FOLEY

FOLEY & LARDNER LLP
ATTORNEYS AT LAW
106 EAST COLLEGE AVENUE, SUITE 900
TALLAHASSEE, FLORIDA 32301-7732
850.222.6100 TEL
850.224.3101 FAX
www.foley.com

WRITER'S DIRECT LINE
850.513.3369
nstrickland@foley.com EMAIL

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VIA HAND DELIVERY

Ms. Blanca S. Bayo, 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: Docket No. 020233-EI

Dear Ms. Bayo:

Please find enclosed for filing in the above-referenced docket an original and 15 copies of the Seminole Electric Cooperative Inc. Post-Worship Comments Regarding GridFlorida Applicants' Positions on Pricing Issues. Copies of this letter and the attached document are being distributed this same date to all parties of record via E-mail and U.S. Mail.

Thank you for your assistance.

Sincerely,

N. Wes Strickland

Enclosures
cc: All Parties of Record

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Docket No. 020233-EI

Seminole Electric Cooperative, Inc. Post-Workshop Comments Regarding GridFlorida Applicants' Positions on Pricing Issues

During the March 17-18 pricing workshop, the Florida Public Service Commission ("FPSC") staff asked that the participating parties file supplemental, post-workshop comments to reflect their positions to the extent that they were not fully reflected in their initial comments in response to the Applicants' draft position statement. Seminole Electric Cooperative, Inc. ("Seminole") filed initial comments on March 11, which comments are incorporated herein to the extent not revised in these supplemental comments. Seminole at the outset wants to express its appreciation for the efforts of FPSC staff to move this process along in order to try to get consensus on the various outstanding issues.

1. Issue No. 1 - Regional State Committee

The Applicants have proposed not only that the FPSC serve as the Regional State Committee ("RSC") but also that as such the FPSC exercise jurisdiction over virtually all functions and aspects of GridFlorida. All matters would be subject to FPSC jurisdiction, and the Federal Energy Regulatory Commission ("FERC") would be severely circumscribed in its review responsibilities, only being permitted to overrule the FPSC where there was a "clear abuse of discretion or clearly erroneous application of law." (Applicants' Position Statement, Issue No. 1, p. 1.)

As to the Applicants' suggestion that the FPSC serve as the RSC, Seminole believes that there are real questions as to whether the FPSC may accept this role and assuming that it may, whether it would want to serve in such a role. As to whether the FPSC may act as the RSC, it is undisputed that the FPSC derives its powers solely from the Florida legislature,[1] so unless the Florida legislature has provided for the FPSC to act in an advisory capacity and to perform the other functions of an RSC, it may not do so. Seminole's search of the relevant statutes does not reveal any such legislative grant of authority.

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[1]*See, e.g., Tampa Elec. Co. v. Garcia*, 767 So. 2d 428, 433 (Fla. 2000), *citing United Telephone Co. v. Public Serv. Comm'n*, 496 So. 2d 116 (Fla. 1986) (and cased cited therein).

The Applicants may counter that they are not suggesting that the FPSC act in an advisory capacity but rather in a decision-making capacity, but again there appears to be no legislative grant of authority for the FPSC to issue "initial decisions" on many of the issues enumerated by the Applicants as proper for review and decision by the FPSC. A further flaw in the Applicants' suggested *modus operandi* is that even assuming, contrary to what appears to be the prevailing law, that the FPSC could perform the many functions that the Applicants envision, it would (by the Applicants' own admission) require that the FERC, as the agency with primary jurisdiction over most of the functions of GridFlorida, delegate to the FPSC its Federal Power Act ("FPA") responsibilities under FPA Sections 205 and 206, among others. Seminole submits that such a delegation, which even the Applicants seemed to admit was of questionable legality, is prohibited.[2] However, if the Applicants continue to press their position on delegation, it is imperative that the Applicants file immediately for a declaratory order with the FERC so that this highly contentious and legally questionable delegation proposal, which is likely to generate appellate review, is resolved at the earliest possible date.

In short, Seminole believes that the Applicants' suggestion that the FPSC acting as the RSC supplant the FERC as the regulatory agency with primary jurisdiction over GridFlorida is a non-starter both from the federal point of view and from the point of view of Florida law. Even assuming *arguendo* that the FERC would and could make such a delegation, Seminole believes that absent enabling legislation in Florida, the FPSC, even if it were so inclined, could not step into the role of RSC as envisioned by the Applicants.

Putting to one side the question of whether the FPSC may act in the role envisioned by the Applicants and assuming *arguendo* that the FERC would ignore the parameters for RSCs set forth in its White Paper issued April 28, 2003 in Docket RM01-12 and the FERC's "Order Granting RTO Status Subject to Fulfillment of Requirements" issued February 10, 2004, in *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110, at PP 218-220, the FPSC may also determine that it would not want to serve in such a role even if it could.

RSCs are intended to provide the various states within a region an opportunity to

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[2] *See, e.g., City of Tacoma, Washington v. FERC*, 331 F.2d 106, 115 (D.C. Cir 2003). It is indisputable that Part II of the FPA delegates to the Commission "exclusive authority to regulate transmission and sale at wholesale of electric energy in interstate commerce, without regard to the source of production." *New England Power Co. v. New Hampshire*, 455 U.S. 331, 340 (1982), *citing United States v. Public Util. Comm'n of Calif.,* 345 U.S. 295 (1953). The Commission itself has made it very clear in the RTO context that "as a general matter under the FPA, public utilities are required to comply with the Commission's directives, not those of the state, regarding compliance with the FPA" and that its delegation of matters to the state only goes to "matters that were not subject to exclusive federal jurisdiction." *Mirant Delta LLC, et al.*, 100 FERC ¶ 61,059 at PP 54, 55 (2002) (Cal ISO).

coordinate in advising an RTO on certain enumerated issues, and to the extent that state PSCs in a region are authorized to perform such functions, RSCs would appear to be a useful vehicle for obtaining state input in a timely manner on important matters relating to the operations of an RTO. GridFlorida is different in that, at least for the foreseeable future, it appears that it will function as a single-state RTO, and hence an RSC in Florida would not perform the multi-state PSC coordination function that is anticipated in truly regional transmission organizations. Thus, the question presents itself whether the FPSC advances the ball by serving as the RSC. While Seminole has indicated that it has no objection to the FPSC serving as the RSC so long as the White Paper and SPP limitations are observed and so long as the offensive and unlawful FERC review standard suggested by the Applicants is removed (*see* Seminole 3/11/04 Comments, Issue 1), Seminole on reflection is hard pressed to imagine why the FPSC would want to assume that role, for the reasons discussed below.

The FPSC has been delegated certain authority over the Applicants under the legislative mandate of its enabling act, and it will likewise have certain (though lesser) authority over GridFlorida under that same act. While GridFlorida will operate primarily in interstate commerce, certain of its planning and other functions will be subject to FPSC review. The FPSC will presumably exercise whatever jurisdiction it has over both the Applicants and GridFlorida without regard to whether it is denominated an "RSC," so it does not appear that the FPSC is advantaged in any way by assuming the RSC mantle (this assumes, of course, that the Applicants' FERC delegation scheme is wisely abandoned or rejected).

In addition, there is the very practical question raised by the FPSC staff at the March 17 workshop of whether the FPSC can truly act in an advisory capacity without providing all parties their normal due process rights under the applicable enabling act. The view was expressed by many at the March 17 workshop that since the FPSC can only do what it is legislatively authorized to do, it must proceed in its RSC role as it would in its normal regulatory decision-making role, which entails hearings, briefs, appellate review, and the like. Seminole's post-workshop research tends to confirm this view.[3] Thus, any suggestion that the FPSC could put on its RSC hat and provide timely insights to GridFlorida on matters of policy appears wrongheaded. If that is correct, then how are the FPSC or the Applicants or GridFlorida or the stakeholders advantaged by the FPSC wearing two hats rather than one?

Seminole has concluded that there do not appear to be any benefits to such a scheme and perhaps some disadvantages resulting from the needless confusion over whether the FPSC is acting in one capacity versus the other.[4] Seminole has concluded that a better (and legally sound)

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[3]*See* Chapters 120 and 286 of the Florida Statutes.

[4]The FPSC itself observed in its September 3, 2003 order ("Sept. 3 Order") in this proceeding that "it would be inappropriate for us to a seat on the BSC or the Advisory Committee to GridFlorida and then serve in a quasi-judicial role in regards to GridFlorida

approach would be for the FPSC to continue to exercise its jurisdictional authority as the FPSC and to seriously consider authorizing its staff to participate with the GridFlorida Advisory Committee in order to share with it the wealth of information that it has as to matters common to GridFlorida and the FPSC, without, of course, in any way binding the FPSC as to matters that may come within its oversight.

2. Issue No. 2 - Jurisdictional Responsibilities (Pricing)

Consistent with the discussion under Issue No. 1 above, Seminole believes that the FPSC should limit its adjudication of pricing matters to those over which it has existing statutory authority, which would appear to include adjudicating the just and reasonable rates for the transmission component of the Applicants' bundled retail rates and the propriety of any retail surcharge that the Applicants seek to have approved in order to collect GridFlorida-related costs not otherwise recovered in their base rates. The FPSC could also decide initially on the issue of moving from the use of zonal rates to the use of a postage stamp rate for all charges under the RTO tariff.

The Federal Power Act ("FPA") Section 205 rights of the Applicants and GridFlorida are set forth in Section 8 of the Participating Owners Management Agreement ("POMA"), which has already been approved by the FERC and the FPSC. Seminole would agree that the Applicants are entitled to have the POMA modified to reflect the fact that they may retain their FPA Section 205 rights to make rate design filings, consistent with the subsequently issued decision by the Court of Appeals in *Atlantic City Elec. Co. v. FERC*, 295 F.2d 1 (D.C.Cir. 2002).[5] Seminole believes that the Applicants and stakeholders would be well advised to discuss and agree upon development of an acceptable process for handling GridFlorida's rate design issues to avoid a multiplicity of potentially incompatible filings at the FERC.

Regarding pricing issues, the table below sets forth the decision making and approval process for GridFlorida suggested by Seminole:

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matters." (Sept. 3 Order, p. 11.)

[5]FERC's subsequent order on remand from *Atlantic City* (101 FERC ¶ 61,318) was also reversed by the Court of Appeals in *Atlantic City Elec. Co. v. FERC*, CADC No. 97-1097 (issued May 20, 2003).

Decisions	GridFlorida	Transmission Owners	Other Stakeholders	FPSC[6]	FERC
Rates, Revenue Requirements, and Rate Design	Files for rates dealing with RTO facilities and grid management related services and collection of approved revenue requirements of the TOs (and rate design to collect same).	FERC-Jurisdictional TOs: may exercise FPA Section 205 rights regarding revenue requirements and rate design. FPSC-jurisdictional TOs: file with FPSC regarding transmission component of bundled retail rates and for any retail surcharge related to GF operations. Non-Jurisdictional TOs: submit revenue requirements/ rates to GF for inclusion in GF revenue requirements to be filed at FERC.	Provide comments prior to filings and may participate in FERC proceeding.	Adjudicates decisions regarding transmission component of bundled retail rates and any retail surcharge related to GF operations. Also opines on movement from zonal to postage stamp rates.	Approves rates and rate designs filed by GF and jurisdictional TOs, and as to the components ruled on by the FPSC, ensures that there is comparability as to the wholesale rates.

3. Issue No. 3 - Participant Funding Concept for GridFlorida

Seminole understood the Applicants, in explaining their participant funding proposal, to say that the norm (*i.e.*, the default mechanism) would be roll-in, with participant funding the exception in *only* two situations: (i) wheeling out; and (ii) generation without a contract to serve load. While Seminole believes that participant funding is generally inconsistent with the need to build required infrastructure to promote competition and to remove congestion, Seminole could live with the Applicants' proposal, if it is limited as the Applicants initially explained.

[6] Seminole is not intending by indicating what role the FPSC would play on various issues to offer an interpretation of the breadth of the FPSC's jurisdiction over GridFlorida. The FPSC may decide that it wants to be heard on a number of matters, and presumably that would be worked out over time (hopefully in coordination with the FERC).

The problem is that the more the Applicants explained during the workshop what they were intending, the more doubts crept in as to what they were really proposing (it was not always clear that the Applicants agreed among themselves). For example, the written proposal says (under item 1) that "[t]he costs of all new non-networked transmission facilities required to interconnect a generator will be allocated to that generator." Given the Applicants' original explanation of their proposal (as having only two exceptions where participant funding would apply), Seminole would assume that if it (or a third party) built generation to serve as a network resource to meet Seminole's member load and needed transmission from the step-up substation to the grid, such transmission would be rolled in, with the only potential exception being if the GridFlorida transmission planning committee determined that the location of the generation was so imprudent that roll-in was inappropriate. Likewise, it is Seminole's understanding (for which it now seeks confirmation) that if Seminole requires a new delivery point and/or transmission upgrades to accommodate load growth, that would be accommodated in the planning process and the cost of such facilities would be rolled in.

If the Applicants affirm that Seminole's interpretations are correct, then Seminole would support the Applicants' proposal; if they take the contrary view, then Seminole believes they are deviating from their initial explanation of what they were proposing and would urge that it be amended to conform with the discussion above.

As to the role of the FPSC, the FERC has indicated that participant funding is an area where RSC input is considered important (*see* references above to White Paper and FERC's SPP Order). Seminole assumes that if the default mechanism is roll-in, the FPSC would only become involved in those instances where participant funding was being considered, under the eight principles set forth in the Applicants' proposal, as possibly applicable. It appears that any decision by the FPSC in this area would be given due deference by the FERC.

4. Issue No. 4 - Cost Recovery Concept for GridFlorida

Seminole believes that this is a matter for FPSC determination on a case-by-case basis.

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

The *post hoc* rationalization offered by the two Applicants still seeking to change the new facilities date (December 31, 2000) and the existing transmission agreement date (December 15, 2000) flies in the face of the logic underlying the establishment of these dates in the first place (to prevent gaming and to encourage reliance) and the various promises made by the Applicants long after it became clear that the start-up date of GridFlorida would be substantially delayed as to the continued viability of those dates (*see* Attachment hereto, which consists of that portion of Seminole's May 8, 2002 Comments to the FPSC on the Attachment T issue). The FPSC itself in its September 3 order herein ruled that changing the Attachment T cutoff date was unrelated to

compliance with the FPSC's December 20, 2001 prudence order in this proceeding. (Sept. 3 Order, p. 54.) Seminole agrees with the Applicants and the FPSC that there is no basis for separating the dates (*i.e.*, either both dates should be in December 2000 or both dates should change). No credible basis has been shown for moving the dates (aside from enriching FPL and Tampa by permitting pancaking to continue for several more years as to the affected contracts), and the reasons against such a flagrant reversal of position have been well set forth in the testimony of Progress witness Slusser (and in the Attachment hereto).

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

No comment.

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

Seminole believes that the regulatory environment for moving ahead is positive. There are several successfully functioning RTOs in the country, and the FERC has just approved RTOs for the Southwest Power Pool (discussed above) and ISO New England, 106 FERC 61,280 (Mar. 24, 2004). Increasingly state commissions are recognizing the benefits of RTOs for utilities within their jurisdiction, as illustrated by the fact that the Arkansas public service commission recently issued an order requiring Entergy to explain why it was not joining the SPP (versus forming an independent transmission entity). The FERC has indicated in the White Paper and in its recent rulings its intent to be flexible in accommodating state needs, so that they may work as partners in these RTO undertakings. Further, Seminole believes that the one area in which there is potential downside - namely, reliance on generation markets in a state that is dominated by two sellers - can (and should) be postponed until there is evidence that there are workably competitive markets in Florida and that the well-known and much-discussed barriers to entry in Florida are removed. Thus, there is every reason to be optimistic that a basic RTO, without Day 2 markets until such time as markets show promise of producing competitive results, would work well in Florida to produce savings for all consumers of electricity, as envisioned by this Commission's December 31, 2001 order herein.[7]

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

The Applicants surprised most (if not all) participants by indicating at the workshop that they were considering hiring a consulting firm (ICF) to do a "cost/benefit analysis" of GridFlorida. (That this proposed analysis is not really a cost/benefit analysis is discussed below.) Seminole was surprised mainly because the FPSC has already determined based on the earlier presentation of the Applicants in this docket that "[i]n the long term, the efficiencies and benefits

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[7]Seminole will have more to say on this issue at the forthcoming Market Design Workshop.

identified through our evidentiary hearing should put downward pressure on transmission and wholesale generation rates and, in turn, on retail rates. Accordingly, our decision in this Order is supportive of the FERC's clear policy favoring RTO development." (Dec. 3, 2001 Order, p. 5.) Now the Applicants seem to want to revisit the issue, though without a reasoned explanation as to why such an exercise makes sense.

While the Applicants assert that the ICF analysis would be a cost/benefit study, it became clear from the exchanges during the March 18 workshop between the Applicants and interested parties that it was no such thing. The ICF representatives conceded that there were a number of qualitative changes that would result from an RTO that would not be quantified by the ICF analysis as a benefit. For example, an RTO will bring about joint planning, which, among other things, should prevent redundancy and reduce congestion; that apparently would not be quantified by the ICF analysis as a benefit. For example, an RTO should enhance generation entry and cause increased wholesale competition; that apparently would not be quantified by ICF as a benefit. For example, elimination of pancaking will obviate the necessity of TDUs like Seminole building transmission to interconnect with separate control areas; that apparently would not be quantified by the ICF analysis as a benefit. Thus, there are a host of qualitative benefits attributable to an RTO, of which the above examples are a few, that will not be quantified in the ICF study, and hence it is a misnomer to call such a study an RTO cost/benefit analysis; rather, it appears more akin to a market design study, which, while it may have some relevance, will be far from determinative regarding the benefits to be provided by an RTO in Florida.

Putting aside that the proposed study seems both out of order at this stage of this proceeding and of questionable relevance, Seminole will nonetheless cooperate in any way that it can, so long as (i) confidentiality is preserved as to the proprietary materials solicited from Seminole by ICF; (ii) the Applicants and ICF affirm that there are no actual or potential conflicts of interest (for example, Seminole is assuming that ICF has never worked for any of the Applicants and would not be engaged by any of the Applicants after the subject analysis is completed for any work related to GridFlorida); (iii) all TOs in the State (not just the Applicants) are permitted to participate in the meetings with ICF during which parameters, assumptions, etc., are discussed and agreed upon; (iv) the participating TOs would have access to non-confidential inputs and all outputs from the ICF study; and (v) any participating TO is permitted to suggest reasonable change cases to be run by ICF. If these basic conditions cannot be met, then Seminole would oppose both the concept of such a study and the collection by the Applicants in rates of *any* costs incurred in underwriting such a study.

Attachment

(Pages 21-25 of Seminole May 8, 2002 Comments in This Proceeding)

XI Existing Transmission Agreements ("ETAs") (Attachment T)

One of the most offensive changes in the Applicants compliance filing (and another change unquestionably beyond the mandate of the December 20 Order) is the proposal to move back the cut-off date for when an existing transmission agreement automatically will be converted to service under the GridFlorida transmission tariff. The proposed change, *i.e.* to substitute January 1 of the year in which the RTO begins commercial operation for December 15, 2000, both violates the terms of OATT Attachment T approved by the FERC and exacerbates an ongoing problem - the treatment of grandfathered contracts - that the FERC is attempting to resolve in a far different manner from the Applicants' approach.[10] In addition, this proposed change causes particular heart-burn for Seminole since it entered into a contract with an independent power producer (Calpine) in anticipation of an RTO being in place before service thereunder commences (June 2004), thereby removing any pancaking of transmission charges; the Applicants' proposal would grandfather that contract and subject the Seminole/Calpine arrangement to pancaked rates.

[10]In a document entitled "Options for Resolving Rate and Transition Issues in Standardized Transmission Service and Wholesale Electric Market Design" ("Options Paper") released by the FERC on April 10, 2002, in Docket No. RM01-12, it states as follows (p. 6): "When standard market design is implemented, there will need to be a transition process in place so that most if not all of the transmission provider's customers will be taking service under the new standard market design."

On December 14, 2000, Seminole entered into an agreement with Calpine Energy Services ("Calpine") for the purchase of approximately 350 MW of combined-cycle capacity with a minimum term of 5 years beginning in June 2004. Seminole also has the contractual right to acquire optional firm capacity in any amount, up to the full generating capability of Calpine's 534 MW combined-cycle unit. The new combined-cycle facility is currently planned for commercial operation in 2003, and will be located in Tampa's control area. The FPSC granted a "need" certification on the project in February 2001, and the Governor and Cabinet (Florida's power plant siting board) approved the project in June 2001. Seminole will take delivery of the power from the Calpine facility (which will be designated a Seminole "Network Resource") at the point of interconnection between Calpine and Tampa's transmission system.

Calpine has applied for an interconnection point with Tampa, and to get in the priority queue for transmission service, Calpine previously applied for long-term point-to-point service under Tampa's current open access transmission tariff for the entire output of the combined-cycle plant from Tampa's control area to the FPC control area. Because of the knowledge that an RTO in the State is imminent, this transmission request along with a number of others were studied jointly by FPL, FPC, and Tampa. On April 29, 2002, Tampa filed at the FERC an unexecuted service agreement between Tampa and Calpine for long-term firm point-to-point transmission service.

At the time the GridFlorida Applicants made their December 15, 2000 Supplemental Compliance Filing in Docket No. RT01-67, Section 9.1 of Attachment T ("Existing Transmission Agreements") provided different rules for contracts entered into after December

15, 2000. The Applicants explained in their FERC filing that the December 15, 2000 date in Section 9.1 was inserted "to prevent gaming prior to the date GridFlorida commences operation, *i.e.*, to prevent entities from entering into ETAs prior to GridFlorida operations for the sole purpose of obtaining ETA status" and went on to state as follows:

> If, after December 15, 2000, a Participating Owner or Divesting Owner enters into a new ETA, or agrees to purchase or provide long-term transmission service ... under an ETA executed prior to that date, the new service provided under the ETA will be converted to GridFlorida service upon commencement of GridFlorida operations. ... All parties will be placed on notice as of December 15 that this will be the treatment for new transmission service. [*Id.*]

Because of potential confusion regarding the interaction of Section 9.1 of Attachment T with Section 8.1 providing for an extended phase-out of pancaked rates and because Seminole and Calpine had been unable to get the Applicants to agree informally that there would be no pancaking of the Calpine arrangement (under which service would not commence until June 2003), Seminole raised its concerns in a January 30, 2001 Protest with the FERC in Docket No. RT01-67. The Applicants responded as follows:

> After the GridFlorida OATT is placed into effect, the service Calpine obtains from TEC, like other long-term transmission service entered into *after December 15, 2000,* will be converted to service under the GridFlorida OATT. Attachment T, § 9.2. *To the extent Calpine is a designated network resource to serve Seminole network load under the GridFlorida OATT, no additional transmission charge will apply to transmit power from the Calpine unit to the Seminole network load, i.e.,* Calpine will not be subject to an additional point-to-point charge for sales from a designated network resource. [February 16, 2001 Answer of GridFlorida Applicants, pp. 116-17; emphasis added.]

To ensure that the outcome described above would result under the tariff, the GridFlorida Applicants in their May 29, 2001 compliance filing in Docket No. RT01-67 amended Section 9.1 of Attachment T to add the following language after reference to the December 15, 2000 date:

> Notwithstanding the foregoing, if such service is point-to-point service, and the applicable resource will be designated as a Network Resource, the customer receiving such service will have a one-time option, at the time the resource is designated as a Network Resource, to reduce its point-to-point reserved capacity or terminate such capacity. [May 29, 2001 Compliance Filing, Redline Sheet No. 363.]

The issue appeared to be resolved since the understanding of the parties was set forth in a filing approved by the FERC in its March 28, 2001 Order Provisionally Granting RTO Status, 94 FERC ¶ 61,363. But not so. In their March 20, 2002 compliance filing in this proceeding, the GridFlorida Applicants have submitted a revised Attachment T in which in lieu of the December 15, 2000 cut-off date for ETAs, they have substituted "January 1 of the year in which the RTO begins commercial operation." In other words the GridFlorida Applicants are inviting the very gaming that they said they were trying to avoid. The GridFlorida Applicants avoid this obvious point and instead try to rationalize their filing as follows:

> If the date delineating new versus existing investment was not moved, a number of facilities would be considered new investment, and thus charged to all load through the system-wide charge. This would exacerbate, rather than limit, cost shifts. [Executive Summary, p. 10.]

There are a number of flaws in this logic (in addition to the fact that it completely ignores the gaming issue, which was the controlling reason for the December 15, 2000 cut-off date in the first place). First, there is absolutely no evidence that by retaining the December 15, 2000 date for segregating existing from new transmission, the cost shift, if any, would be significant; second, there is no indication that by keeping the December 15, 2000 date the Applicants would be harmed (unless by harm, the Applicants have determined that by moving the cut-off date back, they stand to collect additional pancaked rates); and, third, the Applicants have been conducting

themselves, including making joint studies for new transmission service, on the basis that all transmission facilities built after December 15, 2000, would be rolled-in to a system-wide rate. There is no basis for changing that operating assumption to the prejudice of transmission customers that have relied on it.

In brief, the GridFlorida Applicants put a "gaming" date in their December 15, 2000 compliance filing at FERC, and noted that it was needed to prevent anyone from seeking to avoid taking service under the RTO OATT. That reason is as valid today as ever since all players have been on notice since the date of the compliance filing of the consequences of entering into a transmission agreement after December 15, 2000. In addition, the consequences to entities like Seminole/Calpine of now moving that date, namely pancaked rates, would be in stark violation of both what the Applicants represented to Seminole/Calpine and the FERC and what the FERC is attempting to accomplish through the establishment of RTOs. The Applicants must not be permitted to engage in such self-serving gamesmanship.