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JOHN & HENGERER

A LAW PARTNERSHIP
1200 17TH STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20036-3013

June 20, 2002

TELEPHONE
(202) 429-8809

TELECOPIER
(202) 429-8805

DOUGLAS F. JOHN
EDWARD W. HENGERER
KEVIN M. SWEENEY
KIM M. CLARK
GORDON J. SMITH
MATTHEW T. RICK
ELIZABETH A. ZEMBRUSKI

Blanca S. Bayo, Director
Division of Commission Clerk and Administrative Services
2540 Shumard Oak Blvd.
Tallahassee, FL 32301

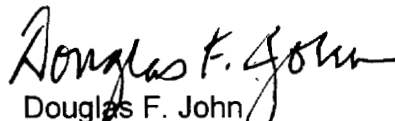
**Re: In re: Review of GridFlorida Regional Transmission Organization (RTO)
Proposal, Docket No. 020233-EI**

Dear Ms. Bayo:

Enclosed, please find an original and twenty (20) copies of the Post-Workshop Comments of the City of Lakeland, Florida d/b/a Lakeland Electric, Kissimmee Utility Authority, the City of Gainesville, Florida, d/b/a/ Gainesville Regional Utilities, and the City of Tallahassee, Florida, which are being submitted in the above-captioned proceeding. Please date-stamp and return the five (5) extra copies *via* the enclosed postage pre-paid return envelope. I have also included a diskette containing a WordPerfect version of the comments.

Thank you very much for your assistance and please do not hesitate to contact me at (202) 429-8801 if you have any questions.

Sincerely,



Douglas F. John
John & Hengerer
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036-3013
Phone: (202) 429-8809
E-mail: mrick@jhenergy.com

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of GridFlorida)
Regional Transmission)
Organization (RTO) Proposal)
_____)

Docket No. 020233-EI
Filed: June 21, 2002

POST-WORKSHOP COMMENTS OF LAKELAND ELECTRIC,
KISSIMMEE UTILITY AUTHORITY, GAINESVILLE REGIONAL UTILITIES,
AND THE CITY OF TALLAHASSEE, FLORIDA,

Pursuant to the procedural schedule adopted by Order No. PSC-02-0459-PCO-EI, these post-workshop comments are filed jointly and severally on behalf of the City of Lakeland, Florida d/b/a Lakeland Electric (Lakeland), the City of Tallahassee, Florida (Tallahassee), Kissimmee Utility Authority (KUA), and the City of Gainesville, Florida d/b/a Gainesville Regional Utilities (GRU), collectively referred to herein as the Florida Municipal Group (FMG).¹

BACKGROUND

On December 20, 2001, the Commission issued Order No. PSC-01-2489-FOF-EI (December 20th order). The order generally held that Florida Power Corporation (FPC), Florida Power & Light Company (FPL), and Tampa Electric Company (TECO) – collectively the "GridFlorida Companies" – were prudent in proactively forming the GridFlorida RTO, as that entity was described in documents submitted to the Federal Energy Regulatory Commission (FERC) in FERC Docket No. RT01-67-000,² in response to the FERC's Order No. 2000, *et seq.*³

¹ The FMG is an *ad hoc* advocacy group. Each member of the FMG has intervened independently in this proceeding and reserves the right to express individual views at any time.

² See *GridFlorida*, 94 FERC ¶ 61,020 (2001) (accepting the GridFlorida filing in part and deferring action in part); 94 FERC ¶ 61,363 (2001), *reh'g*, 95 FERC ¶ 61,473 (2001) (granting GridFlorida provisional RTO status), *reh'g pending*.

³ *Regional Transmission Organizations*, FERC Stats. & Regs. ¶ 31,089 (1999) (Order No. 2000), *reh'g*, FERC Stats. & Regs. ¶ 31,092 (2000) (Order No. 2000-A).

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However, the GridFlorida Companies were ordered to modify their proposal so as to follow an Independent System Operator (ISO) model, rather than a for-profit, asset-owning Transco.

Pursuant to this directive, the GridFlorida Companies filed their modified RTO proposal with this Commission on March 20, 2002. The filing proposes to structure the GridFlorida RTO as an ISO, specifically, a not-for-profit entity that will assume operational control, but not ownership, of transmission facilities within peninsular Florida. In addition to the new ISO structure and various other so-called conforming revisions, the GridFlorida Companies modified their previous RTO proposal to allegedly comply with other mandates of the Commission's December 20th order. The filing also includes various other revisions not specifically required by the December 20th order.

On April 3, 2002 and April 22, 2002, the Commission issued orders establishing a procedure and timeline for reviewing the modified GridFlorida RTO proposal. On May 8, 2002, in accordance with the Commission's schedule, the FMG and other parties filed pre-workshop comments on the GridFlorida Companies' proposal. The Commission held an informal meeting to consider pricing issues on May 15, 2002, and a comprehensive workshop on May 29, 2002. A transcript of the May 29, 2002 workshop was issued on June 4, 2002. The Commission also invited parties to file post-workshop comments by June 21, 2002. These comments are filed in response to that invitation. Commission Staff is scheduled to issue a recommendation by July 25, 2002.

COMMENTS

At the outset, it bears repeating that the FMG members are all municipal electric utilities operating relatively small, vertically integrated electric generation, transmission, and distribution systems. Unlike other parties, their interests in this proceeding are solely to ensure that their customers receive the most reliable and economical service possible. The FMG's pre-workshop

comments detailed how these customer-driven interests shape the FMG members' view of the GridFlorida proposal and what modifications to that proposal would provide further benefits to Florida retail customers. The FMG members remain firmly committed to the substance of those comments and request that the Commission and Staff review them fully when considering the merits of the GridFlorida RTO proposal. Rather than reiterate those comments here, however, the FMG has focused these comments on a procedural recommendation and a number of specific issues that were joined at the workshop.

PROCEDURAL RECOMMENDATION

To state the obvious, the GridFlorida filing implicates both the Commission's jurisdiction and that of the FERC. In fact, it is noteworthy that the Commission's Staff is scheduled to issue a recommendation in this proceeding at approximately the same time that FERC is expected to propose rules in Docket No. RM01-12-000 creating a Standard Market Design (SMD) that, once adopted, all RTOs will be required to follow.⁴ The SMD is sure to impact vast portions of the GridFlorida RTO proposal.⁵

Although the Commission should be a guiding force with regard to all aspects of GridFlorida's development, and the FMG urges the Commission to actively participate in FERC's SMD rulemaking, a comprehensive Commission order considering the merits of all aspects of GridFlorida's proposal would likely be of only qualified value at this time. Hence, rather than wade into market design subjects, such as the use of physical v. financial rights as a tool for congestion management, the Commission should give primary attention to matters

⁴ Regional variances may of course be permitted.

⁵ The pace of RTO development could further be affected by the pendency of a cost/benefit study undertaken by the Southeastern Association of Regulated Utility Commissioners (SEARUC).

having to do with the new ISO governance structure and the scope of its operational control. Below and in pre-workshop comments the FMG has highlighted several such issues.

GOVERNANCE ISSUES

The FMG members fully support the not-for-profit ISO structure proposed by the GridFlorida Companies and they urge the Commission to issue an order approving the model, with the modifications discussed below and in the FMG's pre-workshop comments. The basic ISO structure proposed by the GridFlorida Companies would promote fair and equal RTO participation, ensure that the Commission retains its authority over Florida's transmission grid, and provide the most likely opportunity for Florida's retail customers to benefit from the development of an RTO.

At the workshop, two governance issues were raised with respect to which the FMG has additional views:

➤ **Commission Participation in GridFlorida Committees**

During the course of the workshop, the Commission was invited by the GridFlorida Companies to appoint a representative to sit on either (i) the Board Selection Committee, which appoints members of the ISO's Board of Directors, or (ii) the standing Stakeholder Advisory Committee, which provides input and recommendations to the Board of Directors. Tr. at 23-24, 73, 203.

The Commission should decline such invitations and refrain from formally appointing one of its members or another representative to sit on either of these committees. Although the FMG members strongly support the Commission's involvement in the GridFlorida process, they believe such involvement should be in an oversight capacity. As Chairman Jaber suggested at the workshop, Tr. at 78, direct Commission participation in GridFlorida committees, particularly the Stakeholder Advisory Committee, could lead to conflicts of interest. For example, it will be

difficult for the Commission to objectively evaluate the decisions of individual board members that the Commission has helped elect through its representation on the Board Selection Committee, or to evaluate the performance of the board as a whole in light of the Commission's representation on the Stakeholder Advisory Committee charged with advising the board.

➤ Role of Independent Transmission Companies (ITCs)

At the workshop, Trans-Elect described its vision for how an ITC – *i.e.* an independent company that owns transmission facilities – may fit within the RTO structure. Specifically, it expressed a strong desire to own transmission assets within Florida, citing a 10 to 20 percent ITC ownership position as desirable. Trans-Elect also suggested that the ITC could function as an independent operator of transmission facilities. Tr. at 196.

The FMG does not object to the formation of ITCs or the inclusion of such entities within the RTO structure. In fact, ITCs will likely play a prominent role as RTOs develop. For example, under GridFlorida's proposed Planning Protocol, ITCs would be permitted to construct facilities that a designated PO declines to construct.

Conversely, however, the FMG is concerned that Trans-Elect's vision of an ITC may run counter to the Commission's (and the FMG's) stated objective of placing a non-asset owning ISO in charge of the state's transmission facilities. As described at the workshop, Trans-Elect appears to contemplate that the ITC would retain operational control of some or all transmission facilities. This is not the direction taken by the Commission at this time. The FMG opposed the incarnation of GridFlorida as a Transco because such a structure would create an incentive for the RTO to favor its own assets over those of other Participating Owners (POs), and that an entity generating profit from its transmission facilities would necessarily have an incentive to

favor transmission solutions over generation solutions.⁶ All of these concerns remain if the ITC is allocated the type of functional control desired by Trans-Elect.

Consequently, the FMG respectfully requests that the Commission decline to require any modification to the GridFlorida proposal that would enable an ITC (or a PO) to retain operational control of transmission facilities. Instead, the Commission should reiterate that the ISO must be the sole operator of transmission facilities within the RTO. (This does not address what should be considered a "transmission" facility, an issue discussed below.)

NON-GOVERNANCE ISSUES

As noted above, the Commission should be hesitant to issue an order that purports to resolve market design issues, since many such issues remain unsettled at FERC and will likely be the subject of the SMD that is likely to be proposed in July 2002. There are, however, a number of non-governance issues generally unrelated to market design on which the Commission should not hesitate to provide guidance with regard to its vision for an RTO in the state of Florida. Below, the FMG members identify and provide their views regarding several key issues that were discussed at the workshop and in comments:

➤ **Definition of Transmission Facilities**

The GridFlorida Companies have proposed a bright-line 69 kV test for determining which transmission facilities a PO is obligated to turn over to the RTO. Seminole and FMPA have expressed support for the test, but have objected to the GridFlorida Companies' proposal to phase-in Transmission Dependent Utility (TDU) facilities unless the TDU can establish that its

⁶ During the course of the workshop, Trans-Elect explained that its only interest would be to own transmission facilities and invest in new lines. Tr. at 199-200. This is precisely the type of bias and incentive structure that the FMG hopes to avoid.

facilities perform an integrated transmission function. Tr. at 88. By contrast, the FMG and Reedy Creek oppose the bright-line test. Tr. at 118, 139-45.

In resolving this issue, it is important for the Commission to keep several points in mind. First, Seminole/FMPA and FMG/Reedy Creek are focusing on two very different and distinct issues. Seminole and FMPA are concerned with recovering costs associated with their 69 kV facilities.⁷ They believe that all such facilities should be eligible for immediate cost recovery. The FMG takes no position on this issue, other than to note that Seminole's and FMPA's concerns can be accommodated while also resolving the FMG's concerns. Indeed, whether Seminole and FMPA receive full Day-1 recovery for all 69 kV facilities is irrelevant to whether the FMG's concerns are satisfied.

In contrast to the Seminole/FMPA concern regarding the ability to recover costs associated with 69 kV facilities, the FMG members need the option to retain operational control of facilities that may be nominally rated at 69 kV or above, but that nonetheless perform a distribution function. Certain 69 kV or above facilities operated by FMG members serve virtually no transmission function, but are critical to members' ability to distribute power to their retail customers. Turning control of such facilities over to the RTO could jeopardize the ability of FMG members to reliably serve their customers.

⁷ There is also a concern that rate pancaking may occur if facilities are left out of the RTO, specifically, that customers may be assessed one rate for use of transmission facilities and a second rate for use of facilities that are not turned over to the RTO (e.g. if the customer utilizes delivery points on the facilities that are not turned over). The FMG's desire to retain the option of keeping certain facilities out of the RTO has nothing to with effectuating pancaking; indeed, the FMG members are opposed to pancaking. Concerns regarding rate duplication could be addressed in the Agency Agreement POs will sign with the RTO or expressed by customers at the time a PO identifies those facilities it proposes to turn over to the RTO. (The FMG members do not object to having this Commission or FERC make a determination as to whether a 69 kV or above facility that is not turned over to the RTO performs a distribution or transmission function, and issues regard rate pancaking could be raised in the context of this review.)

Thus, the Commission could craft a solution that (i) permits POs the option of retaining operational control of 69 kV or above facilities that perform a distribution function, subject to FERC or this Commission's oversight as to whether such facilities actually perform a distribution function, while also (ii) accommodating the Seminole/FMPA concern by mandating full Day-1 recovery for all 69 kV or above facilities that are, in fact, turned over to the operational control of the RTO. In this regard, it is worth noting that the GridFlorida Companies propose to require TDUs to satisfy a functional test for determining which transmission facilities may be turned over to the RTO on Day-1, while at the same time prohibiting the FMG members from utilizing a functional test for determining which facilities may be kept out of the RTO.

Second, it should be stressed that, contrary to certain representations or assumptions, this issue has not yet been resolved by FERC. As noted in the FMG's pre-workshop comments, FMG Pre-Workshop Comments at 17, the FMG and others have raised their concerns at FERC and FERC has not yet issued a final ruling. Thus, if nothing else, the FMG respectfully request that the Commission retain an open-mind on these issues and not presume the outcome of FERC litigation.

➤ New Facilities Charge

The GridFlorida Companies have proposed to retain the use of a systemwide charge for any "new" facilities. Tr. at 30-31. This systemwide charge was designed as a transition mechanism to facilitate the eventual adoption of a postage stamp rate structure to recover the costs of all transmission facilities in Florida via a systemwide rate. The FMG has not previously expressed any opposition to the new facilities charge.

Upon further reflection, however, the FMG has reconsidered its position and now believes that the systemwide new facilities charge is unnecessary and counterproductive. When GridFlorida was structured as an asset-owning Transco, the systemwide charge for new

facilities was a logical tool that recognized that, upon initiating operations, the RTO would become the primary transmission owner and builder within the state. Thus, the systemwide charge was designed to provide cost recovery to the RTO for a function that was primarily entrusted to the RTO.

Now that the RTO will no longer own or construct new facilities, it makes little sense to retain the systemwide charge. Instead, new facilities will now be constructed by individual POs in continuation of their traditional obligation to build facilities that are necessary to serve their customers, as supplemented by the RTO planning process. In this light, there seems to be no reason to draw a distinction between the facilities a PO constructs after the RTO initiates operations and those in existence prior to RTO operations. Instead, the cost of new facilities should be included in the relevant PO's revenue requirements, initially recovered in zonal rates, and ultimately phased-in to systemwide rates along with the cost of all pre-existing facilities.

Therefore, the FMG members respectfully request that the new facilities charge be eliminated.

➤ Cutoff Date for Defining "Existing Transmission Agreements"

In comments and at the workshop, a number of parties opposed the GridFlorida Companies' proposal to change the cutoff date – from December 15, 2000 to January 1st of the year RTO operations begin, Tr. at 31 – for determining what contracts are defined as "Existing Transmission Agreements" for grandfathering purposes. In particular, Seminole cited a contract it entered into with Calpine in reliance on the December 15, 2000 date. Seminole explained that the new January 1st cutoff date would appear to subject the contract entered into with Calpine to rate pancaking. Tr. at 41, 57, 185-86.

The FMG members support Seminole's position and recommend that the Commission order the GridFlorida Companies to retain the December 15, 2000 cutoff date. The simple fact is that the marketplace anticipated that GridFlorida would be up and running by December 15,

2000 as instructed by FERC's Order No. 2000. Market participants should not now be penalized for delays beyond their control or reasonable expectations. Retaining the December 15, 2000 cutoff date would preserve the contractual bargains struck by Florida transmission customers and ensure that contracts executed after that date are not subject to unanticipated rate pancaking.

➤ Planning Protocol

A number of parties objected to the new Planning Protocol proposed by the GridFlorida Companies and modeled after the one used by the Midwest ISO. In fact, it was suggested at the workshop that "virtually if not all of the stakeholders vigorously objected" to the new protocol. Tr. at 89.

This statement is incorrect. For the record, the FMG members support the new Planning Protocol proposed by the GridFlorida Companies (with the one caveat discussed below with regard to eminent domain authority). Although the new protocol relies on greater coordination with POs, such coordination is entirely appropriate, and even necessary, now that the RTO is no longer a Transco and, therefore, lacks the authority to step-in and construct facilities an individual PO declines to construct on its own. Coordination will increase the chance that POs will support a determination of need made by the RTO and construct the facilities deemed necessary by the RTO. Moreover, the new Planning Protocol affords the Commission a greater opportunity to retain its existing authority with regard to transmission planning, rather than ceding much of this authority over to the RTO.

➤ Eminent Domain Rights

Although the FMG members generally support the revised GridFlorida Planning Protocol, there is one element contained therein that requires modification: the GridFlorida Companies propose to require a designated PO that declines to construct a facility deemed

necessary by the RTO to, nonetheless, use its own eminent domain rights to facilitate the construction by a third-party. In its pre-workshop comments, the FMG explained the proposal may facilitate a situation in which a PO is required to condemn property to construct a facility that the PO does not believe is necessary or that does not benefit the PO's customers, thus creating highly conflicting interests. FMG Pre-Workshop Comments at 20-24. At the workshop, Reedy Creek echoed these concerns in the context of municipal utilities being required to extend their statutory eminent domain authority to cover projects planned by the RTO. Tr. at 145.

Trans-Elect also addressed this issue at the workshop. It noted that a change in Florida's Transmission Line Siting Act may be required to extend eminent domain authority to ITCs, but that relying on the use of existing PO rights would be acceptable as well. Tr. at 201. Although the FMG objects to the latter alternative, it would not oppose a change in Florida statutes to permit ITCs to retain eminent domain authority. In fact, this was the very suggestion the FMG made in pre-workshop comments. FMG Pre-Workshop Comments at 22-23.

➤ Congestion Management Issues

Congestion management is clearly a SMD issue. The following views are offered in the event, and to the extent, the Commission elects to take up this subject in its order.

First, at the workshop, Seminole expressed a fear regarding unanticipated congestion costs and stated that load serving entities that do not currently cause congestion should not be required to pay congestion costs in the future. Tr. at 48. The FMG members support this statement. Although a variety of experiments have been tried and theories abound, congestion management strategies are in a state of evolution, with industry experts and regulators attempting to ensure that past problems are not repeated in the future. Clearly, the FMG

members have no desire to see congestion costs mount in Florida; eliminating such costs is one of the most fundamental principles of RTO development.

To the extent that congestion costs do arise, the Commission should endeavor to ensure that the entities causing congestion are responsible for paying any resulting costs. If a responsible party cannot be identified, costs should be socialized on a systemwide basis. Thus, the FMG members again urge the Commission to reject the GridFlorida Companies' proposal to socialize non-flowgate redispatch costs by zone. As explained in the FMG's pre-workshop comments and at the workshop, a zonal socialization approach ignores the principle of cost causation. Tr. at 117; FMG Pre-Workshop Comments at 30-31.

Second, to the extent that the Commission elects to consider the allocation of transmission rights, on either a physical or financial basis, it must endorse an allocation mechanism based on historical usage. Such an allocation best ensures that the reliability and cost of service to Florida's existing customers is not jeopardized. Moreover, as the FMG explained at the workshop, an allocation based on historical usage is particularly important to Tallahassee, which relies on reliability and economic imports through the Florida/Georgia interface. Tr. at 117. JEA, which is similarly-situated to Tallahassee, made similar arguments at the workshop, Tr. at 124-26, and the FMG fully supports JEA's observations.

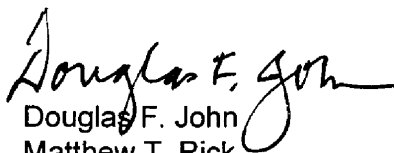
Conversely, the FMG urges the Commission to deny requests to allocate transmission rights *via* an auction process. Although such requests are premised on the notion that a direct allocation does not result in the accurate valuation of transmission rights, Tr. at 178, it was correctly noted by GridFlorida at the workshop that POs that have been allocated rights will have an incentive to reallocate such rights in the secondary market. Tr. at 218. Furthermore, POs that do not use their transmission rights will lose those rights, thereby foregoing the

opportunity to generate revenue from the sale of transmission rights. Thus, there is no incentive to withhold transmission rights from the market. Tr. at 218.

CONCLUSION

WHEREFORE, the FMG requests that the concerns and recommendations set forth above and in the FMG's pre-workshop comments be considered by the Commission when reviewing the GridFlorida RTO proposal.

Respectfully submitted,



Douglas F. John
Matthew T. Rick
JOHN & HENGERER
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036
(202) 429-8801

Counsel for the Florida Municipal Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Comments of Lakeland Electric, Kissimmee Utility Authority, Gainesville Regional Utilities, and the City of Tallahassee, Florida, has been furnished by U.S. Mail to the following this 21st day of June, 2002.

<p>Robert V. Elias, Esq. William Cochran Keating, Esq. Division of Legal Services Florida Public Service Com. 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850</p> <p>Mark Sundback, Esq. Kenneth Wiseman, Esq. Andrews & Kurth Law Firm 1701 Pennsylvania Ave., N.W. Suite 300 Washington, DC 20006</p> <p>Lee L. Willis, Esq. James D. Beasley, Esq. Ausley & McMullen Law Firm 227 South Calhoun Street Tallahassee, Florida 32301</p> <p>Myron Rollins Black & Veatch Post Office Box 8405 Kansas City, MO 64114</p> <p>CPV Atlantic, Ltd 145 NW Central Park Plaza, Suite 101 Port Saint Lucie, FL 34986</p> <p>Calpine Corporation Thomas W. Kaslow The Pilot House, 2nd Floor Lewis Wharf Boston, MA 02110</p> <p>John W. McWhirter, Jr., Esq. Attorney for FIPUG McWhirter Reeves 400 North Tampa Street, Suite 2450 Tampa, Florida 33601-3350</p>	<p>Jennifer May-Brust, Esq. Colonial Pipeline Company 945 East Paces Ferry Road Atlanta, GA 30326</p> <p>G. Garfield R. Knickerbocker/S. Myers Day, Berry Law Firm CityPlace I Hartford, CT 06103-3499</p> <p>Duke Energy North America Lee E. Barrett 5400 Westheimer Court Houston, TX 77056-5310</p> <p>David L. Cruthirds, Esq. Attorney for Dynegy, Inc. 1000 Louisiana Street, Suite 5800 Houston, TX 77002-5050</p> <p>Michelle Hershel Florida Electric Cooperatives Association, Inc. 2916 Apalachee Parkway Tallahassee, FL 32301</p> <p>Richard Zambo, Esq. FICA 598 SW Hidden River Ave. Palm City, FL 34990</p> <p>Peter Antonacci, Esq. Gordon H. Harris, Esq. Tracy A. Marshall, Esq. Gray, Harris & Robinson, P.A. 301 S. Bronough St., Ste. 600 Tallahassee, FL 32302-3189</p>
---	---

Frederick M. Bryant
FMPA
2061-2 Delta Way
Tallahassee, FL 32303

Robert C. Williams, P.E.
FMPA
8553 Commodity Circle
Orlando, FL 32819-9002

William G. Walker III
Florida Power & Light Company
215 South Monroe Street,
Suite 810
Tallahassee, FL 32301-1859

R. Wade Litchfield, Esq.
Office of General Counsel
Florida Power & Light Co.
700 Universe Boulevard
Juno Beach, FL 33408-0420

Paul Lewis, Jr.
Florida Power Corporation
106 East College Avenue,
Suite 800
Tallahassee, FL 32301-7740

Thomas J. Maida
N. Wes Strickland
Foley & Lardner Law Firm
106 E. College Avenue,
Suite 900
Tallahassee, FL 32301

Thomas A. Cloud, Esq.
W. Christopher Browder, Esq.
Gray, Harris & Robinson, P.A.
Post Office Box 3068
Orlando, Florida 32802-3068

Bruce May, Esq.
Holland & Knight Law Firm
Bank of America
315 South Calhoun Street
Tallahassee, FL 32302-0810

Homer O. Bryant
3740 Ocean Beach Boulevard
Unit 704
Cocoa Beach, FL 32931

David Owen, Esq.
Assistant County Attorney
Lee County, Florida
Post Office Box 398
Ft. Myers, FL 33902

Joseph A. McGlothlin, Esq.
Vicki Gordon Kaufman, Esq.
McWhirter Reeves
117 S. Gadsden Street
Tallahassee, Florida 32301

Michael B. Twomey, Esq.
Post Office Box 5256
Tallahassee, FL 32314-5256

Mirant Americas Development, Inc.
Beth Bradley
1155 Perimeter Center West
Atlanta, GA 30338-5416

Jon C. Moyle, Esq.
Cathy M. Sellers, Esq.
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

Mr. Lee Schmudde
Walt Disney World Co.
1375 Lake Buena Drive
Fourth Floor North
Lake Buena Vista, FL 32830

Mr. Paul J. Chymiy
NUI Energy, Inc.
550 Route 202-206
Bedminster, NJ 07921-0760

Jack Shreve
John Roger Howe
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, #812
Tallahassee, FL 32399-1400

Melissa Lavinson
PG&E National Energy Group
Company
7500 Old Georgetown Road
Bethesda, MD 20814

Michael Briggs
Reliant Energy Power
Generation, Inc.
801 Pennsylvania Ave.
Suite 620
Washington, DC 20004

Timothy Woodbury
Seminole Electric Cooperative, Inc.
16313 North Dale Mabry Hwy.
Tampa, FL 33688-2000

Sofia Solernou
401 South MacArthur Avenue
Panama City, FL 32401

Linda Quick
South Florida Hospital
and Healthcare
6363 Taft Street
Hollywood, FL 33024

John T. Butler, P.A.
Steel Hector & Davis, LLP
200 South Biscayne Boulevard
Suite 4000
Miami, Florida 33131-2398

Steven H. McElhaney
2448 Tommy's Turn
Oviedo, FL 32766

Ms. Angela Llewellyn
Tampa Electric Company
Post Office Box 111
Tampa, Florida 33601

Dawson Glover, III
Town of Sewall's Point
One South Sewall's Point Road
Sewall's Point, FL 34996

Harry W. Long, Jr., Esq.
Tampa Electric Company
Post Office Box 111
Tampa, Florida 33601

James A. McGee, Esq.
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733-4042

James P. Fama, Esq.
LeBoeuf, Lamb, Greene &
MacRae, LLP
1875 Connecticut Ave., N.W.
Suite 1200
Washington, DC 20009

Matthew M. Childs, Esq.
Steel Hector & Davis
215 South Monroe Street
Suite 601
Tallahassee, FL 32301

Kenneth Hoffman
Rutledge Law Firm
215 S. Monroe Street
Tallahassee, Florida 32302

Mr. Edward Kee
PA Management Group
1750 Pennsylvania Ave., NW
Suite 1000
Washington, DC 20006-4506

Mr. Ron Seel
RS Sales, Inc.
1449 Court Street
Clearwater, FL 33756

Mr. John Attaway
Publix Super Markets, Inc.
P.O. Box 32105
Lakeland, FL 33802-2018

Marchris Robinson
Manager, State Government Affairs
Enron Corporation
1400 Smith Street
Houston, Texas 77002-7361

Florida Retail Federation
100 E. Jefferson Street
Tallahassee, FL 32301

Mr. Russell S. Kent
Sutherland Asbill & Brennan
2282 Killearn Center Blvd.
Tallahassee, FL 32308

Michael B. Wedner
Assistant General Counsel
117 West Duval Street, Suite 480
Jacksonville, FL 32202

Dick Basford, President
Dick Basford & Associates, Inc.
5616 Fort Sumter Road
Jacksonville, FL 32210

Mr. Ed Regan
Gainesville Regional Utility Authority
P.O. Box 1471 17, Station A136
Gainesville, FL 32614-71 17

Douglas John
Matthew Rick
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036-3013

Reedy Creek Improvement District
P.O. Box 10000.
Lake Buena Vista, FL 32830

Bill Bryant, Jr., Esq.
Natalie Futch, Esq.
Katz, Kutter
106 E. College Ave.
12th Floor
Tallahassee, FL 32301

Gary L Sasso/James M. Walls
Carlton, Fields Law Firm
Post Office Box 2861
St. Petersburg, FL 33731

Daniel Frank
Sutherland Asbill & Brennan
1275 Pennsylvania Ave. NW
Washington, DC 20004-2415

Suzanne Brownless
Suzanne Brownless, P.A.
1311-B Paul Russell Road, Suite 201
Tallahassee, FL 32301

P.B. Para
JEA
21 West Church Street
Jacksonville, FL 32202

Kissimmee Utility Authority
Mr. Robert Miller
1701 West Carroll Street
Kissimmee, FL 32746

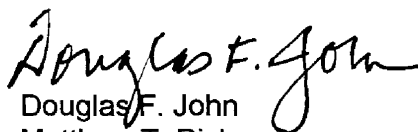
Paul Elwing
Lakeland Electric
501 East Lemon Street
Lakeland, FL 33801-5079

Pete Koikos
City of Tallahassee
100 West Virginia Street
Fifth Floor
Tallahassee, FL 32301

Leslie J. Paugh, Esq.
P.O. Box 16069
Tallahassee, FL

<p>Greenberg, Traurig Law Firm Ron LaFace/Seann M. Frazier 101 E. College Ave. Tallahassee, FL 32301</p> <p>Landers Law Firm Wright/LaVia 310 West College Ave. Tallahassee, FL 32301</p> <p>Spiegel & McDiarmid Cynthia Bogorad/David Pomper J. Schwarz 1350 New York Ave., N.W., Suite 1100 Washington, DC 20005</p>	<p>Trans-Elect, Inc. c/o Alan J. Statman, General Counsel 1200 G Street, N.W. Suite 600 Washington, D.C. 20005</p> <p>Seminole Member Systems William T. Miller c/o Miller Law Firm 1140 19th Street, N.W., Suite 700 Washington, DC 20036</p>
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Respectfully submitted,



Douglas F. John
Matthew T. Rick
JOHN & HENGERER
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036-3013

Counsel for the Florida Municipal Group