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BY HAND DELIVERY

March 11, 2004

Ms. Blanca S. Bayó, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

Re: Review of GridFlorida RTO Proposal
FPSC Docket No. 020233-EI

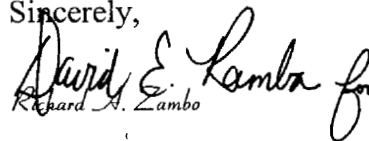
Dear Ms. Bayo:

Enclosed for filing in the referenced docket please find the original and seven (7) copies of the joint response of the Florida Industrial Cogeneration Association and the Florida Phosphate Council to Applicants' Draft Positions relating to the March 17, 2004 Pricing Issues Workshop.

In accordance with Commission Order PSC-03-1414-PCO-EI and Staff's January 15, 2004 Memorandum, copies of the joint response were electronically distributed to registered stakeholders on March 11, 2004 via the GridFlorida E-mail Explorer List. (It is our understanding that all stakeholders interested in this proceeding were to have registered their names and email addresses with FRCC for inclusion on the GridFlorida Explorer List.)

If you have any questions regarding this filing, or require anything further, please do not hesitate to contact this office. Thanks you.

Sincerely,


Richard A. Zambo

RAZ/ms
Enclosure

Richard A. Zambo
Florida Bar No. 312525

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of GridFlorida)
Regional Transmission)
Organization (RTO) Proposal)
_____)

Docket No. 020233-EI
March 11, 2004

**Joint Response
of
Florida Industrial Cogeneration Association
Florida Phosphate Council**

The Florida Industrial Cogeneration Association (FICA) and the Florida Phosphate Council (FPC) submit this joint response to the positions of Applicants in the Pricing Issue Workshop in this Docket. (FICA and FPC are referred to herein as "Industrial QFs").

I. Introduction

As the Commission noted in Order PSC-01-2489-FOF-EI,, "A Florida RTO will initially do little to foster further competition in wholesale generation markets than exists today. The proposed ancillary services market represents less than two percent of the total energy market in Peninsular Florida. Moreover, while an effective RTO may be necessary to the efficient workings of a competitive wholesale generation market, it alone will not lead to the development of a competitive wholesale generation market." Industrial QFs agree.

Accordingly, the concerns of Industrial QFs are essentially twofold. First, Industrial QFs are concerned that implementation of GridFlorida will result in increased costs associated with existing QF facilities, their interconnections, and the delivery of QF electricity to the grid. Second, Industrial QFs are concerned that the implementation of GridFlorida will result in increased electricity costs. Although we understand that market design issues are reserved for a subsequent workshop, Industrial QFs have serious reservations about using a locational marginal pricing (LMP) market design in a situation where it is acknowledged that the RTO alone will not lead to a competitive wholesale generation market.

II. Discussion

The following will present a brief discussion of additional concerns, to be followed by an issue-by-issue response to Applicant's positions.

1) Treatment of Uninstructed Deviations from Schedules.

Industrial QFs have serious concerns regarding the potential for charges and penalties assessed to "fuel" or "process" following QFs.

- The RTO should not be permitted to charge customers for unspecified ancillary service costs that might be incurred but left unrecovered. The imposition of such charges would fail to take into account the fact that: (i) some imbalances provide system benefits and (ii) it is not possible to trace costs to individual customers.
- The RTO should be severely limited in its ability to impose penalties for uninstructed deviations from schedules for fuel or process following QFs such as waste heat cogeneration facilities and municipal solid waste facilities. It is often difficult, if not impossible, for such facilities to avoid uninstructed deviations from schedules.
- With respect to penalties for deviation from schedule for these types of facilities, the RTO should adopt a “no harm, no foul” policy, similar to that employed by the FERC in connection with natural gas pipeline imbalances. The RTO should:
 - i) allow exchange of imbalances in-kind
 - ii) provide for trading of offsetting imbalances with other participants
 - iii) use a suitable tolerance band of permissible deviations from schedules
 - v) assess penalties only for intentional “gaming” behavior

2) **New Charges for Existing Interconnected QFs.**

Industrial QFs are concerned that the RTO may be authorized to impose “new” charges on them simply by virtue of their operation of existing electric generating facilities (QFs) currently interconnected to the grid.

- The RTO should not be authorized to impose “new” fees or charges on existing QFs for connection to the grid.
- Similarly, the RTO should not be authorized to impose new fees or charges on existing QFs for delivery of electricity via the RTO to the QF’s “native” utility.

3) **Market Monitoring.**

The GridFlorida market monitor must be independent of market participants, and must possess complete authority and mandate to: foster competitive markets; prevent the abuse of market power; and make-whole those persons harmed by the exercise of market power. Market monitoring/mitigation mechanisms must be designed to address more than transient market power and design problems, and facilitate the transition to competitive markets. The details of the market monitor and its function should be fully developed prior to commencement of operation of the RTO.

- Due to steep entry barriers and high concentrations of market power, Industrial QFs do not feel Florida is presently suitable for development of competitive wholesale electric markets. Participation in an RTO-run market supervised by a market monitor should not be sufficient to exempt suppliers from the need to satisfy appropriate and clearly articulated market power screening requirements.
- The market monitor must be authorized to effect prospective as well as retroactive mitigation measures. The market monitor must possess the authority to impose a refund condition on market-based rates found to have resulted from collusion or the exercise of market power.

4) Authority to Order Transmission System Improvements.

As both consumers and producers of electricity, Industrial QFs believe that it is critical to maintain a transmission grid that is reliable and designed to allow the free flow of electricity from wholesale buyers and sellers within the State. It is important that the FPSC retain the authority to require transmission system improvements as deemed necessary to serve the needs of Florida and to assure that transmission inadequacies or constraints do not hinder the operation of a fully competitive wholesale market.

- GridFlorida must be carefully structured so that the FPSC will not be hindered in its statutory obligations under Florida law, such as the Grid Bill. However, vesting complete authority over the transmission system in the RTO could raise jurisdictional issues. Industrial QFs urge safeguards in the event the RTO fails to maintain a reliable and adequate transmission system. FPSC should maintain its:
 - (i) independent authority to order a transmission owner to, maintain, improve or expand the transmission system, and/or,
 - (ii) oversight of RTO grid operations, maintenance, improvements, and expansions, with explicit authority to require the RTO to implement specific FPSC ordered actions or requirements.

5) Increases in Transmission Import Capacity.

Florida's peninsular geography dictates that GridFlorida take measured steps to increase electrical import capability into Florida by increasing across-border transmission capability. Industrial QFs urge the FPSC and GridFlorida to include a requirement that the RTO incrementally increase and maintain electrical across-border import capacity at twenty percent of peninsular Florida's peak electrical demand for each calendar year, by no later than 2010 or such earlier date as determined to be appropriate by the Commission.

III. Issue-by-Issue Response to Applicant's Position

Issue No. 1 - Regional State Committee

Industrial QFs agree with the notion that the FPSC initially serve as the Regional State Committee (RSC) for GridFlorida. However, Industrial QFs do not necessarily agree that FERC should adopt a "high standard" for overruling initial decisions of the FPSC. GridFlorida will be a single state RTO operating in interstate commerce along with other multi-state RTOs subject to FERC jurisdiction. Because the RCS in this instance will be comprised of a single state, the FERC should be free to take RCS recommendations under advisement without the constraints of the "clear abuse of discretion or clearly erroneous application of law" standard of review proposed by GridFlorida.

FERC has identified a number of possible "issues areas" suitable for Regional State Committees (RSC) involvement, including; rate design; revenue requirements; transmission planning and expansion; distributed generation; interconnection policies; energy efficiency; and environmental matters. Accordingly, the GridFlorida documents and overall structure must be sufficiently flexible to allow the FPSC discretion in establishing GridFlorida policies relating to:

- (i) appropriate treatment/relief/waiver of balancing charges, uninstructed deviation penalties, etc. for QFs or renewable fuel generators whose output is dependent on varying energy input such as is the case in the fertilizer industry where process driven QFs generate electricity using waste heat produced in a manufacturing operation that varies in output
- (ii) promotion and encouragement of efficient generation and renewable energy resources, including encouragement through use of self-service wheeling
- (iii) increases in transmission capability across the Florida border to foster a more competitive and robust wholesale market
- (iv) provide for streamlined interconnection procedures for QFs and renewable energy resources

Issue No. 2 – Jurisdictional Responsibilities (Pricing)

GridFlorida overall structure and Applicants should address or allow for the following:

- (i) adoption of appropriate rules or mechanisms to provide relief from balancing requirements, balancing charges, penalties for uninstructed deviation from schedule, etc. commensurate with operating characteristics of QFs and renewable fuel generators whose output is dependent on varying energy input such as is the case in the fertilize industry where process driven QFs generate electricity from waste heat produced in a manufacturing operation that varies in production rates.

- (ii) clarification that existing interconnection and transmission agreements between QF and individual Applicants will not be changed or modified as a result of implementing GridFlorida and that no additional fees or charges will be assessed for existing facilities and arrangements
- (iii) require that transmission facilities transferred to GridFlorida control shall meet an appropriate standard with respect to their condition, maintenance, and operation, and that any cost required to meet such standard be borne by the transmission facility owner, prior to transferring control and maintenance responsibility to GridFlorida
- (iv) promotion and encouragement of efficient generation and renewable energy resources through use of self-service wheeling
- (v) provide for streamlined interconnection procedures for QFs and renewable energy resources
- (vi) consistency and compliance with FERC rules/policies on participant funding of system upgrades, which require that the customer be repaid with interest for such upgrades.
- (vii) Industrial QFs are very concerned that implementation of LMP market design in Florida may result in higher electricity prices, however, it is our understanding that market design issues are to be reserved for the May workshop.

Issue No. 3 – Participant Funding Concept for GridFlorida

GridFlorida's policies and procedures must comply with FERC rules/policies on participant funding of system upgrades, which as Industrial QFs understand it, require that the customer be repaid with interest for such upgrades.

Issue No. 4 - Cost Recovery Concept for GridFlorida

Industrial QFs agree with Applicant's recommendation that future proceedings be conducted with respect to which GridFlorida transmission costs would be subject to capacity cost recovery. Such proceedings must however, be devised and implemented in such a way as to incorporate adjustments in base rates as may be appropriate in recognition of GridFlorida assuming some amount of cost responsibility now included in transmission owners' base charges. However, GridFlorida should require that transmission facilities transferred to GridFlorida control must meet an appropriate standard with respect to their condition, maintenance, and operation, and that any cost required to meet such standard be borne by the transmission facility owner, prior to transferring control and maintenance responsibility to GridFlorida.

Issue No. 5 - Cut-off Dates for Existing Transmission Agreements and Facilities

Industrial QFs are unclear as to what, if any, impact these provisions of the GridFlorida proposal would have existing QF interconnection or transmission service agreements. If GridFlorida would provide clarification that existing agreements between QFs and individual Applicants will not be required to be changed or modified, and that no additional fees or charges will be imposed upon or assessed against them with respect to interconnection or transmission services simply as a result of implementing GridFlorida, Industrial QFs would have no position on this issue.

Issue No. 6 - Mitigation of Short-Term Revenues Concept for GridFlorida

Industrial QFs have no comments or position on this issue at this time

Issue No. 7 - Review of Current Regulatory/Legislative Environment

State and Federal authorities are considering the adoption of renewable portfolio standards, or otherwise taking steps to encourage the development and operation of renewable energy resources. In addition, FERC has adopted, or is in the process of adopting, standard policies and procedures for interconnection of “large” and “small” generating facilities. Accordingly, GridFlorida must be structured and operate in a manner that:

- (i) does not penalize or impede development or operation of renewable electric generating resources as a result of balancing/scheduling/penalty provisions requirements that are not suitable for, or do not reflect the unique operating characteristics of, such resources
- (ii) incorporates and is in compliance with FERC policy and procedures regarding generator interconnection – especially QFs and renewable resources – including those articulated in the large and small generator interconnection orders/proceedings

Issue No. 8 - Continued Review of RTO Costs and Benefits

GridFlorida should provide updated implementation cost estimates, as well as estimates of expected savings and retail rate reductions resulting from implementation over the short and long term. The Commission and GridFlorida should carefully record and closely monitor all implementation and operations costs/benefits of the RTO to improve the likelihood that GridFlorida will provide maximum economic benefits to consumers while fostering competition in electricity supply and promoting Florida renewable energy resources.