

Sutherland
Asbill &
Brennan LLP

ATTORNEYS AT LAW

DANIEL E. FRANK
DIRECT LINE 202 383 0838
Internet dfrank@sablaw.com

1275 Pennsylvania Avenue, NW
Washington, DC 20004-2415
202 383 0100
fax 202 637 3593
www.sablaw.com

June 20, 2002

Via Federal Express

Blanca S. Bayo, Director
Divisions of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, FL 32399-0870

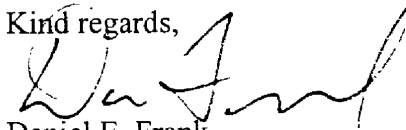
Re: *In re: Review of GridFlorida Regional Transmission Organization (RTO)
Proposal, Docket No. 020233-EI*

Dear Ms. Bayo:

Please find enclosed for filing an original and fifteen copies of the Post-Workshop Comments of Reedy Creek Improvement District in the above-referenced proceeding. Also enclosed is a 3.5" diskette containing an electronic copy of this filing. Two additional copies of this filing labeled "stamp-and-return" also are enclosed; please stamp the date and time on those copies and return them to us in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Kind regards,



Daniel E. Frank
Attorney for
Reedy Creek Improvement District

Enclosures

DOCUMENT NUMBER
06417 JUN 21 08
FPSC-COURTIS SIGN CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of GridFlorida Regional)	Docket No. 020233-EI
Transmission Organization (RTO) Proposal)	Filed June 21, 2002
_____)	

**Post-Workshop Comments of
Reedy Creek Improvement District**

Pursuant to the Commission's April 3, 2002 Order in the above-captioned proceeding, Reedy Creek Improvement District ("RCID") respectfully submits the following post-Workshop comments on the March 20, 2002 proposal of the GridFlorida Applicants.

As indicated in its Workshop presentation to the Commission, RCID serves a unique customer base for which reliability, maintenance standards and schedules, and design and construction standards are critical issues. RCID seeks to ensure that the formation of a regional transmission organization ("RTO") in Florida does not result in the loss of its ability to provide reliable, high-quality electric service to its retail native load customers at reasonable prices. RCID recognizes that the demands of its customer base some times require higher-cost facilities or maintenance requirements, but emphasizes that it is not seeking to shift these costs to other customers of the RTO. RCID seeks only to preserve its control of the service that it provides to its unique customer base.

At the May 29 Workshop, the GridFlorida Applicants agreed to address many of RCID's concerns with respect to "Enhanced or Special Facilities."¹ RCID supports the changes proposed by the Applicants that would restore to the Planning Protocol important protections with respect

¹ See Transcript at 226-27 (Mr. Naeve).

to Enhanced or Special Facilities and expedited construction of facilities.² As described below, some minor modifications to those changes are still required.

RCID's comments here follow the outline established by the Commission's Staff for the pre-Workshop comments and the Workshop presentations. Rather than repeat in detail the concerns that RCID previously has raised but remain unaddressed by the GridFlorida Applicants, RCID directs the Commission's attention to RCID's pre-Workshop written comments and to its presentation at the Workshop. Issues of critical importance to RCID are highlighted below.

A. Structure and Governance

With respect to Issues 1 - 6,³ RCID directs the Commission's attention to RCID's pre-Workshop written comments.

As emphasized in its pre-Workshop written comments and in its Workshop presentation, the 69-kV demarcation point is an issue critical to RCID. The Applicants proposed in their March 20 filing to modify the definition of "Controlled Facilities" in the Participating Owners Management Agreement to include as "transmission" *all* facilities nominally rated at 69 kV and higher, without regard to the actual function served by such facilities. This change is not consistent with federal law, not supported by consensus in the stakeholder process, not required by the Commission's December 20 Order, and is subject to rehearing requests at FERC.

² On June 14, 2002, following a conference call among stakeholders, the Applicants circulated a revised draft of the Planning Protocol (Attachment N to the OATT). RCID understands that the Applicants will file this revised draft with their June 21, 2002 post-Workshop comments.

³ These issues include (i) the appropriateness of a not-for-profit ISO structure, (ii) the flexibility of the RTO plan and documents to change over time, (iii) the applicability of the Code of Conduct, (iv) open meetings, (v) performance incentives and the mechanism to implement incentives, and (vi) the role of the Commission.

While RCID urges that the 69-kV demarcation point be replaced by a functional approach, at a bare minimum the definition of “Controlled Facilities” should be restored to its previous version so that it at least includes a reference to “transmission.” Each local utility system should have the right to determine and demonstrate which, if any, of its facilities are “transmission” and which are “local distribution.” Chairman Jaber suggested this approach at the May 29 Workshop,⁴ and RCID views it as a good starting point.

The Commission’s December 20 Order never directed the Applicants to delete the reference to “transmission” from the definition of “Controlled Facilities.” In fact, the discussion in the December 20 Order regarding the demarcation point indicates that the Commission was talking precisely about *transmission facilities*. For example, that section of the order is entitled “Demarcation Point *for Transmission Facilities*.”⁵ Nowhere in the December 20 Order does the Commission indicate that it intended to treat as “transmission” local distribution facilities that happen to be rated at 69 kV. Even Mr. Naeve testified at the October 3-5, 2001 hearing that voltage level is but only one factor that FERC considers and that FERC uses a functional approach to facility classification.⁶

RCID recognizes the concern of the Commission (and of the Applicants) regarding the potential for subsidies and “gamesmanship” that could result from using something other than a bright-line test such as the 69-kV demarcation point. However, RCID points out that using a 69-kV bright-line test for *all* facilities will deem some local distribution facilities to be transmission,

⁴ Transcript at 227 (Chairman Jaber).

⁵ December 20 Order, at 17 (emphasis added).

⁶ See Hearing Transcript at 159-60, 188-90 (Mr. Naeve) (explanation of factors considered by FERC in determining jurisdiction over transmission versus local distribution).

and will itself result in the subsidization of local distribution customers by the RTO and its wholesale customers. Surely there must be some middle ground, and RCID remains willing to discuss with the Applicants specific language changes in order to accommodate its, the Applicants' and other parties' concerns regarding this issue.

RCID's pre-Workshop written comments and its Workshop presentation also emphasized the importance of reliability to RCID's system and its retail customers. RCID proposed a number of modifications in its pre-Workshop written comments, such as limiting the RTO's access to a utility's facilities to reasonable times compatible with the needs of the local utility and its customers and ensuring that the RTO does not take any actions that would have a material adverse impact on retail customers or interfere with their non-utility commercial operations.⁷ RCID again urges their adoption.

Finally, RCID believes it is important to ensure that any standards of the North American Electric Reliability Council ("NERC") be fully vetted in the Florida Reliability Coordinating Council ("FRCC") before being adopted by GridFlorida. RCID's pre-Workshop written comments addressed this issue in some detail, and RCID again urges that its recommended changes be adopted.

⁷ RCID of course recognizes that the RTO, as grid operator, must have sufficient authority during emergencies to ensure the safety and reliability of the system.

B. Planning and Operations

With respect to Issues 7 and 8,⁸ RCID directs the Commission's attention to RCID's pre-Workshop written comments.

As noted above, RCID supports the restoration by the Applicants of the provisions on Enhanced or Special Facilities and expedited construction in the revised Planning Protocol (*i.e.*, the June 14, 2002 version). These provisions are important to RCID to ensure that it is able to meet the requirements of its retail customer base. Some minor, clarifying modifications to the restored provisions would be helpful. First, at RCID's request, the Applicants have added a new sentence to the end of what is now Section XI which would require the Transmission Provider and/or PO to undertake its review and inspection of enhanced facilities on an expedited basis. RCID endorses this language, but believes that it would be more appropriate to put this sentence at the very end of the paragraph in order to ensure that both the review and the inspection are performed on an expedited basis. Second, at the end of what is now Section X, the Applicants have restored language stating that requests for higher design or construction standards will be granted provided that three conditions are met (written notice to the Transmission Provider, no impairment of reliability, and reimbursement of costs). RCID supports the return of this language to the Planning Protocol. However, RCID believes it would be useful to clarify that the costs for which the entity requesting higher standards would be responsible would be those that would otherwise not be incurred through the normal GridFlorida planning process. Thus, the requester is responsible for those costs that "would not otherwise have been incurred by the

⁸ These issues include (i) consideration of demand-side options and generation alternatives, and (ii) the role of Participating Owners in determining available transmission capacity.

Transmission Provider and/or the PO but for the request for higher design or construction standards.”

Although RCID supports the Applicants in restoring the enhanced facilities and expedited construction provisions, the Applicants have refused to budge on the eminent-domain issue, which received significant attention at the May 29 Workshop.⁹ This is an important issue not just for RCID, but for all municipal and other public-power entities that may be commanded by the RTO to use their statutorily granted eminent-domain authority on behalf of third parties. RCID does not object to the IOUs agreeing to provide eminent-domain support to the RTO. However, RCID does object to GridFlorida’s using its power over transmission to try to commandeer the land-use powers of local political bodies, such as municipal utilities. As noted at the Workshop by FMG, “only in extreme circumstances should we be forced to exercise ours [eminent-domain rights] on behalf of somebody else.”¹⁰ RCID’s authority and obligations in this area are a function of statute and of its status as a political subdivision of the State of Florida. While RCID and other such political entities may choose to assist with respect to reasonable facilities in which they would have a direct interest, RCID cannot make a blanket commitment here to do GridFlorida’s bidding with respect to a future use of condemnation powers.

Finally, RCID provided comments on the Operating Protocol, and directs the Commission’s attention to RCID’s pre-Workshop written comments with respect to changes regarding (i) adopting NERC standards, (ii) waiving the requirement that GridFlorida review and approve placing facilities into or out of service where doing so would have no material impact on

⁹ See Transcript at 108 (FMG presentation), 145-46 (RCID presentation), and 146 (Chairman Jaber).

¹⁰ Transcript at 108 (Mr. John).

the system, and (iii) waiving the requirement that GridFlorida review and approve maintenance schedules and maintenance schedule changes where such schedules and changes would have no material impact on the system.

C. Market Design

With respect to Issues 9 and 11,¹¹ RCID directs the Commission’s attention to RCID’s pre-Workshop written comments. With respect to Issue 10,¹² RCID continues to evaluate this issue and reserves the right to endorse or oppose the positions of other parties.

D. Pricing Protocol and Rate Design

With respect to Issues 12, 13 and 14,¹³ RCID continues to evaluate these issues and reserves the right to endorse or oppose the positions of other parties.

RCID reserves the right to raise additional issues, submit additional comments, and endorse or oppose the comments of other parties at a later time in this proceeding.

¹¹ These issues include (i) the use of physical transmission rights, and (ii) the pricing of ancillary services.

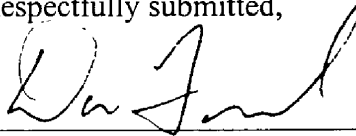
¹² This issue involves the method of determining flowgates.

¹³ These issues include (i) the details of the cost-recovery mechanism, (ii) inclusion of transmission dependent utility (“TDU”) costs in zonal rates, and (iii) revenue shifts resulting from the de-pancaking of rates.

III. Conclusion

Wherefore, Reedy Creek Improvement District respectfully requests that the Commission consider these comments and take such action as requested herein.

Respectfully submitted,



Daniel E. Frank, Esq.
Sutherland Asbill & Brennan LLP
1275 Pennsylvania Avenue, N.W.
Washington, DC 20004-2415
Tel.: 202.383.0838
Fax: 202.637.3593

*Attorneys for
Reedy Creek Improvement District*

June 20, 2002

**CERTIFICATE OF SERVICE
DOCKET NO. 020233-EI**

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail to the following parties on this 20th day of June, 2002.

Andrews & Kurth Law Firm
Mark Sundback/Kenneth Wiseman
1701 Pennsylvania Ave., NW, Suite 300
Washington, DC 20006

Ausley Law Firm
James Beasley/Lee Willis
P.O. Box 391
Tallahassee, FL 32302

CPV Atlantic, Ltd.
145 NW Central Park Plaza, Suite 101
Port Saint Lucie, FL 34986

Calpine Corporation
Thomas W. Kaslow
The Pilot House, 2nd Floor
Lewis Wharf
Boston, MA 02110

Carlton, Fields Law Firm
Gary L. Sasso/James M. Walls
P.O. Box 2861
Saint Petersburg, FL 33731

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

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

Duke Energy North America, LLC
Lee E. Barrett
5400 Westheimer Court
Houston, TX 77056-5310

Dynegy Inc.
David L. Cruthirds
1000 Louisiana Street, Suite 5800
Houston, TX 77002-5050

Enron Corporation
Marchris Robinson
1400 Smith Street
Houston, TX 77002-7361

Florida Electric Cooperatives Association, Inc.
Michelle Hershel
2916 Apalachee Parkway
Tallahassee, FL 32301

Florida Industrial Power Users Group
c/o McWhirter Law Firm
Vicki Kaufman/Joseph McGlothlin
117 S. Gadsden St.
Tallahassee, FL 32301

Florida Municipal Power Agency
Frederick M. Bryant
2061-2 Delta Way
Tallahassee, FL 32303

Florida Power & Light Company
Mr. Bill Walker
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859

Florida Power & Light Company
Mr. R. Wade Litchfield
P.O. Box 1400
Juno Beach, FL 33408

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

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

Foley & Lardner Law Firm
Thomas J. Maida/N. Wes Strickland
106 East College Avenue, Suite 900
Tallahassee, FL 32301-7732

Gainesville Regional Util./City of Gainesville
Mr. Ed Regan
P. O. Box 147117, Station A136
Gainesville, FL 32614-7117

Gray, Harris & Robinson, P.A. (Orl)
Thomas Cloud/W.C. Browder/P. Antonacci
301 East Pine Street, Suite 1400
Orlando, FL 32801

Greenberg, Traurig Law Firm (Tall)
Ron LaFace/Seann M. Frazier
101 E. College Ave.
Tallahassee, FL 32301

JEA
P.G. Para
21 West Church Street
Jacksonville, FL 32202-3139

John & Hengerer Law Firm
Douglas John/Matthew Rick
1200 17th Street, N.W.
Suite 600
Washington, DC 20036-3006

Katz, Kutter Law Firm
Bill Bryant, Jr./Natalie Futch
12th Floor
106 East College Avenue
Tallahassee, FL 32301

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

Lakeland Electric
Paul Elwing
501 E. Lemon St.
Lakeland, FL 33801-5079

Landers Law Firm
Wright/LaVia
310 West College Avenue
Tallahassee, FL 32301

LeBoeuf Law Firm
James Fama
1875 Connecticut Ave., NW, Suite 1200
Washington, DC 20009

Leslie J. Paugh, P.A.
P.O. Box 16069
Tallahassee, FL 32317-6069

McWhirter Law Firm
Joseph McGlothlin/Vicki Kaufman
117 S. Gadsden St.
Tallahassee, FL 32301

McWhirter Law Firm (Tampa)
John McWhirter
P.O. Box 3350
Tampa, FL 33601-3350

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

Michael Wedner
117 West Duval Street
Suite 480
Jacksonville, FL 32202

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

Moyle Law Firm (Tall)
Jon Moyle/Cathy Sellers/Dan Doorakian
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

Office of Public Counsel
Jack Shreve/Charles Beck
c/o The Florida Legislature
111 W. Madison St.. #812
Tallahassee, FL 32399-1400

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

Publix Super Markets, Inc.
John Attaway
P. O. Box 32015
Lakeland, FL 33802-2018

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

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

Rutledge Law Firm
Kenneth Hoffman
P.O. Box 551
Tallahassee, FL 32302

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

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

Sutherland Asbill & Brennan LLP
Russell S. Kent
2282 Killearn Center Blvd.
Tallahassee, FL 32308-3561

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

Tampa Electric Company
Ms. Angela Llewellyn
Regulatory Affairs
P. O. Box 111
Tampa, FL 33601-0111

Trans-Elect, Inc.
c/o Alan J. Statman, General Counsel
1200 G Street NW, Suite 600
Washington, DC 20005

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

Ms. Renae Deaton
Florida Power & Light Company
9250 West Flagler
Miami, FL 33174

Spiegel & McDiarmid
Cynthia Bogorad / David Pomper / J. Schwarz
1350 New York Ave., NW, Suite 1100
Washington, DC 20005

A handwritten signature in black ink, appearing to read "Dan Frank", written over a horizontal line.

Daniel E. Frank