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 Subject: FPSC Docket No. 020233-EI GridFlorida Market Issues Workshop

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COMMISSION CLERK

Attached for filing in the referenced docket please find the **Joint Response of The Florida Industrial Cogeneration Association and The Florida Phosphate Council** to Applicants' Draft Positions relating to the May 19-21, 2004 Market Issues Workshop.

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

Thanks you.

Rich Zambo

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FPSC-COMMISSION CLERK

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ORIGINAL

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COGENERATION & ALTERNATIVE ENERGY
ENERGY REGULATORY LAW

May 13, 2004

Via Electronic Filing

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

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

Dear Ms. Bayo:

Attached for filing in the referenced docket please find the joint response of the Florida Industrial Cogeneration Association and the Florida Phosphate Council to Applicants' Draft Positions relating to the May 19-21, 2004 Market Issues Workshop.

Pursuant to Commission instructions, this joint response was electronically distributed to registered stakeholders on May 13, 2004 via the GridFlorida E-mail Explorer List. (It is our understanding that all stakeholders interested in this proceeding were to have registered their names and email addresses with FRCC for inclusion on the GridFlorida Explorer List.)

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

Sincerely,

/s/ Richard A. Zambo

RAZ/ms
Enclosure

Richard A. Zambo
Florida Bar No. 312525

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 020233-EI
By Electronic filing: May 13, 2004

Market Issues Workshop

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

The Florida Industrial Cogeneration Association (FICA) and the Florida Phosphate Council (FPC) submit this joint response to the positions of Applicants in the Market Issues Workshop in this Docket. (FICA and FPC are jointly referred to herein as “Industrial QFs”).

I. Introduction

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

Accordingly, Industrial QFs have two primary concerns. The first is that implementation of GridFlorida will result in increased costs associated with existing QF facilities, their interconnections, and the delivery of QF electricity to the grid. The second is that implementation of GridFlorida will result in increased electricity costs. Industrial QFs have serious reservations about using a locational marginal pricing (LMP) market design (or any “market” based rate) in a situation where it is acknowledged that an RTO alone will not lead to a competitive wholesale generation market. While Industrial QFs are cautiously supportive of the cost-benefit “study” proposed by Applicant’s, the study must employ realistic assumptions and a real-world approach to the issues if it is to be instructive.. Unfortunately, preliminary indications in that regard are not promising. (See comments at Issue 5 on Page 5)

II. Discussion

The following presents a brief discussion of additional concerns, followed by an issue-by-issue response to Applicant’s positions.

1) Treatment of Uninstructed Deviations from Schedules.

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

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

2) New Charges for Existing Interconnected QFs.

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

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

3) Market Monitoring.

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

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

4) Authority to Order Transmission System Improvements.

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

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

5) Increases in Transmission Import Capacity.

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

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

Issue 1 – Market design and congestion management

Industrial QFs have serious concerns with market design aspects of GridFlorida. Those concerns arise primarily with regard to the potential for charges and penalties being assessed by GridFlorida to “fuel” or “process” following QFs. The GridFlorida structure must address in detail and specifically provide for the following:

- (i) GridFlorida must adopt and implement rules or mechanisms to provide relief from balancing requirements, balancing charges, penalties for uninstructed deviation from schedule, etc. commensurate with operating characteristics of QFs and renewable fuel generators whose output is dependent on varying energy input such as is the case in the fertilize industry where process driven QFs generate electricity from waste heat produced in a manufacturing operation that varies in production rates.
- (ii) GridFlorida should not be permitted to charge customers for unspecified ancillary service costs that might be incurred but left unrecovered. The imposition of such charges would fail to take into account the fact that: (i) some imbalances provide system benefits and (ii) it is not possible to trace costs to individual customers.
- (iii) GridFlorida must be limited in its ability to impose penalties for uninstructed deviations from schedules for fuel or process following QFs such as waste heat cogeneration facilities and municipal solid waste facilities. It is difficult, if not impossible, for such facilities to avoid uninstructed deviations from schedule. GridFlorida should adopt a “no harm, no foul” policy, similar to that employed by the FERC in connection with natural gas pipeline imbalances as follows:
 - allow exchange of imbalances in-kind
 - provide for trading of offsetting imbalances with other participants
 - use a suitable tolerance band of permissible deviations from schedules
 - assess penalties only for intentional “gaming” behavior

Industrial QFs have no comments on the issues of congestion management at this time, but reserve the right to address this issue as may be appropriate.

Issue 2 – Market monitoring and market power mitigation

Industrial QFs are very concerned that implementation of market based rates (LMP or otherwise) will result in higher electricity prices. Unless and until a vibrant, competitive wholesale market develops in Florida (if at all) any market design that incorporates market based pricing is likely to result in increased electric costs.

Due to steep entry barriers and high concentrations of market power, Industrial QFs do not feel Florida is presently suitable for development of competitive wholesale electric markets. Participation in a GridFlorida-run market supervised by a market monitor should not be sufficient to exempt suppliers from the need to satisfy appropriate and clearly articulated market power screening requirements.

Accordingly, the GridFlorida market monitor must be independent of market participants, and must possess complete authority and mandate to:

- foster fully competitive wholesale markets
 - prevent and eliminate the abuse of market power
 - make-whole any person harmed by the exercise of market power.
- (i) Market monitoring/mitigation mechanisms must be designed to address more than transient market power and design problems, and facilitate the transition to competitive markets. The details of the market monitor and its function should be fully developed prior to commencement of operation of GridFlorida.
- (ii) Given the complexity of the issues involved and the fact that competitive market design in Florida is an evolutionary process with important existing impediments, it is essential that GridFlorida market monitoring principles be designed to allow the FPSC to make course corrections as may be deemed necessary over time.
- (iii) Appropriate and adequate market power mitigation measures must be in place, including, specifically, provisions for the full recovery – retroactively and prospectively - of excess profits in noncompetitive markets.
- (iv) Any utility gains on sales in real-time and day-ahead spot markets must be returned in their entirety to Florida's retail consumers.

Issue 3 – Resource Adequacy

Industrial QFs have no comments on resource adequacy at this time, but reserve the right to provide comments in the future.

Issue 4 – Treatment of Capacity Benefit Margin

Industrial QFs have no comments on treatment of capacity benefit margin at this time, but reserve the right to provide comments in the future.

Issue 5 – Continued review of RTO costs and benefits

GridFlorida should provide updated implementation cost estimates, as well as estimates of expected savings and retail rate reductions resulting from implementation over the short and long term, based on real-world assumptions and expectations accurately reflecting the Florida energy

environment and acknowledging the steep entry barriers to competitive energy suppliers. The Commission and GridFlorida should carefully record and closely monitor all implementation and operations costs/benefits of GridFlorida to improve the likelihood that GridFlorida will provide maximum economic benefits to consumers while fostering competition in electricity supply and promoting Florida renewable energy resources.

Industrial QFs are cautiously supportive of the “study” proposed by Applicant’s at the March 18th workshop. In order for such a study to be of any value, however, it must be realistic in its assumptions and the approach to the issues. Preliminary indications – based on discussions at the workshop – are to the contrary. For example, page 12 of the Applicant’s handout provides a description of the “Cases” to be examined along with broad assumptions. There, it will be assumed that GridFlorida participants will operate in “. . . rational and competitive markets”. Industrial QFs question the reasonableness of such an assumption, given that Florida’s electric markets are not at all likely to be competitive. This is due in large part to the virtually insurmountable barrier to competition posed by the Florida Electrical Power Plant Siting Act (PPSA). The implementation of GridFlorida or a Florida RTO in any form must be conditioned on removal of this barrier. Accordingly, the results of such a case studies would be meaningless at best and misleading at worst. A further concern is whether cases will be modeled assuming market based rates or “cost-of-service based” rates. Additionally, Industrial QFs query what role they – as producers of substantial quantities of self-service cogeneration - will play in the study.

For these, as well as many other reasons, the Commission should provide or otherwise assure a forum for interested parties to provide input into the study process prior to the Applicant’s authorizing such study. Interested parties should be afforded the opportunity to affect the “cases” to be considered in the study, as well as the assumptions to be applied in modeling such cases.

Issue 6 – Review of current regulatory/legislative environment

State and Federal law currently encourages the production of electricity by QFs. State and Federal authorities are also considering the adoption of renewable portfolio standards, or otherwise taking steps to encourage the development and operation of renewable energy resources. Accordingly, GridFlorida must be structured and operated in a manner that does not penalize or impede development or operation of QFs or renewable electric generating resources as a result of balancing/scheduling/penalty provisions requirements that are not suitable for, or do not reflect the unique operating characteristics of, such resources.

Moreover, due in large part to the virtually insurmountable (and unintended) barrier to competition posed by the PPSA, Florida and this Commission should “pre-condition” participation in an RTO – be it GridFlorida or otherwise – on the elimination of this barrier. The Commission should take a leadership role in seeking Legislative modification of the PPSA to eliminate this unintended barrier to the development of competitive electric markets in Florida.