

ORIGINAL

MCWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE:
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602
P. O. BOX 3350 TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:

TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

November 15, 2002

VIA HAND DELIVERY

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

RECEIVED
NOV 15 11 41 AM '02
COMMISSION
CLERK

Re: Docket Nos. ~~020262-EI and 020263-EI~~

020398-EI

Dear Ms. Bayo:

Ky

On behalf of Florida Partnership for Affordable Competitive Energy, enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Testimony of Michael C. Green on Behalf Florida Partnership for Affordable Competitive Energy

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

Sincerely,

Joseph A. McGlothlin

Joseph A. McGlothlin

AUS
CAF
CMP JAM/mls
CCM Enclosure
CTR
SCL
OPC
MMS
SEC
DTH

RECEIVED
NOV 15 2002
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER DATE
12580 NOV 15 2002
FPSC-COMMUNICATIONS CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re Proposed Revisions to Rule)
25-22.082, Selection of Generating)
Capacity)
_____)

Docket No. 020398-EI

TESTIMONY OF MICHAEL C. GREEN

ON BEHALF OF THE FLORIDA PARTNERSHIP FOR

AFFORDABLE COMPETITIVE ENERGY

NOVEMBER 15, 2002

DOCUMENT NUMBER-DATE

12580 NOV 15 2002

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re Proposed Revisions to Rule)
25-22.082, Selection of Generating)
Capacity)
_____)

Docket No. 020398-EI

TESTIMONY OF MICHAEL C. GREEN

ON BEHALF OF THE FLORIDA PARTNERSHIP FOR

AFFORDABLE COMPETITIVE ENERGY

NOVEMBER 15, 2002

1 **Q. Please state your name and address.**

2 A. Michael C. Green, Florida Partnership for Affordable Competitive Energy, 1049
3 Edmiston Place, Longwood, Florida 32779.

4 **Q. For whom do you appear?**

5 A. I appear on behalf of the Florida Partnership for Affordable Competitive Energy, or
6 "PACE", of which I am the Executive Director. PACE is an association of
7 developers of private power generation projects who are active in Florida's wholesale
8 energy market.

9 **Q. Please describe your educational and professional background.**

10 A. After receiving my B.S. Degree from the University of Tennessee in 1972, I worked
11 in the energy industry in various capacities with Duke Energy from 1972 through
12 mid-2002. While with Duke Energy, I was responsible for Duke's independent power
13 plant development efforts in Florida from 1998 until Duke closed its Florida offices
14 in June 2002. I became Florida PACE's Executive Director in August 2002.

15 **Q. What is the purpose of your testimony?**

16 A. Throughout this rule proceeding, PACE has advocated the following three principles
17 that the "Bid Rule" should incorporate: (1) All of the criteria, terms, conditions, and
18 scoring factors of the investor-owned utility's RFP package should be provided to
19 potential respondents in the RFP package and established at the outset of the RFP
20 process; (2) all proposals, including that of the investor-owned utility, should be
21 scored by an independent evaluator; and (3) all participants, including the utility if it
22 proposes a self-build option, should submit binding bids at the same time and in the

1 same manner as other potential sources. In this testimony I will explain the
2 relationship between these principles and the objective of the rule governing the
3 investor-owned utilities' RFP processes.

4 **Q. How have you organized your testimony?**

5 A. I will describe PACE's view of the proper objective of a rule governing an investor-
6 owned utility's RFP process; address areas in which the Commission's existing and
7 proposed rules fall short of that objective; and describe PACE's recommended
8 alternatives. Also, I will highlight PACE's modifications of its prior proposal for
9 amendments to the bid rule. In conjunction with my testimony, PACE is submitting
10 separate comments which further detail PACE's positions and offer specific rule
11 language with which to implement PACE's proposals.

12 **Q. In PACE's view, what is the proper objective of a rule that requires and governs**
13 **an investor-owned utility's request for proposal ("RFP") process?**

14 A. The proper objective -- in fact the *sole* objective -- is to produce the most cost-
15 effective source of generation for the benefit of ratepayers.

16 **Q. What elements must an RFP process include to accomplish this objective?**

17 A. For an RFP to produce this result, potential respondents must have the ability to offer
18 their best proposals. To do this well, respondents must have all of the information
19 necessary to tailor their proposals to the specific needs of the utility and its customer.
20 In addition, respondents must be able to prepare proposals without the necessity of
21 inflating their offers artificially to guard against unwarranted costs or risks arising
22 from unreasonable or commercially infeasible RFP terms. Further, to produce the

1 desired result the evaluation of alternatives within an RFP process must be unbiased
2 and designed to select the most cost-effective alternative, regardless of its source.
3 Finally, to produce this result potential participants in the RFP must have confidence
4 in the fairness and integrity of the process that will motivate them to participate.

5 **Q. Beginning with the first point, what provisions should a rule include to ensure**
6 **that developers have the ability to offer their best proposals from `customers`**
7 **perspective?**

8 A. To enable respondents to “customize” their proposals so as to address the utility’s
9 needs directly and comprehensively, and also to guard against the possibility that the
10 RFP may contain onerous and/or infeasible terms, the rule should require the
11 investor-owned utility to include all scoring factors, weighting criteria, and major
12 contractual terms and conditions in the RFP package. Further, the rule should
13 provide for an early point of entry which, *if needed*, could be invoked to challenge
14 RFP components before the Commission and thereby establish the approved terms
15 and criteria at the outset of the RFP process.

16 **Q. How would incorporating all of the scoring criteria and weighting factors in the**
17 **RFP enable a respondent to tailor its proposal to address better the needs of the**
18 **customers?**

19 A. If the scoring criteria are designed correctly, they will relate directly to those
20 considerations which will provide the greatest value to the ratepayers. For instance,
21 assume that a utility badly needs additional generation at a particular location within
22 its system to provide voltage support, and plans to reward any proposal that

1 accomplishes that function through a weighting factor in its evaluation scoring.
2 Unless that criterion or weighting factor is communicated to potential respondents, a
3 respondent will have no ability to factor that consideration into its plans. This means
4 -- not only that the developer is deprived of the best opportunity to increase its score
5 and win the RFP-- but that (more importantly) the customers are less likely to receive
6 as many proposals that address their most important needs (in this example, the need
7 for voltage support) as the universe of potential sources is capable of offering.

8 **Q. Would including scoring criteria and weighting factors in the RFP limit the**
9 **creativity of respondents?**

10 A. No. On the contrary, including scoring criteria and weighting factors at the front end
11 will enhance flexibility in responding to the RFP because responses will focus solely
12 on the most cost-effective manner in which to achieve the objective of the RFP. The
13 RFP criteria must ultimately be fixed for an award to be made and for a need
14 determination to be filed. Specifying the criteria at the beginning will make the entire
15 process more efficient.

16 **Q. Turning to the possibility of onerous terms, couldn't that issue be raised after he**
17 **completion of the RFP?**

18 A. The alternative of raising the appropriateness of terms after the utility has already
19 announced the winner of the RFP is an inefficient and inadequate remedy from
20 customers' standpoint.

21 **Q. Why?**

22 A First, by that time the presence of unreasonable or commercially infeasible terms may

1 have already discouraged potential sources from participating, thereby diminishing
2 the universe of alternatives that otherwise would be available. This aspect of the
3 situation alone could have the effect of excluding -- and therefore denying to
4 customers the benefits of -- a cost-effective proposal. Perhaps more importantly, the
5 presence in the RFP of terms that impose unreasonable costs or risks necessarily will
6 require developers to prepare their bids in a manner that factors those risks and costs
7 into their prices. This means that the bids submitted in the RFP will be higher than
8 they would otherwise be. Obviously, this would place bidders at a disadvantage
9 relative to the IOU. More importantly, unnecessarily inflated bids deny to customers
10 the most advantageous proposals of which the bidders are capable of providing.
11 Finally, if a developer challenges the terms of an RFP after the utility has announced
12 the winner and ultimately prevails with that challenge, the result is a complete, after-
13 the-fact "do over" that will add more time to the overall process than would be the
14 case if the problem of onerous terms had been intercepted and corrected at an early
15 point.

16 **Q. Do the proposed amendments that were published in the FAW address this**
17 **subject?**

18 A. The proposed amendments would require the investor-owned utility to include all
19 criteria and all weighting factors that are to be applied to select the "finalists."

20 **Q. Is this language satisfactory?**

21 A. The proposed language regarding the inclusion of all criteria and weighting factors is
22 a significant improvement over the existing rule -- as far as it goes. However, there is

1 no reason to limit the applicability of the criteria to the selection of “finalists.” The
2 choice of language implies, whether intentionally or not, that these criteria could be
3 modified or abandoned when selecting the winner from among the finalists. If the
4 Commission chooses a rule format under which the selection process will occur in
5 stages, to include the selection of “finalists” before the winner is determined, the
6 function of reviewing the finalists should be to determine, with perhaps additional
7 information and a more refined analysis, which of the finalists best meets the same,
8 established criteria. PACE’s proposed language would require the IOU to provide the
9 criteria and weighting factors in detail at the outset. The utility-proposed criteria
10 would be subject to the possibility of a challenge early in the process, as described
11 below. The established criteria then would be applied to determine -- not only the
12 “short list” of finalist -- the ultimate winner of the RFP.

13 **Q. Is PACE proposing that the Commission devote time to an early consideration of**
14 **proposed terms and conditions in every RFP proceeding?**

15 A. No. At an earlier stage of the rulemaking activity, PACE advocated more generally
16 that the Commission should review and approve or modify a utility’s proposed RFP
17 package prior to issuance. In response to the concern that this may add time to the
18 RFP process unnecessarily, PACE has refined its position. PACE proposes a “point
19 of entry.” The rule should provide a procedural avenue that a developer (or the
20 Commission on its own initiative) could use in the event it is needed. If a utility
21 proposes terms and conditions that are fair, reasonable, and commercially feasible at
22 the outset, it would not be in the interest of a developer to devote time and resources

1 to mount a frivolous challenge to the RFP. In such a circumstance *no* time would be
2 spent on the subject of the RFP terms. In the absence of a complaint or of an
3 initiative by the Commission, the terms and conditions in the unchallenged RFP
4 would be deemed to be fairly established. This is an area in which the IPPs have
5 shown movement in an effort to get the process right for consumers.

6 **Q. Does the existing Bid Rule provide this opportunity for a potential “point of
7 entry”?**

8 A. Not explicitly. However, Staff has acknowledged that the existing rule does not
9 prohibit affected parties from filing complaints that address the terms of the RFP, as
10 happened in the case of FPL’s original August 2001 RFP, in which FPL sought
11 proposals for capacity in 2005. In fact, that example illustrates that the procedural
12 ability to challenge onerous terms can discipline the RFP process. FPL’s initial RFP
13 contained onerous terms that FPL eliminated after a developer filed a complaint.

14 **Q. Why, then, should the rule address this subject explicitly?**

15 A. As Staff has observed, currently an affected party may file a complaint that addresses
16 the RFP at any point in time. Consistent with the effort to develop a rule that will
17 streamline the RFP process where possible, PACE favors a rule that explicitly
18 provides a procedure for the filing and handling of complaints related to RFP terms,
19 but requires that such complaints be filed by a time certain. Essentially, relative to
20 the practice under the existing rule, PACE’s proposal would compress the time frame
21 during which the right to file a complaint directed to RFP terms and conditions would
22 be available. The rule should establish time frames for the filing of complaints, and

1 provide for the expeditious processing of those complaints, to include expedited
2 hearings and an expedited decision. Also, where a complaint is timely filed, the rule
3 should also require the utility to hold RFP activities in abeyance until the dispute over
4 RFP terms has been resolved.

5 **Q. Does the Commission’s proposed rule language address this need?**

6 A. Only in part. The proposed rule provides potential participants with an opportunity to
7 submit “objections” to the RFP, which the Commission is to handle expeditiously.

8 **Q. Why is this proposed amendment not adequate?**

9 A The proposed language is silent, and therefore ambiguous, with respect to the
10 procedure the Commission will apply to “objections.” For instance, does the
11 proposed rule contemplate that the Commission would conduct a hearing on the
12 objections? PACE’s view is that this would follow, as a matter of necessity and of
13 right, but the absence of the terms “complaint” and “hearing” could be read to imply
14 something short of a hearing process. While PACE supports a rule that confines the
15 filing of complaints to an early time frame, the right to a hearing on such a complaint
16 should not be jeopardized -- whether intentionally or unintentionally -- by unclear
17 language. Also, there is no explicit requirement in the proposed amendment that RFP
18 activity be abated until the “objections” have been resolved. The language of the rule
19 should leave no room for debate on either of these important matters.

20 **Q. What rule provision does PACE propose?**

21 A. PACE proposes a mechanism under which (a) the investor-owned utility would file
22 its RFP package with the Commission; (b) the Commission would publish notice of

1 the receipt of the RFP package in the Florida Administrative Weekly; (c) in the
2 notice, the Commission would set a deadline for the filing of complaints relating to
3 the contents of the RFP package; (d) a timely complaint would trigger expedited
4 processing and also require the utility to hold RFP activities in abeyance pending the
5 Commission's ruling. Failure to file a complaint timely would constitute a waiver of
6 issues relating to terms and conditions. PACE's proposal in this area is described in
7 more detail in PACE's separate comments.

8 **Q. Please address the need for rule language that will ensure unbiased evaluations.**

9 A. The presence of the opportunity for bias to enter the evaluation process affects both
10 the ability of the RFP process to result in the selection of the best, most cost-effective
11 project for customers and the confidence of potential respondents in the integrity of
12 the RFP process that is necessary to produce a robust response to the RFP.

13 **Q. Does either the existing rule or the Commission's proposed rule accomplish this**
14 **objective?**

15 A. No.

16 **Q. Why not?**

17 A. Under either the existing rule or the proposed amendment, the utility would perform
18 the evaluation of alternatives and select the winner. Whenever the utility proposes a
19 self-build option, its financial stake in the outcome creates an inherent conflict of
20 interest and the process necessarily becomes adversarial in nature.

21 **Q. Wouldn't the utility's selection be subject to challenge under the existing and**
22 **proposed rules?**

1 A. Yes. However, given the utility's "monopoly" on the information needed to analyze
2 its selection; the technical intricacies and complexities of the evaluation process; the
3 resources, including specialized expertise, necessary to plumb the depths of the
4 multitude of assumptions and analyses that underlie the result; and the expedited time
5 frames under which the Commission and parties must operate pursuant to the Florida
6 Electrical Power Plant Siting Act, relying on parties to test the utility's selection
7 through litigation is an unsatisfactory and unnecessary solution to the problem of
8 bias.

9 **Q. Why is that solution unnecessary?**

10 A. The question leads me to the second of PACE's three principles. The function of
11 comparing alternatives can and should be placed in the hands of a truly independent
12 evaluator; i.e., an entity that has no relationship with the utility or any other bidder,
13 and no stake in the outcome.

14 **Q. How would this work?**

15 A. Under PACE's proposal, the utility would identify the independent evaluator it
16 proposes to employ within the RFP package. The package would also contain the
17 qualifications of the proposed independent evaluator. (Many consulting firms, such as
18 R.W. Beck, Lexecon, Inc., Energy Consulting Group, and New Energy Associates,
19 provide such services to RFP processes in other states.) The utility's choice would be
20 part of the package that would be subject to potential challenges -- either potential
21 respondents or the Commission -- at the outset of the process. All participants,
22 including the utility, would submit their bids to the independent evaluator at the same

1 time. The independent evaluator would apply the criteria of the RFP to the bids and
2 score the results. While there are acceptable variations on this theme, PACE supports
3 an approach under which the independent evaluator would identify a “short list”.
4 Those participants would be provided with information pertaining to transmission
5 integration costs, and the short-listed bidders, including the utility, where applicable,
6 would then submit final, binding bids to the independent evaluator, who would then
7 identify the most cost-effective proposal. If the most cost-effective proposal is a
8 source other than the utility, the utility would negotiate a power purchase contract
9 with the winning entity. PACE envisions that the RFP terms and the winning
10 proposal would become the major components of the contract, meaning the
11 negotiations would be limited in scope.

12 **Q. Would such an involvement of an independent evaluator interfere with the**
13 **exercise by the utility of its obligation to serve its customers?**

14 A. Not at all.

15 **Q. Please explain.**

16 A. The utility has the obligation -- not to *build* -- but to serve *most cost effectively*. It
17 fulfills this obligation by identifying the size and timing of its need; by planning and
18 committing to meet that need; by developing the appropriate contractual terms, RFP
19 criteria and scoring factors which, when applied, will result in the most cost effective
20 choice; and by proceeding to buy or build the most cost-effective source of capacity
21 and energy after those criteria have been applied to the universe of alternatives. The
22 elimination of the utility’s conflict of interest in the selection process (in instances in

1 which it has proposed a self-build alternative) is no interference with its ability to
2 meet its obligations, any more than is the setting of rates or other regulatory
3 constraints place on activities to protect customers. Many other states require the use
4 of an independent evaluator, and those sponsoring utilities each have the same
5 obligation to serve as Florida utilities.

6 **Q. Would the role of the independent evaluator prejudice the opportunity of the**
7 **utility relative to that of a respondent to the RFP?**

8 A. No. PACE proposes that the rule provide an opportunity for any participant--
9 including the utility--to challenge the independent evaluator's selection before the
10 Commission. Significantly -- in recognition of the procedural opportunity to address
11 terms, conditions, and criteria earlier in the process -- PACE would limit the issues
12 that parties could raise when challenging the independent evaluator's selection to
13 those which relate to whether the independent evaluator applied the approved criteria
14 and scoring factors correctly. The effect of the "independent evaluator" would be to
15 put the utility on the same fair and equal footing as other participants, both with
16 respect to the selection of the most cost-effective proposal and with respect to the
17 review of that selection. In short, the role of the independent evaluator would in no
18 way place the utility at a disadvantage. Instead, it would remove the conflict and bias
19 inherent when the utility is both an RFP "contestant" and the "judge" of the RFP
20 process.

21 **Q. Does either the existing rule or the proposed rule accomplish the objective of**
22 **providing adequate assurance to potential RFP participants that they will be**

1 **treated fairly in other respects?**

2 A. No.

3 **Q. Please explain.**

4 A. The existing and proposed rules fail in this regard in at least two respects. First, it has
5 become apparent that utilities regard the existing rule as providing them with an
6 opportunity to alter their “bids” after receiving and reviewing the proposals they
7 receive in the RFP. (This “opportunity” does not appear explicitly in the existing rule
8 or in the proposed amendments to the rule). If there was ever any validity to this
9 view, the Commission should expressly reject it in this proceeding. To begin with,
10 such a process would be patently unfair. Just as importantly, if the Commission
11 allows the utilities to infer from the rule an intent to give the utility (and only the
12 utility) an “extra bite,” that knowledge will certainly impose a chilling effect on the
13 collective willingness of the community of developers of independent power projects
14 to participate in the RFP. A developer invests the time and resources necessary to
15 develop and offer a power generation project in the hope and expectation of
16 proceeding with the project if it wins a fair contest. It does *not* do so to provide a
17 public service in the form of a market benchmark for the use of the utility and the
18 Commission. If a developer learns that the utility can unilaterally lower the cost of its
19 proposal in response to the developer’s bid, the reaction -- predictably and
20 understandably -- may well be, “Why bother?” (Obviously, the adoption of provisions
21 requiring that the selection be made by an independent evaluator and that bids be
22 submitted to the independent evaluator simultaneously would cure this defective gloss

1 on the existing rule.) If the concept of a second bite has merit, then all short listed
2 participants, including the IOU, should be given the opportunity to sharpen their
3 pencils. If allowing the lowering of bids after the bids have been opened makes sense,
4 allow ALL short list bidders the opportunity to improve their bid.

5 **Q. Is it fair, then, for the utility to be required to provide an estimate of its costs in**
6 **the RFP package that the developers will have in their possession prior to the**
7 **submission of their bids? Doesn't this practice provide an advantage to the**
8 **developers unless the utility has a concomitant opportunity to lower its costs**
9 **after reviewing the bids?**

10 A. First, I will observe that if the utility provided its best projection of costs in the RFP,
11 there would be no occasion to alter its projection after receiving bids. That being
12 said, and assuming all bidders submit bids at the same time, PACE advocated earlier
13 in this proceeding -- and proposes again -- that to address this argument the
14 Commission should eliminate from the rule the requirement that a utility include its
15 cost projection in the RFP package.

16 **Q. What does PACE propose?**

17 A. PACE proposes that the utility submit its binding bid, including its projection of
18 costs, simultaneously with other respondents to the RFP.

19 **Q. How has PACE's position been modified?**

20 A. Formerly, PACE supported the existing rule's requirement that the utility issuing the
21 RFP reveal the estimate of its own construction costs in the RFP package. PACE
22 now agrees with removing that requirement from the rule.

1 **Q. What is the second area in which the current rule and Commission – proposed**
2 **amendments fail to assure fairness in the evaluation process?**

3 A. When a respondent submits a bid, the respondent must be prepared to commit
4 contractually to accept specific, limited revenue streams associated with its price.
5 Additionally, the energy payments a respondent receives will be determined by
6 certain performance factors -- primarily heat rate and availability -- contained in its
7 bid that the respondent agrees to guarantee in the form of contractual terms.
8 Fundamental fairness dictates that the utility should be held to its proposals in these
9 areas to the same extent that bidders would be bound to their bids contractually.
10 Otherwise, a utility would be free to underestimate construction costs or project
11 overly aggressive heat rates and availability targets in order to win the RFP. I wish to
12 stress that this would not only be unfair to the respondents: It would also effectively
13 deprive customers of the benefits of the “bargain” that won the RFP and that the
14 Commission determined to be the most cost-effective for them.

15 **Q. How does the proposed amendment that was published in the FAW address this**
16 **need?**

17 A. Under the proposed rule, a utility could justify recovery of costs that exceed those
18 associated with its proposal by demonstrating those costs were “unforeseen” and
19 “beyond its control.”

20 **Q. Is this proposed language adequate for the purpose?**

21 A. No.

22 **Q. Why not?**

1 A. The staff proposed language is not clear enough or strong enough! To act as a
2 deterrent against “fudging”, and therefore lead to “apples-to-apples” comparisons, the
3 rule must signal the utility that it must be prepared to absorb costs that exceed those
4 associated with its proposal. (This could be done, for instance, by imputing the
5 “winning” costs and performance parameters to future reports and financial
6 statements for ratemaking and monitoring purposes.) While well intended, the
7 proposed language fails to do that. A utility will argue that -- virtually by definition -
8 - *any* costs in excess of its projections were “unforeseen” and “beyond its control.”

9 **Q.** What does PACE propose as an alternative to this proposed amendment?

10 A. PACE advocates that the Commission’s rule holds the utility to the same standard to
11 which the contract terms of the RFP would hold a respondent in the event the
12 respondent’s proposal is chosen as the most cost-effective alternative. This is the
13 third of PACE’s three core principles. PACE does not agree that the rule should
14 anticipate circumstances in which a utility could justify any other standard. However,
15 if the Commission determines to place such a different standard in the rule, it should
16 require a showing of truly extraordinary circumstances, not merely vague criteria
17 such as ‘unforeseen’ and ‘beyond one’s control’. Only a stringent standard will have
18 the effect of neutralizing the utility’s incentive and opportunity to use unrealistically
19 “aggressive” numbers to win the prize.

20 **Q.** Which of its positions has PACE modified during the course of these
21 proceedings?

22 A. As a result of dialogue that occurred during the rule development and comment

1 process as well as good faith negotiations with parties, PACE has modified several of
2 its prior positions. Areas of modification include but are not limited to: (1) the
3 requirement that the IOUs include cost projections in the RFP; (2) the requirement of
4 explicit PSC prior approval of the RFP; and (3) the requirement that the IPPs be
5 permitted to collocate on IOUs' sites.

6 **Q. Please summarize your testimony.**

7 A. PACE commends the Commission for recognizing the need to amend the bid rule.
8 The proposed amendments include some needed improvements. The requirement
9 that the utility include all criteria and all weighting factors in the RFP package in
10 particular is a highly positive step, although it must not be limited to the identification
11 of "finalists."

12 However, in other important areas the proposed changes do not go nearly far enough
13 to put in place all of the elements that are necessary to accomplish the objective of a
14 mandatory RFP process. Again, the goal is to ensure that consumers get (since they
15 have to pay for) the most cost effective alternatives available. To accomplish that end,
16 the reference in the proposed amendments to the filing of objections should be
17 clarified and expanded to detail an expedited hearing process and a corresponding
18 hold on RFP activities until any disputed RFP terms have been resolved. The scoring
19 of alternatives should be placed in the hands of a neutral independent evaluator in any
20 RFP in which the sponsoring utility proposes to develop a self-build option or to
21 consider a transaction with its affiliate. Finally, the rule should contain provisions
22 that will effectively deter the utility from basing its proposal on unrealistic costs

1 and/or performance criteria. PACE is proposing specific rule language that would
2 incorporate these principles and thereby achieve the goal of identifying the most cost-
3 effective alternative for customers.

4 **Q. Does this conclude your testimony?**

5 A. Yes.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Testimony of Michael C. Green on Behalf of Florida Partnership for Affordable Competitive Energy was on this 15th day of November 2002 sent via (*) Hand Delivery and U.S. Mail.

(*)Richard Bellak
Martha Brown
William Keating
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
2450 Shumard Oak Blvd
Tallahassee, FL 3230
bellak@psc.state.fl.us
mbrown@psc.state.fl.us
wkeating@psc.state.fl.us

James Beasley/Lee Willis
Ausley Law Firm
P.O. Box 391
Tallahassee, FL 32302
jbeasley@ausley.com
lwillis@ausley.com

Jeffery A. Stone
Russell Badders
Beggs & Lane Law Firm
P.O. Box 12950
Pensacola, FL 32591-2950
jas@beggslane.com
rab@besslane.com

R. Scheffel Wright
Landers Law Firm
P.O. Box 271
Tallahassee, FL 32302
swright@landersandparsons.com

Gary Sasso
Carlton Fields Law Firm
200 Central Avenue, Suite 2300
St. Petersburg, FL 33701-4352
gsasso@carltonfields.com

James McGee
Florida Power Corporation
P.O. Box 14042
St. Petersburg, FL 33733-4042
jmcgee@tampabay.rr.com

Michelle Hershel
Florida Electric Cooperatives Association, Inc.
2916 Apalachee Parkway
Tallahassee, FL 32301
mhershel@feca.com

John W. McWhirter Reeves
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman & Arnold, P.A.
400 N. Tampa Street, Suite 3450
Tampa, Florida 33602
jmcwhirter@mac-law.com

Richard Zambo
598 SW Hidden River Avenue
Palm City, FL 34990
rzambo@aol.com

Susan D. Ritenour
One Energy Place
Pensacola, FL 32520-0780
sdriteno@southernco.com

Donna Blanton
Natalie Futch
Katz, Kutter Law Firm
P.O. Box 1877
Tallahassee, FL 32302
natalief@katzlaw.com

Leslie J. Paugh, P.A.
P.O. Box 16059
Tallahassee, FL 32317-6069
lpaugh@paugh-law.com

William Graham
Kay Crain
McFarlain & Cassidy, P.A.
204 S. Gadsden Street
Tallahassee, FL 32301
bgraham@mcfarlain.com

Michael B. Twomey, Esq.
P.O. Box 5456
Tallahassee, FL 32314-5256
miketwomey@talstar.com

Gustavo Cepero
P.O. Box 86
South Bay, FL 33493
Gus_cepero@floridacrystals.com

Jon Moyle, Jr.
Moyle, Flanigan, Katz, Kolins et al.
The Perkins House
118 North Gadsden Street
Tallahassee Florida 32301
jmoylejr@moylelaw.com


Joseph A. McGlothlin