

ORIGINAL



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

October 8, 2002

RECEIVED - FPSC
02 OCT - 8 PM 4: 27
COMMISSION
CLERK

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

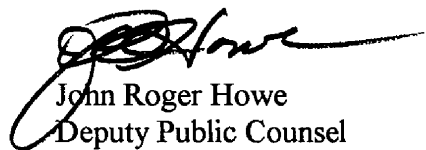
RE: Docket No. 020233-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Public Counsel's Response to October 3, 2002, Compliance Filing to be filed in the above- referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,


John Roger Howe
Deputy Public Counsel

- AUS _____
- CAF _____
- CMP _____
- COM 5
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC 1
- OTH _____

JRH/pwd
Enclosures

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER DATE

10910 OCT-8 02

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 020233-EI
Filed: October 8, 2002

**PUBLIC COUNSEL'S RESPONSE TO
OCTOBER 3, 2002, COMPLIANCE FILING**

The Citizens of the State of Florida, through the Office of Public Counsel, respond in opposition to the GridFlorida Companies' Compliance Filing dated October 3, 2002, on the following grounds:

PRELIMINARY STATEMENT

The Office of Public Counsel filed a notice of appeal directed to Order No. PSC-02-1199-PAA-EI with the Supreme Court of Florida on October 3, 2002. This office believes that notice effected an automatic stay pursuant to Rule 9.310(b)(2), Florida Rules of Appellate Procedure. Nevertheless, in an abundance of caution and to avoid any future arguments that this office may have acquiesced in the GridFlorida Companies' filing with the Commission, also on October 3, 2002, this response is offered in opposition. The fact that this response is offered to protect the Citizens' interests should not be construed as an interpretation by this office of the extent of the stay perfected under the appellate rules.

RESPONSE IN OPPOSITION

1. The introductory paragraph to the GridFlorida Companies' October 3 "compliance filing" states that it is submitted for "the Commission's review of

conformance with Order No. PSC-02-1199-PAA-EI.” The last paragraph asks the Commission “to determine that this filing is in full compliance with the Order.” The pleading is clearly in the nature of a petition asking the Commission for specific relief. As such, intervenors are permitted to respond in opposition to the relief requested.

2. Order No. 02-1199 did more than just report proposed agency actions which may have become final with the passage of time. The order also, inter alia, found that, although the rate structure had been modified in the ISO proposal, the GridFlorida Companies were still planning to transfer ratemaking jurisdiction to FERC. The latest proposal was therefore rejected based upon an explicit finding that “the modified [ISO] compliance filing does not provide for preservation of our jurisdiction over retail transmission rates and, therefore, does not comply with our December 20 order.” Order No. 02-1199, at 63. The ninth ordering paragraph (at page 78) ordered that “the GridFlorida compliance filing shall be modified to recognize the Commission’s continuing jurisdiction over the total cost of transmission service to retail customers.” The companies have not yet submitted a rate structure proposal that leaves the Commission’s ratemaking jurisdiction intact.


3. It was disingenuous for the companies, under the guise of complying with certain proposed agency actions, to ask for a review of their generalized “conformance” with Order No. 02-1199 and for a determination that their October 3 filing was in “full compliance” with that order.

4. The Citizens request the Commission to hold an evidentiary hearing pursuant to Section 120.569 and 120.57(1), Florida Statutes, to resolve the factual dispute whether the GridFlorida Companies' October 3 filing is in full compliance with Order No. 02-1199.

WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, urge the Florida Public Service Commission to hold a formal hearing and to determine that the GridFlorida Companies are not in full compliance with Order No. PSC-02-1199-PAA-EI.

Respectfully submitted,

JACK SHREVE
PUBLIC COUNSEL



John Roger Howe
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

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

I HEREBY CERTIFY that a true and correct copy of the foregoing PUBLIC COUNSEL'S PUBLIC COUNSEL'S RESPONSE TO OCTOBER 3, 2002, COMPLIANCE FILING has been furnished by U.S. Mail or *hand-delivery to the following parties on this 8th day of October, 2002:

William Cochran Keating, IV, Esquire*
Jennifer S. Brubaker, Esquire*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mark F. Sundback, Esquire
Kenneth L. Wiseman, Esquire
Andrews & Kurth Law Firm
1701 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006

Lee L. Willis, Esquire
James D. Beasley, Esquire
Ausley & McMullen
Post Office Box 391 (32302)
227 South Calhoun Street (32301)
Tallahassee, FL

Leslie J. Paugh, Esquire
Leslie J. Paugh, P.A.
2473 Care Drive, Suite 3
Tallahassee, FL (Zip 32308)
Post Office Box 16069
Tallahassee, FL 32317-6069

Bill L. Bryant, Jr., Esquire
Natalie B. Futch, Esquire
Katz, Kutter, Alderman,
Bryant & Yon, P.A.
106 East College Avenue, 12th Floor
Tallahassee, FL 32301

John W. McWhirter, Jr., Esquire
Florida Industrial Power Users Group
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman
& Arnold, P.A.
400 North Tampa Street, Suite 2450
Tampa, FL 33601-3350

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

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

Harry W. Long, Jr., Esquire
Tampa Electric Company
Post Office Box 111
Tampa, FL 33601

Mr. Robert C. Williams, P.E.
Director of Engineering
Florida Municipal Power Agency
8553 Commodity Circle
Orlando, FL 32819-9002

Joseph A. McGlothlin, Esquire
Vicki Gordon Kaufman, Esquire
Timothy J. Perry, Esquire
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman
& Arnold, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

Frederick M. Bryant, Esquire
General Counsel
Jody Lamar Finklea, Esquire
Attorney
Florida Municipal Power Agency
2061-2 Delta Way
Tallahassee, FL 32303

Jon C. Moyle, Jr., Esquire
Cathy M. Sellers, Esquire
Moyle, Flanigan, Katz, Raymond
& Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

Bruce D. May, Esquire
Holland Law Firm
Post Office Drawer 810
Tallahassee, FL 32302-0810

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

Kenneth A. Hoffman, Esquire
Rutledge, Ecenia, Purnell
& Hoffman, P.A.
Post Office Box 551
Tallahassee, FL 32302-0551

Mr. Richard Zambo, Esquire
598 SW Hidden River Avenue
Palm City, FL 34990

Buddy L. Hansen
13 Wild Olive Court
Homosassa, FL 34446

Ronald C. LaFace, Esquire
Seann M. Frazier, Esquire
Greenberg Traurig Law Firm
101 East College Avenue
Tallahassee, FL 32301

Florida Retail Federation
100 East Jefferson Street
Tallahassee, FL 32301

Thomas J. Maida, Esquire
N. Wes Strickland, Esquire
Foley & Lardner
106 East College Avenue, Suite 900
Tallahassee, FL 32301

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

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

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

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

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

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

Timothy S. Woodbury
Vice President - Strategic Services
Seminole Electric Cooperative, Inc.
16313 North Dale Mabry Highway
Tampa, FL 33688-2000

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

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

John G. Trawick
Mirant Americas Development, Inc.
1155 Perimeter Center West
Atlanta, GA 30338-5416

Mr. R. Wade Litchfield
Law Department
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

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

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

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

Thomas W. Kaslow
Director, Market Policy &
Regulatory Affairs
Calpine Eastern
The Pilot House, 2nd Floor
Lewis Wharf
Boston, MA 02110

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

Black & Veatch
Myron Rollins
Post Office Box 8405
Kansas City, MO 64114

Douglas F. John, Esquire
Matthew T. Rick, Esquire
John & Hengerer
1200 17th Street, N.W.
Washington, D.C. 20036-3013

Paul Elwing
Legislative & Regulatory Affairs
Lakeland Electric
501 East Lemon Street
Lakeland, Florida 33801-5079

Daniel E. Frank, Esquire
Sutherland Asbill & Brennan LLP
1275 Pennsylvania Avenue, NW
Washington, DC 20004-2415

Jennifer May-Brust, Esquire
Colonial Pipeline Company
945 East Paces Ferry Road
Atlanta, GA 30326

Day Berry Law Firm
Gerald Garfield/Robert P.
Knickerbocker/
Scott P. Myers
City Place I
Hartford, CT 06103-3499

Paul E. Christensen
Sugarmill Woods Civic Association, Inc.
26 Hibiscus Court
Homosassa, FL 34446

Peter N. Koikos
Director, Energy Services
City of Tallahassee
100 West Virginia Street, Fifth Floor
Tallahassee, Florida 32301

Ed Regan
Director of Strategic Planning
Gainesville Regional Utilities
P.O. Box 147117, Station A136
301 SE 4th Avenue
Gainesville, Florida 32614-7117

David E. Goroff, Esquire
Peter K. Matt, Esquire
Bruder, Gentile & Marcoux, L.L.P.
1100 New York Avenue, N.W.
Suite 510 East
Washington, D.C. 20005

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

Suzanne Brownless, Esquire
Suzanne Brownless, P.A.
1975 Buford Boulevard
Tallahassee, FL 32308

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

Thomas A. Cloud, Esquire
W. Christopher Browder, Esquire
Gray, Harris & Robinson, P.A.
301 East Pine Street, Suite 1400
P.O. Box 3068
Orlando, FL 32801

Thomas E. Washburn
Vice-President, Transmission Business
Unit
Orlando Utilities Commission
P.O. Box 3193
500 South Orange Avenue
Orlando, FL 32802

Alan J. Statman
Executive Vice President and General
Counsel
Trans-Elect, Inc.
1200 G. Street NW, Suite 600
Washington, D.C. 20005

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

Michael B. Wedner, Esquire
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

Wayne A. Morris, Esquire
Orlando Utilities Commission
P.O. Box 3193
500 South Orange Avenue
Orlando, FL 32802


John Roger Howe
Deputy Public Counsel