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October 11, 2002

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

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COMMISSION  
CLERK  
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Re: Docket 020233-EI  
FMPA'S Response in Opposition to GridFlorida Companies' Motion to For Leave to File Amended Petition

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and fifteen copies of FMPA's Response in Opposition to GridFlorida Companies' Motion for Leave to File Amended Petition. Also enclosed is a diskette containing an electronic version of the filing in WordPerfect format.

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Sincerely yours,

Jody Lamar Finklea

JLF/taf  
Enclosures

cc: as noted on Certificate of Service

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F L O R I D A M U N I C I P A L P O W E R O C T 14 2002 A G E N C Y

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 020233-EI  
FILED: October 11, 2002

**RESPONSE IN OPPOSITION TO GRIDFLORIDA COMPANIES'**  
**MOTION FOR LEAVE TO FILE AMENDED PETITION**

The Florida Municipal Power Agency (FMPA), by and through undersigned counsel, and pursuant to Rule 28-106.204 of the *Florida Administrative Code*, hereby files this Response in Opposition to GridFlorida Companies' Motion for Leave to File Amended Petition and states as follows:

1. On October 7, 2002, Florida Power and Light Company, Florida Power Corporation, and Tampa Electric Company (collectively, the GridFlorida Companies) filed a motion (Motion to Amend) with the Florida Public Service Commission (the Commission) requesting that the Prehearing Officer enter an order authorizing the GridFlorida Companies to file their proposed Amended Petition. The GridFlorida Companies' stated purpose for seeking leave to file their Amended Petition is to remove their seventh market design principal regarding the utilization of a hierarchal control system.

2. However, the GridFlorida Companies have not withdrawn their testimony related to that principle. Further, the asserted basis for this amendment is that their seventh market design principle supposedly has already been approved by this Commission. This is incorrect. Specifically, the GridFlorida Companies' Motion to Amend cited page 24 of the Commission's

Order No. PSC-01-2489-FOF-EI, issued December 20, 2001.<sup>1</sup> Neither on that page nor anywhere else in that Order can anything be found remotely resembling approval of a hierarchical arrangement that would continue existing control areas. In fact, nothing in the Order refers to either control areas or hierarchical control. As such, the GridFlorida Companies' Motion to Amend must be denied.<sup>2</sup>

3. The Office of Public Counsel filed its Notice of Administrative Appeal on September 3, 2002. As such, an automatic stay of this docket is in effect pursuant to Rules 9.190(e)(1) and 9.310(b)(2) of the Florida Rules of Appellate Procedure. However, in an abundance of caution and to avoid any future arguments that FMPA has failed to timely respond to the GridFlorida Companies' Motion to Amend in a timely manner, this Response is offered in opposition to the Motion to Amend. The fact that this response is offered to protect FMPA's

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<sup>1</sup> The GridFlorida Companies stated in their Motion to Amend:

In . . . the issuance of Order No. PSC-01-2489-FOF-EI, the Commission approved the hierarchal control system referred to by the GridFlorida Companies in their September 19 Petition. Accordingly, the GridFlorida Companies maintain that there is no need to relitigate the issue of the utilization of a hierarchal control system in the instant proceeding. Indeed, the relitigation of this issue would be directly contrary to the intent of Order No. PSC-01-2489-FOF-EI, at 24. (GridFlorida Companies' Mot. for Leave to File Am. Pet. ¶ 2.) Page 24 of Order No. PSC-01-2489-FOF-EI does caution the parties that the Commission will not relitigate issues addressed in that order; however, the GridFlorida Companies fail to cite to any instance in Order No. PSC-01-2489-FOF-EI evidencing that the Commission approved the utilization of a hierarchical control system referred to in the GridFlorida Companies' September 19 Petition.

<sup>2</sup> As a practical matter, FMPA is not opposed to eliminating the seventh principle on market design from the GridFlorida Companies' Petition. However, any such elimination of that principle must not be premised on the erroneous determination that the Commission has previously approved a hierarchical control system.

interests should not be construed as an interpretation by FMPA of the extent of the stay perfected under the Florida Rules of Appellate Procedure.

WHEREFORE, FMPA respectfully requests that the Commission DENY the GridFlorida Companies' Motion for Leave to File Amended Petition.

RESPECTFULLY SUBMITTED this Eleventh (11th) day of October, 2002.

FREDERICK M. BRYANT  
General Counsel



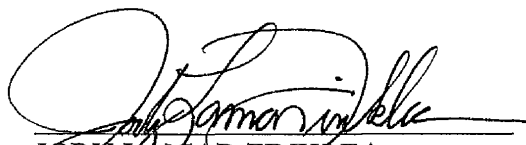
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**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing RESPONSE IN OPPOSITION TO GRIDFLORIDA COMPANIES' MOTION FOR LEAVE TO FILE AMENDED PETITION was furnished to the parties on the attached Service List via electronic mail on this Eleventh (11th) day of October, 2002.

  
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