

LAW OFFICES
OF
LESLIE J. PAUGH, P.A.

LESLIE J. PAUGH
ELECTRONIC MAIL ADDRESS:
lpaugh@paugh-law.com

2473 CARE DRIVE, SUITE 3
TALLAHASSEE, FL 32308

MAILING ADDRESS
POST OFFICE BOX 16069
TALLAHASSEE, FLORIDA 32317-6069

TELEPHONE (850) 656-3411
FACSIMILE (850) 656-7040

July 12, 2002

VIA HAND DELIVERY

Ms. Blanca S. Bayó, Director
Division of Commission Clerk and
Administrative Services
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

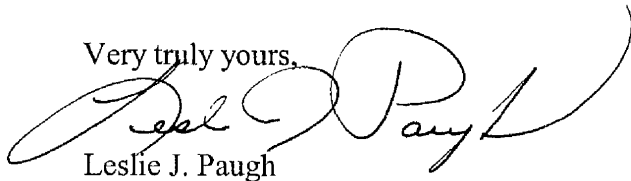
***Re: Docket No. 020233-EI; Joint Response To Supplemental Post-Workshop
Comments.***

Dear Ms. Bayó:

Enclosed for filing please find one (1) original and fifteen (15) copies of the Joint Response To Supplemental Post-Workshop Comments of Mirant Americas Development, Inc. and Calpine Corporation, submitted for filing in the above-referenced docket. Please also find the enclosed diskette, containing an electronic version of the Filing in Word format.

Please acknowledge receipt of this document by time/date stamping the enclosed additional copy of the Filing, as indicated.

Very truly yours,


Leslie J. Paugh

DOCUMENT NUMBER-DATE

07238 JUL 12 02

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No.: 020233-EI
Filed: July 12, 2002

JOINT RESPONSE TO SUPPLEMENTAL POST-WORKSHOP COMMENTS

Come now, Mirant Americas Development, Inc., and Calpine Corporation (“Joint Commenters”) and pursuant to Order No. PSC-02-0865-PCO-EI, issued June 25, 2002, hereby file their Joint Response to Supplemental Post-Workshop Comments of Florida Power Corporation, Florida Power & Light Company, and Tampa Electric Company Addressing Market Design (“Supplemental Comments”).

I. Introduction

On July 2, 2002, Florida Power Corporation, Florida Power & Light Company and Tampa Electric Company (“GridFlorida Companies”) filed summary revised market design principles that replace the physical rights model with a financial rights model that uses locational marginal pricing. The revisions constitute significant progress toward achieving the goals of providing more choices and improved services to all wholesale market participants, reducing delivered wholesale electricity prices, and improving reliability through better grid operations.

There are several significant changes under the new market design proposal. The new proposal calls for market prices to be established for each node on the system. Customers will not have to have transmission rights to schedule service but they will pay for congestion costs. Congestion costs may be hedged by holders of financial

transmission rights (“FTRs”) that will entitle them to payments for congestion charges. Payments will equal the difference between the market clearing prices at the FTR’s sink and source, as determined in the day-ahead market. The new two-settlement system will consist of a voluntary day-ahead market and a real-time market, both administered by the RTO. The results of the day-ahead market will be financially binding and imbalances will be settled at the real-time price. The proposed locational, clearing price-based compensation will provide the level of transparency necessary to attract additional competing generation supplies and the development of demand response capability where it is most needed.

Three fundamental features of the physical rights market design model were retained in this revised proposal. They include the allocation of transmission rights, an Installed Capacity and Energy (“ICE”) market and an imbalance penalty. Herein, Joint Commenters address the allocation issue and the imbalance penalty.

II. Allocation Versus Auction of FTRs

One of the most significant issues to be decided when establishing an RTO is the manner in which those paying for the transmission system (existing users) receive the associated congestion cost benefits. The transition to an RTO-administered market from current transmission arrangements will require the equitable conversion of existing transmission service. There are two basic ways in which to accomplish equitable conversion: (1) allocate FTRs to existing transmission customers; or (2) auction the FTRs with the proceeds being returned to transmission customers to offset their payments to

support the transmission system.¹ The complexity of the processes and the business implications of the different options vary dramatically.

Allocation requires an administrative process to define how the benefits will be distributed, and as the GridFlorida Companies propose, may be designed to preserve the status quo. In addition, the GridFlorida Companies have proposed that the reallocation of FTRs will only occur on an annual basis. The frequency of the reallocations will impact the flexibility of load serving entities to optimize their power purchase decisions throughout the year. If an allocation approach is adopted, even if only as a transition to auctioning, the reallocation process needs to occur more frequently than once a year.

By contrast, an auction increases the visibility of FTR prices and thereby facilitates broader market participant access and acts as a catalyst for the evolution of liquid wholesale markets. An auction process where auction proceeds are allocated pro-rata to loads based on the level of transmission costs the load supports, provides the cleanest match between costs and benefits.

The GridFlorida Companies have proposed the option most closely resembling the status quo - allocation of financial transmission rights based on existing uses and future load growth with an apparently voluntary auction of residual rights.² The GridFlorida Companies support their choice with the assertions that immature markets are not perfect, initial bids may not be accurate valuations of the FTRs thus distorting

¹ It should be recognized that there are combinations and nuances of these conversion principles that are beyond the scope of this filing.

²The Supplemental Comments are so bereft of detail that Joint Commenters must qualify that their statement is their best interpretation of the following vague language: "Additional rights, i.e., rights above those allocated for existing uses, are available for auction." (Supplemental Comments, pg. 12) Applicants provided additional detail to stakeholders in a telephone conference call during which they indicated that network customers would be relegated to an annual reallocation of FTRs to accommodate any changes to the transmission customers' power supply portfolio.

results, and the auction process is complicated - all of which may thus place undue risks on retail customers. (Supplemental Comments, pgs. 12 and 13)

Joint Commenters agree that existing transmission customers should continue to receive the congestion benefits they support through their transmission service payments under the new regime. However, there is a more economically sound way to achieve that goal than the process proposed by the GridFlorida Companies. Joint Commenters propose a hybrid allocation/auction conversion mechanism for the initial phase of GridFlorida operations with a transition to full auction within a time certain. This phased approach will appropriately limit existing load's exposure to additional congestion costs while still allowing load to use the system in different ways when doing so provides a better economic choice. With pricing transparency from the posting of LMP over a period of 2 to 3 years, valuations will be made accurately, participants will have a high level of comfort with the process and the transition to a full auction will enable the development of a successful and efficient congestion management system. This is similar to the transition that PJM is undergoing, except that acknowledging the market design shift now allows market participants more time to develop the rules and procedures that will be equitable to all.

As stated, Joint Commenters acknowledge that it is reasonable to initially allow direct allocation of financial congestion rights to existing customers provided that it occurs as part of a defined transition to a full auctioning of FTRs within a defined time frame. Joint Commenters propose that the existing users should be required to offer the rights awarded to them for sale in an auction. With such an auction, FTRs will be released to the auction process and transparent congestion price signals will facilitate a

liquid market for congestion rights. Since the owner of a particular transmission congestion right will receive the revenues from the sale of that right, existing users who want to own the rights themselves can always do so by placing an appropriate bid in the auction. However, over time, even risk-adverse current users will come to realize that FTRs are simply financial instruments with a dollar value. The mandatory auction will perform a price discovery function for holders of the FTRs and should eventually result in the allocation of FTRs to transmission customers for which FTRs have the highest value. Ultimately, after a short, well-defined transition period, a mandatory auction of all transmission rights will be appropriate.

III. Imbalance Penalties

Joint Commenters agree with the need for a mechanism to provide LSEs with an adequate incentive to avoid over-reliance on the real time market. However, Joint Commenters believe such a mechanism should only be implemented if the incentive is based on a market-determined signal. For the same reasons outlined by the Joint Commenters in their arguments against balanced schedule requirements in the GridFlorida Companies' original market design, Joint Commenters now highlight that an administratively determined imbalance penalty would impede efficient market function in a similar way. The language in the GridFlorida Companies' revised market design is ambiguous and during the July 8th telephone conference call between GridFlorida Companies, stakeholders and Commission staff, the GridFlorida Companies revealed that some of the ambiguity was intended and would be addressed following the proceeding. Specifically, Joint Commenters are referring to leaving undefined both the imbalance bandwidth (tolerance below which no imbalance mechanism other than real time market

energy pricing would apply) and the manner in which the imbalance penalty would be determined. Based on the GridFlorida Companies' stated intent to further flesh out the details of the proposed imbalance penalty, the Joint Commenters agree that the issue should be addressed in a collaborative process as set forth below.

IV. Procedure

Joint Commenters appreciate the opportunity to file responsive comments to GridFlorida Companies' Supplemental Market Design and trust that their comments assist the Commission in its initial analysis of the GridFlorida market design proposal. To date, the post compliance filing stage of this proceeding has generated a high level of participation from parties and an enormous amount of written commentary. It is understood that the Commission encourages the parties to reach a consensus to the extent possible and some progress has been achieved toward that end through this comment process. However, Joint Commenters submit that going forward, a bifurcated procedure is appropriate.

In order to expedite implementation of GridFlorida, Joint Commenters propose the following simultaneous procedural tracks to achieving final approval of the GridFlorida proposal.

1. Market Design. The Commission is urged to approve the GridFlorida Companies' FTR market design proposal in concept only, with a reservation of jurisdiction within this Docket as to the specific details of the proposal to be brought back before the Commission for evidentiary hearing if consensus among the parties is not achieved. The Commission should order the parties to reconvene the GridFlorida stakeholder process to

work on the details of the market design proposal in a *meaningful* manner³ as a collaborative between the GridFlorida Companies, intervenors and the Public Service Commission. The GridFlorida market design collaborative process should roughly coincide with the federal standard market design proceedings in order to avoid unnecessary seams problems with the rest of the southeast.

2. The remainder of the compliance filing. Joint Commenters propose that the Commission issue a final order approving those aspects of GridFlorida governance which it determines comport with its December 20, 2001 Order, and on which there appears to be consensus among the parties. This should enable the GridFlorida Companies to proceed with selection of the Board of Directors so as not to unnecessarily delay implementation of the RTO.

With respect to the non-governance provisions of the compliance filing, the Commission is again urged to schedule an evidentiary hearing within the next few months to address issues upon which consensus has not been reached as reflected in the parties' filed comments. For Joint Commenters, sections of the compliance filing that should be addressed in an evidentiary hearing at this time include the following:

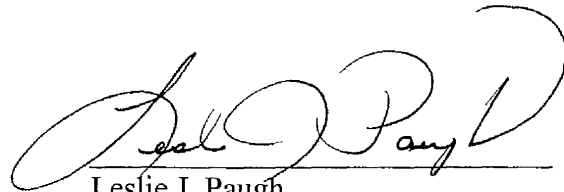
- The Operating Protocol
- The Planning Protocol
- Generator Interconnections
- Attachment W - ICE Specification
- Attachment T - Existing Transmission Agreements
- Participating Owner's Management Agreement

³ A meaningful, productive stakeholder process will require numerous meetings. In addition, material to be discussed must be circulated far enough in advance of meetings to provide time for analysis and development of written alternatives.

- Code of Conduct
- Governance - Especially By-Laws provisions on executive session delegated powers

With this dual procedure, the Florida Public Service Commission will be able to effectively narrow the issues that still need to be addressed without further delaying the GridFlorida commencement date.

Respectfully submitted this 12th day of July, 2002.



Leslie J. Paugh
Leslie J. Paugh, P.A.
2473 Care Drive, Suite 3, 32308
Post Office Box 16069, 32317-6069
Tallahassee, Florida
Telephone: 850-656-3411
Telecopier: 850-656-7040
lpaugh@paugh-law.com

Attorney for:
Mirant Americas Development, Inc.,
Calpine Corporation

**CERTIFICATE OF SERVICE
DOCKET NO. 020233**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand-delivery (*), facsimile (**), and U.S. Mail to the following parties on this 12th day of July, 2002.

William Keating, Esq. *
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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

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

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

Lee L. Willis, Esq. *
James D. Beasley, Esq.
Ausley & McMullen Law Firm
227 South Calhoun Street
Tallahassee, FL 32301

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

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

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

John W. McWhirter, Esq.
McWhirter Reeves
400 North Tampa Street
Suite 2450
Tampa, FL 33601-3350

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

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

Joseph A. McGlothlin, Esq.
McWhirter Reeves
117 S. Gadsden Street
Tallahassee, FL 32301

Michael B. Twomey, Esq.
P.O. Box 5256
Tallahassee, FL 32314-5256

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

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

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

Ed Regan
Gainesville Regional Utility Authority
P.O. Box 147117, Station A136
Gainesville, FL 32614-7117

Douglas John
Matthew Rick
John & Hengerer
1200 17th Street, N.W.
Suite 600
Washington, DC 20036-3013

Reedy Creek Improvement District
P.O. Box 10170
Lake Buena Vista, FL 32830

Ron LaFace/Seann M. Fraizer
Greenberg, Traurig Law Firm
101 E. College Avenue
Tallahassee, FL 32301

Wade Litchfield
Office of General Counsel
700 Universe Boulevard
Juno Beach, FL 33408-0420

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

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

Florida Retail Federation
100 E. Jefferson Street, Suite 900
Tallahassee, FL 32301

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

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

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

Alan J. Statman
General Counsel
Trans-Elect, Inc.
1200 G. Street, N.W., Suite 600
Washington, DC 20005

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

Harry W. Long
Angela Llewellyn
Tampa Electric Company
P. O. Box 111
Tampa, FL 33601

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

James A. McGee, Esq. **
Florida Power Corporation
P. O. Box 14042
St. Petersburg, FL 33733-4042

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

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

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

Suzanne Brownless, Esq.
1975 Buford Boulevard
Tallahassee, FL 32308

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

David E. Goroff, Esq.
Peter K. Matt, Esq.
Bruder, Gentile & Marcoux, LLP
1100 New York Avenue, N.W.
Suite 510 East
Washington, DC 20005

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

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

William T. Miller, Esq.
Miller, Balis & O'Neil, P.C.
1140 Nineteenth Street, N.W.,
Suite 700
Washington, DC 20036-6600

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

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

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

Thomas A. Cloud, Esq.
W. Christopher Browder, Esq.
Gray, Harris & Robinson, P.A.
P. O. Box 3068
Orlando, FL 32802-3068

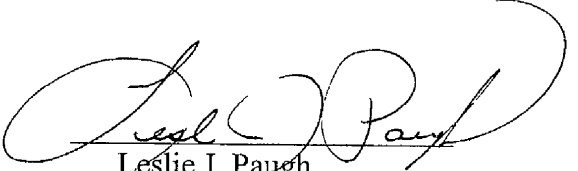
William G. Walker
Florida Power & Light Company
215 S. Monroe Street, Suite 810
Tallahassee, FL 32301

Michael B. Wedner
Assistant General Counsel
117 W. Duvall Street, Suite 480
Jacksonville, FL 32202

Wayne A. Morris, Esq.
Thomas E. Washburn
Post Office Box 3193
500 South Orange Avenue
Orlando, FL 32802

P. G. Para
Director of Legislative Affairs
JEA
21 West Church Street
Jacksonville, FL 32202

Dick Basford
JEA
5616 Fort Sumter Road
Jacksonville, FL 32210



Leslie J. Paugh