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Florida Municipal Power Agency

Jody Lamar Finklea  
Associate General Counsel

VIA HAND DELIVERY

March 26, 2004

Ms. Blanca S. Bayó, Director  
Division of Commission Clerk and  
Administrative Services  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
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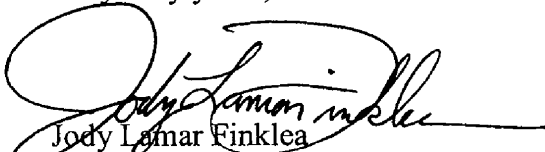
Dear Ms. Bayó:

Re: Docket No. 020233-EI  
Comments of Florida Municipal Power Agency  
Post GridFlorida Pricing Issues Workshop

Enclosed please find one (1) original and fifteen (15) copies of the written comments of the Florida Municipal Power Agency (the Comments), as follow-up to the GridFlorida Pricing Issues Workshop, March 17 – 18, 2004. The Comments are submitted for filing in the above referenced docket. They will also be distributed to all stakeholders via the GridFlorida E-mail Exploder List.

Please acknowledge receipt of these documents by time/date stamping the enclosed additional copy of this filing, as indicated.

Very truly yours,

  
Jody Lamar Finklea  
Associate General Counsel

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Enclosures

cc: Parties of Record

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**POST-PRICING-WORKSHOP COMMENTS OF**  
**FLORIDA MUNICIPAL POWER AGENCY**

The GridFlorida Pricing Issues Workshop held on March 17-18, 2004, addressed certain pricing issues associated with GridFlorida. Pursuant to the schedule established during the workshop, Florida Municipal Power Agency ("FMPA") submits its post-workshop comments. We address in turn each of the eight issues identified in Applicants' February 25, 2004 Draft Positions, but combine the first two because they are interrelated. As directed at the workshop, we will attempt to avoid repeating points already made in our March 11, 2004 "Response Comments to Applicants' Draft Positions."

**Issue No. 1: Regional State Committee; and**  
**Issue No. 2: Jurisdictional Responsibilities (Pricing)**

Applicants' pre-workshop draft positions proposed that this Commission (hereafter the "FPSC," for clarity in distinguishing it from the Federal Energy Regulatory Commission, "FERC"), constitute by itself an extra-powerful, "Regional State Committee" or "RSC" that would make initial decisions on a wide range of issues, to which FERC would be obliged to substantially defer. At the workshop, Applicants appeared to largely recede from that proposal, but did not do so definitively. In case it remains their position, FMPA will follow up on the points it made at the workshop.

FMPA assumes that the FPSC will continue to exercise its relevant legal authorities (*e.g.*, as to reserves, transmission siting, and retail rates of jurisdictional investor-owned utilities), and welcomes the FPSC's active engagement with GridFlorida-related issues. That engagement could be through participation on the GridFlorida Advisory Committee, through the FPSC's participation as of right in FERC proceedings, and/or through an RSC constituted to represent the interests of all Florida consumers. But FMPA cannot support the RSC concept proposed by Applicants.

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Although the term “Regional State Committee” is taken from a concept developed by FERC in its “White Paper” and Southwest Power Pool order,<sup>1</sup> the role that the FPSC-as-RSC would play under the Applicants’ pre-workshop proposal is quite different. A “FERC concept” RSC provides a forum through which multiple states can attempt to balance their views and interests. Existing multi-state committees, such as the Midwest’s “Organization of MISO States” and the New England Conference of Public Utility Commissioners, perform such functions purely as advisors: They provide a collective body through which states jointly exercise their rights to intervene in FERC proceedings and comment on proposals submitted by transmission owners or regional transmission operators.

The SPP RSC might take on a further role: determining, in the first instance, what SPP must file with FERC as a Section 205 rate proposal, on four specific topics where SPP rather than its transmission owners has the authority to initiate rate filings, such as whether to allocate transmission facility costs across state borders.<sup>2</sup> But FERC would owe such filings no more formal<sup>3</sup> deference than it accords to other Section 205 filings. Furthermore, the SPP RSC would have authority to initiate its own proposals (which the SPP RTO would file as a public utility,

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<sup>1</sup> *Southwest Power Pool*, Order Granting RTO Status Subject to Fulfillment of Requirements, 106 FERC ¶ 61,110 PP 218-20 (2004) (“*SPP*”); Federal Energy Regulatory Comm’n, White Paper: Wholesale Power Market Platform (Apr. 28, 2003), available at [http://www.ferc.gov/industries/electric/indus-act/smd/white\\_paper.pdf](http://www.ferc.gov/industries/electric/indus-act/smd/white_paper.pdf) (last visited Mar. 26, 2004).

<sup>2</sup> Cross-border facility cost allocation issues are at the heart of the “participant funding” concept that is referenced as an RSC topic in *SPP*, at P 219. They are also central to the RSC role, as envisioned by FERC, in choosing between (or blending or varying from) (a) allocating transmission facilities’ costs to loads located in the same state as the subject facilities (the “license plate” approach) or (b) allocating transmission facilities’ costs to all loads in the region (the “postage stamp” approach).

<sup>3</sup> In practice, FERC is more likely to accept or approve a proposal if it is sponsored by an entity that does not have parochial interests in particular electricity market outcomes, and if it has been vetted by an open, inclusive, and fair process before reaching FERC’s dockets. Such informal deference will undoubtedly continue. But that is different from formally reversing the burden of proof that Section 205 places on rate change applications or otherwise changing the formal standard against which such applications are measured.

along with its own alternative if it chose to do so), rather than be limited to filtering proposals initiated by transmission owners. In short, its formal role would be limited to certain allocation-related issues that are likely to present interstate disputes, and in playing that role it would stand in the shoes normally occupied by SPP itself, as a Section 205 applicant to FERC bearing the Section 205 burden of proof.

In contrast, the Applicants' proposed FPSC-as-RSC would be owed FERC's "substantial deference," under a "high standard" of review, such that the transmission-owner-initiated filings that the FPSC forwarded would be entitled to FERC approval absent a "clear abuse of discretion or clearly erroneous application of law." At the workshop, Applicants described this role as akin to the FPSC donning the black robe of a FERC Administrative Law Judge. In actuality, it would confer much more deference than is accorded FERC ALJs' initial decisions, since FERC reviews those essentially *de novo*.

This novel state role — duplicated nowhere else in the nation — is highly problematic under both Florida and federal law. Because of these problems, to advance it would embroil GridFlorida's formation and operations in lengthy and unproductive litigation and delay.

Specifically, FMPA is concerned that Applicants would assign the FPSC authority that is open to serious dispute. The FPSC has only the powers authorized by the Florida legislature. Applicants have not identified any provision of Florida law that gives the FPSC the contemplated role of serving as a FERC-reviewed Administrative Law Judge with jurisdiction over the application of the Federal Power Act to GridFlorida, which this Commission has found will be a wholesale-level entity. See *In re Review of GridFlorida Regional Transmission Organization (RTO) Proposal*, Order No. PSC-02-1199-PAA-EI, slip op. at 77.

The Florida statutory distinction between two kinds of FPSC jurisdiction over electric industry entities raises further difficulties for Applicants' jurisdictional plan. Section 366.02, Florida Statutes ("F.S.") contains distinct definitions of "electric utility" and "public utility." Underscoring for clarity, "electric utility" is defined more broadly (at subsection 1), to include an entity that (assuming it takes one of the enumerated legal forms) "owns, maintains, or operates an electric ... transmission ... system within the state," whereas "public utility" is defined more narrowly (at subsection 2), to focus (in relevant part) on entities "supplying electricity ... to or for the public within this state." The FPSC's rate-regulation authority runs to "service within the state by any and all public utilities under its jurisdiction," Fla. Stat. § 366.041, not to all "electric" utilities. Without reaching a definitive conclusion on this issue, it appears that GridFlorida would be an "electric" utility but not a "public" utility. Similarly, municipalities and their agencies, and cooperatives, are specifically excluded from the definition of "public" utilities, and therefore are not subject to FPSC regulation of their rates. Consequently, it is far from clear that the Florida legislature has empowered the FPSC to serve in the substantive capacity envisioned by Applicants, rendering decisions as to transmission rates, terms, conditions, and revenues of entities that either are not (in the case of municipal and cooperative GridFlorida participants), or have not been found to be (in the case of GridFlorida itself), "public utilities" under Florida law.

Federal law raises similar questions. Indeed, at FPL's behest, FERC has previously rejected giving the FPSC delegated authority to set interstate-commerce transmission rates as envisioned by Applicants. In *Florida Power & Light Co., et al.*, 29 F.E.R.C. ¶ 61,140 (1984), the FPSC and FPL had asked FERC whether it could delegate to the FPSC the setting of rates for

wheeling of PURPA Qualifying Facilities, given the FPSC's established PURPA role in setting avoided-cost levels. FPL and the FPSC took different positions on that issue; FPL asserted that FERC's jurisdiction over interstate-commerce transmission rates was exclusive, and could not be abdicated in favor of deference to local interests. *Id.* at p. 61,289. FERC agreed with FPL, holding that it cannot give weight to the rate determinations of a State commission if those determinations "violate public policy, such as the policy against undue discrimination." *Id.* at p. 61,293. Accordingly, FERC concluded that "The interests of the Florida Commission can be adequately protected by its participation in the appropriate rate or rulemaking proceeding before this Commission." *Id.*

FERC might well reach similar conclusions if presented with Applicants' proposal to install the FPSC as an extra-powerful FERC ALJ. For example, FERC might not be willing to defer to determinations of a Florida-only RSC that could affect the rates or terms for service out of or into Georgia.

In short, a Florida-only RSC that serves the functions proposed by Applicants does not appear to be legally feasible. The choice may be between (a) an advisory Florida-only RSC and (b) an RSC that would serve the functions of the SPP RSC but which would have to include Georgia and perhaps other states. As between these options, we believe the former would be more useful, given the FPSC's Grid Bill role in facility siting and reserves determinations.

Even if the FPSC had theoretical jurisdiction to act in the proposed decisional capacity, it is highly doubtful that it could practicably exercise that jurisdiction. Any formal "act" of the FPSC, such as approving, disapproving, or modifying transmission owner or GridFlorida

proposals, is subject to formal due process requirements and to state court review.<sup>4</sup> Regional transmission organizations need the flexibility to, when necessary, bring rate filings to the FERC on a faster track than is permitted by those prerequisites for formal action.

### **Issue No. 3: Participant Funding**

FMPA continues to generally support Applicants' position on this issue. In doing so, we rely on three important clarifications offered by Applicants at the workshop. One, "non-networked" as used in Applicants' pre-workshop comments means "on the generator-owned side of the interconnection point" — *i.e.*, the same delineation used in FERC's Order No. 2003 on large generator interconnection. In particular, lines rated at or above the 69 kV bright line, up to the high side of the generator step-up transformer, including radials from the looped portion of the network, are still considered "networked." Two, "standard" means facilities that are not "Enhanced" facilities under the GridFlorida planning protocol. Thus, "standard" can include facilities that are included in the regional plan because they are found to be economically worthwhile congestion relief facilities, whether or not they are needed for reliability alone. Three, investments made to accommodate load growth will normally be rolled in.

### **Issue No. 4: Cost Recovery Concept for GridFlorida**

As FMPA had anticipated in its pre-workshop comments, workshop discussion of this issue was confined to Applicants' retail rate recovery. FMPA reiterates its support for the establishment of a cost recovery clause but otherwise takes no position on these FPSC-jurisdictional retail rate issues.

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<sup>4</sup> The Florida Supreme Court "shall review, upon petition, any action of the commission relating to rates or service of utilities providing electric or gas service." Section 366.10 F.S. In contrast, when the FPSC simply takes a position as a participant-of-right in FERC proceedings, judicial review, if necessary, typically occurs in federal court on appeal from FERC.

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

The legacy arrangements that Florida utilities will bring to GridFlorida include two<sup>5</sup> forms of long-term commitments to pay for legacy transmission facilities: existing contracts to take transmission service, and ownership investments in transmission facilities. The cut-off dates serve, among other purposes, to divide these legacy commitments (and their associated costs) into two categories: older ones that will continue, at the outset of the GridFlorida era, to be borne by the party who had committed to them, and newer ones that will be borne regionally.

As reviewed and approved by FERC without any party seeking rehearing or appeal on this particular, the contract and facilities delineation dates were fixed, past, and essentially identical<sup>6</sup> December 2000 calendar dates. They were intentionally locked down so that they would substantially precede and not float with GridFlorida's actual start-up date, which was uncertain and already known to be slipping when the fixed dates were proposed. See Prepared Direct Testimony of Joe N. Linxwiler, Jr., filed herein on September 27, 2002, at 6-8, 11-12, and 14-16. (For convenience, a copy of that testimony accompanies these comments.) Because they were past dates, they precluded "gaming" whereby a party would enter a contract early or delay a transmission investment in order to fall on the favorable side of the applicable demarcation date. *See id.* at 13-14. Because they were contemporaneous, they ensured that in a situation where a post-2000 contract leads to post-2000 costs, GridFlorida's start-up would not result in the contract transmission service provider bearing all of those costs while foregoing those contract

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<sup>5</sup> We set aside the payment commitment represented by purchasing network transmission service. When GridFlorida starts up, network service purchasers will have the opportunity to cease taking individual-company network transmission service and begin taking GridFlorida network service. Commitments to sell and take network service have anticipated such replacement from the outset.

<sup>6</sup> For accounting convenience, the two delineation dates were timed two weeks apart. For practical purposes, however, they are identical.



revenues. *Id.* at 17-18. Because they were not tied to the start-up date, they avoided creating a situation where substantial money will change hands depending on whether GridFlorida goes live in December of one year or January of the next year. *Id.* at 16-17. Similarly, they ensured that entities who have inside advance knowledge of (and influence over) GridFlorida's actual startup date, and who negotiate transactions during the GridFlorida development period, would not have an unfair advantage by dint of better predicting (or controlling) whether the resulting contract and facilities will be treated as "old" or "new" when GridFlorida goes live. *Id.*

Florida utilities and generation developers who have entered contracts and invested in facilities since December 2000 have done so in reasonable reliance on the December 2000 demarcation dates, which as noted above have already been approved by FERC and are not subject to rehearing or appeal. For example, FMPA and Seminole have purchased power from Calpine and arranged with TECo for associated transmission. FMPA and KUA have made transmission investments (associated with connecting the transmission systems of OUC, TECo, and Progress Energy to Cane Island generation) that were designed, sized, and timed so as to address not only FMPA and KUA needs, but also to solve transmission problems in the Florida Progress zone. They did not insist that Florida Progress share in the costs of those investments, which would have complicated negotiations with Florida Progress and potentially delayed the facilities' completion and regional benefits, because GridFlorida's December 2000 dates made clear that Florida Progress would do so as soon as GridFlorida became operational. It would be fundamentally unfair to change those dates now.

At the workshop, TECo and FPL advanced two reasons for upsetting such investment-backed expectations. First, TECo suggested that because GridFlorida's startup has been delayed,

the demarcation dates need to be changed to be closer to the startup date. Again, the dates were originally set without reference to the actual startup date. Furthermore, retaining the FERC-approved demarcation date will ensure that as time passes, parties' stakes in retaining legacy cost allocations will diminish. By getting time on the side of the switch to GridFlorida pricing, one of the largest unnecessary obstacles to GridFlorida's development will be eroded. In the Midwest, legacy cost allocations (in particular, addressing claims that the elimination of pancaked transmission rates would cause "cost shifts") became such an obstacle to RTO formation that FERC had to order, amid great controversy and concerns over retail-level trapped costs, that RTO-like pricing apply to all transmission owners in the region even before they joined an RTO.<sup>7</sup> In Florida, a regimen that will erode that obstacle naturally is already FERC-approved, and it should not be changed.

Second, FPL suggested that if facility investments occurring after 2000 but before GridFlorida starts up are spread region-wide, that would create an incentive to "gold-plate," *i.e.*, to engage in imprudent transmission investment. This claim is baseless, especially with regard to the important function served by the Cane Island transmission referenced above, which neither FPL or any other participant has asserted to be imprudent or gold-plated. In any event, imprudent investment will be excluded from the rate base that is eligible for rate recovery through GridFlorida. Furthermore, in preparation for GridFlorida-administered regional markets and the increased transmission usage and reduced statewide energy costs that such markets are intended to promote, it is better to err on the side of too much construction than the reverse.

#### **Issue No. 6: Mitigation of Short-Term Revenues**

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<sup>7</sup> *Midwest Independent Transmission System Operator, et al.*, 104 FERC ¶ 61,105 (2003), *on reh'g, sub nom.*, in *most relevant part, Ameren Servs. Co., et al.*, 105 FERC ¶ 61, 216 (2003), *settlement approved, Midwest*

FMPA reserves comment.

**Issue No. 7: Review of Current Regulatory/Legislative Environment**

FMPA reserves comment.

**Issue No. 8: Continued Review of RTO Costs and Benefits**

Given that the FPSC has already reached a prudence determination with regard to a GridFlorida that serves the basic (non-spot-market) transmission operating and planning functions of an RTO, it is not entirely clear what purpose an ICF study would serve. ICF plans to include in its study a quantification of the benefits of a basic-functions-only RTO. That is appropriate, among other reasons in order separate out the costs of benefits of proceeding with additional, market-operating functions. However, ICF's quantification of those basic-functions benefits will have to be taken with a handful of salt, because it is likely to miss many of the key ones, such as improved transmission planning and assurance that the Florida grid is operated efficiently and without discrimination.

Nonetheless, in developing an enterprise as important as GridFlorida, more effects evaluation is better than less. Accordingly, FMPA is open to engaging ICF. However, it has several concerns regarding the potential engagement as outlined at the workshop.

It became clear at the workshop that Applicants intend to flow the costs of their proposed ICF-conducted cost-benefit study through to all GridFlorida ratepayers as a start-up cost. Such flow-through may<sup>8</sup> be appropriate, with appropriate amortization (which should probably exceed five years). More important, the retention agreement with ICF should specify that study

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*Independent Transmission System Operator, et al.*, 106 FERC ¶ 61,262 (2004).

<sup>8</sup> FMPA needs information on the amount at issue before it can commit to sign a check, but assumes that the ICF costs will be within a reasonable range.

parameters and methods will be subject to the collective direction (through, *e.g.*, a reconvened GridFlorida Advisory Committee) of all entities who will be asked to foot the bill. It should also allow those entities to request additional studies (building on the studies' other analyses but adding additional parameters, sensitivities, or the like), provided those making such "enhanced studies" requests pay the incremental cost.

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September 27, 2002

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Re: Docket 020233-EI  
FMPA Notice of Filing Direct Testimony of Joe N. Linxwiler and Exhibit

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and fifteen copies of FMPA's Notice of Filing Direct Testimony of Joe N. Linxwiler and Exhibit. Also enclosed is a diskette containing an electronic version of the filing, as well as an electronic version of the filings FMPA has done since September 20, 2002, in WordPerfect format, as requested.

Sincerely yours,

*Frederick M. Bryant*  
Frederick M. Bryant

FMB/taf  
Enclosures

cc: as noted on Certificate of Service

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Review of GridFlorida Regional )  
Transmission Organization (TRO) Proposal )

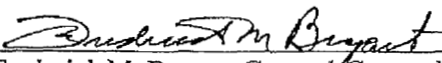
DOCKET NO. 020233-EI  
Filed September 27, 2002

**NOTICE OF FILING  
DIRECT TESTIMONY OF  
JOE N. LINXWILER, JR. AND  
EXHIBIT**

Florida Municipal Power Agency has this date filed herein the Direct Testimony of Joe N. Linxwiler, Jr. and the Exhibit referenced therein.

DATED this 27<sup>th</sup> day of September 2002.

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing NOTICE OF FILING DIRECT TESTIMONY OF JOE N. LINXWILER, JR. AND EXHIBIT was furnished to the parties on the attached Service List via email, on this 27<sup>th</sup> day of September, 2002.

  
\_\_\_\_\_  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of GridFlorida )  
Regional Transmission Organization ) Docket No. 020233-EI  
(RTO) Proposal ) Filed September 27, 2002  
\_\_\_\_\_ )

**PREPARED DIRECT TESTIMONY AND EXHIBITS OF**

**JOE N. LINWILER, JR.**

**ON BEHALF OF**

**FLORIDA MUNICIPAL POWER AGENCY**



1           **EDUCATIONAL BACKGROUND.**

2           A.     I am a utility business analyst and rate consultant. I have been practicing in the  
3           electric utility industry for over 25 years.

4                     In January, 1994, I co-founded the firm of Fred Saffer & Associates, Inc., with  
5           my partner, Fred R. Saffer. Prior to that, I was employed by the consulting firm of R. W.  
6           Beck and Associates for approximately 17 years. Before that, I was employed for two  
7           years by Southern Engineering Company of Georgia, another consulting firm. My  
8           consulting practice is principally concentrated in the areas of rates, contracts, strategic  
9           planning, and inter-utility bulk-power and transmission arrangements.

10                    I attended both Southern Methodist University and Georgia Institute of  
11           Technology. I received a Bachelor of Science degree in electric engineering, with High  
12           Honors, from Georgia Tech in March, 1974. I subsequently completed approximately 32  
13           credit hours of graduate study in electrical engineering and mathematics, also at Georgia  
14           Tech.

15                    Further particulars of my professional experience are provided in Exhibit JNL-1.

16           **Q.     HAVE YOU PREVIOUSLY TESTIFIED AS AN EXPERT WITNESS?**

17           A.     Yes, I have testified before this Commission and in numerous other regulatory  
18           and judicial proceedings. Exhibit JNL-1 includes a list of such proceedings and the  
19           subjects of my testimony.

20           **Q.     WHAT IS YOUR FAMILIARITY WITH TRANSMISSION SERVICE GENERALLY IN**  
21           **FLORIDA AND, MORE PARTICULARLY, WITH THE PROPOSED GRIDFLORIDA RTO?**

22           A.     I have been involved in negotiations and regulatory proceedings involving  
23           wholesale bulk power transmission arrangements in Florida (and elsewhere) since 1977,  
24           when I first testified before the Federal Power Commission regarding transmission  
25           service provided by FPL to the Utilities Commission of New Smyrna Beach for the

1 transmission of power from New Smyrna Beach's ownership interest in Crystal River  
2 Unit No. 3 nuclear power generating unit. Since that time, I have been involved many  
3 proceedings before the Federal Power Commission and its successor, the Federal Energy  
4 Regulatory Commission (the "FERC"), involving the rates, terms, and conditions for  
5 wholesale transmission service provided by FPL, FPC, and TEC. Among other things, I  
6 assisted FMPA in FERC Docket No. TX93-4, in which FMPA sought and gained  
7 network transmission service from FPL. I also assisted FMPA and several other of my  
8 clients in providing comments to the FERC on its proposed rulemaking that led to the  
9 FERC's Order No. 888, and I have assisted FMPA in virtually every FERC proceeding  
10 involving the rates, term, and conditions for wholesale transmission service provided by  
11 FPL, FPC, and TEC since Order No. 888 was issued.

12 I have been heavily involved in the GridFlorida formation process since its  
13 inception. I have participated, on FMPA's behalf, in many of the stakeholder  
14 "collaborative" meetings and negotiations that preceded, and have continued since, the  
15 first FERC filing by the FPL, FPC, and TEC (the "Applicants") in connection with  
16 forming a regional transmission organization ("RTO") pursuant to FERC's Order No.  
17 2000. I have also assisted FMPA in preparing comments provided to the FERC on the  
18 various filings with FERC concerning GridFlorida. I have also assisted FMPA in  
19 preparing comments that it has provided to this Commission in the instant proceeding.

20 **Q. PLEASE SUMMARIZE YOUR TESTIMONY CONCERNING THE APPLICANTS'**  
21 **PROPOSED CHANGE TO THE NEW FACILITIES DEMARCATION DATE.**

22 A. It is my opinion, for reasons I will explain, that the Applicants' proposed change  
23 in the New Facilities Demarcation Date is improper and unreasonable (i) because it was  
24 not required or warranted by this Commission's December 20 Order, with which the  
25 Applicants' Compliance Filing was to comply, and (ii) because the Applicants' proposed

1 new "floating" date is unreasonable on its own merits.

2 **Q. PLEASE FURTHER DESCRIBE THE PURPOSE AND USE OF THE NEW FACILITIES**  
3 **DEMARICATION DATE IN THE PROPOSED GRIDFLORIDA ORGANIC DOCUMENTS.**

4 A. Under the proposed GridFlorida structure, the allocations of cost responsibilities  
5 transmission facilities would depend on the respective in-service dates of the facilities.  
6 Differing treatments would be provided for newer facilities and for older facilities, and  
7 the date I am referring to as the New Facilities Demarcation Date is the date that is  
8 proposed to delineate or define new versus old facilities.

9 For newer facilities (those placed in service on and after the New Facilities  
10 Demarcation Date), it is recognized that they were completed with a view to GridFlorida  
11 operating them for statewide use, and their costs are therefore shared statewide as soon as  
12 GridFlorida begins operating; that is, the costs of new facilities would be "rolled in" and  
13 included in a system-wide rate applicable to all transmission users. See Attachment H of  
14 the Applicants' proposed GridFlorida Open Access Transmission Tariff (the  
15 "GridFlorida OATT"). The costs of older facilities would first be included in zonal rates  
16 applicable to users only within their respective zones. The costs of older transmission  
17 facilities of transmission dependent utilities ("TDUs") would be subject to a five-year  
18 phase before being fully included in the various zonal rates. Eventually, the zonal rates  
19 would be "phased out" in years 6-10 of GridFlorida's operations, and the corresponding  
20 costs of the older facilities phased into the grid-wide rate. See Attachment I of the  
21 proposed GridFlorida OATT.

22 The Applicants have proposed another, distinct, but related, demarcation date for  
23 differentiating between "old" contracts that are subject to so-called "grandfathering" and  
24 "new" contracts that are not subject to grandfathering. See Attachment T of the proposed



1 GridFlorida OATT. For convenience, I will refer to this second, differentiation or  
2 demarcation date as the "Contract Demarcation Date."

3 **Q. DO THE APPLICANT'S PROPOSED ORGANIC DOCUMENTS FOR GRIDFLORIDA**  
4 **INCLUDE DEFINED TERMS FOR THE DATES YOU ARE REFERRING TO AS THE "NEW**  
5 **FACILITIES DEMARCATION DATE" AND THE "CONTRACT DEMARCATION DATE?"**

6 A. No. In both the Applicants' original filing and their compliance filing in this  
7 proceeding, both dates are included in the documents in literal (but somewhat differing  
8 terms), as I will explain shortly.

9 **Q. PLEASE POINT OUT WHERE IN THE PROPOSED GRIDFLORIDA OATT THE NEW**  
10 **FACILITIES DEMARCATION DATE IS SET FORTH.**

11 A. In the Applicants' originally proposed GridFlorida OATT and in the revised  
12 OATT included with the Compliance Filing, the New Facilities Demarcation Date was  
13 included in each of Sections 1.11A and 1.26A. These sections define "Existing  
14 Facilities" and "New Transmission Investment," respectively, and are referred to in  
15 Attachments H and I of the OATT (which set forth the differing rate treatments for  
16 existing and new facilities, respectively).

17 **Q. PLEASE DESCRIBE THE CHANGE -- THE DELAY -- IN THE PROPOSED NEW**  
18 **FACILITIES DEMARCATION DATE THAT YOU ARE ADDRESSING.**

19 A. In all of their filings with this Commission and with the FERC prior to their  
20 compliance filing in this proceeding, the proposed New Facilities Demarcation Date was  
21 January 1, 2001. By contrast, in the Compliance Filing, the Applicants proposed to  
22 change the demarcation date to a "floating" future date, defined as January 1 of the year  
23 during which GridFlorida begins commercial operations.

24 Prior to the Compliance Filing, Section 1.11A of the proposed GridFlorida OATT  
25 read as follows:



1 The inclusion of the extraneous word "prior" in the this revised definition of New  
2 Transmission Investment is obviously the result of a typographical error.

3 **Q. PLEASE EXPLAIN THE CHANGE IN THE "CONTRACT DEMARCATION DATE"**  
4 **INTRODUCED IN THE APPLICANTS' COMPLIANCE FILING.**

5 A. Attachment T of the proposed GridFlorida OATT pertains to "Existing  
6 Transmission Agreements" or "ETAs." In the Applicants' original filing, Section 9.1 of  
7 Attachment T provided in pertinent part as follows:

8 9.1 Long-Term Agreements

9 If, after December 15, 2000, a PO or Divesting  
10 Owner enters into any new ETA, or agrees to purchase or  
11 provide long-term transmission service under an ETA  
12 executed prior to that date, the new service provided under  
13 such ETA shall be converted to Transmission Provider  
14 service upon the commencement of Transmission Provider  
15 operations. [Remainder of section omitted.]

16 Hence, as originally proposed, the Contract Demarcation Date was December 16,  
17 2000 (even though it has been common to refer imprecisely to December 15, 2000 as the  
18 original contract delineation date).

19 In their Compliance Filing, this portion of Attachment T (which was renumbered)  
20 was changed to read as follows:

21 8.1 Long-Term Agreements

22 If, on or after January 1 of the year  
23 the Transmission Provider begins  
24 commercial operations, a PO enters into any  
25 new ETA, or agrees to purchase or provide

1 long-term transmission service under an  
2 ETA executed prior to that date, the new  
3 service provided under such ETA shall be  
4 converted to Transmission Provider service  
5 upon the commencement of Transmission  
6 Provider operations. [Remainder of section  
7 omitted.]

8 Thus, in the Applicants' Compliance Filing, the New Facilities Demarcation Date  
9 and the Contract Demarcation Date were proposed to be changed to the same literal  
10 dates: January 1 of the year in which GridFlorida begins operation. Applicants proposed  
11 *two* changes here, although they would result in the same delayed, floating date for both  
12 the New Facilities Demarcation Date and the Contract Demarcation Date.

13 **Q. DID THIS COMMISSION'S ORDER OF SEPTEMBER 3, 2002, IN THIS PROCEEDING**  
14 **ADDRESS THE APPLICANTS' PROPOSED CHANGES IN THE NEW FACILITIES**  
15 **DEMARCATON DATE AND THE CONTRACT DEMARCATON DATE?**

16 A. Yes. They are addressed in part R, entitled "Attachment T Cutoff Date," of the  
17 "Planning and Operations" section of the September 3 Order, at pages 51-54. Perhaps  
18 because the result of the two proposed changes would, if adopted, be the same actual  
19 date, and also perhaps because the Applicants' explanation of the change at the May 29,  
20 2002 Workshop was erroneous, that portion of the September 3 Order is somewhat  
21 confusing. That discussion refers to the date delineating new facilities for rate purposes  
22 (that is, what I refer to as the New Facilities Demarcation Date) as the delineation date  
23 under the proposed Attachment T to the GridFlorida OATT (which attachment pertains to  
24 grandfathered contracts). While it may be that the Commission intended to reject both  
25 date changes included in the Applicants' Compliance Filing, the reference in the

1 conclusion of the aforementioned section of the September 3 Order only to the  
2 "Attachment T cutoff date," without reference to the "cutoff" date for new facilities,  
3 introduces an ambiguity that could lead to an interpretation that the Commission rejected  
4 only the proposed change in the Contract Demarcation Date.

5 **Q. PLEASE EXPLAIN HOW THE APPLICANTS' EXPLANATION AT THE MAY 29**  
6 **WORKSHOP WAS ERRONEOUS.**

7 A. The Applicants' erroneous explanation of the change, provided at the May 29  
8 Workshop (Tr. 30-31), was as follows:

9 So the question is ... [w]hat is the date for deciding  
10 what is a new facility, and what is the date for  
11 deciding what is an old grandfathered contract as  
12 opposed to a new contract. We previously had set  
13 these dates to coincide with the start-up date, the  
14 anticipated start-up date for GridFlorida, which was  
15 initially December 15th, 2000. That was the day  
16 specified in Order 2000 by which we had to be up  
17 and running. So we used those as the dates for those  
18 two definitions. It now is clear that we are not going  
19 to meet that date, so we have revised these  
20 deadlines to comply with the future start-up date,  
21 and we are going to use December 31st, which is a  
22 convenient time for accounting periods and it will  
23 be the year of commercial operations for  
24 GridFlorida.

25 This explanation was factually erroneous in several respects. First, as I explained..

1 above, the New Facilities Demarcation Date was always, until now, proposed to be a date  
2 (i.e., January 1, 2001) different from the Contract Demarcation Date (i.e., December 16,  
3 2000).

4 More significantly, the start-up date of GridFlorida was never anticipated to be  
5 December 15, 2000. When the Applicants first filed their proposed GridFlorida plans  
6 with FERC on October 16, 2000, they stated that they sought December 15, 2001 start-up  
7 date. In that October 16, 2000 filing, the Applicants also indicated that they would  
8 subsequently file to establish December 15, 2000 for the date I am referring to as the  
9 Contract Demarcation Date. Hence, at GridFlorida's inception, the Contract Demarcation  
10 Date preceded the target start-up date by a full year. The October filing did not contain  
11 what is now a New Facilities Demarcation Date.

12 The January 1, 2001 New Facilities Demarcation Date, and the corresponding  
13 differentiation between "Existing Facilities" and "New Transmission Investment," was  
14 first included in the Applicants' FERC filing of December 15, 2000, in which the  
15 Applicants stated that "it will not be possible to complete the process of selecting an  
16 independent board and employees until the third quarter of 2001," and that they sought to  
17 enable GridFlorida "to assume its functions by December 15, 2001." Hence, from the  
18 very beginning, the New Facilities Demarcation Date was a known, established date that  
19 preceded the earliest possible GridFlorida start-up date by almost a year (eleven months  
20 and 15 days).

21 The same January 1, 2001 New Facilities Demarcation Date was reiterated in the  
22 Applicants' May 29, 2001 FERC filing. In that filing, the Applicants announced that they  
23 had suspended their GridFlorida development efforts, and as a result, it was clear that the  
24 previously anticipated December 15, 2001 start-up date would slip considerably.

25 Nevertheless the Applicants in that filing retained the January 1, 2001 New Facilities

1 Demarcation Date and the December 15, 2000 Contract Demarcation Date, even while  
2 proposing a number of changes to the OATT and other documents.

3 In summary, until the Applicants' March 19, 2002 Compliance Filing in this  
4 proceeding, the New Facilities Demarcation Date was, and continued to be, a fixed date  
5 certain that significantly preceded the anticipated GridFlorida operational date, even as  
6 that date continued to slip.

7 **Q. YOU STATED THAT THE PROPOSED CHANGE IN THE NEW FACILITIES**  
8 **DEMARICATION DATE WAS NOT REQUIRED OR WARRANTED BY THE DECEMBER 20**  
9 **ORDER. PLEASE EXPLAIN.**

10 A. As clearly recognized in the September 3 Order, the December 20 Order  
11 principally directed the Applicants to formulate and file (on compliance) a governance  
12 structure for Grid Florida that would have the form of an independent, non-profit  
13 independent system operator ("ISO"), as opposed the Applicants' original proposal for a  
14 for-profit, transmission-owning transmission company or "transco." The governance  
15 structure of the RTO has no logical or practical connection to, or interdependence with,  
16 either the New Facilities Demarcation Date or the Contract Demarcation Date. The  
17 changes to the two delineation dates cannot reasonably be said to result from the  
18 December 20 Order.

19 The form of the RTO -- transco or ISO -- has no real bearing on the appropriate  
20 New Facilities Demarcation Date. The New Facilities Demarcation Date (both as  
21 originally proposed and as proposed in the Compliance filing) will affect only the  
22 allocation of the costs of transmission facilities among users of the GridFlorida  
23 transmission system. While this effect is certainly very important, the demarcation date  
24 would not and will not affect the net income or profit of GridFlorida in any event.

25 Whether GridFlorida is a transco or an ISO, its bottom line will be unaffected by any

1 change in the New Facilities Demarcation Date. GridFlorida's bottom line will be  
2 whatever it will be -- irrespective of any change in the New Facilities Demarcation Date.

3 It is unquestionably clear that the Commission, in the September 3 Order,  
4 recognized that the previously ordered change to an ISO structure neither affected, nor  
5 was affected by, the Contract Demarcation Date. The same reasoning nevertheless  
6 applies to the changes to both delineation dates: the changes are not logically or  
7 practically linked to the ordered change in governance structure. To the extent that the  
8 Commission's discussion of cutoff dates in its September 3 Order (which I identified  
9 earlier) might have been directed only to the Contract Demarcation Date, I respectfully  
10 submit that the Commission should now make it clear that the proposed change to the  
11 New Facilities Demarcation Date is rejected for the same reason.

12 **Q. WHY DO YOU BELIEVE THAT THE NEWLY PROPOSED, LATER, FLOATING NEW**  
13 **FACILITIES DEMARCATION DATE IS UNREASONABLE ON ITS OWN MERITS?**

14 A. There are several reasons. First, it is important that the New Facilities  
15 Demarcation Date be a fixed date certain, and not a moving, floating date. Adequate  
16 facilities planning, financial planning, and planning for future rates needs to be based on  
17 such a fixed demarcation date that is known in advance. The *actual* demarcation date  
18 under the Applicants' new floating-date proposal will not be known until after the date  
19 has passed. Since the proposed new floating date is January 1 of the year in which  
20 GridFlorida begins operations, that date will not be known with certainty until the point  
21 at which GridFlorida does become operational. At that point, the New Facilities  
22 Demarcation Date would be the preceding January 1, which could have been as much as  
23 eleven months and 30 days prior to the operations date -- but nobody knew it at the time.  
24 This proposed floating delineation of old and new facilities simply introduces another  
25 dimension of uncertainty that need not and should not be introduced. I doubt seriously



1 that this Commission intended for such additional uncertainty to be introduced as a result  
2 of its December 20 Order.

3 Second, the newly proposed, later New Facilities Demarcation Date will further  
4 delay GridFlorida's achieving the goals of attaining rate pancaking and achieving uniform  
5 transmission rates that recognize all transmission facilities under RTO control. This is  
6 because, all other things being equal, the later date will result in more facilities being  
7 classified as "Existing Facilities," the costs of which will be included in zonal rates  
8 pursuant to Attachment H of the OATT, and its phase-in provisions, rather than the  
9 system-wide rate pursuant to Attachment I.

10 In their Post-Workshop Comments, the Applicants state that, consistent with their  
11 "objective of minimizing cost shifts," the date change restores "synchronization" between  
12 the GridFlorida start-up date and the New Facilities Demarcation Date. This attempted  
13 justification fails in part because, as I pointed out previously, the original, fixed, January  
14 1, 2001 date had preceded the anticipated start-up date by approximately a year and had  
15 remained fixed as the start-up date was obviously slipping. In other words, there was  
16 never such a "synchronization." The attempted justification also fails because it  
17 incorrectly implies that a delay in the start-up date without a corresponding delay in the  
18 New Facilities Demarcation Date would somehow *increase* the cost shifts that the  
19 Applicants must bear above the level previously proposed. To the contrary, Applicants'  
20 proposal to slip the New Facilities Demarcation Date arbitrarily *decreases* them below  
21 the level that Applicants themselves had previously advocated as appropriate and thereby  
22 undermines important policy objectives.

23 Minimizing cost shifts cannot be the only objective of RTO pricing. It must be  
24 balanced by other goals, such the elimination of pancaking and other discriminatory  
25 pricing practices, which are the primary goals of FERC Order No. 2000. The Applicants'

1 proposed delay in the New Facilities Demarcation Date unjustifiably tilts in their favor  
2 the previous balance they had proposed between cost shifting and achieving uniform  
3 grid-wide transmission rates. While I do not believe Applicants' originally-proposed  
4 balance was fair to transmission dependent utilities, Applicants' proposal to allow the  
5 New Facilities Demarcation Date to float aggravates the injustice further.

6 Third, as noted in the Commission's September 3 Order, and I have explained  
7 above, the original New Facilities Demarcation Date of January 1, 2001, was developed  
8 during the GridFlorida collaborative stakeholder process, has stood for some time -- until  
9 the Compliance Filing. Until the Compliance Filing, this date was rather non-  
10 controversial. It would be fundamentally unfair to allow the Applicants to change this  
11 date now. Even as the likely start-up date for GridFlorida slipped previously, the  
12 Applicants proposed no corresponding slip in the New Facilities Demarcation Date; it  
13 was proposed to remain the same fixed, historical date of January 1, 2001. As the  
14 Commission described in the September 3 Order with respect to the Attachment T  
15 Contract Demarcation Date, the Applicants had ample opportunity previously to propose  
16 and attempt to justify a different date -- and to have it vigorously protested -- but did not  
17 do so. The Applicants should not be allowed to present a moving target through their  
18 Compliance Filing.

19 Fourth, the floating nature of the newly proposed New Facilities Demarcation  
20 Date would provide incentives for gaming both the GridFlorida start-up date (which the  
21 Applicants significantly influence) and the construction of new transmission facilities.  
22 The Applicants will each have an incentive to delay the start-up and, hence, the  
23 demarcation date in order to avoid new facilities of others (even including perhaps those  
24 of another Applicant) being fully "rolled in" in the system-wide GridFlorida rate charge.  
25 They will also have an incentive to force the early completion of new facilities of others,

1 many of which will need to be directly connected to the facilities of on or more  
2 Applicants. At the same time, other parties will have a perverse incentive to delay the  
3 completion of facilities now planned or under construction until after the new delineation  
4 date. Whether this reaction of non-Applicants would be considered gaming or fiscal  
5 responsibility in light of practical reality, the overall result cannot rightly be said to be  
6 just and reasonable or nondiscriminatory or otherwise in the public interest.

7 **Q. IN YOUR VIEW, WOULD IT BE REASONABLE FOR THE CONTRACT DEMARCATION**  
8 **DATE TO BE A FIXED, HISTORICAL DATE CERTAIN, BUT AT THE SAME TIME ALLOW THE**  
9 **NEW FACILITIES DEMARCATION DATE TO BE A MUCH LATER, FLOATING DATE?**

10 A. No. Many transmission service agreements entered into on and after the Contract  
11 Demarcation Date (which would be converted to the GridFlorida service) can be  
12 expected to require or contribute to the need for new transmission facilities. If there were  
13 to be a significant gap of time between the Contract Demarcation Date and the New  
14 Facilities Demarcation Date, the chances are high that the requisite new facilities would  
15 need to be completed prior to the New Facilities Demarcation Date. As a result, these  
16 new facilities would be treated as "Existing Facilities" and included in one or more zonal  
17 rates pursuant to Attachment H of the OATT rather allocated system-wide under  
18 Attachment I. Such a result would be illogical and could significantly penalize  
19 customers of the transmission owner needing to undertake the additions. Accordingly,  
20 the New Facilities Demarcation Date should be close to the Contract Demarcation Date.

21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?**

22 A. Yes.

23

**RESUME  
OF  
JOE N. LINXWILER JR.**

Principal and Vice President  
Fred Saffer & Associates, Inc.

B.S. in Electrical Engineering, High Honors  
Georgia Institute of Technology

Mr. Linxwiler is a utility business consultant and analyst with 25 years of experience in electric utility finance, planning, rates, and economics. He is Vice President of, and a principal in, the firm of Fred Saffer & Associates, Inc.

Mr. Linxwiler co-founded Fred Saffer & Associates, Inc., in January, 1994. He was previously employed by the firm of R. W. Beck and Associates for some 17 years. He joined R. W. Beck and Associates in June, 1976, as a Senior Engineer in the Rate Department of the firm's Orlando, Florida, Regional Office, and subsequently held a number of positions with this firm. From 1982-1986, he served on the staff of the firm's Managing Partner and served as Manager of Computer Services in firm's Seattle, Washington, general office. In 1986, he returned to R. W. Beck's Orlando office to direct wholesale rate activities in the Southeast region. For the last three years of his employment there, he held the positions of Senior Client Services Director and manager of the Litigation Support and Regulatory Affairs Practice Group of that firm's Orlando, Florida, regional office.

The principal focus of Mr. Linxwiler's consulting practice has been in the areas of rates, contracts, inter-utility bulk-power arrangements, and strategic planning. He has participated in and directly supervised numerous retail and wholesale cost-of-service studies, electric rate design studies, long-range power supply studies, load forecasts, transmission system studies, financial feasibility studies, management systems studies, load management and energy conservation studies, and general business planning projects. His work in connection with electric rates and cost-of-service studies has included work on behalf of both purchasers and sellers of electric power. He also has served as a principal negotiator of power supply contracts between a number of utilities and between utilities and large industrial customers.

Mr. Linxwiler attended Southern Methodist University in Dallas, Texas, and Georgia Institute of Technology in Atlanta, Georgia. He graduated from Georgia Tech in 1974, receiving a Bachelor of Electrical Engineering degree with High Honors. He subsequently completed thirty-two hours of graduate study in mathematics, electrical engineering, operations research, and mathematical systems theory at Georgia Tech. During that time, Mr. Linxwiler also held graduate research and teaching assistantships and participated in several research projects in and for the School of Electrical Engineering at Georgia Tech. He also was employed as an instructor in electronics at DeVry Institute of Technology in Atlanta, an accredited vocational junior college.

**AREAS OF EXPERTISE**

**Cost of Service and Rate Design**

Mr. Linxwiler has extensive experience in preparing cost of service and rate design studies. He has supervised and otherwise participated in the development of complete cost of service studies, cost of service reviews, and rate design studies. These studies have included the development of test-year projections, the selection and development of allocation factors, analyzing operating and financial information, the complete design of rate schedules, including terms and conditions of service. This work has included engagements for both small and

large utilities and their customers. Mr. Linxwiler's engagements also have spanned work involving both retail and wholesale rates. These engagements also have involved traditional embedded-cost ratemaking applications and marginal-cost ratemaking and rate-design applications.

### **Power Supply Development**

A significant amount of Mr. Linxwiler's professional experience has been in connection with existing and new regional power coordination arrangements between utilities. He has both participated in and led negotiations and studies leading to the acquisition by several municipal joint action agencies of major ownership interests in a number of nuclear and fossil-fueled generating stations. His principal areas of responsibility in these matters have been (i) the terms and conditions for interconnected operations and wholesale power exchanges, (ii) the rates for such exchanges and for wholesale "partial requirements" power, (iii) transmission wheeling arrangements, and (iv) the development of computer-based models for analyzing all of these types of arrangements. Much of his experience has involved determinations of the cost and the value of electric power and energy provided by utilities to their customers and one another. Mr. Linxwiler also has participated in the development of financing arrangements to fund major new power supply projects. These types of engagements require a broad application of utility economics, operations, and ratemaking theory.

### **Litigation Support/Expert Testimony**

Mr. Linxwiler has served as an expert witness in numerous regulatory and judicial proceedings. Brief descriptions of the subjects of his testimony in these proceedings are provided in Exhibit A attached hereto. In addition, he has assisted in the preparation of testimony and exhibits of other witnesses in a number of proceedings. He also has participated in negotiations leading to settlements in numerous other proceedings. Virtually all of the proceedings in which he has participated, as a witness or otherwise, have involved questions relating to the cost and value of electric service.

He also has appeared as an expert witness in several proceedings in arbitration involving contractual disputes between electric utilities. These proceedings have involved issues pertaining to cost-of-service matters, rates, power sales agreements, and interchange transactions. In addition, he has served as an arbitrator in one such arbitration proceeding.

Further particulars concerning Mr. Linxwiler's educational and professional experience are provided below.

**EMPLOYMENT HISTORY**

January 1994 to Present

Fred Saffer & Associates, Inc.  
Orlando, Florida

Joe N. Linxwiler, Jr., is a senior utility specialist employed by the firm of Fred Saffer & Associates, Inc. Mr. Linxwiler is a principal and Vice President of the firm and is responsible for directing consulting engagements involving retail and wholesale rates, interutility contracts, regulatory matters, litigation support services, and related matters for the firm's clients throughout the United States.

1976-1993

R. W. Beck and Associates  
Orlando, Florida  
Seattle, Washington

Prior to joining Fred Saffer & Associates, Mr. Linxwiler was employed by the firm of R. W. Beck and Associates for some 17 years. His experience with that firm included residencies in the firm's Orlando, Florida, and Seattle, Washington, offices. In 1976, he joined the firm's Orlando office where for several years he was engaged in many aspects of the firm's electric utility consulting practice. In 1982, he moved to the firm's General Office in Seattle for three and a half years where he served on the staff of the firm's Managing Partner and as the firm's Manager of Computer Services. During this time, Mr. Linxwiler continued to be active in work for the firm's clients. In 1986, Mr. Linxwiler returned to full-time consulting in the firm's Orlando Regional Office. In 1988, he assumed the position of Manager of Litigation Support and Regulatory Affairs in the Orlando office, in which capacity he was responsible for directing all regulated rate and litigation support engagements for the firm's clients throughout the Southeastern United States.

1974-1976

Southern Engineering Company of Georgia  
Atlanta, Georgia

Mr. Linxwiler served as a staff engineer and coordinator of computer applications for the rate and power supply departments of this engineering firm. He participated in rate studies, power supply studies, and wholesale rate proceedings for rural cooperative electric system clients throughout the Southeastern United States.

1974

School of Electrical Engineering  
Georgia Institute of Technology  
Atlanta, Georgia

While in graduate school, Mr. Linxwiler held graduate teaching and research assistantships and concentrated in the areas of control systems, computer science, and the application of computer modeling to electrical engineering problems. He also served as coordinator of computer use within the School of Electrical Engineering.

1974

DeVry Institute of Technology  
Atlanta, Georgia

Mr. Linxwiler was employed as a part-time instructor in electronics at this accredited junior college.

**PROFESSIONAL EXPERIENCE**

Highlights of Mr. Linxwiler's consulting experience are provided below.

Alabama

In 1986 and 1987, Mr. Linxwiler directed the development of a participant billing system and budget-forecasting system for Alabama Municipal Electric Authority (AMEA), a municipal joint-action agency. He also assisted this agency in designing and establishing its general financial accounting and reporting systems. He also continues to provide management consulting services to this agency in a variety of subject areas.

In 1991, Mr. Linxwiler provided expert testimony in an Alabama state court proceeding regarding the constitutionality of state legislation establishing territorial boundaries for electric utilities in the State and related antitrust-related matters.

Periodically during 1994-1997, Mr. Linxwiler has assisted AMEA in investigating alternative rate designs. During 1997 and 1998, he served as AMEA's lead technical consultant in FERC proceedings involving the reasonableness of the open-access transmission tariff of the Southern Company and its operating subsidiaries. He filed expert witness testimony on behalf of AMEA in *Southern Company Services, Inc.*, FERC Docket Nos. ER98-1096-000, *et al.*

During 2000 and 2001, Mr. Linxwiler assisted AMEA in its participation in several FERC proceedings, mediations, and stakeholder activities concerning the establishment of one or more regional transmission organizations (RTOs) in the Southeastern United States.

California

In 1984 and 1985, Mr. Linxwiler participated in studies regarding the feasibility of forming a new power pool among various publicly owned utilities in Northern California. These studies included analyses of production cost savings and reliability issues. In 1985 and 1986, he participated in power supply and wholesale rate matters for several municipal electric systems in Southern California. He also testified as an expert witness in *Southern California Edison Company*, FERC Docket No. ER84-75-000. In 1987, he performed a review of resource and strategic planning methods for Los Angeles Department of Water and Power.

Beginning in early 1998, Mr. Linxwiler has been assisting the California Independent System Operator in determining appropriate rates and charges for "must-run" generation necessary to support reliability of the California transmission grid. He filed expert witness testimony on behalf of the ISO in *San Diego Gas & Electric Company*, FERC Docket Nos. ER98-496-000 and ER98-2160-000. He participated in negotiations leading to the settlements in these and a number of other FERC proceedings relating to must-run generation for transmission system support.

Florida

From 1976 through 1982, Mr. Linxwiler participated in regulatory proceedings and negotiations concerning wholesale rates, interconnection agreements, wheeling arrangements, and other matters for over 20 municipally owned electric systems throughout Florida. He testified as an expert witness on behalf of wholesale customers in *Florida Power & Light Company*, FERC Docket No. ER77-175, and *Florida Power & Light Company*, FERC Docket No. ER78-19. He also led settlement negotiations in several other proceedings.

Mr. Linxwiler also has supervised load forecasting and load research projects for several of these clients. Two of these projects included comprehensive consumer surveys.

In 1982 through 1984, Mr. Linxwiler participated in power supply planning studies for the Florida Municipal Power Agency, a joint-action agency comprised of most of the municipal electric systems in the state. He was involved in analyses and negotiations leading to the settlement of a large anti-trust suit involving a number of Florida utilities.

During 1992-1996, Mr. Linxwiler has directed consulting activities in several major Florida Power Corporation wholesale rate proceedings on behalf of Florida Municipal Power Agency (FMPA) and was a lead negotiator in negotiations that led to settlements in these proceedings. He has continued to serve as a consultant and as an expert witness for FMPA in several wholesale rate proceedings involving Florida investor-owned utilities. These proceedings involve full- and partial-requirements rates and terms and conditions, interchange agreements, and transmission wheeling services. He has filed expert affidavits and testimony in *Florida Municipal Power Agency v. Florida Power & Light Company*, FERC Docket No. TX94-3-000 (involving one of the first applications for transmission service pursuant to the Energy Policy Act of 1992) and *Florida Power & Light Company*, FERC Docket Nos. ER93-465-000, *et al.* In mid-1994, he testified before the Florida Public Service Commission, in FPSC Docket No. 940345, regarding reserve planning and operating practices and the effects of non-firm sales on such practices.

Since 1996, Mr. Linxwiler has been the lead technical consultant for FMPA in FERC proceedings involving the open-access transmission tariffs of Florida Power Corporation, Florida Power & Light Company, and Tampa Electric Company. He has also assisted FMPA in formula rate audits of Florida Power & Light Company and in a large, complex antitrust suit against Florida Power & Light (which was settled just prior to trial). He also submitted expert witness testimony in *Florida Power & Light Company*, FERC Docket Nos. ER99-2770-000, *et al.* He subsequently assisted in negotiating settlements in FERC Docket Nos. ER93-465-000, *et al.*, and ER99-2770-000, *et al.*

During 2000 and 2001, Mr. Linxwiler assisted FMPA in FERC proceedings involving the merger of Florida Power Corporation and Carolina Power & Light Company and in negotiating a settlement resolving FMPA's concerns over the anticompetitive effects of the merger. He also assisted FMPA in FERC proceedings concerning the proposed, but later withdrawn, merger of Florida Power & Light Company and Entergy.

Since late 1999, Mr. Linxwiler has been assisting FMPA in the formation of a regional transmission organization in Peninsular Florida pursuant for FERC Order No. 2000. In that regard, he has been an active participant in stakeholder working groups formed for that purpose and has assisted FMPA's attorneys in preparing protests, pleadings, other filings before the FERC. He also assisted FMPA in FERC proceedings, mediations, and stakeholder

### Georgia

Since 1976, Mr. Linxwiler has participated in financing studies, strategic planning activities, power supply studies, and wholesale rate and interconnection negotiations for the Municipal Electric Authority of Georgia, comprised of 47 municipal electric systems. He submitted expert witness testimony in *Georgia Power Company*, FPC Docket No. ER76-587, *Georgia Power Company*, FERC Docket No. ER78-166, *Georgia Power Company*, FERC Docket No. ER79-88, and participated in analyses and negotiations leading to settlements in several other proceedings. In 1989, Mr. Linxwiler directed a study of a proposed new pooling and power coordination arrangement among Georgia Power Company, MEAG, and other utilities in Georgia. He also testified in *Southern Company Services, Inc.*, FERC Docket No. ER89-48-000, regarding the Southern Company pool's Intercompany Interchange Contract. He has also supervised the development of several computerized budgeting, financial planning, and management information systems for this agency. In recent years, Mr. Linxwiler has assisted this agency in general strategic planning, in the development of a new power coordination and wholesale power arrangement, and in a variety of other matters involving retail and wholesale rates and regulation.

During 1996, Mr. Linxwiler served as an expert witness for the City of Calhoun, Georgia, in a state court proceeding involving disputes between Calhoun and the Municipal Electric Authority of Georgia. During 1997 and 1998, he was



also engaged by the City of LaGrange, Georgia, to assist it in a similar proceeding, which was settled just prior to trial.

#### Indiana

From 1979 through 1982, Mr. Linxwiler supervised a wide range of consulting services for Wabash Valley Power Association (WVPA), an Indianapolis-based G&T cooperative comprised of 24 REMC distribution systems. In addition to providing general consulting to WVPA's management, Mr. Linxwiler has supervised the development of management information systems, provided general data processing consulting, and supervised an extensive on-going load forecasting and load research project which included consumer surveys, and end-use and econometric forecasting. He served as project manager in the design and acquisition of a central control system for load management and generation scheduling. In 1995, Mr. Linxwiler was engaged to develop new rates and pricing strategies for WVPA.

In 1999, Mr. Linxwiler was engaged by the Indiana Municipal Power Agency to assist in the resolution of disputes under certain agreements between IMPA and PSI Energy. He provided expert witness testimony in an arbitration proceeding regarding appropriate cost allocation principles, and has continued to assist IMPA in related matters. In 2000, Mr. Linxwiler testified as an expert witness on behalf of IMPA, WVPA, and certain other wholesale purchasers in a FERC rate proceeding involving PSI Energy; he also participated in settlement negotiations leading to a settlement in this proceeding.

#### Louisiana

In 1984 and 1985, Mr. Linxwiler assisted in studies and analyses for the City of New Orleans regarding the possible acquisition by the City of the properties of New Orleans Public Service Company. Mr. Linxwiler provided special consulting regarding pool transactions between New Orleans Public Service Company and other subsidiaries of Middle South Utilities (now known as "Entergy").

#### Massachusetts

During 1982 and 1983, Mr. Linxwiler assisted in the preparation of two studies of energy conservation and load management programs for municipal electric systems in Massachusetts. In 1989, he testified as an expert witness, on behalf of the Massachusetts Bay Transportation Authority, before the Massachusetts Department of Public Utilities regarding a retail rate increase requested by Boston Edison Company.

#### New Hampshire

In 1991 and 1992, Mr. Linxwiler served as a member of a team of senior business and technical consultants engaged to develop and implement a reorganization plan to resolve the bankruptcy of New Hampshire Electric Cooperative, Inc. Mr. Linxwiler, along with the cooperative's legal counsel, was responsible for negotiating settlements of several disputes between the cooperative and Public Service Company of New Hampshire and for negotiating a new power supply program that served as the cornerstone for the cooperative's reorganization plan, which was approved by the Bankruptcy Court in March 1992. Mr. Linxwiler was a lead negotiator in working out a consensual reorganization plan for the cooperative with Public Service Company of New Hampshire, Northeast Utilities, New England Power Company, the State of New Hampshire, and the Rural Electrification Administration. He was also responsible for overseeing the studies necessary for demonstrating to the Court the financial feasibility of the reorganization plan.

New York

In 1986 and 1987, Mr. Linxwiler served as project manager for feasibility studies concerning public power acquisition of Long Island Lighting Company. The firm's clients in this work were the County of Suffolk, New York, and the firm of Smith Barney Harris Upham & Company. These studies were based on a proposed acquisition of LILCO's common stock and involved a broad range of financial rate making and accounting and legislative and tax-related questions, as well as power supply and system reliability considerations.

North Carolina

Over several years, Mr. Linxwiler participated in wholesale rate proceedings and negotiations and power supply studies for virtually all of the municipally owned electric systems in North Carolina. He testified as an expert witness in *Carolina Power & Light Company*, FPC Docket No. ER76-495, *Carolina Power & Light Company*, FERC Docket No. ER77-485, and *Virginia Electric and Power Company*, FERC Docket No. ER78-522.

Mr. Linxwiler participated in negotiations and studies for two major joint action agencies, North Carolina Municipal Power Agency No. 1 and North Carolina Eastern Municipal Power Agency, resulting in a billion dollar, joint-ownership arrangement with two major investor-owned utilities in the State. He played a key role in the negotiation and development of the rate, interconnection, and interchange aspects of these arrangements.

Mr. Linxwiler also participated in the development and implementation of management information and reporting systems for these agencies. He also has supervised load forecasting, load research, and load management projects for the North Carolina power agencies. Additionally, he supervised the design and acquisition of a large telemetry and control system for dynamic scheduling, electronically transferring loads of a number of cities from one control area to another.

In 1987 and 1988, Mr. Linxwiler served as an expert witness on behalf of North Carolina Municipal Power Agency No. 1 and Piedmont Municipal Power Agency in two arbitration proceedings with Duke Power Company. Also in 1988, Mr. Linxwiler submitted testimony before FERC on behalf of North Carolina Eastern Municipal Power Agency in *North Carolina Eastern Municipal Power Agency v. Carolina Power & Light Company*, FERC Docket No. EL88-27-000. In 1990, Mr. Linxwiler testified in an arbitration proceeding involving NCEMPA and CP&L.

From 1989 through 1993, Mr. Linxwiler also provided consulting services to these agencies in a variety of matters related to strategic planning, power supply economics, and wholesale rates.

South Carolina

For several years, Mr. Linxwiler supervised all wholesale and retail rate studies, negotiations, and related activities for the South Carolina Public Service Authority, a state-established electric utility, generating and distributing electric power at wholesale and retail throughout much of South Carolina. In the early 1980's, he was deeply involved on behalf of the Authority in negotiations leading to service to a major new industrial customer, a 300-MW aluminum reduction plant. He also was a lead negotiator in negotiations for a new power supply arrangement between the Authority and a large G&T cooperative. He also designed a long-range revenue requirements and financial planning model for the Authority. In 1990, he assisted the Authority in negotiating a major extension and amendment to its contract with the aforementioned aluminum facility and served as an expert witness in litigation between the Authority and the U. S. Army Corps of Engineers regarding the Authority's hydroelectric facilities. Mr. Linxwiler continues to provide consulting services to this client on a number of areas, including general strategic planning, wholesale and retail rates, interutility coordination, and litigation support.

In 1992, Mr. Linxwiler led a comprehensive strategic planning effort to review the goals and objectives of the Authority's pricing and marketing efforts. In 1993, Mr. Linxwiler supervised a comprehensive rate study wherein all the Authority's retail rates and rate schedules were restructured and updated, consistent with the results of the planning effort the year before. In 1994-1996, Mr. Linxwiler assisted the Authority in developing its open-access wholesale transmission tariff and in other matters relating to FERC Order Nos. 888 and 889. During 1999, Mr. Linxwiler assisted the Authority in the negotiation of a major new power supply arrangement for Saluda River Electric Cooperative, Inc.

From 1979 through 1993, Mr. Linxwiler also participated in power supply, interconnection, and rate studies, litigation, and negotiations for Piedmont Municipal Power Agency.

#### Texas

In July 1992, Mr. Linxwiler served as the Senior Consultant on the consulting team engaged by the Public Service Board of the City of El Paso, Texas, to investigate (i) the feasibility of acquiring the properties of El Paso Electric Company, which is currently in Chapter 11 bankruptcy, and (ii) other measures or actions that the City of El Paso could take to protect the interest of its citizens in matters involving El Paso Electric bankruptcy.

#### Vermont

During 2000, Mr. Linxwiler has been providing consulting services to a number of municipal electric utilities that purchase power from the Vermont Yankee Nuclear Power Corporation in FERC proceedings involving the proposed sale of the Vermont Yankee Nuclear Power Station to AmerGen.

#### Virginia

From 1976-1981, Mr. Linxwiler assisted in a number of wholesale rate proceedings and power supply contract negotiations for a number of Virginia municipal electric systems. He testified as an expert witness in *Virginia Electric & Power Company*, FERC Docket No. ER78-522-000.

During 1996-1997, he served as lead consultant for Virginia Municipal Electric Association No. 1 (VMEA) in FERC proceedings involving the open-access transmission tariff of Virginia Electric & Power Company. He continues to assist VMEA and its attorneys in wholesale rate and transmission matters. During 1999, Mr. Linxwiler also directed the design and development of a new computer software system for member billing for VMEA.

#### Utah

In 1984 and 1985, Mr. Linxwiler assisted in the preparation of power supply plans for municipal wholesale customers of Utah Power & Light Company and was responsible for projections of UP&L's power costs.

**EXPERT WITNESS EXPERIENCE**

The table below lists the proceedings in which Mr. Linxwiler has presented expert witness testimony and the subject matters of that testimony.

Proceeding	Subject Matter
<i>Carolina Power &amp; Light Company</i> FPC Docket No. ER76-495	Average Rate Base Depreciation Expenses Income Taxes Allocation Factors Deferred Income Taxes
<i>Georgia Power Company</i> FPC Docket No. ER76-587	Functionalizations Allocation Income Taxes
<i>Florida Power &amp; Light Company</i> FERC Docket No. ER77-175	Transmission Wheeling Transmission Losses Levelized Fixed Charge Rate Functionalizations Allocation Factors
<i>Carolina Power &amp; Light Company</i> FERC Docket No. ER77-485	Depreciation Expense Interest Expense Deferred Income Taxes Investment Tax Credit Power Factor Adjustments
<i>Georgia Power Company</i> FERC Docket No. ER78-166	Time Weighting Plant Investment Demand Allocation Factors Functionalization of Hydroelectric Facilities Preference Power Allocation Capacity and Energy Losses Interchange Power Tariff Terms and Conditions
<i>Florida Power &amp; Light Company</i> FERC Docket No. ER78-19	Functionalizations Demand Allocations Losses Income Taxes Rate Design Terms and Conditions
<i>Virginia Electric &amp; Power Company</i> FERC Docket No. ER78-522	Transmission Losses Hydroelectric Capacity Functionalizations Income Taxes
<i>Georgia Power Company</i> FERC Docket No. ER79-88	Rate Design Terms and Conditions Partial Requirements Service Interchange Services Pricing
<i>Southern California Edison Company</i> FERC Docket No. ER84-75-000	Fuel Stocks Energy Supply Reliability
<i>North Carolina Eastern Municipal Power Agency v. Carolina Power &amp; Light Company</i> FERC Docket No. EL88-27-000	Terms and Conditions of Interconnection Bulk Power Market Competition
<i>Re. Boston Edison Company</i> Massachusetts Department of Public Utilities Case No. 89-100	Marginal Cost Pricing & Rate Demand Allocation Method
<i>Southern Services, Inc.</i> FERC Docket No. ER89-48-000	Pool Capacity Equalization Capacity Cost Allocations

Proceeding	Subject Matter
<i>Appeal of South Carolina Public Service Authority, Contract No. DACW60-77-C-0005</i> U. S. Army, Engineer Board of Contract Appeals Case No. ENG BCA No 5564	Power System Operations Power System Economics Value of Hydroelectric Facilities and Hydroelectric Capacity
<i>Dixie Electric Cooperative, et al., v. The Citizens of the State of Alabama, et al.</i> State of Alabama, Circuit Court of Montgomery County, Case No. CV-86-878-G	Territorial Assignments Fair Value of Utility Property Fair Compensation for Condemnation General Utility Economic Matters
<i>Florida Power &amp; Light Company</i> FERC Docket Nos ER93-465-000, et al	Terms and Conditions for Interchange Service Reserve Margin Criteria Transmission Service Pricing Pricing of Partial Requirements Service Fuel Adjustment Clause
<i>In Re: Generic Investigation Into the Planning Practices and Operating Reserves of Peninsular Florida Generating Electric Utilities</i> Florida Public Service Commission Docket No. 940345-EU	Reserve Margin and Reliability Criteria Provision of Interruptible Service Energy Broker
<i>City of Calhoun v. Municipal Electric Authority of Georgia, State of Georgia, Superior Court of Gordon County, Civil Action File No. 28934</i>	Fair and Non-Discriminatory Rates Interpretation of Contract Terms Damage Estimates
<i>San Diego Gas &amp; Electric Company</i> FERC Docket Nos ER98-496-000 and ER98-2160-000	Cost-Based Rates for Must-Run Generation Service, Formula Rates, Fixed/Variable O&M Allocations
<i>Southern Company Services, Inc.</i> FERC Docket Nos. ER98-1096-000, et al.	Cost-Based Rates for Ancillary Services under Open Access Transmission Tariff
<i>Florida Power &amp; Light Company</i> FERC Docket Nos. ER99-2770-000, et al.	Formula Rates, Generation Step-up Facilities, Ratemaking Treatments of Accruals for Future Liabilities, Various Cost Accounting Matters
<i>PSI Energy, Inc.</i> FERC Docket No ER00-188-000	Purchased Power Expenses, Off-System Sales Revenues Reserve Margins

In addition, Mr. Linxwiler has submitted affidavits in a number of other regulatory proceedings, and he has served as an expert witness in several arbitration proceedings involving contract disputes between utilities. He also has served as an arbitrator.