

ORIGINAL

Timolyn Henry

From: Karen.Culpepper@fmpa.com  
 Sent: Tuesday, March 14, 2006 4:04 PM  
 To: Filings@psc.state.fl.us  
 Cc: Jody.Lamar.Finklea@fmpa.com  
 Subject: Filing for Dkt. 02033-EI  
 Attachments: Answer to Applicants' Response (FOR FILING 03-14-2006).doc

Hi Matilda,

Attached for filing is the **Answer of Florida Municipal Power Agency and Seminole Electric Power Cooperative to GRIDFLORIDA Companies' Response to Opposition.**

This is PSC Docket number 02033-EI. The document has eight (8) pages. Please contact me either by email or telephone if you have any questions.

As always, thank you for your assistance!

karen

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 FPSC-COMMISSION CLERK

**ORIGINAL**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Review of GridFlorida Regional )  
Transmission Organization (RTO) Proposal )      DOCKET NO. 020233-EI  
\_\_\_\_\_ )**

**ANSWER OF FLORIDA MUNICIPAL POWER AGENCY  
AND SEMINOLE ELECTRIC POWER COOPERATIVE TO GRIDFLORIDA  
COMPANIES' RESPONSE TO OPPOSITION**

On January 27, 2006, Florida Power & Light Company ("FPL"), Progress Energy Florida ("PEF") and Tampa Electric Company ("TECO") (collectively referred to as "GridFlorida Companies") moved to withdraw the March 2002 Compliance Filing and September 2002 Petition of the GridFlorida Companies regarding Prudence of GridFlorida Market Design Principles and requested the Florida Public Service Commission ("FPSC" or "Commission") to close the instant docket.

The Florida Municipal Power Agency ("FMPA") and Seminole Electric Cooperative, Inc. ("Seminole") jointly opposed this request on February 13, 2006 ("Opposition"), pointing out the public interest reasons why this docket needs to be continued (or, at a minimum, a new docket initiated) to address various non-RTO alternatives to GridFlorida. In a pleading dated March 10, 2006, the GridFlorida Companies have filed a Response to the Opposition to which FMPA and Seminole hereby answer in order that the Commission may act on the GridFlorida Companies' Motion with a full appreciation for the current state of the record and for the reasons necessitating continued Commission oversight of this process.<sup>1</sup> The Supplemental Response of

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<sup>1</sup> To the extent necessary, FMPA and Seminole request leave to file this Answer to the GridFlorida Companies' unauthorized Response as the unauthorized Response is at best misleading in a number of important respects; the Commission is entitled to act upon all of the facts, fairly represented.

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PEF filed on March 10 (but not received until March 13) does not warrant a response other than to point out that apparently PEF believes that “joining” RTOs that are either dead (GridSouth) or that it is trying to kill (GridFlorida) is sufficient to meet an ongoing merger obligation to turn over operational control of its transmission facilities to an RTO.

1. In their Opposition (pp. 2-3), FMPA and Seminole pointed out the significant findings made by this Commission in its Order No. PSC-01-2389-FOF-EI issued in this docket on December 20, 2001, regarding the strong public interest reasons for supporting the formation of GridFlorida. The GridFlorida Companies now characterize the Commission’s findings in Order No. PSC-01-2489 as “tentative and preliminary” (Response, p. 2), whereas in point of fact as to the issues identified in the Opposition, they were no such thing. The Commission made quite clear findings, based on ample record evidence, as to virtually all aspects of the GridFlorida Companies’ filing, noting specifically that “the Commission will not relitigate the issues addressed in this Order.” (Order No. PSC-01-2489, p. 27.) One of the few areas where the Commission decision could accurately be portrayed as tentative was in the area of “markets,” where the Commission clearly felt uncomfortable for several reasons, including market power and related cost considerations (Order No. PSC-01-2489, pp. 22-23).<sup>2</sup> FMPA and Seminole have, from the outset, shared the Commission’s well-founded concerns about the introduction of markets in Florida, which explains why the FITP proposal sponsored by FMPA/Seminole at the September 26, 2005 Staff Meeting focuses on non-market steps the Commission can take to improve the Florida grid and why in our Opposition to the GridFlorida Companies’ Motion, we

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<sup>2</sup> It is therefore odd that the “primary focus” of Applicants’ post-workshop efforts apparently relate to creation of a spot market. Response, p. 4, n. 3.

requested that the Commission “order an investigation in this docket, or in a new docket, to examine the FITP proposal (and variations thereon including other *non*-RTO alternatives) in an effort to achieve most of the substantial benefits that the Commission found that GridFlorida would provide Florida consumers.” (Opposition, p. 8; emphasis added.) In brief, the Commission made a number of important, fact-based findings in Order No. PSC-01-2489 that are as valid (if not more so) today as when the order was issued (see paragraph 2 below) and that should serve as the foundation for ongoing discussions.

2. One of the significant benefits that the Commission determined in Order No. PSC-01-2489 would be provided by an independent regional transmission provider was effective regional transmission planning: “The record indicates that additional operational efficiencies among utilities and the consolidation of planning and maintenance can be achieved by participation in GridFlorida.” (Order No. PSC-01-2489, pp. 9-10.) That finding is particularly poignant today since the stability of the Florida grid is of much greater concern now than in December 2001 due to, among other factors, continued significant load growth throughout the State, the vagaries of Mother Nature, and the absence of construction of needed new transmission infrastructure. The suggestion by the GridFlorida Companies in their Response (p. 4 n. 3) that the FPSC should defer to the dialogue on transmission planning at the FRCC is misplaced; it appears to FMPA/Seminole (which are participants in that process) that while the major transmission owners are willing to perform load flows to determine what infrastructure is needed, the FRCC process lacks the teeth necessary to make the participants actually ante up the significant dollars needed to underwrite the long overdue construction. In short, the need for effective regional planning – a centerpiece of the FITP *and* GridFlorida proposals – is greater

today than ever, and the GridFlorida Companies' effort to downplay this issue is a disservice to Florida retail customers.

3. Ironically, the GridFlorida Companies argue that the ICF study “supports a conclusion that the GridFlorida RTO should no longer be pursued but that instead the GridFlorida Companies and affected stakeholders should continue to investigate cost efficient approaches that could capture planning, reliability and energy market benefits in the wholesale market outside of an RTO structure.” (Response, p. 4; footnote omitted.) That is precisely what FMPA/Seminole seek to do (through the FITP proposal), but we seek to do it *now, in this docket*, rather than deferring indefinitely moving ahead on these necessary efforts. Effective transmission planning and construction, for example, is a pressing current need – not a need that can be deferred until the GridFlorida Companies determine, if ever, that they are willing to make a meaningful proposal. Their strategy throughout this proceeding has been one of delay and procrastination, culminating in their attempt now to close this docket and entirely avoid FPSC scrutiny. This should not be tolerated by the Commission.

4. The GridFlorida Companies attempt to excuse their failure to provide the strawman proposal they promised at the May 23, 2005, conference by citing to certain portions of the transcript appearing well after the commitment by the GridFlorida Companies' spokesperson to distribute such a proposal within 60 days of the ICF study results (Response, pp. 4-6). The selectively quoted exchanges between the Commission and various participants, including Staff, were made in the context of how most effectively to proceed such that

stakeholders would be included in the process *prior* to the distribution of the strawman.<sup>3</sup> That discussion did not produce crystal clear results, but it was clear to all that attended the May 23 conference that the Commission was interested in non-RTO alternatives that could capture substantial benefits of an RTO at lower costs and that the GridFlorida Companies were committed to provide a strawman within 60 days of the ICF study. This was evidenced as recently as the September 26, 2005 Staff Meeting at which, a high-ranking FPL official responded to a Staff question on this very point by indicating that the GridFlorida Companies were working on the strawman, which would be forthcoming upon completion of the ICF study. Thus, the GridFlorida Companies' first-time contention that "it is clear that the Commission declined the proposal of the GridFlorida Companies" (Response, p. 5) is contradicted by both the record itself and the GridFlorida Companies' course of conduct after the May 23 conference.

5. The GridFlorida Companies take potshots at the FITP proposal on the primary ground that the costs outweigh the benefits (Response, p. 6). This argument is fatally tainted because here, as elsewhere in the pleading, the GridFlorida Companies fail to distinguish between quantifiable and non-quantifiable benefits. No one, including ICF, contests that there are significant non-quantifiable benefits to be enjoyed from a non-RTO alternative (such as FITP) – in fact, this Commission specifically endorsed the need for regional planning, which is just such a benefit. But when the GridFlorida Companies discuss costs and benefits, they entirely ignore the non-quantifiable benefits that this Commission determined were the key in 2001 to endorsing the GridFlorida proposal.

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<sup>3</sup> Applicants' commitment is set forth at Tr. 128-29; the discussion from which Applicants selectively quote starts at Tr. 153 (with a question from Seminole's counsel regarding the inclusiveness of the process by which Applicants' *Continued of Next Page.*

6. This Commission's important Grid Bill responsibilities mandate that it not allow the GridFlorida Companies to renege on their commitment to explore in an inclusive manner non-RTO alternatives that would achieve a significant portion of the benefits of an RTO at a reasonable cost. To that end, it should:

- Deny the GridFlorida Companies' Motion;
- Order an investigation in this docket, or in a new docket, to examine the FITP proposal (and variations thereon including other non-RTO alternatives) in an effort to achieve most of the substantial benefits that the Commission found that GridFlorida would provide Florida consumers; and
- Investigate the specific modifications that should be reflected in the GridFlorida RTO documents in order to achieve the desirable outcomes sought by the Commission and the stakeholders.

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strawman would be developed), and continues through Tr. 158.

Respectfully submitted this 14th day of March 2006,

Florida Municipal Power Agency

Seminole Electric Cooperative, Inc

*/s/ Jody Lamar Finklea*

*/s/ William T. Miller*

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing document was furnished to the parties of record by electronic mail, through the GridFlorida Email Exploder List, on this 14th day of March 2006.

*/s/ Jody Lamar Finklea*

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Jody Lamar Finklea, Counsel for  
FLORIDA MUNICIPAL POWER AGENCY