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida. Second, the Commission should acknowledge that there remain important transmission-related impediments to a competitive wholesale electricity market such as pancaked transmission rates, burdensome intra-Florida reservation and scheduling practices, absence of transparency, and the continuing opportunities for undue discrimination in the operation of the transmission grid. Third, the Commission should support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The

primary contribution of an RTO should be to independently operate the transmission system to provide fair and equal transmission access, efficiency through RTO-wide system optimization and establish a competitive spot market to encourage market participant funded investment. The Commission should support immediate establishment of an RTO that meets these requirements.

CPV: The Commission should adopt a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida and support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The Commission should support establishment of an RTO to accomplish these objectives.

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.

MIRANT: 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 engineering and economic inefficiencies, and 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 immediately seek to establish an RTO that does.

RELIANT: As a matter of general policy, because of the opportunity to obtain the benefits and savings described in response to 2 and 3 above, the Commission should support the formation and implementation of GridFlorida. The Commission can support GridFlorida on an overall basis while reserving its right to advocate different positions on specific details of the RTO. The Commission should not regard the development of a fully mature and robustly competitive market as a condition precedent to the RTO; rather, it should support simultaneously the RTO and the measures needed to maximize benefits through a more vigorous level of competition. (Witness: Mechler)

PG&E: The Commission should adopt a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida and support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The Commission should support establishment of an RTO to accomplish these objectives.

SEMINOLE: The Commission should adopt a policy position generally supportive of participation by FPC, FPL and TECO in GridFlorida.

HANSEN: The Commission should take the position that no utility should be allowed to sell or transfer its transmission-related assets, or even transfer operational control over those assets, if doing so will result in any diminution of the utility's ability to provide jurisdictional service at current levels of reliability or cost (assuming reasonable and fair rates set under current conditions). To the extent the Commission lacks the jurisdiction to legally prevent the sale or transfer of transmission assets or their operational control, it should take the position that any net increases in costs resulting from the transactions shall be denied from recovery through jurisdictional retail rates.

DISNEY: The Commission should encourage formation of a reasonably structured RTO that is fair to all consumers, suppliers, and utilities, including non-IOU utilities in Florida. It should review the comments filed at FERC by Reedy Creek Improvement District, the Florida Municipal Power Agency and other non-IOU utilities before forming a position on the specifics of the GridFlorida proposal.

- FIPUG:**
1. For the benefit of consumers, the Commission policy should be to endorse a larger and more comprehensive Southeastern Regional independent transmission system. The policy should recognize that GridFlorida is inferior to the larger regional system but if it is created to operate independently and provides real time market information it will be superior to the current Balkanized transmission grid.
 2. Take steps to ensure that the Florida Public Service Commission retains jurisdiction to ensure that retail rates are not adversely effected by the asset transfer.

OPC: GridFlorida would be a FERC-regulated entity outside the Commission's jurisdiction. As such, the Commission should refrain from making policy pronouncements in matters not related to retail electric regulation.

STAFF: No position at this time.

ISSUE 8: Is Commission authorization required before a utility can unbundle its retail electric service?

POSITIONS:

FPC: The GridFlorida Companies intend to continue providing bundled retail electric service to their respective retail ratepayer groups subsequent to the commercial operation of the proposed GridFlorida RTO. The GridFlorida Companies will be customers of GridFlorida under the RTO tariff and the rate established by the FERC will be the rate paid by the GridFlorida Companies not the rate paid by retail customers. Bundled service will continue to be provided to retail customers. Therefore, the question of whether Commission authorization is required before retail electric rates can be unbundled is not raised under the factual circumstances presented in this proceeding. (Witness: Naeve)

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

CPV: No position at this time.

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

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

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

HANSEN: Yes.

DISNEY: IOU's retail distribution service tariffs must be filed with the Commission. FERC has indicated that final delivery to an end user generally entails local distribution.

FIPUG: No, but the Commission should mandate it as a matter of policy.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service governed by tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. This is true even though "unbundling" is not explicitly referenced in statute. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot authorize unbundling if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

ISSUE 9: Is Commission authorization required before a utility can stop providing retail transmission service?

POSITIONS:

FPC: This issue is inapposite because the GridFlorida Companies intend to continue providing bundled retail electric service, including transmission service, to their respective retail ratepayer groups subsequent to the commercial operation of the proposed GridFlorida RTO. Therefore, the question of whether Commission authorization is required before an electric utility can cease providing retail transmission service is not raised under the factual circumstances presented in this proceeding. (Witness: Naeve)

CALPINE: This issue is moot.

CPV: No position at this time.

DENA: This issue is moot.

MIRANT: This issue is moot.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

HANSEN: Yes.

DISNEY: FERC has jurisdiction over transmission in interstate commerce; states have jurisdiction over local distribution and transmission that does not entail interstate commerce. FERC has taken a broad view over its jurisdiction. The jurisdictional boundaries are an issue currently on appeal to the United States Supreme Court.

FIPUG: Yes. The Commission has the obligation to assure reliable delivery of electricity at the actual cost of service. The Commission should determine from the evidence provided in Part I of this docket whether GridFlorida will provide the requisite reliability. To

avoid the argument that Commission action in Part I preempts any further consideration of the impact on retail consumers, the Commission should obtain agreement from the parties during Part I that the authorization is conditioned upon the protection that will be provided for retail consumers in Part II of the docket. In Part II, FIPUG may recommend that the Commission adjust retail base rates in proportion to the costs attributable to the assets transferred and set the appropriate guidelines to ensure that charges for continuing service provided by these assets do not exceed the costs attributable to the assets when they were in the retail rate base. For example, if the assets are sold at above regulatory book value, the remaining assets of the utility should be adjusted by the full value, received for the regulatory assets sold. The selling IOU's capital structure should be reformed based upon the form of the sales price. For example, if GridFlorida assumes the selling IOU's debt, to the extent IOU debt is assumed, the debt component of the utility capital structure should be reduced. If the IOU or its holding company takes an equity position in GridFlorida, the equity component of the retail capital structure should be revised accordingly.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service governed by tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot allow Florida's electric utilities to get out of the retail transmission business if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

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

POSITIONS:

FPC: No. There is no provision in chapter 366, Florida Statutes or elsewhere in the Florida Statutes that requires FPSC approval of the transfer of ownership or control of transmission facilities by an electric utility. (Witness: Legal issue to be addressed in Post-Hearing Briefs)

CALPINE: No position at this time.

CPV: No position at this time.

DENA: No position at this time.

MIRANT: No position at this time.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

HANSEN: Yes.

DISNEY: See answer to Issue 9.

FIPUG: Yes.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service subject to tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. This is true even though statutes administered by the Commission do not explicitly address either the transfer of retail transmission assets or the transfer of operational control of retail transmission assets. See

e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot authorize either an outright transfer or a transfer of operational control if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

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

POSITIONS:

FPC: The GridFlorida Companies currently are participating in the mediation proceedings before the FERC regarding the formation of a Southeastern RTO. By participating in the mediation process the GridFlorida Companies can best protect interests unique to Florida and its ratepayers in the event a Southeast RTO ultimately materializes. The GridFlorida Companies cannot yet determine whether participation in a Southeast RTO is a better alternative for Florida than the GridFlorida RTO. This will depend, in large measure, on how and when a Southeast RTO is structured and developed. At this time, the GridFlorida Companies are asking the Commission to find that their decision to develop and to participate in GridFlorida is prudent. The Companies acknowledge, however, that another RTO option soon may be available to Florida market participants that was not available at the time the Companies made the decision to pursue GridFlorida. As the structure and details of a Southeast RTO become more concrete, the Commission might well expect the Companies to evaluate whether GridFlorida or the Southeast RTO presents the best option for Florida

customers. The Companies believe it is important for the state to preserve a GridFlorida RTO option as the Southeast RTO process continues. Thus, at this point, the Companies are asking the Commission to find that their decision to develop and participate in GridFlorida is prudent, subject only to a potential condition that the Companies evaluate the relative merits of GridFlorida and a Southeast RTO as the details of a Southeast RTO become known. (Witnesses: Naeve, Panel and Hernandez)

CALPINE: Greater RTO scope can provide greater benefits through expanded access to supply alternatives, increased reliability and efficiency and increased economies of scale. Just as the existing operations and pancaked transmission tariffs within Florida today introduce cost and complication that interfere with the market efficiencies that could be delivered to consumers, RTO's with scopes smaller than the natural markets they fall within may diminish the full market efficiencies that would otherwise be available. Similarly, the ability to avoid redundancy in tariff development and administration, system operations and planning under an RTO covering a broader region can increase the economies of scale and reduce the RTO cost per unit of load. Large RTOs foster broader market development, increased reliability, and lower wholesale electricity prices while smaller RTOs may lead to incompatible structures and systems between RTOs which do not fully reflect wholesale market trading patterns. Notwithstanding the advantages of a Southeastern RTO, the Commission may wish to support implementation of an RTO in a phased approach initially in Peninsular Florida that is compatible with and will eventually merge with a larger Southeastern RTO.

CPV: No position at this time.

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.

MIRANT: 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 adopt the GridFlorida proposal while supporting and participating in the development of a Southeast RTO that would provide even greater benefits to Florida ratepayers.

RELIANT: Timing should be the paramount consideration. Because GridFlorida appears to be positioned to achieve the benefits of an RTO more expeditiously, the implementation of GridFlorida should not be delayed. If the larger RTO subsequently becomes a possibility, the design of a successful Florida-specific RTO could influence the

manner in which the larger RTO takes shape. (Witness:
Mechler)

PG&E: No position at this time.

SEMINOLE: No position at this time.

HANSEN: No. A reduction of local, state control by this Commission by transfer of jurisdiction to the FERC is undesirable. Given Florida's peninsular geography and its relatively limited import/export transmission capacity, it is preferable that the state's transmission activities be regulated on a state/peninsular basis, as opposed to a multi-state, regional basis.

DISNEY: There are potential advantages to each approach. A Southeastern RTO could have the advantage of reducing interstate transmission constraints and increasing Florida customers' access to less expensive power from out of state. However, it is premature to answer this question. The answer depends on whether a Southeastern RTO materializes and the terms of operation and service proposed for it.

FIPUG: Yes. Florida's regulated utilities should be strongly encouraged to move to the larger, more robust southeastern RTO, advocated by FERC, rather than the weaker GridFlorida, which incorporates only part of Florida. Because GridFlorida must be independent and has the opportunity to be less costly, it is superior to the current system. The GridFlorida proposal is better than no action if appropriate safeguards for retail customers are adopted in Part II of this docket.

OPC: Passing on the relative merits of matters outside the Commission's retail jurisdiction would be inappropriate.

STAFF: No position at this time.

B. DOCKET NO. 001148-EI

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

POSITIONS:

FPL: Order No. 2000 established a federal policy that all transmission owners join an RTO. Although Order No. 2000 stops short of mandating RTO participation, the GridFlorida Companies faced the substantial likelihood that, if they refused to propose an RTO, they ultimately would be forced to do so by FERC, either directly or through ever increasing penalties. The GridFlorida Companies did not believe that RTO participation was voluntary in the long run. Thus, the choice faced by the GridFlorida Companies was not whether to join an RTO, but whether to proactively develop an RTO that was tailored to meet the needs of Florida or ultimately be forced to join an RTO that they had no role in shaping.
(Witnesses: Naeve, Hoecker, Hernandez)

CALPINE: 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.

CPV: No position at this time.

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.

MIRANT: 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.

DYNEGY: 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.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: Yes.

TWOMEY: Participation in a regional transmission organization by Florida's investor-owned utilities is entirely voluntary, requiring that these utilities must clearly demonstrate that their jurisdictional customers receive net economic benefits, or, at a minimum, are treated neutrally, if jurisdictional customers are to be required by the Commission to pay the substantial start-up and

transitional costs predicted by the utilities or any net increase in annual operating costs.

FIPUG: No position at this time.

OPC: Yes.

STAFF: Yes.

ISSUE 2: What are the benefits to Peninsular Florida associated with the utility's participation in GridFlorida?

POSITIONS:

FPL: Anticipated benefits include: (1) eliminating pancaked rates, (2) more efficient planning on a regional basis; (3) the ability to improve regional reliability through regional operations; (4) the creation of a real-time balancing market and ancillary services markets that are market based; (5) a congestion management proposal that leads to more efficient allocation of transmission capacity; (6) improved emergency response; and (7) more efficient treatment of loop flows. (Witnesses: Naeve, Hoecker, Ashburn)

CALPINE: An RTO will facilitate greater system efficiencies from the existing supply infrastructure as well as provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry, including elimination of remaining opportunities for discriminatory transmission practices. Specifically, a properly designed RTO will enhance access to, and use of, the transmission system and facilitate the least cost supply of power by eliminating rate pancaking, restrictive transmission policies and market participant control of the transmission grid and replacing them with a Florida-wide optimization of supply, transparent market signals and independent system operation. Further,

Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

CPV: An RTO, if properly implemented, will provide greater system efficiencies from the existing supply infrastructure. Additionally, it should provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry. Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

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.

MIRANT: Generally, GridFlorida will improve efficiencies in transmission grid management, improve grid reliability, promote transparent and efficient competitive power markets, 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, enhancing transmission expansion and upgrade activities, and improving parallel path flows.

DYNEGY: 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.

RELIANT: By eliminating the pancaking of transmission rates and encouraging entry of more participants, the RTO can lower transaction costs and increase revenues. Regional planning will lead to a system better optimized for local and regional (including the movement of bulk power) needs. Better management of parallel flows and congestion by the RTO will translate into greater reliability. A truly regional market served by more participants will lead to the economic displacement of Florida's aging fleet of highly inefficient units. All of these advantages will result in lower costs to ratepayers, as well as dramatically lower impacts on the environment. Moreover, because the TOTAL cost of transmission is roughly 1/18 of the costs of generation, the opportunity is present to achieve significant net savings for ratepayers. The extent of the savings will be a function of the depth and liquidity of the wholesale market-- attributes the Commission should strive to enhance as it supports the RTO. (Witness: Mechler)

PG&E: An RTO, if properly implemented, will provide greater system efficiencies from the existing supply infrastructure. Additionally, it should provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry. Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection

procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

SEMINOLE: GridFlorida has the potential to benefit all market participants by providing centralized and coordinated grid planning, maintenance and expansion; improving grid reliability; eliminating discriminatory practices; improving access for wholesale market participants; and eliminating "pancaked" rates.

TWOMEY: The stated benefits to be realized by Peninsular Florida associated with the utilities' participation are clearly only potential in nature and vague as well. Furthermore, it is not clear that the benefits promoted by the utilities to be gained by their participation in GridFlorida could not be realized at a smaller cost without the formation of GridFlorida.

FIPUG: A truly independent regional RTO will enable all power suppliers to operate freely with incumbent electric companies in a competitive wholesale market resulting in lower prices and greater reliability for consumers.

OPC: The Commission can only speak to this issue within the scope of its own jurisdiction. At this level, the Commission must assume, in the absence of legislative directives, that the policy of this state is to continue all regulation of retail transmission service under the Commission's continued oversight. As such, there are no benefits to Peninsular Florida associated with participation in GridFlorida.

STAFF: No position at this time.

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

POSITIONS:

FPL: Anticipated benefits include: (1) eliminating pancaked rates, (2) more efficient planning on a regional basis; (3) the ability to improve regional reliability through regional operations; (4) the creation of a real-time balancing market and ancillary services markets that are market based; (5) a congestion management proposal that leads to more efficient allocation of transmission capacity; (6) improved emergency response; and (7) more efficient treatment of loop flows. (Witnesses: Naeve, Hoecker, Ashburn and Hernandez)

CALPINE: An RTO will benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. First, since an RTO will consider all resources under its control in assuring reliability and selecting the least cost supply solutions, it will inherently be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning will lower transmission costs through economies of scale and the elimination of duplicative, parochial practices. Second, an RTO will provide the operational independence and infrastructure necessary to facilitate a viable competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne by the market participants and not ratepayers. The specific benefits 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 access to generation resources, and the elimination of inefficient congestion management practices.

CPV: An RTO should benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. Since an RTO should consider all resources under its control in

assuring reliability and selecting the least cost supply solutions without regard to economic benefit to any utility affiliate, it is expected to be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning should lower transmission costs through economies of scale and the elimination of duplicative practices. An RTO will provide the operational independence and infrastructure necessary to facilitate a viable, competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne primarily by the market participants.

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.

MIRANT: 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, fair, uniform and transparent transmission protocols and pricing signals governing the use of the grid coupled with appropriate maintenance and planning regulations provided by an RTO are 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.

DYNEGY: 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.

RELIANT: By eliminating the pancaking of transmission rates and encouraging entry of more participants, the RTO can lower transaction costs and increase revenues. Regional planning will lead to a system better optimized for local and regional (including the movement of bulk power) needs. Better management of parallel flows and congestion by the RTO will translate into greater reliability. A truly regional market served by more participants will lead to the economic displacement of Florida's aging fleet of highly inefficient units. All of these advantages will result in lower costs to ratepayers, as well as dramatically lower impacts on the environment. Moreover, because the TOTAL cost of transmission is roughly 1/18 of the costs of generation, the opportunity is present to achieve significant net savings for ratepayers. The extent of the savings will be a function of the depth and liquidity of the wholesale market-- attributes the Commission should strive to enhance as it supports the RTO. (Witness: Mechler)

PG&E: An RTO should benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. Since an RTO should consider all resources under its control in assuring reliability and selecting the least cost supply solutions without regard to economic benefit to any utility affiliate, it is expected to be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning should lower transmission costs through economies of scale and the elimination of duplicative practices. An RTO will provide the operational independence and infrastructure necessary to facilitate a viable, competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne primarily by the market participants rather than by captive ratepayers.

SEMINOLE: No position at this time.

TWOMEY: Benefits to the jurisdictional, especially residential, customers of these utilities, let alone "net benefits," resulting from the utilities' participation in GridFlorida have not been adequately demonstrated.

FIPUG: A truly independent regional RTO will enable all power suppliers to operate freely with incumbent electric companies in a competitive wholesale market resulting in lower prices and greater reliability for consumers.

OPC: None are readily identifiable at this time. Certainly no benefits have been identified which would fully offset the increased costs caused by participation in GridFlorida.

STAFF: No position at this time.

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

POSITIONS:

FPL: The total incremental start-up costs are estimated to be \$136 million. The amounts allocated to GridFlorida Companies' retail customers are as follows:
FPL: approximately \$70 million
FPC: approximately \$32.7 million
TECO: approximately \$16.9 million

Incremental annual operating costs are estimated to be \$52 million for the first full year of operation in the End State mode allocated to GridFlorida Companies' retail customers as follows:

FPL: approximately \$26.8 million
FPC: approximately \$11 million
TECO: approximately \$7.5 million
(Witnesses: Southwick, Dubin, Holcombe and Ashburn)

FPL maintains that such incremental GridFlorida transmission charges are properly recoverable through the Capacity Cost Recovery Clause. Explicit approval of

recovery of the incremental transmission costs through a recovery clause is required for FPL to proceed with RTO development. (Witness: Dubin)

CALPINE: Specific data related to cost analyses are not available to Calpine. However, as a general matter, costs of providing wholesale electric service should be lower under an RTO than continued sub-region specific tariffs and localized system operation.

CPV: No position at this time.

DENA: No position at this time.

MIRANT: No position at this time.

DYNEGY: Dynegy has no position on this point of fact.

RELIANT: Reliant Energy has accepted the estimates of the petitioners for purposes of commenting on the potential for net savings to end use customers.

PG&E: No position at this time.

SEMINOLE: No position at this time.

TWOMEY: These customer parties, will for the moment, accept each utilities' statement of estimated costs to its ratepayers for its participation in GridFlorida, to include the stated increases in jurisdictional rates.

FIPUG: RTO start-up costs should be amortized over the remaining life of the transmission system. No costs should be allocated to retail customers until transmission assets are unbundled and base rates adjusted in proportion to the charges GridFlorida will impose for assets now in utility rate base.

OPC: No position at this time.

STAFF: No position at this time.

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

POSITIONS:

FPL: Pursuant to FERC Order No. 2000, RTOs must be given complete operational control over the transmission assets of participating utilities. The GridFlorida Companies concluded that it would be in the best interest of the GridFlorida Companies and their ratepayers to relinquish control over all of their 69 kV and above transmission facilities. A uniform demarcation point is a reasonable approach to achieve fairness and equal access to the transmission system of the RTO. Furthermore, there is a benefit to aligning the ownership of the transmission facilities with the responsibility for operating and maintaining those facilities. This alignment also results in the entity that is responsible for decisions regarding expansion and other capital expenditures also being an owner of facilities with the responsibility for obtaining the necessary financing. For this reason, Tampa Electric and FPL have provisionally decided to transfer their transmission assets to GridFlorida. In contrast, FPC has determined that its business interests are best served if it remains the owner of its transmission facilities for the time being. In the final analysis, both courses of action are reasonable and prudent. The facilities operated by GridFlorida will be operated at the same level of efficiency, reliability and safety, and the GridFlorida Companies will receive the same level of high quality transmission service, whether or not transmission assets are divested. (Witnesses: Panel, Naeve, Mennes, Southwick and Hernandez)

CALPINE: While Calpine expects that the respective companies will substantiate their own business decisions, an effective RTO structure should be able to accommodate different business decisions while at the same time providing the centralized, independent control that is the hallmark of reliable, regionally operated transmission systems. Confidence in the operation of a competitive wholesale

market cannot be achieved unless it is operated by an independent entity that is not a market participant. TECO's/FPL's decision to transfer ownership and control of their facilities to GridFlorida, and FPC's decision to retain ownership but transfer operational control of its transmission assets are consistent with these needs.

CPV: No position at this time.

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.

MIRANT: 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 given the uncertainties in the emerging electricity markets. Retention of ownership provides FPC with flexibility to respond to regulatory as well as economic changes. 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.

DYNEGY: Dynegy has no position on this point of fact.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

TWOMEY: Based upon the "evidence" presented to date, it is difficult to ascertain whether transferring ownership (TECO/FPL) or retaining ownership (FPC) is the most appropriate manner in which a utility should participate in GridFlorida. Despite the testimony submitted thus far, it would appear that there should only be one "most appropriate," or preferable ownership decision and that, therefore, both the TECO/FPL and FPC decisions cannot be correct. The "prudent" course of ownership should be the one that results in the least cost for transmission service to be charged back to the utilities' jurisdictional customers. Under no circumstances should the sale of transmission-related assets to GridFlorida or the transfer of operational control result in a return on investment on those assets to either the for-profit GridFlorida or FPC that is greater than the reasonable and prudent amount required under the Commission's "rate of return regulation" under current conditions. Lastly, it would appear that the sale of assets will be more difficult to reverse than a mere transfer of control of assets should the GridFlorida experience prove unrewarding.

FIPUG: FIPUG believes independent control of the transmission system is beneficial to consumers. The retail rate impact issues resulting from ownership transfer will be addressed in Part II of this docket.

OPC: No. Moreover, the companies cannot make such a decision without prior Commission authorization. Inasmuch as such an authorization may effectively divest the Commission of jurisdiction over retail transmission assets, the Commission cannot allow either the unbundling or the transfer.

STAFF: No position at this time.

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

POSITIONS:

FPL: Yes. It was prudent for the GridFlorida Companies to make the decision to submit their own proposal rather than take the substantial risk that they later would be forced to join an existing RTO which the GridFlorida Companies did not participate in developing. If the GridFlorida Companies later were forced to join an existing RTO, they would have to take that RTO as they found it, and would have minimal input into its essential features. By contrast, there have been considerable benefits to Florida ratepayers resulting from the GridFlorida Companies' decision to form their own RTO and to develop their own proposal. (Witnesses: Naeve, Panel, Hoecker, Ashburn and Hernandez)

CALPINE: 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.

CPV: Yes.

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.

MIRANT: 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.

DYNEGY: 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.

RELIANT: No position.

PG&E: Yes.

SEMINOLE: Yes. As a general matter, Seminole Electric believes that participation in GridFlorida by FPC, FPL and TECO is prudent. Seminole Electric does, however, take exception to certain aspects of GridFlorida, as set forth in

Seminole Electric's pleadings in the proceedings before the Federal Energy Regulatory Commission ("FERC").

TWOMEY: Based upon the start-up costs predicted by the utilities and the resulting increases in jurisdictional rates, it appears that these utilities' jurisdictional customers will receive net economic detriments by their utilities' participation in GridFlorida and that, therefore, each utilities participation should be found to be imprudent.

FIPUG: Yes, but not as good as participation in a larger more comprehensive RTO.

OPC: No.

STAFF: No position at this time.

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

POSITIONS:

FPL: The Commission should conclude that the GridFlorida Companies have been prudent in their planning of the proposed GridFlorida RTO and that commercial operation of GridFlorida, as proposed, would be in the best interest of Florida ratepayers. A swift and unequivocal finding that the formation and operation of GridFlorida is prudent is in the best interest of Florida ratepayers. (Witness: Naeve, Hernandez)

CALPINE: First, the Commission should memorialize a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida. Second, the Commission should acknowledge that there remain important transmission-related impediments to a competitive wholesale electricity market such as pancaked transmission rates, burdensome intra-Florida reservation and scheduling practices, absence of transparency, and the continuing opportunities for undue discrimination in the operation of the transmission grid. Third, the

Commission should support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The primary contribution of an RTO should be to independently operate the transmission system to provide fair and equal transmission access, efficiency through RTO-wide system optimization and establish a competitive spot market to encourage market participant funded investment. The Commission should support immediate establishment of an RTO that meets these requirements.

CPV: The Commission should adopt a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida and support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The Commission should support establishment of an RTO to accomplish these objectives.

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.

MIRANT: 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 engineering and economic inefficiencies, and 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 immediately seek to establish an RTO that does.

DYNEGY: 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.

RELIANT: As a matter of general policy, because of the opportunity to obtain the benefits and savings described in response to 2 and 3 above, the Commission should support the formation and implementation of GridFlorida. The Commission can support GridFlorida on an overall basis while reserving its right to advocate different positions on specific details of the RTO. The Commission should not regard the development of a fully mature and robustly competitive market as a condition precedent to the RTO; rather, it should support simultaneously the RTO and the measures needed to maximize benefits through a more vigorous level of competition. (Witness: Mechler)

PG&E: The Commission should adopt a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida and support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The Commission should support establishment of an RTO to accomplish these objectives.

SEMINOLE: The Commission should adopt a policy position generally supportive of participation by FPC, FPL and TECO in GridFlorida.

TWOMEY: The Commission should take the position that no utility should be allowed to sell or transfer its transmission-related assets, or even transfer operational control over those assets, if doing so will result in any diminution of the utility's ability to provide jurisdictional service at current levels of reliability or cost (assuming reasonable and fair rates set under current conditions). To the extent the Commission lacks the jurisdiction to legally prevent the sale or transfer of transmission assets or their operational control, it should take the position that any net increases in costs resulting from the transactions shall be denied from recovery through jurisdictional retail rates.

- FIPUG:**
1. For the benefit of consumers, the Commission policy should be to endorse a larger and more comprehensive Southeastern Regional independent transmission system. The policy should recognize that GridFlorida is inferior to the larger regional system but if it is created to operate independently and provides real time market information it will be superior to the current Balkanized transmission grid.
 2. Take steps to ensure that the Florida Public Service Commission retains jurisdiction to ensure that retail rates are not adversely effected by the asset transfer.

OPC: GridFlorida would be a FERC-regulated entity outside the Commission's jurisdiction. As such, the Commission should refrain from making policy pronouncements in matters not related to retail electric regulation.

STAFF: No position at this time.

ISSUE 8: Is Commission authorization required before a utility can unbundle its retail electric service?

POSITIONS:

FPL: The GridFlorida Companies intend to continue providing bundled retail electric service to their respective retail ratepayer groups subsequent to the commercial operation of the proposed GridFlorida RTO. The GridFlorida Companies will be customers of GridFlorida under the RTO tariff and the rate established by the FERC will be the rate paid by the GridFlorida Companies not the rate paid by retail customers. Bundled service will continue to be provided to retail customers. Therefore, the question of whether Commission authorization is required before retail electric rates can be unbundled is not raised under the factual circumstances presented in this proceeding. (Witness: Naeve)

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

CPV: No position at this time.

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

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

DYNEGY: 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.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

TWOMEY: Yes.

FIPUG: No, but the Commission should mandate it as a matter of policy.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service governed by tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's

regulatory oversight without the Commission's prior approval. This is true even though "unbundling" is not explicitly referenced in statute. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot authorize unbundling if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

ISSUE 9: Is Commission authorization required before a utility can stop providing retail transmission service?

POSITIONS:

FPL: This issue is inapposite because the GridFlorida Companies intend to continue providing bundled retail electric service, including transmission service, to their respective retail ratepayer groups subsequent to the commercial operation of the proposed GridFlorida RTO. Therefore, the question of whether Commission authorization is required before an electric utility can cease providing retail transmission service is not raised under the factual circumstances presented in this proceeding. (Witness: Naeve)

CALPINE: This issue is moot.

CPV: No position at this time.

DENA: This issue is moot.

MIRANT: This issue is moot.

DYNEGY: 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.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

TWOMEY: Yes.

FIPUG: Yes. The Commission has the obligation to assure reliable delivery of electricity at the actual cost of service. The Commission should determine from the evidence provided in Part I of this docket whether GridFlorida will provide the requisite reliability. To avoid the argument that Commission action in Part I preempts any further consideration of the impact on retail consumers, the Commission should obtain agreement from the parties during Part I that the authorization is conditioned upon the protection that will be provided for retail consumers in Part II of the docket. In Part II, FIPUG may recommend that the Commission adjust retail base rates in proportion to the costs attributable to the assets transferred and set the appropriate guidelines to ensure that charges for continuing service provided by these assets do not exceed the costs attributable to the assets when they were in the retail rate base. For example, if the assets are sold at above regulatory book value, the remaining assets of the utility should be adjusted by the full value, received for the regulatory assets sold. The selling IOU's capital structure should be reformed based upon the form of the sales price. For example, if GridFlorida assumes the selling IOU's debt, to the extent IOU debt is assumed, the debt component of the utility capital structure should be reduced. If the IOU or its holding company takes an equity position in GridFlorida, the

equity component of the retail capital structure should be revised accordingly.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service governed by tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot allow Florida's electric utilities to get out of the retail transmission business if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

ISSUE 10: Is Commission authorization required before FPL can sell its retail transmission assets?

POSITIONS:

FPL: No. There is no provision in chapter 366, Florida Statutes or elsewhere in the Florida Statutes that requires FPSC approval of the transfer of ownership or control of transmission facilities by an electric utility. (Witness: Legal issue to be addressed in Post-Hearing Briefs)

CALPINE: No position at this time.

CPV: No position at this time.

DENA: No position at this time.

MIRANT: No position at this time.

- DYNEGY:** 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.
- RELIANT:** No position.
- PG&E:** No position at this time.
- SEMINOLE:** No position at this time.
- TWOMEY:** Yes.
- FIPUG:** Yes.
- OPC:** Yes. A utility cannot unilaterally alter the terms or conditions of service subject to tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. This is true even though statutes administered by the Commission do not explicitly address either the transfer of retail transmission assets or the transfer of operational control of retail transmission assets. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot authorize either an outright transfer or a transfer of operational control if to do so would effectively divest it of some of its jurisdiction.
- STAFF:** No position at this time.

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

POSITIONS:

FPL: The GridFlorida Companies currently are participating in the mediation proceedings before the FERC regarding the formation of a Southeastern RTO. By participating in the mediation process the GridFlorida Companies can best protect interests unique to Florida and its ratepayers in the event a Southeast RTO ultimately materializes. The GridFlorida Companies cannot yet determine whether participation in a Southeast RTO is a better alternative for Florida than the GridFlorida RTO. This will depend, in large measure, on how and when a Southeast RTO is structured and developed. At this time, the GridFlorida Companies are asking the Commission to find that their decision to develop and to participate in GridFlorida is prudent. The Companies acknowledge, however, that another RTO option soon may be available to Florida market participants that was not available at the time the Companies made the decision to pursue GridFlorida. As the structure and details of a Southeast RTO become more concrete, the Commission might well expect the Companies to evaluate whether GridFlorida or the Southeast RTO presents the best option for Florida customers. The Companies believe it is important for the state to preserve a GridFlorida RTO option as the Southeast RTO process continues. Thus, at this point, the Companies are asking the Commission to find that their decision to develop and participate in GridFlorida is prudent, subject only to a potential condition that the Companies evaluate the relative merits of GridFlorida and a Southeast RTO as the details of a Southeast RTO become known. (Witnesses: Naeve, Panel and Hernandez)

CALPINE: Greater RTO scope can provide greater benefits through expanded access to supply alternatives, increased reliability and efficiency and increased economies of scale. Just as the existing operations and pancaked transmission tariffs within Florida today introduce cost

and complication that interfere with the market efficiencies that could be delivered to consumers, RTO's with scopes smaller than the natural markets they fall within may diminish the full market efficiencies that would otherwise be available. Similarly, the ability to avoid redundancy in tariff development and administration, system operations and planning under an RTO covering a broader region can increase the economies of scale and reduce the RTO cost per unit of load. Large RTOs foster broader market development, increased reliability, and lower wholesale electricity prices while smaller RTOs may lead to incompatible structures and systems between RTOs which do not fully reflect wholesale market trading patterns. Notwithstanding the advantages of a Southeastern RTO, the Commission may wish to support implementation of an RTO in a phased approach initially in Peninsular Florida that is compatible with and will eventually merge with a larger Southeastern RTO.

CPV: No position at this time.

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.

MIRANT: 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 adopt the GridFlorida proposal while supporting and participating in the development of a Southeast RTO that would provide even greater benefits to Florida ratepayers.

DYNEGY: Dynegy has no position on this point of fact.

RELIANT: Timing should be the paramount consideration. Because GridFlorida appears to be positioned to achieve the benefits of an RTO more expeditiously, the implementation of GridFlorida should not be delayed. If the larger RTO subsequently becomes a possibility, the design of a successful Florida-specific RTO could influence the manner in which the larger RTO takes shape. (Witness: Mechler)

PG&E: No position at this time.

SEMINOLE: No position at this time.

TWOMEY: No. A reduction of local, state control by this Commission by transfer of jurisdiction to the FERC is undesirable. Given Florida's peninsular geography and its relatively limited import/export transmission capacity, it is preferable that the state's transmission

activities be regulated on a state/peninsular basis, as opposed to a multi-state, regional basis.

FIPUG: Yes. Florida's regulated utilities should be strongly encouraged to move to the larger, more robust southeastern RTO, advocated by FERC, rather than the weaker GridFlorida, which incorporates only part of Florida. Because GridFlorida must be independent and has the opportunity to be less costly, it is superior to the current system. The GridFlorida proposal is better than no action if appropriate safeguards for retail customers are adopted in Part II of this docket.

OPC: Passing on the relative merits of matters outside the Commission's retail jurisdiction would be inappropriate.

STAFF: No position at this time.

C. DOCKET NO. 010577-EI

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

POSITIONS:

TECO: Order No. 2000 established a federal policy that all transmission owners join an RTO. Although Order No. 2000 stops short of mandating RTO participation, the GridFlorida Companies faced the substantial likelihood that, if they refused to propose an RTO, they ultimately would be forced to do so by FERC, either directly or through ever increasing penalties. The GridFlorida Companies did not believe that RTO participation was voluntary in the long run. Thus, the choice faced by the GridFlorida Companies was not whether to join an RTO, but whether to proactively develop an RTO that was tailored to meet the needs of Florida or ultimately be forced to join an RTO that they had no role in shaping.
(Witnesses: Naeve, Hoecker, Hernandez)

CALPINE: 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.

CPV: No position at this time.

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.

MIRANT: 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.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: Yes.

FIPUG: No position at this time.

OPC: Yes.

STAFF: Yes.

ISSUE 2: What are the benefits to Peninsular Florida associated with the utility's participation in GridFlorida?

POSITIONS:

TECO: Anticipated benefits include: (1) eliminating pancaked rates, (2) more efficient planning on a regional basis; (3) the ability to improve regional reliability through regional operations; (4) the creation of a real-time balancing market and ancillary services markets that are market based; (5) a congestion management proposal that leads to more efficient allocation of transmission capacity; (6) improved emergency response; and (7) more efficient treatment of loop flows. (Witnesses: Naeve, Hoecker, Ashburn)

CALPINE: An RTO will facilitate greater system efficiencies from the existing supply infrastructure as well as provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry, including elimination of remaining opportunities for discriminatory transmission practices. Specifically, a properly designed RTO will enhance access to, and use of,

the transmission system and facilitate the least cost supply of power by eliminating rate pancaking, restrictive transmission policies and market participant control of the transmission grid and replacing them with a Florida-wide optimization of supply, transparent market signals and independent system operation. Further, Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

CPV: An RTO, if properly implemented, will provide greater system efficiencies from the existing supply infrastructure. Additionally, it should provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry. Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection procedures for merchant generation, coordination of planning functions, and enhanced transmission expansion and upgrade activities.

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.

MIRANT: Generally, GridFlorida will improve efficiencies in transmission grid management, improve grid reliability,

promote transparent and efficient competitive power markets, 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, enhancing transmission expansion and upgrade activities, and improving parallel path flows.

RELIANT: By eliminating the pancaking of transmission rates and encouraging entry of more participants, the RTO can lower transaction costs and increase revenues. Regional planning will lead to a system better optimized for local and regional (including the movement of bulk power) needs. Better management of parallel flows and congestion by the RTO will translate into greater reliability. A truly regional market served by more participants will lead to the economic displacement of Florida's aging fleet of highly inefficient units. All of these advantages will result in lower costs to ratepayers, as well as dramatically lower impacts on the environment. Moreover, because the TOTAL cost of transmission is roughly 1/18 of the costs of generation, the opportunity is present to achieve significant net savings for ratepayers. The extent of the savings will be a function of the depth and liquidity of the wholesale market-- attributes the Commission should strive to enhance as it supports the RTO. (Witness: Mechler)

PG&E: An RTO, if properly implemented, will provide greater system efficiencies from the existing supply infrastructure. Additionally, it should provide access to a broader array of additional supply options through a competitive wholesale electricity market. Generally, an RTO will improve efficiencies in transmission grid management, improve grid reliability and remove impediments to competitive supply entry. Florida consumers' access to power supply alternatives would be further enhanced through uniform interconnection procedures for merchant generation, coordination of

planning functions, and enhanced transmission expansion and upgrade activities.

SEMINOLE: GridFlorida has the potential to benefit all market participants by providing centralized and coordinated grid planning, maintenance and expansion; improving grid reliability; eliminating discriminatory practices; improving access for wholesale market participants; and eliminating "pancaked" rates.

FIPUG: A truly independent regional RTO will enable all power suppliers to operate freely with incumbent electric companies in a competitive wholesale market resulting in lower prices and greater reliability for consumers.

OPC: The Commission can only speak to this issue within the scope of its own jurisdiction. At this level, the Commission must assume, in the absence of legislative directives, that the policy of this state is to continue all regulation of retail transmission service under the Commission's continued oversight. As such, there are no benefits to Peninsular Florida associated with participation in GridFlorida.

STAFF: No position at this time.

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

POSITIONS:

TECO: Anticipated benefits include: (1) eliminating pancaked rates, (2) more efficient planning on a regional basis; (3) the ability to improve regional reliability through regional operations; (4) the creation of a real-time balancing market and ancillary services markets that are market based; (5) a congestion management proposal that leads to more efficient allocation of transmission capacity; (6) improved emergency response; and (7) more efficient treatment of loop flows. (Witnesses: Naeve, Hoecker, Ashburn and Hernandez)

CALPINE: An RTO will benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. First, since an RTO will consider all resources under its control in assuring reliability and selecting the least cost supply solutions, it will inherently be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning will lower transmission costs through economies of scale and the elimination of duplicative, parochial practices. Second, an RTO will provide the operational independence and infrastructure necessary to facilitate a viable competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne by the market participants and not ratepayers. The specific benefits 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 access to generation resources, and the elimination of inefficient congestion management practices.

CPV: An RTO should benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. Since an RTO should consider all resources under its control in assuring reliability and selecting the least cost supply solutions without regard to economic benefit to any utility affiliate, it is expected to be more efficient and reliable than the existing local level of system control. Likewise, unified transmission system operation and planning should lower transmission costs through economies of scale and the elimination of duplicative practices. An RTO will provide the operational independence and infrastructure necessary to facilitate a viable, competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the

investment risk is borne primarily by the market participants.

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.

MIRANT: 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, fair, uniform and transparent transmission protocols and pricing signals governing the use of the grid coupled with appropriate maintenance and planning regulations provided by an RTO are 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.

RELIANT: By eliminating the pancaking of transmission rates and encouraging entry of more participants, the RTO can lower transaction costs and increase revenues. Regional planning will lead to a system better optimized for local and regional (including the movement of bulk power) needs. Better management of parallel flows and congestion by the RTO will translate into greater reliability. A truly regional market served by more participants will lead to the economic displacement of Florida's aging fleet of highly inefficient units. All of these advantages will result in lower costs to ratepayers, as well as dramatically lower impacts on the environment. Moreover, because the TOTAL cost of transmission is roughly 1/18 of the costs of generation, the opportunity is present to achieve significant net savings for ratepayers. The extent of the savings will be a function of the depth and liquidity of the wholesale market-- attributes the Commission should strive to enhance as it supports the RTO. (Witness: Mechler)

PG&E: An RTO should benefit ratepayers by facilitating enhanced grid reliability and more efficient power supply. Since an RTO should consider all resources under its control in assuring reliability and selecting the least cost supply solutions without regard to economic benefit to any utility affiliate, it is expected to be more efficient and reliable than the existing local level of system

control. Likewise, unified transmission system operation and planning should lower transmission costs through economies of scale and the elimination of duplicative practices. An RTO will provide the operational independence and infrastructure necessary to facilitate a viable, competitive wholesale market. In general, a competitive wholesale market will provide consumers with access to a broader array of generation supply alternatives, including merchant generation where the investment risk is borne primarily by the market participants rather than by captive ratepayers.

SEMINOLE: No position at this time.

FIPUG: A truly independent regional RTO will enable all power suppliers to operate freely with incumbent electric companies in a competitive wholesale market resulting in lower prices and greater reliability for consumers.

OPC: None are readily identifiable at this time. Certainly no benefits have been identified which would fully offset the increased costs caused by participation in GridFlorida.

STAFF: No position at this time.

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

POSITIONS:

TECO: The total incremental start-up costs are estimated to be \$136 million. The amounts allocated to GridFlorida Companies' retail customers are as follows:

FPL: approximately \$70 million
FPC: approximately \$32.7 million
TECO: approximately \$16.9 million

Incremental annual operating costs are estimated to be \$52 million for the first full year of operation in the

End State mode allocated to GridFlorida Companies' retail customers as follows:

FPL: approximately \$26.8 million

FPC: approximately \$11 million

TECO: approximately \$7.5 million

(Witnesses: Southwick, Dubin, Holcombe and Ashburn)

CALPINE: Specific data related to cost analyses are not available to Calpine. However, as a general matter, costs of providing wholesale electric service should be lower under an RTO than continued sub-region specific tariffs and localized system operation.

CPV: No position at this time.

DENA: No position at this time.

MIRANT: No position at this time.

RELIANT: Reliant Energy has accepted the estimates of the petitioners for purposes of commenting on the potential for net savings to end use customers.

PG&E: No position at this time.

SEMINOLE: No position at this time.

FIPUG: RTO start-up costs should be amortized over the remaining life of the transmission system. No costs should be allocated to retail customers until transmission assets are unbundled and base rates adjusted in proportion to the charges GridFlorida will impose for assets now in utility rate base.

OPC: No position at this time.

STAFF: No position at this time.

ISSUE 5: Is TECO's, decision to transfer ownership and control of its transmission facilities of 69 kV and above to GridFlorida appropriate?

POSITIONS:

TECO:

Pursuant to FERC Order No. 2000, RTOs must be given complete operational control over the transmission assets of participating utilities. The GridFlorida Companies concluded that it would be in the best interest of the GridFlorida Companies and their ratepayers to relinquish control over all of their 69 kV and above transmission facilities. A uniform demarcation point is a reasonable approach to achieve fairness and equal access to the transmission system of the RTO. Furthermore, there is a benefit to aligning the ownership of the transmission facilities with the responsibility for operating and maintaining those facilities. This alignment also results in the entity that is responsible for decisions regarding expansion and other capital expenditures also being an owner of facilities with the responsibility for obtaining the necessary financing. For this reason, Tampa Electric and FPL have provisionally decided to transfer their transmission assets to GridFlorida. In contrast, FPC has determined that its business interests are best served if it remains the owner of its transmission facilities for the time being. In the final analysis, both courses of action are reasonable and prudent. The facilities operated by GridFlorida will be operated at the same level of efficiency, reliability and safety, and the GridFlorida Companies will receive the same level of high quality transmission service, whether or not transmission assets are divested. (Witnesses: Panel, Naeve, Mennes, Southwick and Hernandez)

CALPINE:

While Calpine expects that the respective companies will substantiate their own business decisions, an effective RTO structure should be able to accommodate different business decisions while at the same time providing the centralized, independent control that is the hallmark of reliable, regionally operated transmission systems. Confidence in the operation of a competitive wholesale market cannot be achieved unless it is operated by an independent entity that is not a market participant. TECO's/FPL's decision to transfer ownership and control of their facilities to GridFlorida, and FPC's decision to

retain ownership but transfer operational control of its transmission assets are consistent with these needs.

CPV: No position at this time.

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.

MIRANT: 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 given the uncertainties in the emerging electricity markets. Retention of ownership provides FPC with flexibility to respond to regulatory as well as economic changes. 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.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

FIPUG: FIPUG believes independent control of the transmission system is beneficial to consumers. The retail rate impact issues resulting from ownership transfer will be addressed in Part II of this docket.

OPC: No. Moreover, the companies cannot make such a decision without prior Commission authorization. Inasmuch as such an authorization may effectively divest the Commission of jurisdiction over retail transmission assets, the Commission cannot allow either the unbundling or the transfer.

STAFF: No position at this time.

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

POSITIONS:

TECO: Yes. It was prudent for the GridFlorida Companies to make the decision to submit their own proposal rather than take the substantial risk that they later would be forced to join an existing RTO which the GridFlorida Companies did not participate in developing. If the GridFlorida Companies later were forced to join an existing RTO, they would have to take that RTO as they found it, and would have minimal input into its essential features. By contrast, there have been considerable benefits to Florida ratepayers resulting from the GridFlorida Companies' decision to form their own RTO and to develop their own proposal. (Witnesses: Naeve, Panel, Hoecker, Ashburn and Hernandez)

CALPINE: 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.

CPV: Yes.

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.

MIRANT: 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.

RELIANT: No position.

PG&E: Yes.

SEMINOLE: Yes. As a general matter, Seminole Electric believes that participation in GridFlorida by FPC, FPL and TECO is prudent. Seminole Electric does, however, take exception to certain aspects of GridFlorida, as set forth in Seminole Electric's pleadings in the proceedings before the Federal Energy Regulatory Commission ("FERC").

FIPUG: Yes, but not as good as participation in a larger more comprehensive RTO.

OPC: No.

STAFF: No position at this time.

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

POSITIONS:

TECO: The Commission should conclude that the GridFlorida Companies have been prudent in their planning of the proposed GridFlorida RTO and that commercial operation of GridFlorida, as proposed, would be in the best interest of Florida ratepayers. A swift and unequivocal finding that the formation and operation of GridFlorida is prudent is in the best interest of Florida ratepayers. (Witness: Naeve, Hernandez)

CALPINE: First, the Commission should memorialize a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida. Second, the Commission should acknowledge that there remain important transmission-related impediments to a competitive wholesale electricity market such as pancaked transmission rates, burdensome intra-Florida reservation and scheduling practices, absence of transparency, and the continuing opportunities for undue discrimination in

the operation of the transmission grid. Third, the Commission should support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The primary contribution of an RTO should be to independently operate the transmission system to provide fair and equal transmission access, efficiency through RTO-wide system optimization and establish a competitive spot market to encourage market participant funded investment. The Commission should support immediate establishment of an RTO that meets these requirements.

CPV:

The Commission should adopt a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida and support the establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The Commission should support establishment of an RTO to accomplish these objectives.

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.

MIRANT: 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 engineering and economic inefficiencies, and 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 immediately seek to establish an RTO that does.

RELIANT: As a matter of general policy, because of the opportunity to obtain the benefits and savings described in response to 2 and 3 above, the Commission should support the formation and implementation of GridFlorida. The Commission can support GridFlorida on an overall basis while reserving its right to advocate different positions on specific details of the RTO. The Commission should not regard the development of a fully mature and robustly competitive market as a condition precedent to the RTO; rather, it should support simultaneously the RTO and the measures needed to maximize benefits through a more vigorous level of competition. (Witness: Mechler)

PG&E: The Commission should adopt a policy position that recognizes the benefits of a robust, competitive wholesale power market in Florida and support the

establishment of an independent grid management structure that will ensure the development of competitive wholesale generation markets to increase Florida load's access to generation supply and to promote efficient system operation. The Commission should support establishment of an RTO to accomplish these objectives.

SEMINOLE: The Commission should adopt a policy position generally supportive of participation by FPC, FPL and TECO in GridFlorida.

- FIPUG:**
1. For the benefit of consumers, the Commission policy should be to endorse a larger and more comprehensive Southeastern Regional independent transmission system. The policy should recognize that GridFlorida is inferior to the larger regional system but if it is created to operate independently and provides real time market information it will be superior to the current Balkanized transmission grid.
 2. Take steps to ensure that the Florida Public Service Commission retains jurisdiction to ensure that retail rates are not adversely effected by the asset transfer.

OPC: GridFlorida would be a FERC-regulated entity outside the Commission's jurisdiction. As such, the Commission should refrain from making policy pronouncements in matters not related to retail electric regulation.

STAFF: No position at this time.

ISSUE 8: Is Commission authorization required before a utility can unbundle its retail electric service?

POSITIONS:

TECO: The GridFlorida Companies intend to continue providing bundled retail electric service to their respective retail ratepayer groups subsequent to the commercial

operation of the proposed GridFlorida RTO. The GridFlorida Companies will be customers of GridFlorida under the RTO tariff and the rate established by the FERC will be the rate paid by the GridFlorida Companies not the rate paid by retail customers. Bundled service will continue to be provided to retail customers. Therefore, the question of whether Commission authorization is required before retail electric rates can be unbundled is not raised under the factual circumstances presented in this proceeding. (Witness: Naeve)

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

CPV: No position at this time.

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

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

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

FIPUG: No, but the Commission should mandate it as a matter of policy.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service governed by tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. This is true even though "unbundling" is not explicitly referenced in statute. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436

(Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot authorize unbundling if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

ISSUE 9: Is Commission authorization required before a utility can stop providing retail transmission service?

POSITIONS:

TECO: This issue is inapposite because the GridFlorida Companies intend to continue providing bundled retail electric service, including transmission service, to their respective retail ratepayer groups subsequent to the commercial operation of the proposed GridFlorida RTO. Therefore, the question of whether Commission authorization is required before an electric utility can cease providing retail transmission service is not raised under the factual circumstances presented in this proceeding. (Witness: Naeve)

CALPINE: This issue is moot.

CPV: No position at this time.

DENA: This issue is moot.

MIRANT: This issue is moot.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

FIPUG: Yes. The Commission has the obligation to assure reliable delivery of electricity at the actual cost of service. The Commission should determine from the evidence provided in Part I of this docket whether GridFlorida will provide the requisite reliability. To avoid the argument that Commission action in Part I preempts any further consideration of the impact on retail consumers, the Commission should obtain agreement from the parties during Part I that the authorization is conditioned upon the protection that will be provided for retail consumers in Part II of the docket. In Part II, FIPUG may recommend that the Commission adjust retail base rates in proportion to the costs attributable to the assets transferred and set the appropriate guidelines to ensure that charges for continuing service provided by these assets do not exceed the costs attributable to the assets when they were in the retail rate base. For example, if the assets are sold at above regulatory book value, the remaining assets of the utility should be adjusted by the full value, received for the regulatory assets sold. The selling IOU's capital structure should be reformed based upon the form of the sales price. For example, if GridFlorida assumes the selling IOU's debt, to the extent IOU debt is assumed, the debt component of the utility capital structure should be reduced. If the IOU or its holding company takes an equity position in GridFlorida, the equity component of the retail capital structure should be revised accordingly.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service governed by tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The

Commission cannot allow Florida's electric utilities to get out of the retail transmission business if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

ISSUE 10: Is Commission authorization required before FPL can sell its retail transmission assets?

POSITIONS:

TECO: No. There is no provision in chapter 366, Florida Statutes or elsewhere in the Florida Statutes that requires FPSC approval of the transfer of ownership or control of transmission facilities by an electric utility. (Witness: Legal issue to be addressed in Post-Hearing Briefs)

CALPINE: No position at this time.

CPV: No position at this time.

DENA: No position at this time.

MIRANT: No position at this time.

RELIANT: No position.

PG&E: No position at this time.

SEMINOLE: No position at this time.

FIPUG: Yes.

OPC: Yes. A utility cannot unilaterally alter the terms or conditions of service subject to tariffs approved by the Commission. Moreover, a utility cannot take an action that would affect any aspect of the Commission's regulatory oversight without the Commission's prior approval. This is true even though statutes administered by the Commission do not explicitly address either the

transfer of retail transmission assets or the transfer of operational control of retail transmission assets. See e.g. City Gas Company v. Peoples Gas System, Inc., 182 So. 2d 429, 436 (Fla. 1965) (Even though there was no explicit authority for Commission approval of territorial agreements, such agreements were invalid without Commission approval because they impinge upon the Commission's statutory authority to order additions and extensions to utility facilities.) The Commission cannot authorize either an outright transfer or a transfer of operational control if to do so would effectively divest it of some of its jurisdiction.

STAFF: No position at this time.

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

POSITIONS:

TECO: The GridFlorida Companies currently are participating in the mediation proceedings before the FERC regarding the formation of a Southeastern RTO. By participating in the mediation process the GridFlorida Companies can best protect interests unique to Florida and its ratepayers in the event a Southeast RTO ultimately materializes. The GridFlorida Companies cannot yet determine whether participation in a Southeast RTO is a better alternative for Florida than the GridFlorida RTO. This will depend, in large measure, on how and when a Southeast RTO is structured and developed. At this time, the GridFlorida Companies are asking the Commission to find that their decision to develop and to participate in GridFlorida is prudent. The Companies acknowledge, however, that another RTO option soon may be available to Florida market participants that was not available at the time the Companies made the decision to pursue GridFlorida. As the structure and details of a Southeast RTO become more concrete, the Commission might well expect the Companies to evaluate whether GridFlorida or the

Southeast RTO presents the best option for Florida customers. The Companies believe it is important for the state to preserve a GridFlorida RTO option as the Southeast RTO process continues. Thus, at this point, the Companies are asking the Commission to find that their decision to develop and participate in GridFlorida is prudent, subject only to a potential condition that the Companies evaluate the relative merits of GridFlorida and a Southeast RTO as the details of a Southeast RTO become known. (Witnesses: Naeve, Panel and Hernandez)

CALPINE: Greater RTO scope can provide greater benefits through expanded access to supply alternatives, increased reliability and efficiency and increased economies of scale. Just as the existing operations and pancaked transmission tariffs within Florida today introduce cost and complication that interfere with the market efficiencies that could be delivered to consumers, RTO's with scopes smaller than the natural markets they fall within may diminish the full market efficiencies that would otherwise be available. Similarly, the ability to avoid redundancy in tariff development and administration, system operations and planning under an RTO covering a broader region can increase the economies of scale and reduce the RTO cost per unit of load. Large RTOs foster broader market development, increased reliability, and lower wholesale electricity prices while smaller RTOs may lead to incompatible structures and systems between RTOs which do not fully reflect wholesale market trading patterns. Notwithstanding the advantages of a Southeastern RTO, the Commission may wish to support implementation of an RTO in a phased approach initially in Peninsular Florida that is compatible with and will eventually merge with a larger Southeastern RTO.

CPV: No position at this time.

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.

MIRANT: 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 adopt the GridFlorida proposal while supporting and participating in the development of a Southeast RTO that would provide even greater benefits to Florida ratepayers.

RELIANT: Timing should be the paramount consideration. Because GridFlorida appears to be positioned to achieve the benefits of an RTO more expeditiously, the implementation of GridFlorida should not be delayed. If the larger RTO subsequently becomes a possibility, the design of a

successful Florida-specific RTO could influence the manner in which the larger RTO takes shape. (Witness: Mechler)

PG&E: No position at this time.

SEMINOLE: No position at this time.

FIPUG: Yes. Florida's regulated utilities should be strongly encouraged to move to the larger, more robust southeastern RTO, advocated by FERC, rather than the weaker GridFlorida, which incorporates only part of Florida. Because GridFlorida must be independent and has the opportunity to be less costly, it is superior to the current system. The GridFlorida proposal is better than no action if appropriate safeguards for retail customers are adopted in Part II of this docket.

OPC: Passing on the relative merits of matters outside the Commission's retail jurisdiction would be inappropriate.

STAFF: No position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Mike Naeve	FPC, FPL, TECO	_____ (CMN-1)	GridFlorida Formation Documents
Henry I. Southwick	FPC, FPL, TECO	_____ (HIS-1)	RTO Start-Up Costs Letter Agreement
Henry I. Southwick	FPC, FPL, TECO	_____ (HIS-2)	GridFlorida Request for Information Regarding Program Management Services and Business Systems ("Request for Information").

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Henry I. Southwick	FPC, FPL, TECO	<u> </u> (HIS-3)	Summary of proposals received in response to Request for Information.
Bradford L. Holcombe	FPC, FPL, TECO	<u> </u> (BLH-1)	Business Blueprint Documents
Bradford L. Holcombe	FPC, FPL, TECO	<u> </u> (BLH-2)	Matrix of Accenture's RTO experience
Bradford L. Holcombe	FPC, FPL, TECO	<u> </u> (BLH-3)	Spreadsheet prepared by GridFlorida Companies showing the incremental cost impact on GridFlorida users of estimated start-up and operating costs
William R. Ashburn	TECO	<u> </u> (WRA-1)	Transmission revenue requirements by customer class; Estimated impact of GridFlorida cost on retail rates
William R. Ashburn	FPC, FPL, TECO	<u> </u> (WRA-2)	Development of GridFlorida start-up cost revenue requirements
Thomas L. Hernandez	TECO	<u> </u> (TLH-1)	Tampa Electric comments to FPSC and FERC on RTO-related issues

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Korel M. Dubin	FPL	<u> </u> (KMD-1)	GridFlorida rate impact and cost a l l o c a t i o n methodology

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time in any of the dockets.

XI. PENDING MOTIONS

Staff's motion to strike certain portions of the prefiled direct testimony of Korel M. Dubin, filed September 19, 2001, is pending.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters in any of these dockets.

XIII. RULINGS

A. **GENERAL MATTERS**

1. For each party whose intervention has been limited to Phase 1 of these dockets, such limitation is without prejudice to each party seeking to intervene in Phase 2 of these dockets.
2. All petitions to intervene granted in this Prehearing Order, below, are deemed granted as of September 17, 2001, the date of the Prehearing Conference.
3. On August 30, 2001, FPC, FPL, and TECO filed a joint motion to require intervenor and staff testimony to be served by hand-

delivery or fax. The joint motion is granted. In addition, FPC, FPL, and TECO shall serve any rebuttal testimony by hand-delivery or fax.

4. CPV's motion for extension of time to file its Prehearing Statement, filed September 12, 2001, in all three dockets, is granted.
5. PG&E's motion for extension of time to file its Prehearing Statement, filed September 13, 2001, in all three dockets, is granted.
6. Seminole's motion for leave to file a Prehearing Statement, filed September 14, 2001, in all three dockets, is granted.

B. DOCKET NO. 000824-EI

1. On June 7, 2001, Reliant filed a petition to intervene. No response was filed. Based on the petition, Reliant has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
2. On June 28, 2001, Calpine filed a petition to intervene. No response was filed. Based on the petition, Calpine has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
3. On June 28, 2001, CPV filed a petition to intervene. A response was filed by FPC on July 10, 2001. Based on the petition and response, CPV has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
4. On June 28, 2001, DENA filed a petition to intervene. No response was filed. Based on the petition, DENA has demonstrated that its substantial interests will be affected

by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.

5. On July 6, 2001, Disney filed a petition to intervene. A response was filed by FPC on July 25, 2001. Based on the petition and response, Disney has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
6. On July 6, 2001, Florida Municipal Power Agency (FMPA) filed a petition to intervene. A response was filed by FPC on July 25, 2001. Based on the petition and response, FMPA has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
7. On July 9, 2001, Enron Corporation (Enron) filed a petition to intervene. No response was filed. Based on the petition, Enron has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
8. On July 9, 2001, Mirant filed a petition to intervene. No response was filed. Based on the petition, Mirant has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
9. On July 10, 2001, PG&E filed a petition to intervene. A response was filed by FPC on July 23, 2001. Based on the petition and response, PG&E has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.

10. On September 4, 2001, Seminole Electric Cooperative, Inc. (Seminole) filed a petition to intervene. No response was filed. Based on the petition, Seminole has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
11. On September 10, 2001, Publix Super Markets, Inc., (Publix) filed a petition to intervene. Although the time for filing a response had not expired as of the date of the Prehearing Conference, FPC indicated at the Prehearing Conference that it has no objection to the petition with respect to Publix' participation in Phase 1 of this docket. Based on the petition, Publix has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted for participation in Phase 1 of this docket.

B. DOCKET NO. 001148-EI

1. On July 18, 2001, Dynegy, Inc., filed a renewed petition to intervene. FPL filed a response on July 24, 2001. Based on the petition and response, Dynegy, Inc., has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the renewed petition to intervene is granted but limited to intervention in Phase 1 of this docket.
2. On May 25, 2001, CPV filed a petition to intervene. A response was filed by FPL on June 8, 2001. Based on the petition and response, CPV has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
3. On June 7, 2001, Reliant filed a petition to intervene. On June 20, 2001, a response was filed by FPL. Based on the petition and response, Reliant has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to

intervene is granted but limited to intervention in Phase 1 of this docket.

4. On June 28, 2001, Calpine filed a petition to intervene. No response was filed. Based on the petition, Calpine has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
5. On June 28, 2001, DENA filed a petition to intervene. No response was filed. Based on the petition, DENA has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
6. On July 6, 2001, FMPA filed a petition to intervene. A response was filed by FPL on July 16, 2001. Based on the petition and response, FMPA has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
7. On July 9, 2001, Enron filed a petition to intervene limited to the issues surrounding the formation of GridFlorida RTO. No response was filed. Based on the petition, Enron has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket, i.e., the issues surrounding the formation of GridFlorida. Therefore, the petition to intervene is granted.
8. On July 9, 2001, Mirant filed a petition to intervene. No response was filed. Based on the petition, Mirant has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
9. On July 10, 2001, PG&E filed a petition to intervene. A response was filed by FPL on July 23, 2001. Based on the

petition and response, PG&E has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.

10. On September 4, 2001, Seminole filed a petition to intervene. No response was filed. A response was filed by FPL on September 17, 2001. Based on the petition and response, Seminole has demonstrated that its substantial interests will be affected by the matters at issue in Phase 1 of this docket. Therefore, the petition to intervene is granted but limited to intervention in Phase 1 of this docket.
11. On September 10, 2001, Publix filed a petition to intervene. Although the time for filing a response had not expired as of the date of the Prehearing Conference, FPL indicated no objection to the petition, but asserted that a merger-related issue raised in the petition was inappropriate for Phase 1 of this docket. The issues for Phase 1 of this proceeding have been established by Order. Publix takes the case as they find it and is limited to addressing the issues established by Order for Phase 1. With this limitation, the petition to intervene is granted.

C. DOCKET NO. 010577-EI

1. On June 7, 2001, Reliant filed a petition to intervene. No response was filed. Based on the petition, Reliant has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
2. On June 18, 2001, FIPUG filed a petition to intervene. No response was filed. Based on the petition, FIPUG has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
3. On June 28, 2001, Calpine filed a petition to intervene. No response was filed. Based on the petition, Calpine has demonstrated that its substantial interests will be affected

by the matters at issue in this docket. Therefore, the petition to intervene is granted.

4. On June 28, 2001, CPV filed a petition to intervene. No response was filed. Based on the petition, CPV has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
5. On June 28, 2001, DENA filed a petition to intervene. No response was filed. Based on the petition, DENA has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
6. On July 9, 2001, Enron filed a petition to intervene. No response was filed. Based on the petition, Enron has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
7. On July 9, 2001, Mirant filed a petition to intervene. No response was filed. Based on the petition, Mirant has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
8. On July 10, 2001, PG&E filed a petition to intervene. No response was filed. Based on the petition, PG&E has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
9. On September 4, 2001, Seminole filed a petition to intervene. No response was filed. Based on the petition, Seminole has demonstrated that its substantial interests will be affected by the matters at issue in this docket. Therefore, the petition to intervene is granted.
10. On July 16, 2001, TECO filed a motion for leave to file its direct testimony and exhibits one day out of time. No

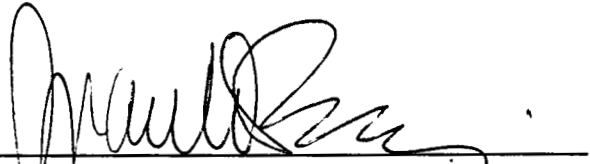
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response was filed. TECO's motion appears reasonable and is granted.

It is therefore,

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 1st day of October, 2001.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

WCK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural, or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.