



Frederick M. Bryant
General Counsel

ORIGINAL

P.O. Box 3209
Tallahassee, Florida 32315-3209
2061 - 2 Delta Way
Tallahassee, Florida 32303
Tel. (850)297-2011 1 877 297-2012
Fax (850)297-2014 www.fmpa.com
fred.bryant@fmpa.com

September 24, 2002

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

HAND DELIVERY

Re: Docket 020233-EI
FMPA Protest and Petition for Formal Hearing Regarding New Facilities
Demarcation Date

RECEIVED - FPSC
02 SEP 24 PM 12: 58
COMMISSION
CLERK

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and fifteen copies of FMPA's Protest and Petition for Formal Hearing Regarding New Facilities Demarcation Date. Also enclosed is a diskette containing an electronic version of the filing in Adobe Acrobat format.

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FMB/taf
Enclosures

Sincerely yours,

Frederick M. Bryant

cc: as noted on Certificate of Service

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

F L O R I D A M U N I C I P A L 10223 SEP 24 2002 A G E N C Y

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 020233-EI
FILED: September 24, 2002

**PROTEST AND PETITION FOR FORMAL HEARING
REGARDING NEW FACILITIES DEMARCATION DATE**

The Florida Municipal Power Agency (FMPA or Petitioner), by and through undersigned counsel, pursuant to Rules 25-22.029 and 28-106.201 of the *Florida Administrative Code*, and Order No. PSC-02-1199-PAA-EI issued by the Florida Public Service Commission (the Commission) on September 3, 2002, (the PAA Order), hereby files this Protest and Petition for a formal hearing as provided for in section 120.57, Florida Statutes (2002), and in support thereof states as follows:

1. The name, address, and telephone number of Petitioner, FMPA, is as follows:

Florida Municipal Power Agency
8553 Commodity Circle
Orlando, Florida 32819-9002
Telephone no. (407) 355-7767 or 1 888 774-7606
Facsimile no. (407) 355-5796
<http://www.fmpa.com>

2. The names, addresses, and telephone numbers of FMPA's representatives, which shall be the addresses for service purposes during the course of this proceeding, are as follows:

Frederick M. Bryant, Esq.
General Counsel
Jody Lamar Finklea, Esq.
Attorney
FLORIDA MUNICIPAL POWER AGENCY
2061-2 Delta Way (32303)
Post Office Box 3209
Tallahassee, Florida 32315-3209
Telephone no. (850) 297-2011 or 1 877 297-2012
Facsimile no. (850) 297-2014
fred.bryant@fmpa.com
jody.lamar.finklea@fmpa.com

DOCUMENT NUMBER - DATE

10223 SEP 24 02

FPSC-COMMISSION CLERK

Robert C. Williams, P.E.
Director of Engineering
FLORIDA MUNICIPAL POWER AGENCY
8553 Commodity Circle
Orlando, Florida 32819-9002
Telephone no. (407) 355-7767 or 1 888 774-7606
Facsimile no. (407) 355-5796
bob.williams@fmpa.com

Cynthia S. Bogorad, Esq.
David E. Pomper, Esq.
SPIEGEL & McDIARMID
1350 New York Avenue, NW, Suite 1100
Washington, DC 20005-4798
Telephone no. (202) 879-4000
Facsimile no. (202) 393-2866
cynthia.bogorad@spiegelmc.com
david.pomper@spiegelmc.com

3. The PAA Order issued by the Commission on September 3, 2002, (received by FMPA on September 4, 2002) affects FMPA's substantial interests. Specifically, the PAA Order creates confusion regarding the demarcation dates for new facilities and new contracts. On September 18, 2002, FMPA filed a motion for reconsideration ("Reconsideration Motion"), in which FMPA requested that the Commission clarify Part R of the PAA Order.¹ FMPA sought clarification that the Applicants' proposed delay in the new facilities demarcation date should be treated just like the proposed delay in the new contracts demarcation date. The PAA Order rejects the new contracts date change, and FMPA believes and sought clarification that the new facilities date change was likewise rejected by the PAA Order. FMPA submits this Protest and Petition for a formal hearing out of an abundance of caution, in case timely clarification to that effect does not issue.

¹ That Reconsideration Motion sets forth the disputed issues of material fact and a concise statement of the ultimate facts alleged that support this Protest and Petition for a formal hearing. As such, those portions of the Reconsideration Motion are incorporated by FMPA herein.

4. FMMPA believes that the new facilities date change was included in the proposed agency action rejection set forth in Part R of the PAA Order. If that is so, it follows that FMMPA does not need a hearing, because the proposed agency action does not negatively affect FMMPA's substantial interests.² However, given the confusion detailed in FMMPA's Reconsideration Motion, FMMPA is concerned that the Order might somehow be read to sweep the new facilities date change in with a final or proposed agency action acceptance of some other feature of Applicants' proposal. For the reasons stated in FMMPA's Reconsideration Motion, acceptance of that date change would be inappropriate. *See supra* note 1, at 2.

5. Accordingly, to the extent the PAA Order is deemed to include a proposed acceptance of the new facilities demarcation date change, FMMPA Protests that change and Petitions this Commission for a formal hearing.

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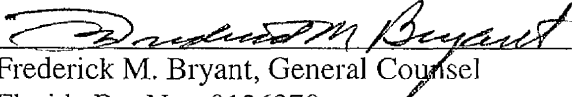
² Of course, if another party, adverse on this issue, were to seek a hearing to seek reinstatement of the delayed new facilities demarcation date, FMMPA would expect to participate in the hearing in opposition to such reinstatement.

WHEREFORE, FMPA respectfully requests that this Commission:

- A. Grant FMPA's Petition for a section 120.57 formal hearing, if this Commission does not first clarify that both the new facilities demarcation date and the new contracts demarcation date were rejected as proposed agency action in the PAA Order, and set such formal hearing to be held either in conjunction with the evidentiary hearing currently scheduled for market design issues to be held on October 31, 2002, or on another date that will provide adequate opportunity for FMPA to prove its case.
- B. Grant such other relief as the Commission deems appropriate.

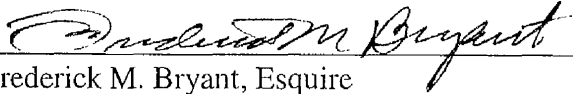
RESPECTFULLY SUBMITTED this Twenty-Fourth (24th) day of September, 2002.

Cynthia S. Bogorad
David E. Pomper
SPIEGEL & MCDIARMID
1350 New York Ave., NW, Suite 1100
Washington, D.C. 20005-4798
(202) 879-4000


Frederick M. Bryant, General Counsel
Florida Bar No. 0126370
Jody Lamar Finklea, Esq.
Florida Bar No. 0336970
FLORIDA MUNICIPAL POWER AGENCY
2061-2 Delta Way, Post Office Box 3209
Tallahassee, FL 32303
(850) 297-2011

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing PROTEST AND PETITION FOR FORMAL HEARING REGARDING NEW FACILITIES DEMARCATION DATE was furnished to the parties on the attached Service List, via electronic mail, on this Twenty-Fourth (24th) day of September, 2002.


Frederick M. Bryant, Esquire
FLORIDA MUNICIPAL POWER AGENCY

Andrews & Kurth Law Firm
Mark Sundback/Kenneth Wiseman
1701 Pennsylvania Ave, NW, Suite 300
Washington, DC 20006-5805

Ausley Law Firm
James Beasley/Lee Willis
PO Box 391
Tallahassee, FL 32302

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
PO 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 Cogeneration Assoc.
c/o Richard Zambo, Esq.
598 SW Hidden River Ave.
Palm City, FL 34990

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

Florida Municipal Power Agency(Orl)
Robert C. Williams
8553 Commodity Circle
Orlando, FL 32819-9002

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 14000
Juno Beach, FL 33408

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

Elaine Mann
Florida Retail Federation
Post Office Box 10024
Tallahassee, FL 32302-2024

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/Peter 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. Ste 600
Washington, DC 20036-3013

Katz, Kutter Law Firm
Bill Bryant, Jr./Natalie Futch
106 East College Avenue, 12th Floor
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 Parsons
R. Scheffel Wright/John LaVia
310 West College Avenue
Tallahassee, FL 32301

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

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

McWhirter Law Firm (Tampa)
John McWhirter
PO Box 3350
Tampa, FL 33601-3350

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

Michael Wedner
City of Jacksonville
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
118 North Gadsden Street
Tallahassee, FL 32301

Office of Public Counsel
Jack Shreve/Charles Beck/John Howe
111 W. Madison St., #812
Tallahassee, FL 32399-1400

Orlando Utilities Commission
Wayne Morris/Thomas Washburn
PO Box 3193
Orlando, FL 32802-3193

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

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

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

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

Rutledge Encina, et al.
Kenneth Hoffman
PO Box 551
Tallahassee, FL 32302-0551

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

Seminole Member Systems
William T. Miller
c/o Miller Law Firm
1140 19th St. N.W., Suite 700
Washington, DC 20036

Solid Waste Authority
Dr. Marc C. Bruner
7501 North Jog Road
West Palm Beach, FL 33412

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

Spiegel & McDiarmid
Cynthia Bogorad/David Pomper/J.Schwarz
1350 New York Ave NW, Suite 1100
Washington, DC 20005-4798

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

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

Suzanne Brownless, P.A.
1975 Buford Blvd.
Tallahassee, FL 32308-4466

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

Trans-Elect, Inc.
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

Harry W. Long, Jr.
Assistant General Counsel
Tampa Electric Company
PO Box 111
Tampa, FL 33601

James A. McGee
Florida Power Corporation
PO Box 14042
Saint Petersburg, FL 33733