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August 6, 2002

VIA HAND DELIVERY

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

Re: Docket No.: 020233-EI

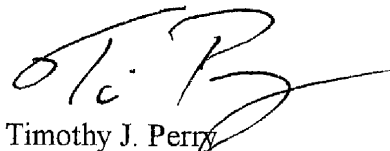
Dear Ms. Bayo:

On behalf of the Florida Industrial Power Users Group, enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Comments of the Florida Industrial Power Users Group on the GridFlorida Applicants' "Consensus Statement."

Please acknowledge receipt of the above on the extra copy and return the stamped copy to me. Thank you for your assistance.

Sincerely,



Timothy J. Perry

TJP
Enclosure

DOCUMENT NUMBER: 0411

MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN & ARNOLD, P.A. 08264 AUG-6 2002

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of GridFlorida
Regional Transmission
Organization Proposal

Docket No. 020233-EI

Filed: August 6, 2002

**COMMENTS OF THE FLORIDA INDUSTRIAL POWER USERS GROUP
ON THE GRIDFLORIDA APPLICANTS' "CONSENSUS STATEMENT"**

Commission Order No. PSC-02-0865-PCO-EI rendered June 25, 2002, directed interested parties to continue to negotiate market design issues in an effort to form a consensus. On July 2, 2002, three investor owned utilities designating themselves as the "Grid Florida Companies" filed post-workshop comments urging the Commission to approve a newly crafted "Revised GridFlorida Market Design." The central elements of this market design include: (1) the proposal to manage congestion through Locational Marginal Pricing ("LMP"), to discover the cost of serving all end use delivery points ("nodes"); (2) the use of financial transmission rights, which are price-hedging instruments, rather than physical transmission rights; (3) a wholesale "market clearing price," under which all bidders to serve a node receive the highest price bid.

On July 29th, a stakeholder meeting was held in Tampa. The participants included investor owned utilities (IOUs), municipal utilities (Munis), a cooperative utility consortium (Co-op), independent power producers (IPPs), and one retail consumer representative – the chairman of FIPUG. During the meeting the attendees discussed, among other things, the proposed "market clearing price" mechanism. At the meeting, the FIPUG chairman expressed concern on the part of retail customers. He acknowledged that FIPUG strongly favors an ISO, equal opportunity for independent power producers and a transparent wholesale market. On the other hand, in Florida, investor owned electric utilities have protection from retail competition.

In return for the grant of monopoly power, retail rates are regulated to protect consumers from unreasonable prices. He cautioned that it is important to insure that when the beneficial aspects of an RTO are developed, the interests of the retail consumer are not ignored.

Following the meeting, the Applicants requested the July 29th meeting attendees to indicate affirmatively that they wished to participate in the “consensus statement.” FIPUG neither objected to, nor endorsed, the statement that the Applicants circulated among attendees and later submitted to the Staff. The Applicants stated to Staff that a broad consensus exists among the participants and that only JEA objected to the specific “consensus statement” prepared by the Applicants. While the Applicants’ statement was limited in scope, under the circumstances FIPUG believes it is important that FIPUG clarify its position for the benefit of the Commission.

FIPUG strongly endorses the formation of an independent and neutral entity, such as an RTO, to facilitate the efficient and nondiscriminatory flow of electricity through the peninsular Florida grid. FIPUG also supports the development of a competitive wholesale market, and believes that transparency in the market is a vital ingredient in any effort to accomplish the goal of wholesale competition. Proponents of LMP point to the transparency that LMP will accomplish by generating detailed market information for the use of all market participants. It appears to FIPUG that such information would be valuable in reaching the objective of a highly competitive wholesale market. FIPUG does not object to the concept of “financial transmission rights” (“FTR”) as long as they are designed to afford all participants access to the system. No company should be allowed to control the market by withholding generation or physical transmission rights.

With respect to the evolving “market clearing price” pricing mechanism (as opposed to “get what you bid” or other variants) that the Applicants propose in conjunction with the rest of the market design, FIPUG believes that Applicants have not yet developed a means to protect retail customers from the potential for unreasonable charges. Today the Florida brokerage system, developed by the Commission in the 1980s to enable utilities to share their least cost generation at shared cost for the mutual benefit of their companies and consumers, has been abandoned in favor of developing a competitive wholesale market. Wholesale price restrictions have been removed from all producers except those with market power. The “actual cost” of production has been redefined for IOUs with market power. FIPUG believes that today wholesale prices by and large may be well above cost. To protect utilities against higher prices, the Commission authorized them to pass through their wholesale power purchase costs directly to retail customers. It appears to FIPUG that circumstances could arise in which the “market clearing price” mechanism, as proposed by Applicants, could have the effect of further “undoing” price restrictions placed on the IOUs before market power issues have been solved.

In the 1970s, price restrictions were removed from natural gas producers. For a short time the price of natural gas soared, but new production quickly came on line and the wholesale price of natural gas fell below the prior regulated rate. Natural gas prices have persistently remained at that level and will continue to do so until demand again exceeds supply. A similar situation does not exist in Florida with regards to Florida’s electric market. The governmentally protected utilities serve as a gateway to the most efficient new generation and they presently control the transmission grid.

On July 31, 2002, FERC announced its Standard Market Design NOPR. In its press release announcing the NOPR, FERC said:

The Commission undertakes standard market design (SMD) because of persistent and costly problems in the nation's wholesale electric power markets. These include a decade of under-investment in needed transmission, generation siting in locations far from customers, unduly discriminatory behavior by transmission providers against independent generators, and fundamental design flaws in certain existing electricity markets. These problems have reduced efficiency of grid operations, occasionally compromised the reliability of the grid and raised costs for all customers.

FIPUG observes that these problems exist in Florida, but is concerned that permitting regulated, cost-based utilities to participate in the "market clearing price" mechanism, and then allow the purchasing utilities to flow through any above-cost prices through cost recovery mechanisms to retail customers, provides no incentives for the GridFlorida Companies, which control generation and transmission, to build new capacity or remove transmission constraints. IOU management teams have a fiduciary duty to stockholders and their own stock option programs to increase earnings and stock prices. They cannot be expected to voluntarily take actions that will reduce prices for consumers by removing supply constraints. In addition, IOUs would have an incentive to try to bid some of their more efficient units into the wholesale market, at the expense of their native customers, in order to be competitive in that market and realize these gains. Until market power has been eliminated, and all bidders are submitting market-based bids, retail customers need regulatory protection from the Commission against "unintended consequences" in the form of the premature removal of restraints on market power that would result from combining cost-based ratemaking with the mechanism of a market clearing price.

WHEREFORE, FIPUG strongly recommends the following:

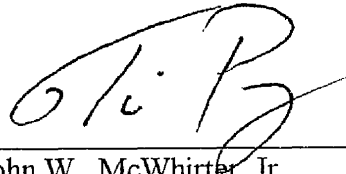
1. That the Commission promptly approve an independent system operator for the Florida electric grid.

2. That the Commission direct the Applicants to work with parties/stakeholders to explore and develop mechanisms and techniques for protecting ratepayers' interests that would accompany the implementation of Applicants' proposed "market clearing price" system.

3. That the Commission make clear its intent to ensure that the greater information made available through Locational Marginal Pricing be publicly available so that it can be used to ensure that the IOUs fulfill their obligation to dedicate their most efficient units to the needs of their captive retail customers, and further used to expose any abuse of market power.

4. That the Commission actively support those measures that will result in the removal of all impediments to the ability of IPPs to construct efficient and economical generators.

5. That upon adoption of LMP/FTR, the Commission take appropriate steps through the purchased power cost recovery clause to protect retail consumers.



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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Comments of The Florida Industrial Power Users Group on the GridFlorida Applicants' "Consensus Statement" has been furnished by (*) hand delivery and U.S. Mail to the following this 6th day of August 2002:

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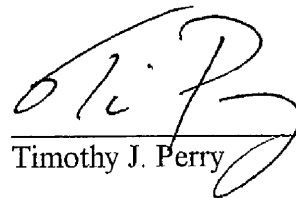
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