

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020233-EI

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In the Matter of
REVIEW OF GRIDFLORIDA
REGIONAL TRANSMISSION
ORGANIZATION (RTO) PROPOSAL

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VOLUME 1

Pages 1 through 92



PROCEEDINGS: WORKSHOP

BEFORE: CHAIRMAN LILA A. JABER
 COMMISSIONER J. TERRY DEASON
 COMMISSIONER BRAULIO L. BAEZ
 COMMISSIONER MICHAEL A. PALECKI
 COMMISSIONER RUDOLPH "RUDY" BRADLEY

DATE: Wednesday, May 29, 2002

TIME: Commenced at 9:30 a.m.
 Concluded at 4:46 p.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
 Chief, Office of Hearing Reporter Services
 FPSC Division of Commission Clerk and
 Administrative Services
 (850) 413-6732

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1 IN ATTENDANCE:

2 WILLIAM COCHRAN KEATING and JENNIFER BRUBAKER, FPSC
3 General Counsel's Office, representing the Staff of the Florida
4 Public Service Commission.

5 ROBERTA BASS, FPSC Division of Policy
6 Analysis & Intergovernmental Liaison.

7 MIKE NAEVE, representing GridFlorida.

8 WILLIAM MILLER, representing Seminole Electric.

9 BILL HETHERINGTON, representing Lee County Electric
10 Cooperative.

11 HERMAN DYAL, BOB WILLIAMS and CINDY BOGORAD,
12 representing Clay Electric Cooperative.

13 FRED BRYANT and JOE LINXWILER,
14 representing Florida Municipal Power Agency.

15 DOUGLAS JOHN, representing Florida
16 Municipal Group.

17 P. G. PARA, representing Jacksonville
18 Electric Authority.

19 DAN FRANK, representing Reedy Creek
20 Improvement District.

21 LESLIE PAUGH, representing Calpine, Duke
22 Energy North America and Mirant.

23 JOSEPH A. McGLOTHLIN, representing
24 Reliant.

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1 IN ATTENDANCE CONTINUED:

2 BETH BRADLEY, JOE REGNERY and JOHN ORR,
3 representing Mirant.

4 TIMOTHY PERRY, representing Florida
5 Industrial Power Users Group.

6 NATALIE FUTCH and BERNIE SCHROEDER,
7 representing Trans-Elect.

8 ROGER HOWE, representing the Office of
9 Public Counsel.

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P R O C E E D I N G S

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2 CHAIRMAN JABER: Let's go ahead and get started. We
3 have a lot to do today.

4 Mr. Keating, do you want to start with the notice?

5 MR. KEATING: Pursuant to notice issued May 15th,
6 2002, this time and place have been set for a Commission
7 workshop in Docket Number 020233-EI, Review of GridFlorida
8 Regional Transmission Organization Proposal.

9 CHAIRMAN JABER: Thank you, Mr. Keating.

10 Commissioners, what I thought we would do instead of
11 taking appearances, let the speakers, the presenters, give
12 their name prior to speaking. I think that would be the most
13 efficient way of handling it. For purposes of presentations,
14 however, on my list I have the first presentation will be made
15 by the GridFlorida companies, that would be Power and Light,
16 Power Corp, and TECO, and then I have presentations by
17 intervenors, Seminole Electric Cooperative, Seminole Member
18 Cooperatives, Florida Municipal Power Agency, Florida Municipal
19 Group, JEA, Reedy Creek Improvement District, Mirant, Duke,
20 Calpine, Reliant. My list shows them making a presentation
21 together.

22 MR. KEATING: That is my understanding, yes.

23 CHAIRMAN JABER: FIPUG, OPC, Trans-Elect. If your
24 name was not -- your organization was not called out a minute
25 ago, you need to see Mr. Keating, and we will get you on the

1 list. But that will be the order that has been established
2 thus far, and then I have the response by the GridFlorida
3 companies, if necessary.

4 Presentations will be limited to 30 minutes. We will
5 be taking a break at 12:00 o'clock for an hour. We will break
6 from 12:00 to 1:00 so that you can govern yourselves
7 accordingly. We will stay on track today and we will stay
8 focused. I will ask that none of the presenters interrupt each
9 other. Certainly, don't interrupt the Commissioners when they
10 are asking questions. Please try to be as precise to the
11 Commissioner questions as possible.

12 Commissioners, just to remind you why we are here
13 today and the purpose of the workshop. You will recall we
14 issued an order last December finding it in the public interest
15 to establish a Florida specific RTO for the State of Florida.
16 We said that an RTO would provide benefits to the state and
17 long-term benefits to utility ratepayers, and that GridFlorida
18 companies were prudent in the proactive formation of an RTO.
19 We did, however, require the GridFlorida companies to modify
20 their original proposal and to specifically address whether the
21 RTO should be profit, nonprofit. We wanted the proposal to be
22 modified to reflect an ISO structure. In March, the
23 GridFlorida companies did make such a compliance filing.

24 We also wanted the intervenors to have an opportunity
25 to comment on that modified proposal, and I hope that we will

1 accomplish that today. We will hear from everyone who wishes
2 to speak today. I intend to go as long as possible to give
3 everyone that opportunity today. Again, we will stay focused
4 though on the 30-minute time limit, and we will address where
5 we are at the end of the day with respect to going forward.

6 However, procedurally, we have established a time for
7 post-workshop comments. I believe those are due June 21st, so
8 you can be thinking about that during this workshop,
9 Commissioners. I think that staff is scheduled to file a
10 recommendation in July on everything related to today's
11 workshop and on the new proposal with an anticipated decision
12 being made by us on August 6th. Okay. With that we are going
13 to get started.

14 My notes say that the GridFlorida companies are
15 represented by Mike Naeve. Go ahead, Mr. Naeve.

16 MR. NAEVE: Thank you very much. My name is Mike
17 Naeve for the record. I am with the law firm of Skadden, Arps,
18 Slate, Meagher, Flom, appearing on behalf of the GridFlorida
19 sponsors.

20 My initial role today is to summarize the changes
21 that the GridFlorida companies have made in response to the
22 Commission's December 20th, 2001 order. These changes are not
23 only the result of meetings among the GridFlorida companies,
24 but also are the result of meetings with a number of the market
25 participants in this process. In particular we relied on the

1 Stakeholder Advisory Committee process proposed in the
2 GridFlorida filing that was approved by FERC. And we had a
3 variety of meetings with the Stakeholder Advisory Committee
4 seeking their input and providing them with copies of what we
5 intended to do and allowed them to respond.

6 We have carefully considered all of the comments that
7 we heard during that process. Indeed, a lot of the comments we
8 heard were comments which we have heard before. There were a
9 variety of issues that have come up consistently throughout
10 this entire process. There are other issues which were raised
11 and had been litigated at FERC previously and there were a lot
12 of issues that were new issues, very constructive suggestions.

13 As I said, we carefully considered all of them. We
14 actually incorporated a great many of the changes that were
15 proposed to us, and we also anticipated a number of these
16 concerns and incorporated them in the materials that we had
17 handed to the advisory committee. All in all, although the
18 advisory committee process was somewhat abbreviated given the
19 time schedule on this proceeding, I think it was very helpful
20 to us to hear their views and, hopefully, our proposal is a
21 better one because of the input we received.

22 I would like now to summarize the basic changes that
23 we made in our filing, and I will start with changes to the
24 governance section of the filing. Essentially, in its December
25 20th, 2001 order the Public Service Commission instructed us to

1 revise the structure so that we no longer have a transmission
2 owning RTO, instead we have a transmission -- an RTO that
3 functions like an independent system operator that has control
4 over transmission assets but does not own assets. We have
5 complied with that request and we have converted the proposed
6 GridFlorida structure from a transco to an independent system
7 operator, which does not own assets but instead has control
8 over assets.

9 There are also a number of changes we made which were
10 a direct consequence or fallout from that choice to go from a
11 transmission owning RTO to an independent system operator. The
12 first of these changes is that we decided to convert the
13 structure from a for-profit entity to a not-for-profit entity.
14 Now, we originally had proposed a for-profit entity for several
15 reasons, probably the two most important reasons were that with
16 a for-profit company you would have an incentive to have good
17 governance. And by that, I mean, you would have a board of
18 directors that would be independent of market participants.
19 The board of directors would be picked ultimately by
20 shareholders which were not participants in the marketplace, so
21 you had independence for market participants in the governance.

22 But with the switch to an entity that did not own
23 assets or any significant assets, we concluded the company
24 would be too small to do an IPO, and consequently too small to
25 have a broad shareholder base to elect officers. So that was

1 one factor that influenced our decision to go to a
2 not-for-profit company.

3 Another reason we originally had wanted to have a
4 for-profit company is because we felt the profit motive,
5 particularly when combined with incentive ratemaking, would
6 produce a strong incentive for this new organization to operate
7 efficiently and effectively. And because ultimately the
8 investor-owned utilities would be the largest customers of this
9 entity, we wanted to have -- we wanted to be served by a
10 company that was going to be efficient.

11 We concluded, however, that if we switched to an
12 entity that did not own assets, that would be basically very
13 thinly capitalized, it would be very difficult to achieve the
14 profit motive that we wanted to see. This new entity will have
15 very high revenues, and these are the revenues it collects for
16 transmission services. It will also have high expenses and the
17 expenses that it will have will be those expenses, the
18 obligation to pay all the participating owners, the
19 transmission owners, their revenue requirement. The expenses
20 and the revenues will be roughly the same.

21 And combined with very high revenues and very high
22 expenses it will also have a very, very small balance sheet.
23 It will be, frankly, very easy for very small fluctuations in
24 its revenues to wipe out all of its equity. So an entity like
25 that simply can't take much risk. If there is any significant

1 change in revenues you wipe out equity completely because there
2 is very little equity. You are going to have to file tariffs
3 with the appropriate regulators that basically transfer all of
4 your risk to the other market participants. This is what we
5 have seen in California and everywhere else where we have
6 not-for-profit -- or, excuse me, where we have entities that do
7 not own transmission assets. They, in effect, have to transfer
8 risk to the other parties.

9 An entity like this simply doesn't qualify for your
10 typical incentive ratemaking mechanism. Under a typical
11 incentive ratemaking mechanism, you more or less lock in rates
12 for a period of time, encourage the entity to go out and try to
13 cut costs or increase throughput, and you make them take risks.
14 They get the benefit of reduced costs or increased revenues,
15 but they also take the risk that if revenues decrease or if
16 expenses increase that is their burden. A company like this
17 simply can't accept that burden because it has virtually no
18 balance sheet, no equity, no real economic substance.

19 So for those reasons, we concluded that the normal
20 incentives that one would hope to have associated with a
21 for-profit company probably could not be put in place, and we
22 chose to make it a not-for-profit company.

23 Now, why did we decide to go not-for-profit? There
24 are a couple of reasons. The first is to comply with the
25 requests we received from a great many of the stakeholders. A

1 number of the stakeholders, particularly in Florida, are
2 not-for-profit entities themselves. They, from the very
3 beginning, expressed a preference for a not-for-profit ISO.

4 Secondly, to avoid the appearance of conflict of
5 interest. Now, there are differences of opinion as to how real
6 these conflicts of interest are. I think we probably felt they
7 weren't that significant, but they have been raised repeatedly
8 by generators and others, and we felt since the profit
9 incentive would be roughly the same for a not-for-profit --
10 excuse me, the incentive to be efficient would be roughly the
11 same for a not-for-profit or a for-profit entity that doesn't
12 have significant assets, we concluded that we should at least
13 pay attention to these concerns.

14 The concerns were primarily that a transmission
15 owning -- excuse me, a for-profit transmission company might
16 not have an even hand in the planning process, that it may
17 favor transmission solutions over generation solutions. So by
18 making it not-for-profit, hopefully, that potential appearance
19 of conflict of interest goes away.

20 And then, secondly, there is the appearance that an
21 RTO that is a for-profit company and it is in the business of
22 operating not only the transmission business, but also
23 operating the ancillary service markets, these are generation
24 markets that it might not play an even hand in the
25 administration of those markets because it may have an

1 incentive to maximize transmission revenues or it may have an
2 incentive to try to make a profit off the ancillary service
3 market. And, again, if it is a not-for-profit company, that
4 appearance of conflict of interest likewise goes away.

5 So for those basic reasons, we not only followed your
6 instructions to make this entity an entity that does not own
7 transmission assets, but based on that decision we also decided
8 to make it a not-for-profit enterprise.

9 Now, again, one of our initial concerns was that we
10 wanted this company to have the incentive to perform
11 efficiently, because again we are significant customers of this
12 new enterprise. Our conclusion was that if it has no
13 substantial assets or balance sheet, it is very hard to put
14 those incentives in place, but we did, nonetheless, try to
15 focus on how one might incent (sic) an enterprise like this to
16 be more effective. That even though profit incentives we
17 concluded may not be that efficient for this type of
18 organization, we did feel that perhaps personal incentives for
19 management or the board could be effective.

20 So in response to that desire to -- it's a desire,
21 frankly, not only of the companies, but I think a desire of
22 this Commission as well, to find ways to make this entity
23 perform more efficiently, we have included provisions in our
24 filing that require it to hire an outside consultant to help
25 them develop performance incentives for the management and

1 potentially for the board. We require them to make public the
2 report of that consulting firm, to give a copy of it to the
3 advisory committee, and we also require that the board disclose
4 to the public the compensation programs for its management and
5 the board members.

6 Now, once you go from a for-profit company to a
7 not-for-profit company, we concluded that it is appropriate to
8 step back and look at how the board was composed to see if any
9 changes are necessary there, and we decided to make a couple of
10 changes in light of this change. The first is that because
11 there will -- this will be a not-for-profit company and will
12 not have an IPO, which was an important factor to us at the
13 beginning, there were certain factors maybe that weren't as
14 important.

15 We were told by our investment bankers that if we
16 were going to do an initial placement offering for this
17 company, the capital markets would look very carefully at the
18 type of board members that we had running the company. They
19 would want to see board members experienced in running public
20 companies. And for that reason we included in our original
21 filing a requirement that at least eight of the board members
22 have significant experience as either officers or directors of
23 public companies. We wanted the IPO to be successful.

24 Now we are not going to have an IPO. We anticipated
25 that many of the stakeholders who had objected to that

1 requirement from the very beginning would continue to object to
2 it, and the reasons that we had articulated for having that
3 requirement are no longer present, so we proposed at the outset
4 to eliminate that requirement that the board members have --
5 that eight of the board members have a background as either
6 officers or directors of public companies. So that particular
7 requirement now has been eliminated.

8 We also added a requirement -- as a goal, not a
9 requirement, but a goal that the composition of the board
10 reflect a diversity of backgrounds. And diversity can be
11 measured in a lot of different ways. One way, of course, is
12 that we felt it important that the experiences of the members
13 of the board not be just restricted to the utility industry,
14 but that they come from a variety of different industries. We
15 also wanted to see a variety of competencies on the board;
16 accounting, engineering, ethics, legal, so forth. And then,
17 finally, we also felt it important that the board reflect the
18 population that it served, the people of Florida.

19 And, finally, we decided to reduce the size of the
20 board. And we did this primarily because as we went from a
21 profit to a not-for-profit company we didn't want -- we wanted
22 board members to be engaged in this process. And we have seen
23 too many not-for-profit entities that have very large boards
24 and the board members tend not to be as engaged as we would
25 hope. So we decided to go from a nine-person board to a

1 seven-person board, so that the board members felt that this
2 was a very small group, that they had to be totally engaged in
3 this activity and focused on what was going on. We felt by
4 reducing the size they would be more efficient, but they would
5 also feel that they were more accountable and responsible for
6 the operations.

7 The change from a for-profit company to a
8 not-for-profit company also required another revision. This
9 revision relates to how we select board members. Again, in our
10 original filing, we anticipated that in the long-run board
11 members would be chosen by stakeholders. This was a good thing
12 because stakeholders were independent of people who participate
13 in this marketplace. Unfortunately -- and it was also a good
14 thing because it meant that board members would be accountable
15 to somebody, and they are accountable to somebody other than
16 market participants.

17 Now, unfortunately, we won't have shareholders in the
18 future to select those board members, so we had to find a new
19 way of picking the board members. In our other proposal we had
20 the first set of board members chosen by a board selection
21 committee made up of stakeholders. That is not the best thing
22 in the world, but it is about the only option you have, if you
23 don't have an independent group to select the board members.

24 What we decided to do was to keep that board
25 selection committee on a permanent basis so that in the future

1 as there are vacancies on the board or as there may appear the
2 need to remove a director, we have an organization in place to
3 pick new board members or to remove directors. We frankly had
4 two alternatives on this one: One was to use the board
5 selection committee to select the initial board and then let
6 the board members themselves pick replacement directors, a
7 so-called self-perpetuating board. This type of board has been
8 proposed for ISOs in the past. It has been approved by FERC
9 for the original Entergy ISO that they had proposed. But,
10 quite frankly, we thought that that type of board would become
11 too inbred. That they would begin to replace vacancies with
12 colleagues and friends and at some point it may become too
13 weakened and too irresponsible a board.

14 We felt the board should be responsible to somebody
15 other than just themselves. So we decided to go with the next
16 best choice, or actually the better choice than that, next best
17 only to independent selection through shareholders, and that is
18 to perpetuate the stakeholder selection process, this board
19 selection committee so that the stakeholders and the market
20 participants are involved in selecting board members and also
21 are involved in removing board members.

22 The composition of the board selection committee is,
23 essentially, the same as it was in the last filing with one
24 change. In the last filing we had the three investor-owned
25 utilities, essentially, shared a seat on the board selection

1 committee. It was an eight-person committee. The other seats
2 were composed of representatives from the different stakeholder
3 advisory groups. We did hear complaints from the stakeholder
4 advisory groups that this process permitted the investor-owned
5 utilities to have too much influence over the composition of
6 the board. And in response to that we decided to add a ninth
7 seat to be chosen by the stakeholder advisory committee so as
8 to reduce the overall impact of the votes of the investor-owned
9 utilities.

10 We have provided that the committee will elect
11 directors by a simple majority vote, in other words, five out
12 of nine votes, and that they require two-thirds vote to remove
13 directors. Under this formulation, the investor-owned
14 utilities can either cause a director to be approved. They
15 would only have three votes of nine; they would need five to
16 approve a director. They cannot remove a director, and they
17 can't block the removal of a director.

18 The applicants, again, in light of the fact that we
19 now have a not-for-profit company, also chose to make some
20 changes in the manner in which the board conducts its business.

21 CHAIRMAN JABER: Mr. Naeve, are you leaving the board
22 collection process?

23 MR. NAEVE: Yes, I'm through.

24 CHAIRMAN JABER: I need to back up and see if I
25 understand the modification. You said you have gone -- you

1 have reduced the size of the board from nine to seven. So with
2 respect to the applicants' concerns related to the removal of
3 the board members and adding that ninth seat, that is in the
4 old proposal.

5 MR. NAEVE: Well, actually I should have -- there is
6 the board itself which only has seven seats now, that includes
7 the chair of the board.

8 CHAIRMAN JABER: Okay.

9 MR. NAEVE: Then there is a separate issue of how do
10 you pick the board, and we have a special committee for picking
11 the board known as the board selection committee. That board
12 selection committee has nine people on it. Three of those nine
13 people will be representatives of the investor-owned utilities
14 in Peninsular Florida. In the previous approach we had three
15 of the eight. We have now gone to three of nine. But those
16 nine members of that board selection committee pick the seven
17 board members. I'm sorry if I was a little confusing.

18 CHAIRMAN JABER: Okay. So three will be
19 representatives of IOUs.

20 MR. NAEVE: That's right.

21 CHAIRMAN JABER: And who are the other six?

22 MR. NAEVE: They represent -- well, five of the other
23 six are chosen by the different stakeholder groups. And then
24 the last one, the ninth is picked by the advisory committee.

25 CHAIRMAN JABER: Okay. Now, how are the three

1 representatives of the IOUs selected and how are the five
2 chosen by the stakeholders? Give me more specifics. Is it an
3 application process that will --

4 MR. NAEVE: Well, with respect to the IOUs, each IOU
5 will designate a representative. With respect to the
6 stakeholders, that we have stakeholder groups identified in the
7 by-laws, and each stakeholder group will choose their own
8 representative.

9 Just as an aside, we have found through our
10 experience in the last time around in attempting to choose
11 directors that it is important to try to designate senior
12 persons to serve on this committee. Each of the utilities the
13 last time had additionally designated representatives to be on
14 the committee and then after meeting with the consultant that
15 we hired to help us pick board directors, he advised us that we
16 are going to be interviewing candidates that are very senior
17 people and that we should have them interviewed by very senior
18 people. So consequently each of the three utilities replaced
19 their representatives on the board selection committee with
20 senior officers. I think in most cases it was the presidents
21 of the utilities.

22 So we are hopeful that the individuals who serve on
23 this board selection committee will be different perhaps than
24 the individuals who are on the advisory committee. The
25 advisory committee tends to be a working group level, these are

1 the technical experts who are involved day-to-day in the
2 nitty-gritty of advising the RT0.

3 But for the board selection committee their function
4 is slightly different, and that is to pick high quality
5 individuals to serve on this board. And you can't always get
6 who you would like. You have to persuade them to serve on the
7 board, too. So you want them in the interview process to
8 perceive that this is a very important job. And that
9 perception is driven in part by who you put up there, who is
10 willing to set their time aside to interview them. So we hope
11 that this will be a higher level group than the advisory
12 committee itself.

13 CHAIRMAN JABER: Okay. The board selection
14 committee, those nine people will decide on the seven
15 person-board of the ISO?

16 MR. NAEVE: That is correct.

17 CHAIRMAN JABER: Now, what will that selection
18 process be? Will they be in a position to take applications
19 and recommendations from all the stakeholders? I ask these
20 questions because one of the assertions by the intervenors is
21 that the board -- and I'm assuming they mean the board of the
22 ISO -- is weighted toward the applicants. So I'm trying to
23 flesh out how that selection process will be conducted.

24 MR. NAEVE: No, actually, I think the board of the
25 ISO itself will not be composed of anybody representing a

1 market participant. There are a couple of approaches that
2 people have taken in the past for choosing board members for
3 ISOs and one, of course, goes to who is on the board itself.
4 Do you have representatives from each of the stakeholders serve
5 on the board or do you have an independent board composed of
6 people who have no stake in the game.

7 And initially the very first few ISOs that were
8 organized had stakeholder boards where they had representatives
9 from the generators, the utilities, the marketers and so forth,
10 they actually made up the board of the ISO. That process
11 proved, I think, not to be a very good one. In fact, the
12 original California board was a stakeholder board. And what
13 you found was it was run like a political organization; I will
14 swap my vote on this issue if you will give me your vote on
15 that issue, and frequently there was deadlock on a lot of
16 issues.

17 The trend these days, and I think it is a unanimous
18 trend, is that we should actually pick board members who are
19 independent of this whole process, that have no stake in the
20 game and who when they make board decisions aren't representing
21 anybody but their own best view as to what is the right thing
22 to do.

23 CHAIRMAN JABER: Okay.

24 MR. NAEVE: So we have an independent board, there is
25 no representation from IOUs or for that matter from anybody

1 else. The next question is who gets to pick them. And we do
2 have a stakeholder group that gets to pick them. This wasn't
3 our first choice. Our first choice was to just let
4 shareholders pick them because those people are independent
5 also. But because we won't have any shareholders we had to
6 find another way to do it. And the other way to do it was to
7 come up with a stakeholder group and let them pick the board.
8 So we wanted to have -- there is a competing tension here. On
9 the one hand you want the stakeholder group to be big enough
10 that you have a diverse representation of all the stakeholder
11 participants on that committee. But on the flip side, you want
12 it to be a small intimate working group so that when parties
13 come in to be interviewed for positions they aren't confronted
14 with an army of people, that they are confronted with a small
15 group of high level individuals.

16 A lot of people who are applying for these types of
17 positions expect confidentiality. They don't want it known to
18 the world that they are making themselves available for one of
19 these board positions. And to the extent that they have to
20 come in and interview with a very large crowd, their
21 expectations of confidentiality are threatened. So our
22 consultants told us to make this group as small as you can and
23 as intimate as you can. It will work together well, and it
24 will also, though, make it easier on the people you want to
25 attract and persuade to serve on this board. So we were trying

1 to reach a balance here. A number of people recommended that
2 we make the advisory committee the board selection committee.
3 The advisory committee is a larger group, and we felt that was
4 too big a group based on -- frankly on two things, based on the
5 recommendation of the consultant we had last time, but also
6 just based on the way it worked last time. The experience we
7 had sitting in the room and interviewing these candidates. So
8 we tried to reach a balance here.

9 We added a ninth member to kind of water down the
10 votes of the investor-owned utilities, because that was a
11 complaint we heard, that we had too many votes. I will say
12 this, though, that the investor-owned utilities represent --
13 they have, you know, one-third of the votes, but they
14 represent, I think, 84 percent of the transmission assets and
15 an equally high percentage of all the -- they represent, you
16 know, I'm sure in excess of 80 percent of the retail customers
17 in Florida that are served, too. And they are the only members
18 of the board, I believe, that are subject to the jurisdiction
19 of this Commission. So we thought it was an appropriate
20 balance.

21 CHAIRMAN JABER: Okay. And I have one final question
22 with respect to some of the comments filed by the intervenors.
23 There has been a request that the PSC stay involved in the
24 board selection process. And my question is this: As it's
25 relates to the board selection committee, the board of the ISO,

1 or the advisory committee, did you envision a seat for the PSC?

2 MR. NAEVE: One of the slots set aside on the board
3 selection committee is for governmental entities. And we
4 anticipated that this Commission may choose to want to serve
5 that function. But we, frankly, weren't entirely comfortable
6 saying that you should have a seat on there because we weren't
7 sure you would want a seat on there. So, the opportunity is
8 there for this Commission to participate should it choose to.

9 CHAIRMAN JABER: That is from the five slots that are
10 chosen by the stakeholders?

11 MR. NAEVE: Let's see, there are -- that is one of
12 the five slots, and that slot is designated as a not-for-profit
13 and governmental. But we assume that if this Commission wanted
14 to have that slot it would be able to get it.

15 CHAIRMAN JABER: Thank you.

16 MR. NAEVE: I am now going to switch topics and talk
17 about how the board conducts its business when it does meet.
18 And we felt that in light of this now being a not-for-profit
19 company, some of the rules that we had previously established
20 for how it conducts its business can be modified to accommodate
21 stakeholder concerns.

22 Originally we had had a lot of requests that the
23 meetings of the board be open to the public. We had resisted
24 those requests, largely because it was a for-profit company and
25 for-profit companies frequently discuss at their board meetings

1 issues which are not public information normally. Issues which
2 can affect their stock price, which if disclosed, might be a
3 violation of some of the securities rules and so forth. So we
4 felt that as a for-profit company it should conduct its board
5 meetings much like for-profit companies do, and that is largely
6 in private. We are not a for-profit company anymore, so we
7 decided to accede to some of the requests from many of the
8 stakeholders that the meetings be open to the public.

9 We also, of course, wanted to be balanced about this.
10 We wanted to provide public access to the decision-making
11 meetings of the board, but at the same time we didn't want to
12 so handicap the board with process that it couldn't be
13 efficient or effective. So, in effect, what we chose to do in
14 striking this balance is to require the board to open its
15 meetings to the public for all decision-making meetings. So to
16 the extent that the board is going have a meeting and it is a
17 decision-making meeting, with one exception, that those
18 meetings have to be open to the public.

19 We also had received a request in the past that the
20 advisory committee be able to attend board meetings. And,
21 again, when it was a for-profit company, we felt that the board
22 should have discretion over what they do at their board
23 meetings and don't do, but on the other hand we felt that the
24 advisory committee was an important organization and the board
25 should have the benefit of its input.

1 So, previously we had struck a balance and said that
2 the board must hear from the advisory committee at least four
3 times a year. We have now revised that to say that the
4 advisory committee should be able to make presentations to the
5 board at any of its public meetings.

6 Now, I mentioned that there is one exception to the
7 requirement for public meetings and that is we recognize that
8 boards, even not-for-profit boards sometimes have to discuss
9 very confidential matters.

10 Confidentiality can relate to a lot of things, and
11 I'm not sure we can define all of them this far in advance, but
12 some of them would be issues like when you settle litigation or
13 whether you might want to bring a complaint against a market
14 participant. And if you haven't decided yet to bring that
15 complaint, you don't want to necessarily flag it. They may
16 turn out to be completely innocent of that complaint. So you
17 may want to do your investigation first, or whether to
18 investigate somebody, or a variety of other sensitive matters,
19 employment issues, complaints against individual board members,
20 or complaints against employees, that sort of stuff.

21 So we did provide an exception to the requirement
22 that they have -- that all of their meetings be -- that all of
23 their decision-making meetings be open to the public, and that
24 exception is when they are meeting in executive session to
25 discuss confidential matters.

1 Now, to further promote openness, we required that
2 notices of these public meetings be made available to the
3 public, that agenda materials that are going to be distributed
4 to the board members also be distributed in advance to the
5 public to the extent that they are available and it is
6 practical. We also required that minutes of board meetings be
7 posted on the website. Although we did permit, of course, a
8 redaction of those minutes where appropriate for these
9 executive sessions where they discuss confidential materials.
10 So we have made a great many changes to make this process more
11 open to the sunlight, to invite parties to come in and
12 participate in the process.

13 But, again, we wanted to draw a balance. We wanted
14 the board to still be able to operate efficiently. We were
15 very explicit that the board can meet if it doesn't make -- if
16 it is not in a decision-making mode, that board members can
17 meet without having public notice and opportunity for the
18 public to participate. We wanted board members to be able to
19 get together to be educated, for educational sessions, to be
20 able to meet among themselves to air complaints.

21 Frequently it is not uncommon for two or three board
22 members if they feel that the direction of the board is moving
23 in the wrong direction to want to kind of meet privately ahead
24 of time and compare notes, this type of thing. We wanted that
25 type of thing to happen. We wanted to have a free and open

1 exchange among the board members, so we did not require public
2 meetings when they are not operating in a decision-making mode,
3 when they are merely meeting for educational purposes, for
4 internal discussions, for these types of things. But when they
5 are making decisions, those decisions have to be made in a
6 public meeting on the record.

7 The same rules apply to committees of the board. To
8 the extent that the committees of the board are not making
9 decisions, they can meet among themselves to discuss items.
10 But to the extent that -- and normally, by the way, a committee
11 would not be delegated decision-making authority. And I think
12 we have an adjustment in our final proposal on this, but to the
13 extent that the committees are actually delegated the power to
14 make decisions, we would want those decisions to be made in
15 public meetings, as well.

16 I would like to turn to some of the -- turn away from
17 governance now and turn to some of the other decisions and
18 changes that we made. In the pricing area, we have largely
19 preserved the pricing formulation that was approved by FERC and
20 that you have previously seen with a couple of changes, but
21 first to describe what we have kept. We have kept the ten-year
22 phase-in from zonal rates to a system-wide rate. We have
23 continued the phase out of revenue recovery from existing
24 contracts, transmission contracts, and we have continued the
25 phase-in of credits for TDU facilities.

1 But we have made significant changes. The most
2 significant of which is that we have attempted to preserve the
3 Public Service Commission's jurisdiction over transmission for
4 bundled retail service. Our original proposal had transmission
5 owners purchasing transmission service from the RTO to the
6 extent that they are using transmission to serve their bundled
7 load. And this was the case under our original proposal
8 whether you had transferred your transmission assets to the
9 RTO, as Florida Power and Light and TECO would have done. They
10 would have had to buy transmission service for their bundled
11 load from the RTO, or even if you retained ownership of your
12 transmission assets, as Power Corp had proposed to do, they
13 still, nonetheless, would have had to buy transmission service
14 from the RTO.

15 Now, why did we do that at the time? We did that
16 because we believed that it was a FERC requirement under Order
17 2000. So we felt we were doing what we were required to do and
18 had to do to comply with Order 2000. More recently, however,
19 FERC has clarified what they intended in Order 2000, and in a
20 Midwest ISO order FERC approved a phased-in approach in which
21 bundled retail load initially would not be under the RTO
22 tariff. Eventually it would be phased in where it was, but at
23 least at the outset, for the first six years in the case of
24 MISO, the bundled retail load would not have to take service
25 under the MISO tariff.

1 As a result of the FERC's decision in MISO, it
2 also -- and, frankly, as a result of your order, as well,
3 expressing a desire to maintain your jurisdiction over
4 transmission used in bundled retail service, we have revised
5 our tariff so that non-TDU customers will have the option to
6 exempt their bundled retail service load from the zonal
7 charges. And all three of the investor-owned utilities are
8 going to choose that option. This option will apply for the
9 first five years of RTO operation, so we have a five-year
10 phase-in. This is consistent with the original filing that we
11 made with the phase-in beginning in years six through ten of a
12 system-wide rate.

13 Customers, transmission customers, still will have to
14 pay the grid management charge. This will be outside -- this
15 will be a separate charge now on top of the charge for bundled
16 retail service. There is the zonal charge. They will have to
17 pay the grid management charge. They won't have to pay charges
18 associated with the cost shift mechanisms which include the TDU
19 credits and the phase-in for system-wide rates, and, also,
20 charges associated with grandfathered agreements. So that is
21 the first primary change we made.

22 The second change we made is that we revised the
23 dates for defining what are new facilities and grandfathered
24 contracts. New facilities, the cost of new facilities are not
25 included in zonal rates, they are instead included in

1 region-wide rates. And grandfathered contracts are locked in
2 through the phase-out period. They are kind of phased out in
3 years five through ten. So the question is what is the new
4 facility? What is the date for deciding what is a new
5 facility, and what is the date for deciding what is an old
6 grandfathered contract as opposed to a new contract. We
7 previously had set these dates to coincide with the start-up
8 date, the anticipated start-up date for GridFlorida, which was
9 initially December 15th, 2000. That was the day specified in
10 Order 2000 by which we had to be up and running. So we used
11 those as the dates for those two definitions.

12 It now is clear that we are not going to meet that
13 date, so we have revised these deadlines to comply with the
14 future start-up date, and we are going to use December 31st,
15 which is a convenient time for accounting periods and it will
16 be the year of commercial operations for GridFlorida.

17 A third pricing change that we have implemented is
18 that we have included a request for a recovery clause mechanism
19 for incremental GridFlorida charges. These incremental charges
20 include the grid management charge, the TDU credits, and the
21 charges for the phase-in from region -- from zonal to
22 region-wide rates. We believe the recovery clause is
23 appropriate because the costs that would be recovered are
24 incremental to the cost currently being recovered, they are
25 outside the control of the utilities, and they are costs which

1 are unpredictable and at this stage cannot be forecast with any
2 precision.

3 With respect to market design -- we are now changing
4 from pricing to market design. We have presented a couple of
5 options to this Commission with respect to bids for the
6 balancing market and bids for congestion management. One
7 option would allow companies to receive the market clearing
8 price regardless of what they bid. A second option would
9 require companies to -- would allow companies to be paid only
10 what they bid. This Commission directed us to go with the pay
11 as you bid or pay what you bid approach, so we have revised our
12 proposal to include that.

13 With respect to control areas, the original
14 GridFlorida filing allowed utilities to retain their control
15 areas, to have internal control areas within the GridFlorida
16 structure. Florida Power Corp had elected to have an internal
17 control area. TECO and Florida Power and Light, who are
18 turning over control of their transmission assets, chose at
19 that time not to have internal control areas.

20 Now that TECO and Florida Power and Light are
21 retaining their assets and we are having a not-for-profit ISO,
22 FPL and TECO have decided to choose the option of retaining
23 internal control areas. Also, one other change that we have
24 implemented with respect -- I'm sorry, that's FPL, not TECO.
25 FPL has chosen to retain its internal control area.

1 Finally, with respect to the balancing market and
2 congestion management, there was no requirement initially and,
3 indeed, there still is no requirement, with one exception, that
4 parties bid decs into the balancing and the congestion
5 management market. These decs are offers to decrease
6 generation or offers to increase load. The concern came up
7 that by not requiring parties to offer decs, there potentially
8 could be an oversupply of generation and no way to bring load
9 into balance. So we have added a feature that says to the
10 extent that a control area is out of balance and it doesn't
11 bring itself into balance, the RTO can order the control area
12 to submit dec bids for purposes of bringing the control area
13 into balance.

14 In the planning area we have revised the planning
15 protocol. This has attracted quite a bit of attention. I'm
16 sure we will talk more about it today. Essentially what we did
17 is in recognizing that we are changing the structure of
18 GridFlorida from a transmission asset-owning entity to a
19 not-for-profit entity that does not own transmission assets, we
20 went back to the drawing board and looked at the planning
21 protocol that have been filed by FERC by similar entities to
22 see if there are any significant differences in the way they do
23 their planning and the way we do our planning.

24 And we adopted the planning protocol approved by the
25 Commission for the Midwest ISO, which is a not-for-profit ISO.

1 I think in many ways the changes here are not so great as they
2 might initially appear to be. And as I say, later today we
3 will probably have a detailed discussion of that very point.

4 In brief summary, though, under the revised planning
5 protocol, the RTO still will have the ultimate responsibility
6 for planning. They will still be the interface for
7 transmission requests and expansions related to transmission
8 requests. They will still be the interface for interconnection
9 requests, whether by load or by generators. But GridFlorida
10 will not own assets and, consequently, will require greater
11 cooperation and coordination from asset owners. So we have
12 included in our planning protocol an obligation on the part of
13 transmission owners to coordinate with GridFlorida in the
14 planning process. And we have provided for an orderly
15 transition for GridFlorida to take control over long-term plans
16 and planning criteria and so forth.

17 And then, finally, with respect to the participating
18 owners management agreement, we made a variety of changes, most
19 of them relate to merely changing -- the fact that the entity
20 is changing from a profit to a nonprofit corporation. Although
21 there are some other miscellaneous changes we made, some of
22 which simply were changing mistakes we made in the initial one.
23 But that is a basic summary of our changes, and I presume we
24 will -- I will be happy to respond to questions now or we can
25 wait until we hear from the other parties.

1 CHAIRMAN JABER: Thank you, Mr. Naeve.

2 Commissioners, do you have questions of Mr. Naeve.

3 Do you want to move on? Okay. The next presenter I have on my
4 list is from Seminole Electric Cooperative.

5 MR. MILLER: Good morning. Thank you very much. My
6 name is William Miller of the law firm Miller, Balis, and
7 O'Neil, Washington, D.C., appearing on behalf of Seminole
8 Electric. Seminole very much appreciates the opportunity to
9 appear here this morning to present its views on the very
10 important subject of an RTO in Florida.

11 My comments, time permitting, will be broken down
12 into basically four areas. One, to discuss the important
13 characteristics of Seminole that make an RTO especially
14 important to it.

15 Secondly, will be to discuss what we perceive to be
16 the game plan of the applicants in terms of the filing that
17 they made on March 20, much of which in our view does not
18 conform to the December 20 order issued by this Commission.

19 Thirdly, we will discuss some of those major
20 deviations appearing in the March 20 filing.

21 And, finally, to the extent we have not already
22 answered the questions of the Commission set forth in its May
23 15th notice, we will try to answer those questions, as well.

24 Now, as far as of the first point, some critical
25 facts about Seminole. As I hope you know, it is a generation

1 and transmission cooperative. It has ten members whose full
2 requirements it serves. Those members, in turn, serve some
3 700,000 consumers in 45 counties in Florida and they consume in
4 excess of 12 billion kilowatt hours per year. Seminole
5 controls about 4,000 megawatts of generation, about half of it
6 owned and about half of it purchased. Seminole owns about 270
7 miles of 230 kV transmission, about 140 miles of 69 kV
8 transmission.

9 Perhaps more significantly, Seminole is a TDU, a
10 transmission dependent utility, that relies on the transmission
11 of Florida Power Corporation and Florida Power and Light to
12 deliver load from its resources -- to deliver power rather from
13 its resources so its load in those control areas. It is
14 because of these characteristics that an RTO, a properly
15 structured RTO in the State of Florida is especially important.

16 Seminole pays, in essence, two types of pancaked
17 rates, both of which cause severe economic and competitive harm
18 to Seminole and its members. The first type of pancaked rates
19 is the normal type you hear about in terms of moving power from
20 one control area to another. The second form of pancaked rates
21 that it pays is related to the fact that it is a TDU, and that
22 not only is it paying the embedded costs for transmission in
23 the Corp and the Light areas, it is also paying the full cost
24 of its own transmission to interconnect with those controlled
25 areas in order to bring power to its load. These redundant

1 transmission charges must be eliminated in order for Seminole
2 to be able to economically dispatch its resources to meet its
3 requirements in the same fashion as the IOUs in the state.

4 Next I would like to turn to sort of our overriding
5 theme in our written comments as well as in our verbal
6 presentation this morning. In doing that I would like to first
7 emphasize that Seminole does not quarrel with your December 20
8 order. We think your December 20 order is a positive one. In
9 finding the applicants to have been prudent in moving forward
10 with an RTO, we support that. We support an ISO as the
11 structure for an RTO in the state. We think an independent
12 board, which you have insisted upon, and input from the
13 advisory committee are all very important. In short, we have
14 no quarrel with the vast majority of your December 20 order.
15 Our problems come with the March 20 filing made by the
16 applicants, which we think is mislabeled a compliance filing.

17 The Commission in its December 20 order gave the
18 applicants 90 days to file, and I quote, "A modified RTO
19 proposal that conforms the GridFlorida proposal to the findings
20 of this order," close quotes. In our view the applicants have
21 complied with one-half of that requirement. They did file
22 within 90 days. But with regard to the second half of that,
23 they have filed a compliance filing, we would say a
24 noncompliance filing that goes far beyond the requirements of
25 your December 20 order and we will get into that in a minute.

1 What is the GridFlorida applicants' game plan? We
2 believe the game plan is now that they are all transmission
3 owners, that they want to see changes made in certain of the
4 documents on file at the FERC. So they have made those changes
5 to the documents filed in response to your December 20 order,
6 hoping that you will bless those documents. They will then
7 file those documents at the FERC. And in effect, they will
8 tell the FERC, the FPSC made us do it, that's why those changes
9 are here. In our view that will bring about the very kind of
10 jurisdictional turf war that you want to avoid and that we want
11 to avoid.

12 In your December 20 order you made it very clear that
13 you were looking for cooperation between the FERC and the FPSC.
14 We have made it very clear in our comments both to FERC and to
15 this Commission that we think cooperation between the two
16 agencies is necessary to get a properly functioning RTO in
17 place in a timely fashion in Florida. If you take the bait
18 being put out there by the applicants and approve the many
19 changes they are suggesting that in our view have no reasonable
20 nexus to your December 20 order, that cooperation will not
21 occur. There will be a battle royal at the FERC regarding
22 these many changes.

23 Now, what are some of the deviations that I am
24 referring to? First, I would have to say that we have gone
25 into some detail with regard to these in our written comments.

1 and I can only briefly summarize here. Other intervenors have
2 done the same. They have gone into some detail with regard to
3 these deviations. The four I will touch on, the first of which
4 is the planning protocol mentioned by Mike Naeve. The planning
5 protocol that was filed at the FERC was the result of an
6 extensive collaborative process that resulted in an effective
7 transmission planning process that was supported by virtually
8 all stakeholders and that received substantial approval by the
9 FERC in its March 28th order.

10 The applicants have basically torn that document to
11 shreds. They have written an entirely new planning protocol.
12 And the effect of that new planning protocol is to decentralize
13 the process, to take power out of the hands of the RTO and to
14 put it into the hands of the transmission owners, the
15 applicants. In essence, they have stood the planning protocol
16 on its head.

17 I would point out to you that when their witnesses
18 were appearing before you in the prudence proceeding below and
19 they were asked if an ISO could perform as well as a transco,
20 the operating planning and congestion management functions,
21 they answered unequivocally yes, but with no reference to
22 having to rewrite the documents. The planning protocol could
23 have been amended in ministerial ways to have conformed with
24 your December 20 order. It did not require the massive rewrite
25 that the applicants have done which includes within it a

1 complete change in philosophy.

2 The next item that I would like to discuss is
3 Attachment T. Attachment T to the OATT, the Open Access
4 Transmission Tariff, and that deals with existing transmission
5 agreements. Without going into the nitty-gritty of the changes
6 they made which are set forth in the comments, I would like to
7 point out that the effect of the changes they have made will be
8 to potentially undermine the Calpine/Seminole arrangement that
9 this Commission is familiar with because you certificated the
10 Calpine Osprey plan last year.

11 Now, how does it do that, how do changes effect that
12 bad result? The transmission from the Osprey plant is
13 scheduled to again in mid-2003. Seminole will begin taking
14 deliveries in mid-2004 if the project goes forward. At the
15 FERC the issue came up very clearly whether or not that
16 transaction would incur pancaking charges, because the
17 transaction, the arrangement was premised on no pancaking.

18 The applicants assured the FERC in a filing that
19 there would be no pancaking. Let me just quote to you very
20 briefly a sentence in a pleading filed by the applicants in
21 February 2001. "To the extent Calpine is a designated network
22 resource to serve Seminole network load under the GridFlorida
23 OATT, no additional transmission charge will apply to transmit
24 power from the Calpine unit to the Seminole network load."
25 They then on May 29 in their compliance filing at the FERC

1 submitted language which guaranteed that result.

2 The Attachment T they have filed here, purportedly in
3 response to your December 20 order, changes dates such that
4 there will be pancaking under the Calpine/Seminole arrangement
5 and will undermine that transaction.

6 CHAIRMAN JABER: What was it you were reading from?

7 MR. MILLER: This was a -- well, actually I was
8 reading from my comments, but I was reading from a quote, a
9 block quote of a February 16, 2001 answer filed by the
10 GridFlorida applicants at the FERC in Docket Number RT01-67.

11 In any event, the changes made to Attachment T, the
12 new investment, change in date of new investment, what it
13 really does is mean that the GridFlorida applicants will
14 collect many millions of dollars more in pancaked revenues.
15 That is what they are after. And in so doing they are
16 undermining the reliance Seminole and others have put on what
17 they filed at the FERC. That is totally uncalled for by your
18 December 20 order.

19 Turning to Attachment R --

20 COMMISSIONER DEASON: Let me ask a question. Has the
21 FERC approved that?

22 MR. MILLER: No, absolutely not. As I stated at the
23 beginning I think the game plan is evident, they are hoping you
24 will approve it and then they will take these documents to the
25 FERC and say the FPSC made us do it. They won't be so crass as

1 to put it the way I'm putting it, but in essence that is what
2 will happen. And these documents will be filed at the FERC, we
3 will be left to fight it out there. And I think that is a turf
4 war that we don't need to be in. So we think this Commission
5 should reject those changes which have no reasonable nexus to
6 your December 20 order, and that is one of those changes.

7 Next, Attachment R. Attachment R spells out the
8 terms and conditions of interconnection with new delivery
9 points. They completely deleted Attachment R and basically
10 substituted two sentences saying to the extent that the --
11 until the transmission provider rather comes up with new terms
12 and conditions, the terms and conditions of the applicants will
13 prevail. There is no basis for that in your December 20 order.
14 With very minor changes to Attachment R, the existing terms and
15 conditions could and should remain in place.

16 The POMA, the Participating Owners Management
17 Agreement, which again Mike Naeve referred to earlier, has a
18 number of changes that are uncalled for by your December 20
19 order. Again, those are chronicled in our comments and the
20 comments of others. Time doesn't permit getting into them, but
21 we urge you to review the comments regarding the POMA because
22 we think as to many of them, not all of them, as to many of
23 them they are not called for by your December 20 order.

24 Next, I would like to turn to the extent that I have
25 time to responding to specific inquiries in your May 15 notice.

1 And I'm going to start, if I may, at the end of the list with
2 Questions 13 and 14. Question 13 deals with inclusion of TDU
3 costs and zonal rates, Question 14 deals with revenue shifts
4 resulting from the pancaking of rates.

5 Now, let me point out that Seminole is an advocate of
6 a postage stamp rate in the state as an end result, but we
7 recognize that with regard to the normal pancaking, the
8 interzonal pancaking that a phase-out period is justified.
9 There are very substantial cost shifts involved. So, without
10 commenting on the length of the phase-out period, we understand
11 that there needs to be a phase-out period. But the
12 situation -- and that really is a response to Question 14.

13 The response to Question 13 dealing with the TDU
14 costs is very different. First, I need to point out that TDUs,
15 like the IOUs will be turning over their transmission
16 facilities from day one to the RT0. Our 230 kVs are no
17 different from the applicants' 230 kV; our 69 likewise. These
18 facilities will be integrated into a single Florida integrated
19 grid and they are as entitled to full revenue recovery from day
20 one as the facilities of the IOUs.

21 Now, with regard to cost shift, which is the
22 ostensible reason for delaying that immediate revenue recovery
23 by TDUs, unlike the cost shift dealing with the interzonal
24 pancaking, the cost shift attributable to the TDU issue has the
25 impact of approximately one-half of one percent on retail

1 rates. We claim and believe that is de minimis and is not a
2 cost shift that justifies delaying phase-in for five years. We
3 believe we are entitled to comparable treatment so that all
4 retail consumers in the state are paying comparable rates,
5 which is not the case today.

6 Likewise, just to hark back for a minute, just as
7 there is no basis for pancaking there, the idea that there
8 would be pancaking with regard to arrangements such as the
9 Calpine/Seminole arrangement that I described earlier where
10 transmission doesn't begin until 2003/2004, there is absolutely
11 no basis for that, as well.

12 I have turned to Question 6, where you ask about the
13 role of the FPSC. We do not have an exhaustive list to provide
14 you, but we think there are a number of areas where the FPSC
15 can be extremely effective in the context of an RTO in the
16 state. With regard to long-term generation adequacy, the FPSC
17 has a proven track record in that regard, and we don't think
18 that the applicants have shown any basis for supplanting you in
19 that role, that you should continue to determine long-term
20 generation adequacy in the state.

21 With regard to the regional transmission planning
22 process, we think you have an affirmative role to play in that
23 process. We would suggest, though, that there may be other
24 alternatives you prefer, but we would suggest a regional
25 transmission planning process proceeding each year where this

1 Commission would review the regional plan being proposed by the
2 RTO. And that you would -- to the extent your independent
3 assessment caused you concern, you would indicate those concern
4 much as you do with your review of generation adequacy.

5 A third role that we think is important for the FPSC
6 is market monitoring. We think that this Commission has its
7 finger on the market power issue. You did an excellent job in
8 your December 20 order of describing that market power
9 situation and making clear that there is market power in the
10 state and that markets cannot be expected to operate properly
11 until that is resolved. We do not want a California. And the
12 market power situation here is far worse than California. Nor
13 do we want marketers playing games such as Enron and the
14 others, the round tripping, the Desert Star, et cetera. And we
15 think this Commission is probably the best to keep its finger
16 on the pulse of what is going on and to help prevent that
17 happening.

18 We are not suggesting that you set yourself up as the
19 market monitor. That documents filed by the applicants have an
20 independent corporation doing that, we have no problem with
21 that, and we think that corporation should provide you with all
22 the data that it collects. But we do think you have a role as
23 an independent entity overseeing the welfare of retail
24 consumers in this state to keep track of market power issues,
25 gaming issues, and to press ahead on those.

1 Another role, a fourth role we think that this
2 Commission can and should play has to do with transmission
3 service reliability. There is a gross disparity in the
4 transmission reliability that the IOUs afford themselves versus
5 what they afford, for example, the Seminole members. And the
6 Seminole members will deal more with that in their comments.
7 We think this Commission is not just geographically close, but
8 legislatively close to that issue. It should be attentative to
9 make sure that there is comparable reliability in the state.
10 That customers behind cooperatives don't endure hours of
11 interruptions whereas customers behind the IOUs endure minutes
12 of interruptions. That is something that needs to be addressed
13 by this Commission.

14 As I said, the above is not an exhaustive list, but
15 certainly areas that we think this Commission has a very
16 positive role to play. In Question 9 you asked about the use
17 of physical transmission rights. In your December 20 order you
18 are very clear about the use of balanced schedules and physical
19 transmission rights, and Seminole has no quarrel with that, no
20 problem with that. We are aware, as you undoubtedly are, that
21 the FERC is looking very closely at this issue in RM01-12, and,
22 you know, it appears if you are reading the tea leaves that in
23 coming out with a standard market design which they believe
24 should apply to all RTOs, it appears that they are going to
25 come out on the side of a financial-based, LMP-based financial

1 model. It appears that is where they are coming out. Again,
2 we don't have a problem with that result.

3 What we have are overriding concerns that regardless
4 of which congestion management scheme is adopted, physical or
5 financial, we think need to be addressed. And I would like to
6 discuss three of those concerns with you now.

7 The first concern is that markets not be permitted to
8 function until the market power situation in the state has been
9 fully assessed and market power mitigation rules are in place.
10 There are some that in our view would put the cart before the
11 horse, that would say let the games begin. Let the markets
12 begin. We think that is a recipe for disaster. That you must
13 have market power mitigation rules in place ahead of time as
14 well as a proper market monitoring institution in place so that
15 you have got both structural and behavior protections.

16 We also think remedies are important. You should
17 consider the necessity for refunds because nothing makes people
18 wake up more quickly in terms of bad acts than the potential
19 for refunds. The extent to which marketers are fighting
20 refunds in the west, I think, underscores that fact.

21 A second overriding concern we have regardless of
22 which congestion management scheme you come up with is that it
23 not be regarded as a substitute for adequate regional
24 transmission planning. We think planning is absolutely
25 critical to a well functioning grid in Florida, and that while

1 the purveyors of LMP will tell you that LMP sends out market
2 signals which resolve those sorts of issues, frankly we don't
3 buy that. From what we have seen elsewhere in the country,
4 that is not the case. You need an effective planning protocol
5 such as was filed at the FERC and was filed below in the
6 prudence proceeding, and that needs to be in place, that you
7 need to watch out that the congestion management scheme,
8 whatever it is, doesn't send the wrong signals. I don't think
9 you can rely on the market signals from a congestion management
10 scheme, be it financial or physical, to send the signals that
11 are going to provide you with a healthy grid in the State of
12 Florida.

13 A third overriding concern is that there be no
14 surprises in the state. LSEs that have not been subject to
15 congestion charges to date should not be subject to congestion
16 charges as soon as you throw the market, the congestion market
17 switch.

18 CHAIRMAN JABER: Mr. Miller, that there be no what in
19 the state?

20 MR. MILLER: That there be no surprises. Surprises.
21 And by surprises I'm talking about money. That when you throw
22 that congestion switch and the market starts to operate that
23 entities, that LSEs that have not experienced congestion, if
24 they had not paid congestion charges before day one of the
25 market they should not be paying congestion market (sic) on day

1 one when the market does begin to operate. And we think the
2 key to achieving that result is allocating transmission rights,
3 be they physical or financial, in an appropriate fashion to
4 make sure that LSEs are indeed protected. Elsewhere we know of
5 entities, you may have read of same in PJM, for example, where
6 on day one and thereafter experienced literally many millions
7 of dollars of congestion costs that they never experienced
8 before the LMP model went into place. So we need to be
9 careful.

10 Moving on to Question 11.

11 CHAIRMAN JABER: How did Pennsylvania address that
12 issue?

13 MR. MILLER: Well, as far as -- I can't speak to
14 Pennsylvania specifically. Pennsylvania is part of PJM. I can
15 tell you that Old Dominion, which is a cooperative in the
16 Delmarva Peninsular, did not get adequate transmission rights
17 when the LMP model was put in place and they are the entity
18 that has paid literally gazillions of dollars it seems in
19 congestion charges and they have had all sorts of litigation
20 involving that. And that is the sort of train wreck that we
21 think should be avoided before it occurs by making sure that
22 the Old Dominions in Florida get the adequate transmission
23 rates to avoid that sort of thing happening.

24 With regard to Question 11, you asked about the
25 pricing of ancillary services. Our comment there is very

1 short. To the extent that markets are involved in pricing
2 ancillary services, we would just issue the same caution. Make
3 sure that the appropriate market power mitigation rules are in
4 place before you permit such markets to operate. Even though
5 they are residual and relatively small as you point out in your
6 December 20 order, they are markets nonetheless. They are
7 subject to abuse, and it should not begin to function until
8 market power is considered and covered.

9 Moving to Question 7, you asked about consideration
10 of demand-side options and generation alternatives when
11 identifying needed expansion and maintaining reliability.
12 First, I would say that Seminole strongly supports demand-side
13 responsiveness in the context of market power mitigation. But
14 you don't have a market unless consumers can respond to market
15 signals. And we don't think we are there in Florida. The FERC
16 has urged the applicants to put demand-side options in place
17 that would provide for demand response, we don't think that has
18 been achieved. And until that is achieved, you really don't
19 have the ability to have functioning markets.

20 But as far as demand-side options in the context of
21 transmission planning, we don't view demand-side responsiveness
22 as an alternative to transmission construction in the long-run.
23 We believe that you don't curtail load to serve load, you build
24 transmission to serve load. It may be that in the short term
25 that while transmission is being planned and built if there is

1 demand it is willing to respond to price signals for a period
2 of time, that that is a short-term fix. We don't think it's a
3 long-term fix in terms of transmission planning in the state.

4 Now, with regard to generation alternatives, we think
5 generation alternatives clearly need to be considered. You
6 have to keep in mind, however, that an RTO does not have the
7 authority to order generation to locate at spot X to relieve
8 congestion. It may or may not locate there. Basically,
9 generators are going to locate where all the economics,
10 including environmental costs, dictate that they locate. And
11 we have seen in some instances where LMP provides perverse
12 incentives for location of generation. So generation
13 alternatives are something to be considered, they are not a
14 panacea in our view to good transmission planning.

15 Turning to Question 1, I wasn't sure I would get this
16 far and I'm sure you will cut me off when my time is up.

17 COMMISSIONER DEASON: Excuse me. I wanted to back up
18 for just a moment to your last concern having to do with
19 generation being considered as an alternative to transmission.

20 MR. MILLER: Yes.

21 COMMISSIONER DEASON: And you made the point that the
22 RTO cannot order generation to be built at any specific point
23 even though it may be the most beneficial point as far as the
24 transmission system is concerned. Is there some way that the
25 market can provide an incentive for an entity to build

1 transmission at a specific location?

2 MR. MILLER: Well, I think two answers. One, the
3 purveyors of LMP, and you will have some at the microphone
4 today, will tell you that those signals, the LMP signals will
5 provide you with those incentives. We frankly are somewhat
6 skeptical. We think sometimes they may, sometimes they may
7 not. We are aware of parts of the country where there is
8 definite congestion, you would think the market signal was out
9 there, and this is in an LMP territory, and yet the generation
10 is not locating where you would think it should to relieve
11 congestion.

12 It is locating elsewhere and you have to assume it is
13 locating elsewhere because the total cost package that it is
14 looking at dictates that it locate elsewhere so it is not
15 relieving congestion. So my answer, which is not the same as
16 the LMP people may give you, is that LMP sometimes will provide
17 the incentives, sometimes it will not. Now, I believe -- and
18 I'm not the person to speak to this -- I believe in the earlier
19 RTO process in Florida in which Seminole was very active in
20 there were discussions of the RTO providing certain incentives
21 itself by way of -- I'm not sure if it was impact fees of a
22 certain nature that would provide financial incentives for
23 generation to locate in proper places. So that is something
24 that could be considered. That would be something different
25 from relying on your congestion management model to provide

1 price signals. This would be an incentive that the RTO itself
2 provides. That is not in any of the documents before you.
3 That was something that was in documents discussed at least
4 when the ISO was being discussed to these many years ago. This
5 is preorder 2000. I'm not sure, Commissioner Deason, if that
6 answers your question.

7 COMMISSIONER DEASON: That's fine, thank you.

8 MR. MILLER: Thank you. With regard to Question 1,
9 which is the appropriateness of a not-for-profit versus a
10 for-profit ISO, first of all, as I said at the outset, we think
11 that the Commission's December 20 order calling for an ISO was
12 appropriate. As a not-for-profit itself, Seminole obviously
13 does not take issue with a not-for-profit ISO, and we think it
14 will function well in the state. We do have one caveat that
15 goes back to our central theme today, and that caveat is that
16 when you had a transco, the benefit was you had FPL as a
17 divesting owner on one side of the fence and you had FPC as a
18 transmission owner, a nondivesting entity on the other side.

19 The result of that was you had some balance in this
20 process. A collaborative process which resulted in the
21 documents filed at the FERC were the result of that
22 collaborative process and they were not perfect documents,
23 believe me, but there was some balance, planning protocol being
24 an example. And that balance largely came from having Corp and
25 Light on opposite sides of the table on many issues. By going

1 to an ISO, you have now put all three IOUs on the same side of
2 the table. They are all three transmission owners. And as
3 transmission owners they don't want to give up any more
4 authority and power than they have to, and you have seen that
5 in this filing. You have seen it in the planning protocol and
6 in other areas that we have mentioned where they have changed
7 dramatically the documents that they filed at the FERC.

8 So our caution to you is an ISO is fine, and we
9 support that, but recognize that you now have to deal with the
10 applicants as a team that are going to be pulling in the same
11 direction whereas before they were pulling in different
12 directions and that made for a balance that you are not going
13 to see and don't see in these documents.

14 Moving to Question 2, the Commission asked about the
15 flexibility of the RTO plan and documents to change over time.
16 We support open architecture. We think this Commission does,
17 as well, as we read your December 20 order. However, there is
18 one sort of change that we don't support as you probably
19 gathered from my earlier remarks, and that is the kind of
20 change that we have seen in the Attachment T where you have
21 parties relying on what that they filed and what was approved,
22 and in that case it was no pancaking for the Calpine/Seminole
23 arrangement, and now you have them coming in here trying to
24 change the rules of the game very much to the detriment of
25 Calpine and Seminole. That sort of change we think is

1 inexcusable and needs to be rejected. So where there is
2 reliance, I think the Commission needs to be very careful as
3 far as sanctioning any change.

4 Question 4 asked about whether the meeting should be
5 open to the public. Our short answer to that is yes. I know
6 that FMPA is going to cover this in some detail and I'm going
7 to defer to them because I know frankly the content of their
8 comments from what they have written and from informal
9 discussions. I think their position is a correct one, and I
10 will not go into detail. I will be happy to answer any
11 questions. But the meetings need to be open, be they the
12 meetings of the board, be they meetings of committees.

13 And I heard something new this morning, I think, from
14 Mr. Naeve regarding committee meetings. It didn't seem to me
15 from the documents that I had read that they would be open. It
16 seems now he is saying they will be open when they make
17 decisions. I'm not sure where that dividing line is, but in
18 any event we favor open meetings. And I think FMPA will
19 address that in some detail.

20 In Question 5 you asked about performance incentives
21 and the mechanism to implement those incentives. We support
22 the concept of performance incentives for ISO employees where
23 their efforts provide tangible benefits to RTO customers. We
24 think that is a positive thing. The applicants did not respond
25 to your December 20 order with any concrete suggestions. Mike

1 Naeve described earlier what they are doing and that is, as I
2 understand it, a consultant is supposed to come up with some
3 suggested performance incentives and presumably eventually they
4 will find their way in front of you and we will comment
5 accordingly, but we support the concept.

6 In Question 10 you asked about the method for
7 determining flowgates. That probably is only relevant if you
8 stick with a physical rights model versus a financial rights
9 model. But be that as it may, assuming that flowgates are
10 significant and relevant, Seminole participated earlier on a
11 flowgate working group which we thought was making some
12 progress. The applicants then turned around and made a filing
13 at the FERC that in some respects ignored the work product of
14 that working group. It somewhat soured us on the process. Our
15 conclusion from that is that if flowgates continue to be
16 relevant, the RTO should be in charge of any working committee
17 and any process that develops and determines what those
18 flowgates are, that the applicant should not be running that
19 process.

20 In Question 12 the Commission asks about a proposed
21 cost-recovery mechanism. I guess two caveats, at least two
22 caveats to what the applicants have proposed. One is we think
23 TDU cost recovery should be in year one. It should be
24 comparable basis. We should be treated comparably with the
25 IOUs. As I said before, our transmission is going in the pot

1 just as theirs is going in the pot, and the cost shift impact
2 is de minimis on other retail consumers in the state. We think
3 all retail consumers should be treated in a nondiscriminatory
4 fashion.

5 The second caveat has to do with the date mentioned
6 by Mike Naeve moved for new facilities, they moved the date for
7 new facilities so that fewer facilities are new facilities and,
8 therefore, charged system-wide. Unfortunately, the impact of
9 that as I have mentioned a few times already is that
10 arrangements like the Calpine/Seminole arrangement get caught
11 in that net, and we get charged with pancaked rates which were
12 the opposite of what the applicants pledged to the FERC would
13 happen. We think that is inexcusable.

14 That covers the questions that we had intended to
15 respond to. I think we responded to all, or at least tried to.
16 The other subject would be dealt with by the member
17 cooperatives who I think are next up, and that is the subject
18 of the reliability as well as certain other concerns the
19 members have. I appreciate very much your time and would
20 welcome any questions.

21 CHAIRMAN JABER: Thank you, Mr. Miller. Okay.
22 Seminole member cooperatives.

23 MR. MILLER: I can, if it is appropriate, introduce
24 these gentlemen as Bill Hetherington from Lee County Electric
25 Cooperative and Herman Dyal from Clay Electric Cooperative.

1 They have both been very active during the collaborative
2 process, both at FERC and down in this state.

3 CHAIRMAN JABER: Mr. Hetherington and Mr. Dyal, go
4 ahead and spell your last name for the court reporter.

5 MR. HETHERINGTON: Hetherington,
6 H-E-T-H-E-R-I-N-G-T-O-N.

7 MR. DYAL: Dyal, D-Y-A-L.

8 CHAIRMAN JABER: Thank you. Go ahead.

9 MR. DYAL: First of all, I would like to thank the
10 Commission for allowing the member cooperatives the opportunity
11 to present its views and our concerns about the proposed RTO.

12 First, I would like to say that we think we bring a
13 different perspective to the workshop. Most intervenors you
14 are going to hear today are either transmission or generator
15 owners where their primary motivation, while I understand it,
16 is not necessarily consistent with ours and the Commission, as
17 far as we are concerned, is that our ultimate mate goal is to
18 make sure that the welfare of all retail electric consumers in
19 the state is met, that their concerns come first.

20 The distribution cooperatives are load serving
21 entities whose sole interest in these proceedings is that the
22 outcome ensures that we will have a reliable power supply at a
23 reasonable price for the members. In other words, if an RTO
24 doesn't bring that value to the retail customers, and as I say
25 all the retail customers of the State of Florida, then it

1 shouldn't happen.

2 Now, that said, however, it is our opinion that a
3 properly developed RTO can bring value to the members and to
4 all the consumers in the State of Florida. That's why we have
5 been very active the last few years working both at the FERC
6 and at this Commission in the stakeholder process because we do
7 think it does bring value, but we do have concerns.

8 What I'm going to do today is basically try to stick
9 with strictly the issues that we feel meet with an LSE with
10 your experience and our background. We will comment on
11 basically the questions that were in your request in the
12 workshop. We are going to answer Questions 1, 3, 4, 6 and 9.
13 We will start with Question 1. Obviously we do welcome the
14 filing of nonprofit ISOs. We have long felt that a for-profit
15 transco would result in possibly an unhealthy conflict of
16 interest between the investor-owned or for-profit transco and
17 its transmission customers. For-profit, as Mike alluded to, a
18 concern is they are going to want to maximize the profits from
19 their transmission assets and in turn probably sacrifice
20 probably some transmission service. So we are glad to see that
21 move.

22 We have had extensive experience, we have dealt with
23 for-profit transmission owners for years. We have been a pure
24 transmission dependent utility, so we understand what it is to
25 be in that arena. And, frankly, to be honest we are very happy

1 to see that change. We would like to see that era behind us
2 and just the hope that we will be able to deal with a nonprofit
3 transmission company is exciting for us. However, we are
4 concerned with some of the changes or some of the proposals we
5 see coming from the applicants on this ISO simply because it
6 is, quote, a nonprofit. We are asking the PSC to be vigilant.
7 You are going to really have to be involved and stay involved
8 to ensure that this RTO is independent and it takes real
9 control of the transmission assets, that it has to be a strong
10 ISO.

11 CHAIRMAN JABER: Do you think your concern can be
12 satisfied if the PSC takes the opportunity to be part of the
13 board selection committee?

14 MR. DYAL: Well, I think that is one part of it. We
15 have got some other areas that I will talk about that we think
16 you need to stay involved in the process. It has already been
17 mentioned some of the planning and the market design, market
18 monitoring. We think there are areas you can stay involved in
19 more than just the board selection.

20 CHAIRMAN JABER: I guess that goes to the role of the
21 PSC in terms of serving as market monitor, at least having some
22 sort of oversight. But in terms of -- I think you said PSC
23 should be vigilant and stay engaged. I am assuming you mean as
24 it relates to monitoring the independence of the board and the
25 structure of the RTO. And my question is will that concern be

1 satisfied if we are part of the board selection committee, is
2 that enough?

3 MR. DYAL: No, I don't think that is enough. I think
4 that is a start, and I think it's a good start, and I would
5 welcome that, but I think it is going to go beyond that.

6 CHAIRMAN JABER: Okay.

7 MR. DYAL: As it relates to Question 3, we agree in
8 principle with the Commission as it relates to governance.
9 Independence in stakeholder input is critical. That is where
10 the board position, as you stated, would come in. We like
11 where it's going, but, you know, without going into detail I
12 think FMPA is going to state that or maybe cover it a little
13 deeper, and we will, in the essence of time, defer to them.

14 In Question 4, we wholeheartedly agree that the
15 meetings should be open to the public. You know we have
16 obviously operated in this manner for a long time. We are used
17 to it. We see no reason why an RTO couldn't operate very
18 successfully in that environment, so we would encourage that.

19 Question 6, as the PSC's role, as you stated a while
20 ago, we do want to be active and on-going in the role. In
21 fact, we want to encourage the PSC to stay involved in this RTO
22 as we go forward. There are four areas that I specifically
23 think the PSC could really help us in this as we go forward.
24 They are reliability, system planning, market design and
25 monitoring, and transmission pricing.

1 What I would like to do at this time is turn at least
2 two of these, reliability and transmission pricing over to Bill
3 Hetherington so he can comment on these as he has some unique
4 experience and knowledge that I think will be helpful.

5 MR. HETHERINGTON: Thank you. Again, I want to echo
6 that I'm pretty much in agreement. I appreciate the
7 opportunity to be here today. Again, as a member cooperative,
8 we bring a very unique and important perspective into this
9 process. We have been very active in this process over the
10 last three years, and I think the uniqueness is that we share,
11 I think, common goals with what the Florida Public Service
12 Commission is, and that is to ensure that we have reliable
13 power at reasonable rates. And as Herman alluded to, I think
14 the main goal we have as a nonprofit load serving entity is to
15 make sure that our customers have reliable power at reasonable
16 costs.

17 Two of the issues that I want to talk about here this
18 morning very briefly would be -- the first one is reliability.
19 And, certainly, reliability is, we feel, the number one issue
20 to the retail customers of Florida. And, again, I think when
21 you heard Bud mentioning earlier about these costs and, you
22 know, we have to absorb these costs, "we" is we collectively.
23 We, the ratepayers, and we, the customers, and we, the retail
24 end users of Florida is who we are talking about. So we have
25 to keep that kind of in the forefront.

1 The reliability of transmission service provided by
2 the applicants to our member systems has historically been
3 inferior to the service provided to their own member systems.
4 Based on transmission reliability data from the year 2000, if
5 you were being served by a member-owned cooperative, you were
6 twice as likely to experience a transmission outage, and the
7 average duration was 32 percent longer than that of an IOU.

8 This has been documented in testimony that has been
9 supplied to FERC, and it also has resulted in a lot of the
10 cooperatives, a lot of the distribution member cooperatives
11 have actually constructed transmission facilities to help
12 improve reliability. Specifically at my cooperative, we have
13 22 miles of 230 kV transmission lines and 148 miles of 138 kV.
14 A lot of the reasons why we built transmission was as a stopgap
15 measure to help improve reliability. But this proposal that
16 was submitted on March 20th, the reliability issue is a real
17 problem because we see it as a mechanism for monitoring would
18 basically put into place what is the reliability we have right
19 now as defined as an acceptable amount of reliability. And
20 what you are doing is provide a catalyst for reliability
21 disparity between those who live in urban dense areas served by
22 investor-owned utilities and those who are being in more rural
23 areas that have less reliability. You would establish those as
24 the benchmark, so you have innately established a disparity.
25 Keeping in mind that we all will be paying the same

1 transmission rate. Again, it gets back to equitable treatment,
2 and we don't think that is an equitable situation.

3 The other issue I think is very timely, and it goes
4 to the issue of transmission dependent utilities and
5 integration. And this has been a discussion that we have been
6 in disagreement, you may say, for the last three years as far
7 as what constitutes an integrated grid. The applicants have
8 alluded to that on day one of all of their facilities would be
9 included in the transmission basket, and they would get those
10 revenue requirements. However, you, transmission dependent
11 utilities, you are really not part of the grid, so we want to
12 go ahead and just phase you in. Then they came back with the
13 caveat, but if you really want to you can go to FERC and have
14 them assess that.

15 Well, last week on one of our 230 kV facilities we
16 had over 120 megawatts flowing from the Seminole control area
17 into the FPL control area to serve FPL load. Now, normally
18 that is enough power to serve about 30,000 homes. And, again,
19 I don't have a transmission tariff, I'm a distribution company,
20 but sometimes I feel like I've got the toll booth with the toll
21 gate stuck open. I'm not getting compensated for that and that
22 is kind of irritating. The second thing that is a little
23 irritating is that when I schedule then my transmission
24 maintenance, we have poles that need to be repaired, the
25 security coordinator doesn't allow us to have a clearance on my

1 facilities because of grid stability.

2 Well, I guess the question begs if I'm not part of
3 the grid then how can my facilities affect grid stability? So,
4 again, I think it is a very important point that you realize
5 that here is proof that the facilities that transmission
6 dependent utilities have are part of the grid and they should
7 be treated comparably.

8 And, again, just in conclusion, that the reasons for
9 having an independent transmission organization is to allow
10 this open access and nondiscriminatory treatment. All of the
11 transmission customers of Florida should be entitled to the
12 same comparable level of service at the same comparable --
13 because they are paying the same comparable rate. And that is
14 really about the only other issue.

15 The only other thing I would like to mention is I
16 noticed here on Number 7 you were talking about demand-side
17 options. And as an LSE, I think certainly the demand-side
18 option should be included in this process. I think that will
19 facilitate a mechanism that would allow the end-use customers
20 an opportunity to participate. It would also allow for some
21 economic diversity as far as the type of fuel mix that are out
22 there. And with that, I will pass it back over to Herman.

23 MR. DYAL: Thank you, Bill. I'm going to pick back
24 up on the planning and the market design. I wish you would
25 please bear with me, some of this is a little bit redundant of

1 what Bud said earlier, but I think it is at least worthwhile,
2 because it is very important to us as member cooperatives to
3 reiterate it to some extent.

4 The planning protocol that was filed and somewhat
5 approved at FERC, that was a result of a lot of extensive
6 collaborative effort, as Bud said. It delegated real control
7 and authority of the regional planning process to the RTO. We
8 were comfortable with that. We felt that that was a good
9 planning protocol. And now what we see filed here before the
10 Commission is really -- well, it has kind of been butchered.

11 And we are very uncomfortable with the planning
12 protocol as it is presently filed with the Commission, and we
13 really don't think that was necessary. As Bud said, you all
14 didn't require that. It really wasn't asked. They have kind
15 of done that under the disguise that we have moved from a
16 transco to an ISO, and I really don't think that was necessary.
17 And I think we are asking or encouraging the Commission to
18 resist that change, that we should stay with a planning
19 protocol, or at least a good portion of it as it is filed at
20 FERC. The planning should be done by the ISO, and it should
21 have real control and real authority in that process.

22 As far as market design and monitoring, I think as
23 this Commission recognized in its December 20th order, there is
24 unquestioned market power here in the State of Florida. The
25 hands -- I mean, that market power is basically in the hands of

1 the applicants. Therefore, we feel it is very important before
2 any market design is implemented that appropriate structural
3 mechanisms and market monitoring procedures be in place. It's
4 critical. I think you understand that from what I have seen.
5 And we just encourage you to, here again, stay active, stay
6 involved in that. Make sure that that occurs, that those
7 things are in place. Because to be perfectly honest, after all
8 most of the benefits of an RTO come from implementation of an
9 open access, nondiscriminatory transmission system in a market
10 that functions to produce competitive lower cost generation.
11 And if we don't do that, or if this Commission isn't vigilant
12 in staying involved in that, we could very well end up with
13 having a California here in Florida. And a lot of that is
14 strictly through market design and market monitoring. So I
15 encourage you to stay involved in that process.

16 And, lastly, Question 9, where you ask the use of
17 physical transmission rights, I can't begin to explain to you
18 the different markets. That is over my head and the people
19 here are a lot more qualified to do that. So when I look at
20 that I look at it in very simple terms of where we are today
21 and where we are going to be when these markets become vibrant
22 or when they are put into place.

23 All I know simply right now is I'm not paying
24 congestion management. If I am, it is socialized or somewhere
25 I don't see it. And what we were asking is as you start up

1 these markets and as you start dealing with congestion
2 management, that we make sure that there is protection or
3 market things in place that would avoid any cost spiking that
4 would occur due to congestion management. We have seen it in
5 other markets where this has occurred, where they have put
6 markets in and all of a sudden we have got price spikes due to
7 congestion management.

8 And we don't have that right now in the State of
9 Florida, and I would sure hate to see that happen, you know, as
10 the market goes in. There should be some mechanism in place to
11 avoid that. We really need to understand the market and
12 congestion in the State of Florida well enough when it goes in
13 that we understand exactly what those costs are and at least
14 somehow mitigate those, so that all consumers -- here again,
15 all retail consumers in the State of Florida are treated
16 fairly. That we don't get any group of customers, whether it's
17 mine as a cooperative, or whether it's a certain group inside
18 of an investor-owned that has to pay these congestion
19 management charges simply because we didn't understand the flow
20 or the market that was going on.

21 So, I don't have any preference, in fact, I'm
22 probably not smart enough to have a preference between physical
23 and financial, we're really going to have to depend a lot on
24 what other people tell us, and we are going to have to depend
25 on the Commission to ensure that the transmission rights

1 whenever they are allocated or however they are allocated
2 protect the LSEs. Protect us to the extent that our consumers
3 don't bear these unusual price spikes that can come from
4 congestion management. So, that is probably our biggest
5 concern with that is that we have in place mechanisms that will
6 protect us from price spikes or congestion management, quote,
7 from day one. We go in probably with a little more knowledge.

8 That is basically all we have. In closing I would
9 like to, here again, thank you for the opportunity to present
10 our views and our concerns. Again, I will encourage the
11 Commission to be vigilant, and to take whatever steps are
12 necessary to ensure that all the retail consumers, including
13 both investor-owned and ours are treated fairly and can all
14 benefit from the formation of an RTO. That's all I have. Any
15 questions?

16 CHAIRMAN JABER: Thank you. Commissioners, do you
17 have any questions of Mr. Dyal or Mr. Hetherington? Okay.

18 Florida Municipal Power Agency. Mr. Bryant.

19 MR. BRYANT: Thank you, Madam Chairman. We are
20 prepared to go forward with our remarks. I didn't know if the
21 Commission would want to take a brief break, and then we would
22 finish up before the lunch hour. I'm at your pleasure,
23 Commissioners.

24 CHAIRMAN JABER: We may want to take a break, but
25 we're moving forward.

1 MR. BRYANT: Okay.

2 CHAIRMAN JABER: We will take a break at noon.

3 MR. BRYANT: Thank you, Madam Chairman. I'm Fred
4 Bryant. I am the general counsel for the Florida Municipal
5 Power Agency. The Florida Municipal Power Agency is a
6 governmental entity chartered by the State of Florida under
7 state statute. We have 29 member municipal electric utilities
8 literally spanning from Chattahoochee down to Key West.
9 Thirteen of our member municipal electric utilities are in what
10 we call the all requirements project of the Florida Municipal
11 Power Agency, and that simply means that the Florida Municipal
12 Power Agency is responsible for providing the total power
13 supply of those 13 cities. Those 13 cities currently are
14 Bushnell, Clewiston, Fort Meade, Fort Pierce, Green Cove
15 Springs, Havana, Jacksonville Beach, Key West, Leesburg,
16 Newberry, Ocala, Starke, and Vero Beach. This Friday we expect
17 to add the City of Kissimmee to the all requirements project;
18 In the near future, the City of Lake Worth.

19 The Florida Municipal Power Agency and its current 13
20 FMPA members serve approximately 1,000 megawatts of load, have
21 approximately 1,200 megawatts of generation resources, and own
22 approximately 350 miles of 230 kV, 138 kV, and 69 kV
23 transmission with an approximate book value before depreciation
24 of 188 million. We would submit to this Commission that FMPA
25 and its all requirement cities have a significant role to play

1 in the grid of the State of Florida and are very dependent upon
2 a fair and equitable resolution to these problems.

3 As an overview, the applicants seek applause for a
4 role they have not yet played. Their filing seeks approval
5 based on how far they have come as opposed to approval based on
6 arriving at where they should be. We forget that not over
7 three years ago we and others, the transmission dependent
8 utilities, came to this Commission seeking your involvement in
9 years of transmission discrimination and years of transmission
10 denial by the applicants. We applaud the Commission's efforts
11 to date.

12 In this very room three years ago in a previous
13 transmission workshop applicants denied that there were
14 transmission problems, denied that there was transmission
15 pancaking, denied that there would be savings in power supply
16 costs if the transmission grid were operated by an independent
17 entity as a unified grid. Congress, the courts, the Federal
18 Energy Regulatory Commission, and history have proven the
19 applicants were wrong.

20 We should not allow the applicants to avoid FERC's
21 and this Commission's orders requiring the applicants to fully
22 comply with the legal requirements for a totally independent,
23 fully transparent, and nondiscriminatory GridFlorida.
24 GridFlorida as proposed by the applicants, does not meet these
25 legal standards nor does their filing meet the requirements

1 necessary for success.

2 In the brief time we have been allotted we will try
3 to highlight GridFlorida's deficiencies from the perspectives
4 of the Commission's December 20, 2001 order, and your grid bill
5 jurisdiction. Our filing in this docket presents greater
6 detail. Today we will not attempt to navigate the maze between
7 federal jurisdiction and state jurisdiction. We leave that to
8 another time and perhaps to others.

9 FMPA's comments will focus on governance issues,
10 which I will speak to; planning and operations issues, which
11 Bob Williams, our director of engineering, will address;
12 pricing issues, which our rate consultant, Joe Linxwiler, will
13 cover; and market design, market power, reserve requirements,
14 or ICE, and national developments which will be addressed by
15 Cindy Bogorad, our Washington, D.C. counsel.

16 Now, as to governance of GridFlorida and why it will
17 be a key element for the success of GridFlorida. We believe
18 that the selection and removal process of the board of
19 directors of GridFlorida is deficient. We believe that the
20 current structure of the board selection committee, or the BSC,
21 which is not subject to public meeting requirements, as
22 proposed by the applicants, is unfairly weighted toward the
23 applicants.

24 The applicants have three representatives on the
25 board selection committee while the other five industry sectors

1 have only one representative each. And the ninth board
2 selection committee representative is elected at large by the
3 advisory committee. The point I'm trying to make is that the
4 math dictates that the applicants have an advantage. Advantage
5 surely does not equate to independence of the board. We submit
6 that the advisory committee is more balanced and that it, not
7 the board selection committee, should select GridFlorida
8 directors. And let me repeat, we submit that the advisory
9 committee composed of the stakeholders, including Public
10 Counsel and this Commission representatives is a more
11 representative body to select the board of directors.

12 The applicants argue that these elite potential board
13 candidates do not want to subject themselves to being selected
14 by the masses, thus the need for the board selection committee.
15 We reject that concern. If the common people of this country
16 can elect a president of our country, the potential board
17 members of GridFlorida surely will not object to being
18 interviewed and selected by the thirteen-member advisory
19 committee.

20 As proposed by the applicants, the board selection
21 committee has the authority to remove board members. We submit
22 that the advisory committee with its more balanced
23 representation should have the responsibility for removal of a
24 board member upon a super majority vote. Meetings between the
25 board and any advisory committee member should be open to the

1 public. And all advisory committee representatives should have
2 an opportunity to address the board. The transmission system
3 of the State of Florida is and must be for the benefit of all
4 Florida consumers. The advisory committee is structured so as
5 to represent Florida consumers to the greatest extent possible.
6 The board must not and cannot be isolated from these advisory
7 committee members.

8 The public meeting requirements for the board are
9 pivotal. We, the public power municipal utilities, who must
10 conduct all of our business in the public forum occasionally
11 complain about the inefficiency of those requirements, yet the
12 overwhelming benefits of full disclosure and total openness
13 cannot be ignored. The GridFlorida transmission system will be
14 a monopoly infused with public purpose and public necessity.
15 The public must have unfettered access to GridFlorida's
16 meetings in order to ensure that GridFlorida always acts in the
17 public interest. The Commission should reject the provisions
18 of the applicant's filings that allow board members to confer
19 outside public meetings and to conduct public business by
20 notational voting.

21 CHAIRMAN JABER: Mr. Bryant, you would agree, though,
22 that there are some situations where the board should have a
23 closed meeting?

24 MR. BRYANT: Absolutely. And we do not quarrel with
25 the general basis of the nonpublic meeting filing that the

1 applicants have filed. However, the generality is deficient in
2 the specifics as to the limitations on that. And we, who live
3 in public open meetings, realize the importance and the
4 necessity of finely drawn lines as to when meetings are in
5 darkness as to total open sunshine.

6 CHAIRMAN JABER: In terms of taking a collaborative
7 forward, though, there are opportunities to reach consensus on
8 when those limited circumstances would warrant a closed
9 meeting?

10 MR. BRYANT: Yes. And I think based upon what we, as
11 government in Florida, through the public record laws have
12 accomplished is a major step forward to arriving. We, as
13 public government, have some of those very exceptions, which I
14 think are very critical to the efficient and fair operation of
15 government in the State of Florida.

16 CHAIRMAN JABER: So something similar to that you
17 would agree to?

18 MR. BRYANT: Yes, ma'am.

19 CHAIRMAN JABER: Okay. In terms of the advisory
20 committee selecting the board, how do you propose the advisory
21 committee gets elected?

22 MR. BRYANT: Well, the advisory committee currently
23 structured, which I think is appropriate, is they are simply
24 designated by their appropriate company or process. For
25 example, I am an alternate. As an officer of my company, I am

1 an alternate to the advisory committee. Bob Williams, the
2 director of engineering, is the member simply because more of
3 the details of the advisory committee deal with the technical
4 aspect of it. But my board appointed Mr. Williams and myself
5 to the advisory committee.

6 CHAIRMAN JABER: And how many people are on the
7 advisory committee?

8 MR. BRYANT: Thirteen.

9 CHAIRMAN JABER: And in terms of the IOUs, hasn't
10 each IOU designated a person then on the advisory committee?

11 MR. BRYANT: Yes, ma'am. The applicants propose that
12 nine stretches the manageability of the board's selection
13 process. I would suggest to you that four more than nine,
14 i.e., 13, i.e., the advisory committee, is far from stretching
15 the capabilities of the advisory committee.

16 CHAIRMAN JABER: Is Public Counsel on the advisory
17 committee?

18 MR. BRYANT: They have a slot open to them, yes,
19 ma'am.

20 CHAIRMAN JABER: Is there a slot for the PSC on the
21 advisory committee?

22 MR. BRYANT: Yes. You have a representative position
23 that either Public Counsel or the Commission would fill.

24 CHAIRMAN JABER: It's an either/or?

25 MR. BRYANT: That is my recollection. I stand

1 corrected.

2 CHAIRMAN JABER: There are two slots on the advisory
3 committee for governmental entities?

4 MS. BOGORAD: But only one on the board.

5 MR. BRYANT: Board selection committee, right.

6 CHAIRMAN JABER: Is that correct, Mr. Naeve? Okay.
7 Thank you. Go ahead, Mr. Bryant.

8 COMMISSIONER DEASON: Before you leave that, just let
9 me ask a question. It's your recommendation that the advisory
10 committee actually select the board. And I guess my question
11 is would that elevate the advisory committee above advising an
12 independent board because it's like the bosses of the board are
13 advising the board, and it's like whatever they advise is what
14 the board is going to accept or they lose their job. I'm just
15 trying to understand the distinction there, and it seems to be
16 a key role for there to be independent board members.

17 MR. BRYANT: Commissioner, I don't think there is any
18 difference in that aspect as between the advisory committee and
19 the board selection committee. The same individuals who are on
20 the advisory committee would be eligible to be on the board
21 selection committee. It's simply a lesser number. The math
22 dictates that with the applicants having three on the board
23 selection committee, it's a much narrower representation of
24 what we call the stakeholders of the transmission system, that
25 is all users. And, therefore, three plus two controls where on

1 the advisory committee three plus four must control.

2 COMMISSIONER DEASON: So is the real issue not so
3 much what you call it, but it's the weighting; is three out of
4 nine or three out of thirteen the real issue?

5 MR. BRYANT: I think so, yes, sir. In all
6 practicalities I think so.

7 CHAIRMAN JABER: But I thought also the
8 distinction -- Mr. Bryant, you need to correct us if we are
9 wrong. But I thought also the distinction between the advisory
10 committee and the board selection committee was the advisory
11 committee was more technical in nature and would be advising
12 the ISO board on the day-to-day operations of the ISO; whereas,
13 the board selection committee only serves for that purpose.

14 So going to Commissioner Deason's question in terms
15 of, you know, an inherent conflict or at least the appearance
16 that the advisory committee would perhaps tailor their
17 recommendations to please the board, that is a closer
18 relationship than this board selection committee that will only
19 serve the function of selecting the members of the board.

20 MR. BRYANT: Well, the difference might be,
21 Commissioner, and let me underscore might be the individuals as
22 opposed to the entities. The entities will be the same. The
23 individuals might be different. Now, am I a technical person?
24 Heaven knows I don't think so. Will I be eligible for the
25 board selection committee? I think I would be. And I'm an

1 alternate on the advisory committee.

2 Now, which role am I playing when I am on the
3 advisory committee, and which role am I playing if I am on the
4 board selection committee, or do I meet the requirements that
5 Mr. Naeve suggested are so important that you be senior
6 management of some type of predisposition to selecting these
7 board of directors who want to meet in secret so that their
8 identity is not known to the masses. I reject that concept,
9 quite frankly. And we, who are in public power, reject that
10 strongly.

11 But, nevertheless, in answer to your question I think
12 the entities are the same, the individuals might differ. And
13 that's fine. We may well want, if we're selected, to have our
14 CEO participate or our chairman of the board participate, I
15 don't know.

16 We also encourage this Commission to reject the
17 proposition that the filing allows committees of the board to
18 meet in private and exercise powers of the board. Although
19 Mr. Naeve today made a slightly different representation of
20 those committee members, which was not spelled out in the
21 filing, we are encouraged by that slightly different
22 representation. And perhaps simply because of the press of
23 time the clarification necessary in the application did not
24 appear.

25 We also reject the applicant's filings that allow

1 executive or nonpublic board meetings that are not strictly
2 circumscribed and appropriately recorded. Ex parte contacts
3 with board members must be restricted. Most of us cannot and
4 will not be able to frequent these board members' country
5 clubs. An occasional social encounter between a board member
6 and a stakeholder representative is not necessarily a cause for
7 alarm. But the lobbying of these board members must be
8 restricted and closely monitored.

9 An occasional social meeting between a board member
10 and a stakeholder representative can be logged on the board's
11 website. The appearance of impropriety cannot allow it to
12 become a reality. Public records and open information policy
13 is the cornerstone of our local, state, and federal
14 governments. This access to information is equally important
15 for a successful GridFlorida. The abuses that occurred in
16 California and the collapse of Enron are largely due to a lack
17 of information and the resulting manipulation of the markets.
18 Such abuses cannot be tolerated or allowed to breed in the
19 dark.

20 And the glaring spotlight of public information
21 requirements has proven to be effective against the evil that
22 lurks in the darkness. The applicants' filing places serious
23 limitations on the requirements for GridFlorida's records to be
24 public records. The applicants are narrowing the scope of open
25 public information by requiring that only significant actions

1 taken by the security coordinator should be subject to public
2 records. This limitation should be rejected by the Commission.

3 There should also be a disclosure of all actions
4 taken by the congestion manager. The default category for
5 information in the grid filing is the category of nonpublic
6 information. We submit that the presumption, instead, should
7 be that all information of GridFlorida falls within the
8 category of open public information, unless a need is
9 demonstrated by GridFlorida for more restrictive access to that
10 information.

11 In summary, much progress has been made in the
12 provisions of the applicant's filing dealing with the
13 governance issues. We applaud that progress. However, the
14 progress should not be allowed by this Commission to be a
15 substitute for the seeking of perfection. We encourage this
16 Commission to require the applicants to rectify these
17 governance problems which are more fully set forth in our filed
18 comments.

19 And with that, unless there are questions, I will
20 have Mr. Williams, our director of engineering, speak to you
21 about planning issues.

22 CHAIRMAN JABER: Thank you, Mr. Bryant.

23 MR. WILLIAMS: Well, I'm glad to be back here again
24 in Tallahassee. The weather is just wonderful. I want to keep
25 my comments brief because Joe has some things to say, and Cindy

1 does, as well.

2 On planning and operations, planning is an area we
3 believe where the PSC's grid bill authority gives it both
4 authority and the strong interest to insist on the realization
5 of its vision as set forth in the December 20 order of an RTO
6 capable of achieving efficient integrated planning and
7 operations. While some changes were necessary to reflect the
8 fact that GridFlorida will no longer construct and own
9 transmission facilities, the changes from transco to ISO do not
10 justify the radical departure from the collaboratively
11 developed FERC approved planning protocol.

12 The broad stakeholder supported planning protocol was
13 acceptable for FPC in the former version, and they had always
14 supported and planned to treat GridFlorida as an ISO turning
15 over only operational control rather than ownership. And we
16 don't see why the applicants should now change and be able to
17 get away from what they have filed.

18 CHAIRMAN JABER: Mr. Williams, after we made our
19 December decision, did you all pick up the collaborative?
20 Again, did you all participate in the collaborative?

21 MR. WILLIAMS: Yes, we did. And the collaborative --
22 I think Mike alluded to the press of time -- was not really --
23 I guess it was sort of a collaborative, but it was a very
24 abbreviated collaborative. We had very little, like a day or
25 two to respond to documents. They listened to our comments and

1 objections, and they may have included some things; they didn't
2 include many. And it was just very difficult for us to provide
3 full in-depth comments because we had no time to review, and it
4 was just a very tough process this time around. The last time
5 it took several months, not several weeks to go through it, and
6 we had to, basically, do it again in a very fast fashion. It
7 was very difficult.

8 The result of what they filed is instead of achieving
9 the planning efficiencies the Commission intended to achieve
10 through formation of GridFlorida, it's the same old, same old.
11 Much of the planning is left to the transmission owners. The
12 large transmission owners I would add, not some of us smaller
13 ones. The functions remain in the hands of the market
14 participants with incentive and ability to discriminate, forego
15 benefits of standardization and integrated planning. The
16 result is vulcanization instead of integrated planning.

17 I would like to also harken back to an example I gave
18 a few weeks ago on Cane Island. At Cane Island we have a
19 situation where we have Kissimmee Utility, a transmission
20 owner; FMPA, transmission owner; Orlando, transmission owner;
21 Florida Power Corporation, transmission owner; Tampa Electric
22 transmission owner, and Reedy Creek in the same area. Now, if
23 we all plan our systems together, independently, how do we plan
24 that area? We have got five people involved. And that is kind
25 of the center of the load in the State of Florida. It's not

1 far from that point, I would guess. And we have a lot of
2 transmission and we are going to build more. And how do we
3 plan that? We can't plan it vulcanized. It has to be planned
4 on an integrated RTO statewide basis as far as I'm concerned.

5 And with that I will relinquish my time to Joe,
6 unless you have any questions.

7 CHAIRMAN JABER: Not yet. Thank you.

8 MR. LINXWILER: My name is Joe Linxwiler,
9 L-I-N-X-W-I-L-E-R, and I am with the firm of Fred Saffer and
10 Associates in Orlando. And I have been a consultant,
11 engineering, economics, and rate consultant to municipalities
12 and cooperatives and others in Florida and in the southeast for
13 about 25 years now. I appreciate the opportunity to be here.
14 It has been awhile since I have been back before this
15 Commission.

16 I guess I am in the somewhat unusual position of
17 coming before you today to support part of the applicants'
18 filing before you. And that is the cost-recovery mechanisms
19 that they have proposed. FMPA, and I think others, would have
20 preferred the original regime that was proposed for GridFlorida
21 under which, essentially, all retail load would be under a
22 uniform tariff and set of rates. We think that is the best way
23 to avoid discrimination and to provide a level playing field.
24 But we do think short of that it is important to have a
25 mechanism -- mechanisms by which certain costs of the RTO can

1 be shared among all retail ratepayers in Florida, including the
2 retail customers of the applicants. We think these mechanisms
3 are very important really in order for the RT0 to be effective.

4 There are many transmission owners in Florida, as you
5 have heard; cooperatives, a number of the municipals, TDU
6 municipals, and non-TDU municipals, as well as the
7 investor-owned utilities. I think there is a real potential to
8 have a Swiss cheese type of RT0 in Florida if there is not
9 effective compensation for transmission owners to turn over the
10 control of their transmission facilities to the RT0. This is
11 particularly the case with FMPA's members and some of the other
12 municipals, members of the all requirements project and other
13 municipals. Let me quickly dispel, I think, one myth that I
14 come in contact with quite often and that is the myth that some
15 of the TDUs, the municipals and others have basically little
16 radio facilities out on the end of somebody else's facility.
17 That is not the case at all.

18 By and large most of the facilities that FMPA and its
19 member cities have at 69 kV and above are either looped
20 directly -- looped facilities or they do operate in parallel
21 with the facilities of FPL, Florida Power Corp, and so forth
22 and provide alternate paths. And we have already heard one
23 story of an alternate flow across some of the co-op facilities.
24 That happens routinely. Our facilities operate in parallel.
25 The best example, I will just highlight the Central Florida

1 example that Bob Williams mentioned. There we have the lines
2 coming out of the Cane Island facilities. Those lines connect
3 with Orlando, Kissimmee, the new lines connecting over to
4 Florida Power Corp's Intersection City facilities. That really
5 beefs up the backbone in the Central Florida area and you have
6 a number of participants building those facilities and beefing
7 up the entire grid, and it is a network within Central Florida.

8 So, setting aside -- I mean, if you understand that
9 these facilities are really networked grid facilities -- Ocala,
10 for example, has 230 kV loop type facilities, and provides
11 transmission not only to itself, but to a cooperative, I
12 believe it is Sumter Electric Cooperative. So these facilities
13 are really important to have in an integrated grid where a
14 single -- to provide one-stop shopping.

15 And I think that is one of the main reasons FERC
16 issued Order 2000 and one of the main reasons we are here today
17 is to provide one-stop shopping. And I don't believe an RTO
18 can provide one-stop shopping without getting a number of these
19 entities into the grid and getting control. And, quite
20 frankly, I think there is a big question as to whether a number
21 of the municipal systems in Central Florida and all up and down
22 the peninsular will turn over their facilities to RTO control
23 without adequate compensation for those facilities. So, we
24 believe -- and if the vehicle for that adequate compensation is
25 the so-called TDU adder, then we are here to support that. We

1 think it is very important to really have a vibrant and
2 functioning RTO.

3 I could talk probably all day about TDU facilities.
4 You have heard enough about them. I would certainly like to
5 answer any further questions you might have.

6 CHAIRMAN JABER: Can you get more specific on the TDU
7 adder?

8 MR. WILLIAMS: Yes. Ms. Bogorad just pointed out to
9 me that I will not -- I didn't want to concentrate so much on
10 what particularly goes into the TDU adder because that is under
11 review at FERC, and we think that is a FERC matter, and that is
12 a jurisdictional battle we don't want to get embroiled in, but
13 we do think the mechanism --

14 CHAIRMAN JABER: Well, what exactly is that?

15 MR. WILLIAMS: Well, one of the -- there is one issue
16 that we have and it was already mentioned by the cooperatives,
17 and that is the demarcation date. We believe that the new
18 filing for reasons that don't seem to us to correspond to your
19 order move the line of demarcation between what is considered
20 new facilities and what is considered old facilities. And
21 certainly it affects the cooperatives, Seminole's Calpine deal,
22 it also affects FMPA rather directly because we have so many
23 new facilities, so much new investment coming in with Cane
24 Island. And that is that very integrated Central Florida kind
25 of transmission I just described to you. That is an important

1 issue to us.

2 We don't support that aspect of the filing, but
3 rather the mechanism. We are certainly prepared to at the
4 proper time fully support the revenue requirements that the
5 Florida municipals would seek to recover on their facilities
6 and have those, you know, fully support those. We think that
7 would be a proceeding at the FERC, but it would be an open
8 stakeholder review and we would fully support the revenue
9 requirements that we would seek to recover from the RTO. And
10 in turn what is proposed here would flow through the TDU adder.

11 Basically, we believe that the same criteria that
12 should apply to the municipals and other TDUs as applies to the
13 applicants, and that is all facilities above 69 kV. That has
14 been a standard here in Florida for some time delineating
15 between transmission and distribution. Not universally, but I
16 think it is a very well established precedent, and I believe
17 this Commission has used it in the past. And we think the same
18 criteria should be applied to all transmission-owning entities,
19 and that is 69 kV and above. Thank you.

20 CHAIRMAN JABER: Thank you.

21 MS. BOGORAD: I'm Cindy Bogorad from Spiegel and
22 McDiarmid.

23 CHAIRMAN JABER: Spell your last name for the court
24 reporter.

25 MS. BOGORAD: B-O-G-O-R-A-D. And as lunch time

1 quickly approaches, I will just make a few points about all the
2 complex stuff about market design and market power. I think
3 Bud Miller did a very good job of presenting those issues and
4 we totally agree with the critical importance of addressing
5 market power before we rely on markets to discipline prices to
6 just and reasonable levels. And I'm not relying on whatever
7 congestion management scheme ultimately is adopted to get the
8 transmission constructed that Florida depends upon for reliable
9 service and a robust market. And, you know, that is why a
10 planning protocol like the one filed at the FERC is so vital
11 and why virtually if not all the stakeholders vigorously
12 objected in the very short collaborative process that we had on
13 this so-called compliance filing regarding the new planning
14 protocol. So the market design is not going to solve the
15 planning process and the need for a very strong planning
16 protocol.

17 One thing which we do think is important is for this
18 Commission not to get into either a jurisdictional battle on
19 market design or in some ways much worse subject Florida to a
20 market design that doesn't match the rest of the country. As
21 you know, the Federal Energy Regulatory Commission is
22 undergoing this massive standard market design rulemaking. I
23 don't know what they are going to come out with, but if
24 Florida's market design is not connected to Georgia's it will
25 isolate Florida further and exacerbate the market power

1 problem. So I think it is very important in moving forward to
2 get your voice heard at FERC, participate at FERC on the
3 question of what the market design should look like, and on the
4 critical importance of mitigating market power in that process.
5 But what you don't want is a barrier at the border where the
6 two markets can't talk to each other, and market participants
7 in the remaining part of the country can't send power down and
8 we can't send power up. So that's why the market design thing,
9 I'm not sure it is the issue for you to be focussing on today
10 here so much as an issue to be involved at the FERC in ensuring
11 that the market design they are coming up with also works for
12 Florida.

13 I guess the final point I will try to sneak in is on
14 capacity reserves. That is an area where the FERC is basically
15 shrugging and saying this is a really important issue, we think
16 it's just vitally important to protect against price spikes and
17 market power, but we really don't know how. In the option
18 paper that came out a month or two ago, they threw that issue
19 open. You know, this is an area where Florida is on the
20 forefront, where Florida has played a very strong role and this
21 Commission has played a strong role. And there is no reason
22 not to tell FERC we want to continue to play that role which
23 has been so successful. And it is not something that needs to
24 be turned over to GridFlorida or FERC.

25 So by basically asserting before FERC and here in

1 terms of the proposal, and the proposal and this Attachment W
2 is where the so-called ICE requirement comes up. That is not
3 something which has to be turned over to the applicant or to
4 FERC jurisdiction. And I think FERC is prepared to hear states
5 say this is something I can do, this is something I have done,
6 I can do it successfully and protect the ratepayers in my
7 state. And unless you have questions, I think I made it.

8 CHAIRMAN JABER: You did. Thank you very much.
9 Okay. We are going to take a break and come back at 1:00
10 o'clock.

11 (Transcript follows in sequence in Volume
12 2.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

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5 I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter
6 Services, FPSC Division of Commission Clerk and Administrative
7 Services, do hereby certify that the foregoing proceeding was
8 heard at the time and place herein stated.

9 IT IS FURTHER CERTIFIED that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript constitutes a true transcription of my notes of said
13 proceedings.

14 I FURTHER CERTIFY that I am not a relative, employee,
15 attorney or counsel of any of the parties, nor am I a relative
16 or employee of any of the parties' attorney or counsel
17 connected with the action, nor am I financially interested in
18 the action.

19 DATED THIS 4TH DAY OF JUNE, 2002.

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JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732