

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

LESLIE J. PAUGH  
lpaugh@paugh-law.com  
  
OF COUNSEL  
RICHARD A. ZAMBO  
rzambo@paugh-law.com

2473 CARE DRIVE, SUITE 3  
TALLAHASSEE, FL 32308  
  
TELEPHONE (850) 656-3411  
FACSIMILE (850) 656-7040

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

October 14, 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; Response in Opposition to GridFlorida  
Companies' Motion for Leave to File Amended Petition***

Dear Ms. Bayó:

Enclosed for filing please find one (1) original and fifteen (15) copies of the Response in Opposition to GridFlorida Companies' Motion for Leave to File Amended Petition, submitted for filing in the above referenced docket. Please also find the enclosed diskette, containing an electronic version of the Filing in WordPerfect format.

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

Very truly yours,



Leslie J. Paugh

LJP:trc

Enclosures: Response in Opposition to GridFlorida Companies' Motion for Leave to File Amended Petition; original and fifteen copies  
Diskette

DOCUMENT NUMBER DATE  
11117 OCT 14 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 14, 2002

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

Come now, Calpine Corporation and Mirant Americas Development, Inc. (collectively "Joint Respondents") and pursuant to Rule 28-106.204, Florida Administrative Code, hereby file their Response in Opposition to GridFlorida Companies' Motion for Leave to File Amended Petition and as grounds therefore state:

1. On October 7, 2002 Florida Power & Light Company, Florida Power Corporation and Tampa Electric Company (collectively "GridFlorida Companies") filed a Motion for Leave to File Amended Petition to remove the request for the seventh market design principle set forth in the Petition of the GridFlorida Companies Regarding Prudence of GridFlorida market Design Principles filed September 19, 2002 ("September 19 Petition"). The principle states:

A hierarchal control system, wherein existing control areas may be maintained, but GridFlorida would be responsible for the short-term reliability and overall performance of the system.

2. As grounds for its Motion for Leave to File Amended Petition, the GridFlorida Companies state, without elaboration or support, that the foregoing issue regarding the hierarchical control system was approved pursuant to Order Finding Proactive Formation of GridFlorida Prudent and Requiring

the Fining of a Modified GridFlorida Proposal<sup>1</sup>, Order No. PSC-01-2489-FOF-EI, issued December 20, 2001 (“December 20 Order”) and that there is thus no reason to relitigate the issue.

3. Joint Respondents oppose the request to amend the September 19 Petition on two grounds presented in the alternative: first, the issue of a hierarchical control system has not previously been litigated; and second, if the issue has been deemed to have been litigated, it has since been rendered moot and requires development in the present proceeding.

4. This issue of hierarchal control system has not been litigated. On page one of their Motion, the GridFlorida Companies state, without any corroboration or substantiation that: “[i]n the initial phase of this proceeding resulting 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.” This allegation is specious. Even a cursory glance at the December 20 Order reveals that the issue of a hierarchal control system is not addressed by the Commission. Likewise, the proposed OATT is not mentioned in the December 20 Order. On the contrary, the December 20 Order resolves specific broad issues relating to prudence, scope, Commission jurisdiction, transfer of ownership of transmission assets, governance, facility demarcation points and market design. In its summary, the Commission states that: “...the parties should note that this Commission will not relitigate the *issues addressed in this order*.”<sup>2</sup> The issue of a hierarchical control system was not addressed in the December 20 Order. As such, the issue of a hierarchical control system has not previously been litigated and the GridFlorida Companies assertion to the contrary should be summarily dismissed as unfounded.

---

<sup>1</sup>Docket Nos. 000824-EI, 001148-EI and 010577-EI

<sup>2</sup>December 20 Order, pg. 24. (emphases added)

5. The structure of the control system, whether unified or hierarchical, is an essential element of the functioning of any power market, the details of which must be developed in this proceeding. Assuming *arguendo*, that the issue of hierarchical control areas has been litigated by implied reference to the OATT, the replacement of the physical transmission rights model with a financial transmission rights/LMP-based model negates any implied approvals of the elements of that tariff that implemented the physical rights based model. The December 20 Order which the GridFlorida Companies claim addresses the issue was applied to a proposal that employed a Transco as opposed to the current ISO structure, a physical rights based congestion management system as opposed to the current proposal for a financial rights based congestion management approach, and a 'pay as bid' form of market settlement versus the proposed clearing price form of settlement. Any of these changes individually would warrant reconsideration of a hierarchical control system. Collectively, these changes demand such a review. The issue of control areas must be revisited due to the filing of the revised market design principles.

6. The foregoing paragraph establishes that any implied approvals of a hierarchical control system or the preservation of local control area operator dispatch authority have been rendered moot by the revised market design filing. In addition, the significance of the issue and confusion attendant to it apparent in the GridFlorida Companies' filings, requires that the issue be heard by the Commission in this phase of the proceeding. The GridFlorida Companies underscore the importance and undefined nature of the control area issue in the prefiled testimony of C. Martin Mennes, Lee G. Schuster and Greg Ramon, filed September 19, 2002 ("Prefiled Testimony").

a. An example of the importance of the control area construct is found at page 8 of the Prefiled Testimony. The witnesses state:

Finally, in real-time GridFlorida will operate the system to resolve all deviations from the day-ahead market (*e.g.*, load in excess of the amount scheduled by an LSE to be served by self-schedule, bilateral purchase, or day-ahead spot market purchases) using least-cost, security constrained dispatch.<sup>3</sup>

For GridFlorida to ‘resolve all deviations’ it is axiomatic that the RTO will have exclusive control area authority and exclusively issue dispatch directions over the unified grid. Anything less would result in confusion in the operation of the system, risk reliability and provide opportunity for the GridFlorida companies to use local control area authorities to manipulate locational energy clearing prices.

b. In addition, the Prefiled Testimony underscores the importance of the RTO having the ability to reasonably plan the operating day - a function it may not be able to perform with dueling dispatch authority at a local control area level. The witnesses state:

Further, LSE’s waiting until the last minute prior to real-time before obtaining resources can make it difficult for the RTO to reasonably plan the operating day unless a mechanism is developed to allow it to address such situations.<sup>4</sup>

c. Finally, the GridFlorida Companies confusion as to the manner in which dueling dispatch authority will be addressed is evident at page 11 of their Prefiled Testimony:

However, notwithstanding the availability of these options, there may be some LSEs that, rather than responsibly planning to meet their loads prior to real-time operations, would attempt to rely heavily (*i.e.* lean) on the real-time market for that purpose, or would attempt to obtain at the last possible moment the supplies necessary to serve their loads.<sup>5</sup>

It is apparent that the GridFlorida Companies envision that at least some LSEs will be able to get

---

<sup>3</sup>Prefiled Testimony, page 8, lines 16-19.

<sup>4</sup>Prefiled Testimony, page 12, lines 13-16.

<sup>5</sup>Prefiled Testimony, page 11, lines 17-22.

supplies at the last possible moment to serve their load - a fact that presupposes that at least some LSEs will have real time control area dispatch authority. This LSE-based authority is directly at odds with the notion that the system will be independently operated under the ISO structure previously ordered by the Commission and the RTO will 'operate the system to resolve all deviations' as stated elsewhere in the testimony.

In sum, the GridFlorida Companies have not stated a basis upon which the Commission can grant the requested relief to amend the September 19 Petition. On the contrary, the GridFlorida Companies have underscored the need for the Commission to scrutinize the issue in order to avoid the plethora of adverse impacts a hierarchical control system will have on the efficiency, reliability, and daily operational activities of the GridFlorida RTO.

Wherefore, Joint Respondents request the Florida Public Service Commission to DENY the GridFlorida Companies' Motion for Leave to File Amended Petition.

Respectfully submitted this 14<sup>th</sup> day of October, 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  
Florida Bar No. 0613568  
[lpaugh@paugh-law.com](mailto:lpaugh@paugh-law.com)

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

**CERTIFICATE OF SERVICE  
DOCKET NO. 020233**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile (\*), electronic mail (\*\*), and U.S. Mail to the following parties on this 14<sup>th</sup> day of, 2002.

Jennifer S. Brubaker, Esq.\*\*  
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. \*\*  
Dynege, 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, 2<sup>nd</sup> 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

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

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

Landers Law Firm\*\*  
Wright/LaVia  
310 East College Avenue  
Tallahassee, FL 32301

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

Natalie B. Futch \*\*  
Bill Bryant, Jr.  
Katz, Kutter  
106 E. College Avenue  
12<sup>th</sup> 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 17<sup>th</sup> Street, NW  
Suite 600  
Washington, DC 20036-3013

John Giddens \*\*  
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

Richard Zambo, Esq. \*\*  
598 SW Hidden River Ave  
Palm City FL 34990

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., NW  
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, NW, Suite 600  
Washington, DC 20005



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

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

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

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, NW,  
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

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, NW  
Suite 510 East  
Washington, DC 20005

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

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

CPV Atlantic Ltd.  
c/o Moyle Law Firm  
118 North Gadsden Street  
Tallahassee, FL 32301

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

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

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

Dick Basford \*\*  
Dick Basford & Associates, Inc.  
5616 Fort Sumter Road  
Jacksonville, FL 32210

Florida Industrial Power Users Group \*\*  
c/o McWhirter Law Firm  
Vicki Kaufman/Joseph McGlothlin  
117 South Gadsden Street  
Tallahassee, FL 32301

Cynthia Bogorad/D Pomper/J Schwarz\*\*  
Spiegel & McDiarmid  
1350 New York Ave., NW  
Washington DC 20005-4798

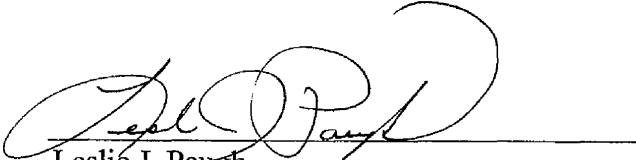
Dr. Marc C Bruner \*\*  
Solid Waste Authority  
7501 North Jog Road  
West Palm Beach, FL 33412

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

Florida Industrial Cogeneration Assoc.  
C/o Richard Zambo, Esq.  
598 SE Hidden River Ave  
Palm City, FL 34990

Melissa Lavinson\*\*  
PG & E National Energy Group Co.  
7500 Old Georgetown Road  
Bethesda, MD 208145-4798

Florida Phosphate Council  
1435 East Piedmont Drive  
Suite 211  
Tallahassee, FL 32308



Leslie J. Paugh