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July 26, 2002

**Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Re: 020233 - EI / Memo to PSC Staff from Florida Municipal Power Agency

Dear Ms. Bayó:

Enclosed for filing in the referenced docket are the original and fifteen copies of a Memorandum to PSC Staff from Florida Municipal Power Agency. Also enclosed is a diskette containing an electronic version of the filing in Word format.

Sincerely,

**FMB / eL
encl.**

**Frederick M. Bryant
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Memorandum

TO: FPSC Staff
FROM: Florida Municipal Power Agency
DATE: July 26, 2002
RE: July 24, 2002 Informal Staff Meeting
Additional FMPA Comments

This annotation of the FPSC Staff's summary of issues in Docket No. 020233-EI, GridFlorida RTO, which was discussed during the July 24, 2002 meeting, is prepared in response to Staff's invitation to supplement the discussion. We have inserted references to FMPA pleadings and identifications of matters still at issue (in areas other than market design and ICE) where it may not be otherwise clear based on the face of the document that our issue is covered. As discussed during the July 24 meeting, there appears to be full consensus only as to Structure and Governance items 2 and 4.

Structure and Governance

1. Applicants "causing" candidates for the Board of Director to become directors – (FMPA, Joint Commenters, SEC) – Concern that the Applicants alone will make the decision regarding the directors and the classes of directors. Applicants will cause candidates to become directors through the filing of the Articles of Incorporation with the Secretary of State.
2. Acting by written consent by the Board of Directors – (FMPA, Pre-Workshop comments p. 12) The Board of Director's ability to act by written consent could be used to avoid the rules for open meetings. This has been eliminated – See By-Laws, Exhibit A, Article III, Section 6 (filed 6/21/02).

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3. Guidelines to determine matters afforded confidential treatment during meetings of the Board of Directors – (FMPA, Pre-Workshop comments pps. 13-14, Post-Workshop comments p. 11; Joint Commenters, Pre-Workshop comments p. 46) Concern that the catch-all phrase could be used frequently to avoid the open meeting requirement. The catch-all phrase has been eliminated – See By-Laws, Exhibit A, Article III, Section 4 (filed 6/21/02).

FMPA note: As stated on July 24, the process for contesting a decision to close a Board of Directors meeting remains at issue. See FMPA Post-Workshop Comments at 11-12 and FMPA Pre-Workshop Comments at 14 & nn.23-24.

4. Participating in or listening to Board of Directors' conference calls – (FMG, Pre-Workshop comments p. 15) Concern that only members of the Board of Directors and committees may participate in telephone conference calls. See By-Laws, Exhibit A, Article III, Section 7. Appears that Section 4 determines participation and Section 7 allows telephone participation to substitute or in-person participation.

5. Collaborating with the participating owners on all planning functions, studies, and economic modeling – (Joint Commenters, Pre-Workshop comments p 24; FMPA Pre-Workshop comments p. 20; SEC comments p. 9) Concern regarding the level of the Joint Applicant's involvement in the planning process. Revised Planning Protocol (Exhibit C to filing on 6/21/02).

6. Elimination of "Planning Bill of Rights" – (Joint Commenters, Pre-Workshop comments pps. 24-25) Concern that regarding this portion of the planning document has been eliminated. The "Planning Bill of Rights" is incorporated into the OATT in Attachment N, Article II. (Exhibit C to filing on 6/21/02).

FMPA note: FMPA has concerns regarding the extent of the incorporation. See FMPA Post-Workshop Comments at 18 (first row of table, re Att. N Art. II); FMPA Pre-Workshop Comments at 24 n.32

7. Quantity of members and composition of the Board Selection Committee – (FMG, FMPA, JEA) Concern regarding control of Board Selection Committee and whether the FPSC should have a seat on this Committee.

FMPA note: FMPA has raised a related concern that might fall under this issue, or the next, regarding whether the body with authority to remove Directors should be the Board Selection Committee or the Advisory Committee. See FMPA Post-Workshop Comments at 3-7.

8. Role of the Stakeholder Advisory Committee in regarding to the Board of Directors and the Board Selection Committee – (FMPA, Joint Commenters) Concern regarding having comments limited during Board of Directors meetings (one primary, one minority). Additional provision added that provides the Board of Directors to invite other members of Advisory Committee to present additional views

FMPA note: See FMPA Post-Workshop Comments at 13-14 for a further proposed additional provision. FMPA has also asserted that the Advisory Committee should be given information and an advice-and-consent role in the selection process. See FMPA Post-Workshop Comments at 9 and FMPA Pre-Workshop Comments at 7-8. See also FMPA note regarding item 7 above.

9. Board, committee, subcommittee, and working group meetings being open to the public – (FIPUG, Reedy Creek, Joint Commenters) Concern that all meetings be open to the public. By-Laws, Article III Section 4 (filed on 6/21/02) require regular and special meetings of the Board of Directors be noticed and open to the public. By-Laws, Article III Section 8 (filed on 6/21/02) require any meetings of a committee, subcommittee or working group acting on behalf of the Board of Directors should be noticed and open to the public. Filing is silent regarding whether Advisory Committee meetings should be noticed and open to the public, however information regarding noticing of open advisory meetings is included in the Information Policy section of the filing (Section 2.1.1(c)).

FMPA note: FMPA also has a concern that allowing board members numbering a quorum to convene for informal pre-decisional meetings would circumvent the open meeting requirements. See FMPA Post-Workshop Comments at 10, FMPA Pre-Workshop Comments at 12, and By-Laws, Article III Section 4, ¶ 3. Also, FMPA has sought clarification regarding the circumstances when GridFlorida's decision-making authority would be delegated to a committee. FMPA Post-Workshop Comments at 11.

10. Adequacy of Information Policy to provide guidance on public vs. confidential RTO information – (FMPA, FMG, FIPUG) Concerns regarding use of terms, such as "other market information", disclosure of "significant" action taken. Concern that Market Monitor is vested with unilateral discretion to determine what information is confidential.

FMPA note: FMPA also has asserted that the residual treatment category for RTO information should be public, not confidential. FMPA Post-Workshop Comments at 15; FMPA Pre-Workshop Comments at 18.

11. Sufficiency of the proposed Code of Conduct – (SEC, Joint Commenters) Concern that Code of Conduct does not apply to the Advisory Committee or the Board Selection Committee. Concern regarding the transfer of pension account if approved by the Board of Directors; believe should require approval of the Independent Compliance Auditor.

12. Application of the Government in the Sunshine requirements to the Board of Directors – (SEC, FMPA, Reedy Creek) Concern regarding independence and impartiality of Board members. Also, concerns regarding ex parte communications. Addressed by By-Laws, Article III Section 11 (filed 6/21/02).

FMPA note: FMPA's concern regarding logging of ex parte communications is discussed in FMPA's Post-Workshop Comments at 14, and Pre-Workshop Comments at 15-16, and is not addressed by By-Laws, Article III Section 11.

Planning and Operations Aspects

1. Determination of CBM, TTC, ATC, line ratings, and other transmission operational criteria – (FMPA, JEA, Joint Commenters, Reedy Creek) Concern that GridFlorida would not have control over these areas. Addressed in revised Attachment N, Planning Protocol Section IX. Exhibit C (filed 6/21/02).

2. Transmission provider project rejection – (FMPA) Seeks clarification that GridFlorida is the entity that will determine whether regulatory approval and cost recovery may be reasonably expected on transmission projects. Applicants believe that, if there is a dispute, it will be resolved through dispute resolution procedures.

3. MISO and GridFlorida Planning Protocol – (SEC, FMPA) Belief that FERC should rule on Attachment N, Planning Protocol.

FMPA note: FMPA asserts that substitution of MISO-based planning protocol for GridFlorida Planning Protocol filed at FERC goes beyond compliance with Order No. PSC-01-2489-FOF-EI and presents substantive problems. FMPA Post-Workshop Comments at 15-22; FMPA Pre-Workshop Comments at 19-25. See also item 8 below.

4. Eminent domain – (FMG) Concern that the eminent domain language contained in the filing is an unlawful and/or appropriate clarification.

FMPA note: FMPA also has raised concerns related to eminent domain. FMPA Post-Workshop Comments at 23-24.

5. Initial adoption of Participating Owners's existing Ten Year Site Plans – (Joint Commenters) Unclear as to why POs existing ten year site plans should be adopted immediately. Addressed in Attachment N.2, To The Planning Protocol Section 2. Exhibit C (filed 6/21/02).

6. Competitive bidding process for construction projects – (SEC, Joint Commenters) Concern regarding right of first refusal provision. Clarification of GridFlorida's role in the process addressed in Attachment N, Planning Protocol, Article VIII. Exhibit C (filed 6/21/02).

7. Quality and quantity of public information – (FMPA, Joint Commenters, Reedy Creek) Concerns regarding the availability of information. Clarification of general provisions needed.

8. Ad Hoc working groups – (FMPA, Joint Commenters, SEC) Concern that GridFlorida should be responsible for developing expansion alternatives, performing all studies and developing options. Language was added to Attachment N on page 15 of Exhibit C (filed 6/21/02) to address this concern.

FMPA note: Post-Workshop Comments (at 18-22) address the revised Attachment N language and discuss FMPA's concerns with it. See also item 3 above.

9. The FRCC and NERC role in the RTO – (Joint Commenters, Reedy Creek) Concern regarding input by FRCC rather than a reviewer of standards. Also, concern that applicable NERC standards should be those adopted by the FRCC.

10. Mechanism addressing the existing differences in quality of service to LSEs – (SEC) Concern regarding reliability and quality of service.

11. POs and Third Party Agreements – (FMPA, Joint Commenters, SEC) There were four points addressed: section in preamble of third party agreements considered problematic; definition of third party agreements criticized as broad; inconsistency between third party agreement and POMA; and, Section 6.16.2 deemed unacceptable. Applicants in Post-Workshop Comments (pps. 31-33) eliminated the section in the preamble, eliminated definition of third party agreements, modified section that was inconsistent, and eliminated Section 6.16.2.

FMPA note: Notwithstanding the Applicants' Post-Workshop changes, FMPA continues to seek examination of Third Party Agreements before a provision subordinating POMA to Third Party Agreements is accepted, or a re-opener in the POMA in case inconsistency between a Third Party

Agreement and GridFlorida's purposes later comes to light. See FMPA Pre-Workshop Comments at 25-28. FMPA also seeks clarification regarding POMA § 6.16.4. See FMPA Pre-Workshop Comments at 28-29

12. POMA termination provision – (SEC) Concern that revised sections 4.3 and 5.6 have the effect of permitting POs not to be subject to the POMA under certain conditions.

13. Attachment T cutoff date – (SEC, Joint Commenters, FMG, FMPA) Concern that the change in date was not necessary to comply with the Commission's Order.

FMPA note: FMPA views the date change as primarily a rate issue. For FMPA's position on that issue, see FMPA Post-Workshop Comments at 31-34.

Additional FMPA Issues Related to Planning and Operations:

14. POMA insurance, agency, and liability provisions – As we noted at the meeting, FMPA has concerns regarding sections 10.1 through 10.7. See FMPA Pre-Workshop Comments at 29-31.

Rate Design and Pricing Protocol

1. Proposed transmission rate structure consisting of charges for (1) existing embedded facilities, (2) an adder to recover TDU facilities not included in the zonal rate, (3) new network facilities, and (4) Grid Management – (FMPA, JEA, FMG, SEC).

2. Exempting retail load from zonal pricing for the first five years of the RTO operation and then phase into system wide rates over the next five years – (FMPA, JEA, FMG, SEC).

3. Proposed method for alleviating cost shifting from the elimination of short-term wheeling charges/revenues – (FMPA, JEA, FMG, SEC).

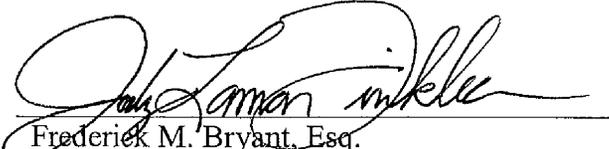
4. Proposed phase-out of long-term wheeling contract charges/revenues – (FMPA, JEA, FMG, SEC).

5. Appropriate method to recover incremental transmission costs (TDU adder, new facilities, and GMC) – (FMPA, FIPUG).

FMPA note: As noted on July 24, this issue should include FMPA's objection to the change in date for defining transmission facilities as new. See FMPA Post-Workshop Comments at 31-34; FMPA Pre-Workshop Comments at 41, 43-44.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing MEMORANDUM was furnished to the parties on the attached Service List, by United States Mail, on this 26th day of July, 2002.

A handwritten signature in black ink, appearing to read "Jody Linnar Finklea", written over a horizontal line.

Jody Linnar Finklea, Esq.

FLORIDA MUNICIPAL POWER AGENCY

Service Matrix for FPSC
Docket No. 020233-EU
Review of GridFlorida
Regional Transmission
Organization Proposal
REVISED as of 07-26-02

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