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August 16, 2001

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Review of Tampa Electric Company and impact of its participation in GridFlorida LLC, a Florida Transmission Company, on TECO's retail ratepayers; FPSC Docket No. 010577-EI

Dear Ms. Bayo:

Enclosed for filing in the above docket, on behalf of Tampa Electric Company, are the original and fifteen (15) copies of each of the following:

1. Testimony and Exhibit (TLH-1) of Thomas L. Hernandez. 100775-01

2. Testimony and Exhibit (WRA-1) of William R. Ashburn. 100776-01

This filing is accompanied by a separate Motion for Leave to File Testimony and Exhibits Out of Time.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,

James D. Beasley

JDB/pp
Enclosures

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing testimony and exhibits, filed on behalf of Tampa Electric Company, has been served by U. S. Mail, hand delivery (*), or overnight delivery (**) on the 15th day of August 2001 to the following:

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ATTORNEY

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010577-EI

IN RE: REVIEW OF TAMPA ELECTRIC COMPANY AND ITS IMPACT OF ITS PARTICIPATION IN GRIDFLORIDA, A FLORIDA TRANSMISSION COMPANY, ON TECO'S RETAIL RATEPAYERS

TESTIMONY AND EXHIBITS

OF

THOMAS L. HERNANDEZ

AUGUST 15, 2001

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PREPARED DIRECT TESTIMONY

OF

THOMAS L. HERNANDEZ

Q. Please state your name, address, occupation and employer.

A. My name is Thomas L. Hernandez. My business address is 702 North Franklin Street, Tampa, Florida 33602. I am the Vice President, Energy Delivery, for Tampa Electric Company ("Tampa Electric" or the "Company").

Q. Please provide a brief outline of your educational background and business experience.

A. I graduated from Louisiana State University in 1982 with a Bachelor of Science degree in Chemical Engineering. My responsibilities at Tampa Electric have included engineering and management positions in Production, Generation Planning, Energy and Market Planning and Fuels and Environmental Services. I was named Vice President-Regulatory Affairs for TECO Energy in March 1998, and then Vice President, Energy Delivery, for Tampa Electric in January 2001.

Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to demonstrate that Tampa Electric's decision to join a Regional Transmission Organization ("RTO"), in general, and to participate in the proposed GridFlorida RTO, in particular, is prudent. As a transmission dependent utility, ready access to the wholesale generation market is an important factor in Tampa Electric's ability to provide cost effective and reliable service to its customers. Therefore, any mechanism that is likely to improve the efficiency of and access to the Florida transmission grid holds the promise of significant long-term benefits to the Company's ratepayers which would exceed the incremental costs of taking transmission service from an RTO. It is from this perspective that Tampa Electric evaluated its options with regard to its obligation to respond to Federal Energy Regulatory Commission ("FERC") Order No. 2000. My testimony addresses Issues 1, 2, 3, 6 and 7, as set forth in the Prehearing Order in this proceeding.

Q. Have you prepared an exhibit to support your testimony?

A. Yes I have. My Exhibit No. ____ (TLH-1) was prepared under my direction and supervision and consists of two

documents. Document No. 1 is entitled "Tampa Electric Company Response to Florida-Specific Issue List". Document No. 2 is a copy of Tampa Electric's Initial Comments on Proposed Rulemaking in FERC Docket No. RM99-2-000.

Q. What is the nature and scope of Tampa Electric's ownership of and dependence on the Florida Transmission grid?

A. Of the 14,360 miles of transmission lines in Peninsular Florida, Tampa Electric owns and operates only about 1,300 circuit miles (representing about 9 percent), most of which is concentrated within Tampa Electric's West Central Florida service territory. The vast majority of the remaining transmission capacity in the peninsular Florida grid is owned and operated by Florida Power and Light ("FPL") and Florida Power Corporation ("FPC"). Therefore, in order to buy or sell power in the wholesale electric market, Tampa Electric must have reasonable and reliable access to transmission facilities that it neither owns nor operates.

Q. Prior to the issuance of FERC Order No. 2000 did Tampa Electric perceive a need for change in the operation of the Florida transmission grid?

A. Yes. Order No. 2000 is an evolutionary phase of FERC's evolving view of longstanding imperfections in the way service over the nation's transmission grid is being provided by transmission owners. The FERC perceived that transmission owners historically had an opportunity to operate their transmission systems in a manner that favored their own wholesale transactions over those of third parties, thereby impeding the growth of competition in the wholesale generation market. Over the years, FERC Perceived that the opportunities for this favoritism included 1) transmission tariff pricing and administration that created significant economic uncertainty for third party transactions compared to transmission owner's transactions; 2) significant disparity in the degree of firmness and flexibility of transmission service for third party transactions compared to transmission owner's transactions; and 3) significantly more onerous terms and conditions for transmission service for third party transactions. The FERC also observed in Order 2000 "...the cost and time required to pursue legal channels to prove discrimination will often provide an inadequate remedy because, among other things, the competition may have already been lost." Tampa Electric agreed that there was a need for transmission reform in Florida and since 1993 has actively encouraged the FERC to recognize and address

transmission equity issues in order to allow the development of a competitive wholesale electricity market. Tampa Electric recognized that its ability to capture the benefits of a competitive wholesale market for its ratepayers would depend heavily on its ability to gain access to and use the transmission systems of other utilities on a comparable basis with those utilities. To that end, Tampa Electric urged the FERC to require jurisdictional utilities that provided transmission service to apply precisely the same set of transmission tariff prices, terms and conditions to its own wholesale transactions that it would apply to third party wholesale transactions. In order to achieve this result, Tampa Electric recommended that those transmission tariffs be amended in a manner consistent with the following principles: 1) even-handed application of rates, priority of service, scheduling and curtailment provisions; 2) strict enforcement of non-discretionary tariff provisions; 3) nondiscriminatory application of discretionary tariff provisions; 4) separation of power marketing from transmission planning, pricing, and operations personnel; 5) non-disclosure to power marketing personnel of market sensitive data obtained from applicants for transmission service; and 6) maintenance of an electronic bulletin board on which would be posted information concerning

availability of transmission capacity, transmission constraints and requests for transmission service, among other things.

In March 1995, the FERC issued its Notice of Proposed Rulemaking implementing measures to promote wholesale competition by making available to participants in wholesale markets open access, non-discriminatory transmission services by public utilities under tariffs of general applicability ("Open Access NOPR"). (Docket No. RM95-8-000). Consequently, many of the matters at issue in separate proceedings pending before the FERC were addressed, on a generic basis, in the Open Access NOPR. That proceeding culminated with the issuance of a "Final Rule", Order No.888, in April 1996.

Q. What actions did the FERC require jurisdictional utilities to take pursuant to Order No. 888?

A. The FERC required jurisdictional transmission providers to "functionally" unbundle their wholesale services and submit to the same rates and procedures as other users of their transmission system. To that end, transmission providers were required to file open access transmission tariffs containing separately stated rates for

transmission and ancillary services, to obtain such services under their own open access tariffs for all new wholesale transactions, and to rely on the same electronic information system as other customers to access such services. The FERC also encouraged, but did not require, the formation of independent system operators ("ISOs") as a means of further enhancing competition in the wholesale generation market. To that end, the FERC outlined eleven principles that should govern the formation of ISOs.

Q. Given the relief afforded by Order No. 888, did Tampa Electric perceive the need for further transmission reform?

A. Yes. Despite Order No. 888, Tampa Electric perceived the need for further improvement in the nature and scope of transmission access available to transmission dependent wholesale market participants such as Tampa Electric. In order to obtain adequate transmission service, transmission users often must go to several individual transmission providers and OASIS nodes, sign multiple agreements with each provider, pay separate and cumulative transmission fees to each transmission owner, and attempt to piece together and navigate through various parallel transmission paths to connect a power supply to a buyer.

If permitted to persist, these inefficiencies would seriously undermine the operation of any efficient, robust wholesale electric market, directly impacting Tampa Electric's retail customers and the wholesale electric market in the peninsular Florida region.

Q. What further actions did the FERC take after Order No. 888 to promote the development of ISOs?

A. In March 1998, the FERC issued a Notice of Conference as part of its Inquiry Concerning The Commission's Policy On ISOs in Docket No. PL98-5-000. In a series of conferences held between April and June 1998, the FERC solicited public comments with the goal of further refining and articulating its policy with regard to the development and operation of ISOs. After evaluating the data gathered during the above-mentioned conferences, the FERC issued, on November 24, 1998, a Notice of Intent ("NOI") to consult with State Commissions over the FERC's possible use of authority Section 202(a) of the Federal Power Act ("FPA") to divide the country into regional districts for development of regional transmission organizations ("RTOs"). In an effort to address the specific issues raised in the NOI, the Florida Public Service Commission ("Commission") held a series of workshops in which Tampa

Electric participated.

Q. When did Tampa Electric first make known to this Commission its desire for the development of a regional transmission solution?

A. At this Commission's March 15, 1999, RTO Workshop, Tampa Electric submitted "Tampa Electric Company Response to Florida-Specific RTO Issue List" (see Document No. 2 of Exhibit TLH-1). In that response, Tampa Electric discussed the shortcomings of the then current transmission grid operations and recommended, as a solution, a regional approach to transmission planning and access within peninsular Florida. Tampa Electric urged the Commission to lead the development of a regional approach. It is against this backdrop that Tampa Electric participated in the May 1999 FERC Notice of Proposed Rulemaking, Docket No. RM99-2-00 ("RTO NOPR"), that culminated in the issuance of Order No. 2000 in December 1999.

Q. Did Tampa Electric propose a specific regional transmission solution to this Commission?

A. Yes. At the September 28, 1999 Commission Workshop on RTOs and Related Issues, Tampa Electric supported a proposal for an Independent Transmission Administrator, which would have reasonably addressed Tampa Electric's transmission concerns, as expressed during earlier Commission workshops.

Q. Did Tampa Electric consider participation in an RTO to be voluntary in light of FERC Order No. 2000?

A. No. Tampa Electric had no practical alternative other than participation in an RTO in light of the Federal Policies established in Order No. 2000 and the FERC's history of enforcing actions that are labeled as "voluntary" but are, in all practicality, mandates, as explained in the testimony of Joint Witnesses Mike Naeve and James Hoecker. In fact, the Staff of this Commission noted in its September, 2000, report entitled, "Policy Analysis Briefing Paper: The Viability of an RTO in Florida" at page 4:

> *While Order No. 2000 stated that RTO development is voluntary in nature, in reality the FERC has made it clear that it expects all transmission-owning utilities to comply. Although the FERC*

lacks the direct legal authority to mandate participation in RTOs, the FERC has stated its intent to use its regulatory authority in other areas (such as ratemaking, filings, complaints, and requests for merger approval) to force compliance with Order No. 2000. [Emphasis added]

As Joint Witness Michael Naeve correctly points out, the pertinent question is whether participation in an RTO was the most prudent option for any FERC jurisdictional utility, given Order No. 2000. Tampa Electric strongly believes that participation in an RTO, in general, and GridFlorida, in particular, is prudent for Tampa Electric in light of the Federal policies set out in Order No. 2000. The Company strongly concurs with the testimony of Joint Witnesses Naeve and Hoecker regarding the nature and scope of the obligation to comply with the FERC's Order No. 2000.

Q. Is Tampa Electric's decision to participate in an RTO based primarily upon its obligation to comply with FERC Order No. 2000?

A. No. It never occurred to Tampa Electric to challenge or resist the FERC's policy directive to jurisdictional

utilities to participate in an RTO since an RTO, if properly structured, would address many, if not all, of the Company's concerns related to current transmission grid operations in Florida. The benefits to Tampa Electric's ratepayers of an RTO, as described in the testimony of Joint Witnesses Naeve and Hoecker, were desirable. The phasing out over time of pancaked wheeling charges, as discussed in the prepared direct joint testimony of William R. Ashburn, and cost savings due to increased wholesale competition in the electric markets create some of the most immediate benefits.

Q. How did Tampa Electric develop its response to FERC Order No. 2000?

A. In February 2000, after the FERC issued its Order No. 2000, Tampa Electric accepted FPC's invitation to begin a collaborative process, along with other stakeholders, including this Commission, to develop a peninsular Florida RTO that would meet the FERC's minimum RTO guidelines. Shortly thereafter, FPL announced its intention to divest its transmission assets as part of the RTO formation process and began to actively participate in the development of a peninsular Florida RTO.

Q. Why did Tampa Electric elect to participate in the proposed collaborative discussions?

A. Tampa Electric intended to comply with FERC Order No. 2000 to propose an RTO or explain the impediments to doing so by October 15, 2000. Therefore, the Company had to participate in all forums to which it was invited so that it would be in a position to develop its compliance filing. In addition, as a practical matter, Tampa Electric had no prudent alternative to working constructively with the two largest owners and operators of transmission assets in the state.

Q. Why did Tampa Electric believe that it must work with FPC and FPL in its effort to comply with FERC Order 2000?

A. FERC's Order No. 2000 requires that RTOs:

> *Encompass one contiguous geographic area*: The competitive, efficiency, reliability, and other benefits of RTOs can be best achieved if there is one transmission operator in a region. To be most effective, that operator should have control over all transmission facilities within a large geographic area,

including the transmission facilities of non-public utility entities. This consideration could preclude a noncontiguous region, or a region with "holes". (Emphasis added)

Since Tampa Electric owns transmission facilities located in the central part of peninsular Florida which interconnect with FPC's and FPL's transmission systems along with other small systems located in central Florida, Tampa Electric concluded that it could not independently create an RTO which would meet FERC's standards for approval of RTO's without including FPC's and/or FPL's transmission facilities. It was also obvious that the Company could not join an RTO outside of Florida without inclusion of FPC's and/or FPL's systems since the company's system would not be otherwise contiguous with the facilities of an out of state RTO. Conversely, the possibility existed that an RTO could have been formed without Tampa Electric's participation. Tampa Electric had no choice but to participate in order to protect the interests of its ratepayers and shareholders. To do otherwise would have left Tampa Electric without an opportunity to participate in shaping the manner in which the

critical issues of market design, RTO independence and operating protocols would be addressed in any resulting Florida RTO proposal.

Q. Has Tampa Electric decided to contribute its transmission assets to GridFlorida?

A. Yes. Tampa Electric has notified the FERC that it intends to contribute its transmission assets to GridFlorida. Tampa Electric will make its final decision whether to go forward with its contribution closer to the date of commercial operation of GridFlorida. Such a final decision will be based on many factors, including the terms and conditions of such contribution, which will be determined in a Contribution Agreement between Tampa Electric and GridFlorida. Any such agreement would need to be filed with the FERC for approval under Section 203 of the Federal Power Act. In development of the Contribution Agreement, Tampa Electric would insist that the quality and reliability of transmission service to its retail ratepayers not be degraded during the transition process as GridFlorida takes over the management and operation of Tampa Electric's transmission facilities.

Q. Why has Tampa Electric provisionally decided to contribute its assets to GridFlorida?

A. Tampa Electric agrees with FPL's position, as described in the Joint Testimony of witness Mike Naeve, that it is a better business model for the operator of the system (GridFlorida will be the operator, as required by the FERC's Order No. 2000) to also own and manage the assets. Tampa Electric believes the liability and risk issues associated with such assets, including the financial risks, are best managed when the operator is the same entity as the owner of such assets. The opportunity to even consider this option only presented itself after March 9, 2000, when FPL announced its transco proposal for the RTO and its intention to contribute its own transmission assets. Tampa Electric's transmission facilities alone would not have been sufficient to sustain a financially viable transmission company. The establishment of a large transmission company within peninsular Florida that would own FPL's transmission assets, as a base, was appealing to Tampa Electric given the Company's view that a transco is a better construct than a RTO that owns no transmission.

Q. Does Tampa Electric expect its decision to contribute its assets to GridFlorida to benefit its ratepayers?

A. Yes. Tampa Electric expects that the contribution of its transmission assets will be beneficial to its ratepayers and shareholders. As I mentioned earlier, Tampa Electric has a relatively small transmission system that, while strategic to providing retail transmission service to its retail customers, is not especially strategic in facilitating the participation of its generation assets in the wholesale generation market. The opportunity to discontinue its transmission service functions under an RTO, where access to the entire grid is facilitated more efficiently and on a level playing field with all wholesale market participants, would allow Tampa Electric to concentrate on the development and enhancement of its distribution and generation functions and responsibilities to the benefit of its retail and wholesale customers.

Q. At what value will Tampa Electric's transmission assets be transferred to GridFlorida?

A. Tampa Electric intends to transfer its transmission assets at net book value. The transfer value is essentially capped at the amount that the FERC is likely to permit

GridFlorida to include in its ratebase for purposes of setting transmission rates. With minor exceptions, the FERC will not generally accept anything higher than net book value. Even if the FERC were to permit a higher value, any amount over net book value allowed in GridFlorida's ratebase would serve only to increase the resulting transmission rates that Tampa Electric and its customers would have to pay.

Q. Did Tampa Electric consider alternatives other than contribution of its transmission assets?

A. Yes. Tampa Electric considered the alternative of divesting its assets to a third party other than GridFlorida. Although this is also a financially reasonable approach, it would have deprived the Company of the opportunity to participate in the development of the rules, protocols and procedures under which its assets will be managed. Tampa Electric believed that participation, as an existing transmission owner, would be the best way to ensure that the benefits, including the continued reliability of service, would accrue to the Company and its customers.

Tampa Electric also considered being a participating owner, where it would continue to own its transmission assets but would give up operational control of the assets to GridFlorida. While such a choice preserves some future options, it also leaves the utility with all of the risks of ownership without the ability to control the use or maintenance of the transmission assets. Tampa Electric decided that, although it believed that GridFlorida would be prudent in its actions regarding maintenance and expansion of facilities important to providing service to Tampa Electric's retail customers, the better business model would be to consolidate ownership and control of transmission facilities in the same entity.

Q. Which assets does Tampa Electric plan to contribute?

A. Tampa Electric plans to divest all of its transmission assets 69 kV and above. FPC, FPL and Tampa Electric agreed that a peninsular Florida RTO should control all such assets.

Q. Will Tampa Electric contribute the land and land rights along with its transmission assets?

A. No. The land and land rights associated with Tampa Electric's transmission facilities continue to be essential to the provision of distribution service to the Company's retail customers. Therefore, Tampa Electric will grant to GridFlorida only those land access rights that are essential for the operation and maintenance of the contributed transmission assets while retaining ownership and control over all other land and land right rights necessary or useful in the provision of retail electric service.

Q. Will Tampa Electric contribute its communications systems that are attached to its transmission assets?

A. No. Tampa Electric's ownership and management of its communication system is critical to its ability to manage the reliability of its distribution system. Tampa Electric's organization is designed so that it can access its communications system very quickly and make any necessary repairs and enhancements to continue to meet its distribution system reliability responsibilities. Additionally, the communications system supports TECO Energy's wide-area network and is an integral part of the company's internal data management system. For these reasons, Tampa Electric must retain ownership of these

assets to continue to properly manage its responsibilities as a distribution service provider.

Q. Will Tampa Electric continue to receive revenues from attachments to its transmission assets?

A. No. GridFlorida will receive revenues from attachments to contributed transmission facilities. However, such revenues will offset GridFlorida's cost of service.

Q. Will Tampa Electric contribute a portion of its storm fund to GridFlorida?

A. No. GridFlorida, as the owner of the contributed transmission assets, will be responsible for the cost of storm damage to those facilities. Therefore, Tampa Electric will no longer be responsible for maintaining this portion of its storm fund.

Q. Has Tampa Electric already contributed funds to GridFlorida?

A. Yes. As explained in Joint Witness Henry Southwick's direct testimony, Tampa Electric has supported the start-up of the interim GridFlorida LLC with a loan in the

amount of $1 million. In addition, Tampa Electric intends to help fund other activities that would be undertaken by the interim GridFlorida LLC, such as the design phase and implementation of the RTO through loan guarantees.

Q. Please summarize your testimony.

A. Tampa Electric's participation in the development of a peninsular Florida RTO and the filing of the GridFlorida RTO proposal with the FERC has been and continues to be prudent. The decisions that Tampa Electric made as the RTO discussions and opportunities unfolded, including its provisional decision to contribute its transmission assets to GridFlorida, were prudent. Tampa Electric was prudent to comply with FERC Order No. 2000 not only because the Company, as a FERC jurisdictional utility, must comply with FERC policy directives, but also because Tampa Electric customers and shareholders will be well served by the FERC's actions regarding the development of RTOs.

Q. Does this conclude your testimony?

A. Yes it does.

EXHIBIT NO. _____
DOCKET NO. 010577-EI
TAMPA ELECTRIC COMPANY
(TLH-1)
DOCUMENT NO. 1

EXHIBITS TO THE TESTIMONY OF

THOMAS L. HERNANDEZ

DOCUMENT NO. 1

TAMPA ELECTRIC COMPANY

RESPONSE TO FLORIDA-SPECIFIC

RTO ISSUE LIST

TAMPA ELECTRIC COMPANY RESPONSE TO FLORIDA-SPECIFIC RTO ISSUE LIST

Tampa Electric Company hereby respectfully submits its response to the issue list discussed at the RTO Workshop held at the Florida Public Service Commission on February 4, 1999.

Tampa Electric believes that the workshop process has reached a critical point. With the identification of the issues, the time is now ripe to address next steps and organization of this effort. The goal should be to develop consensus on resolution of the transmission issues described below. The FPSC should lead and chair the study effort. We once again suggest that the use of an expert third party facilitator would help, and not hinder FPSC leadership of the study effort. The issues to be addressed are complex and potentially divisive. An independent, expert facilitator could assist the FPSC by facilitating the process under the FPSC's direction as it relates to discussion, analysis and issue resolution. Facilitation could also include, if desired, administrative support such as scheduling, maintaining meeting records, noticing, establishing agendas, providing meeting materials, etc.

Category I - Planning & Operations Issues

This category of responses addresses the reliability set of issues. Tampa Electric uses the North-American Electric Reliability Council (NERC) definition of reliability, which consists of both adequacy (planning) and security (operations). The Florida Public Service Commission (FPSC) in considering the planning and operations of the Peninsular Florida grid should treat generation and transmission as integrated resources for the region. The Peninsular Florida grid (or bulk electric transmission system) is operated as a single machine moving power in bulk from production to distribution and ultimate consumption. Operation of the entire system involves the real time balancing of generation and demand ensuring interconnection frequency, system stability and safe loading levels on both lines and equipment. Generation reserves enable interconnected operation of the Peninsular Florida grid by providing regulation (AGC), frequency response, and contingency reserves to restore regional generation and demand balance following unit outages within the state. Additionally, generation reactive capability must be available under normal and emergency conditions to maintain adequate voltage levels on the grid. In terms of the operability of this "single machine", generation and transmission cannot be separated as services distinct from each other.

The Federal Energy Regulatory Commission (FERC) recognized the inseparability of generation and transmission by including certain generation services (i.e. ancillary services) as part of the pro-forma transmission tariffs required under FERC Order 888. These services (e.g., operating reserves, regulation, reactive supply and voltage control) are essentially, enabling services without which a power system could not function. FERC recognized that these services are necessary for the provision of basic transmission service, so it required in Order 888 that transmission providers include these services in their tariffs.

(a) What is the proper role of the FPSC in transmission planning?

Existing Situation: Historically the FPSC has had different roles in the planning of generation and transmission capacity. It has played a very significant and important oversight role in the planning of generation capacity as well as in demand side management, including conservation. The FPSC has required utilities to file ten-year generation site plans, reviewed an annual Florida Reliability Coordinating Council (FRCC) process that establishes prospective statewide reserve margins and determined the adequacy of those forecasts. In contrast, the FPSC's role in the assessment and planning of transmission capacity has been more limited. Although the FPSC has exercised its authority under the grid bill in the past to investigate transmission adequacy (e.g. third 500 kV line), it has played less of a role in FRCC's annual transmission planning process.

Complaints: With the advent of increased wholesale competition and "open access" rules by the FERC, the FRCC planning process needs to be re-addressed and the FPSC needs to play a larger role in the determination of statewide transmission adequacy. The revamping of the regional transmission planning process should be done from both a generation and transmission planning perspective. The review should include both, because they can be substitutes for each other to varying degrees in addressing reliability needs.

Solutions: The FPSC should lead the development of a regional planning process that fully:

Integrates Loads
Integrates Generation
Assesses and Ensures Reliability
Facilitates Wholesale Markets
Addresses Transmission Service Requests, and
Addresses compatibility with the generation planning process.

This process should reflect continuing involvement of the FPSC and an important ongoing surveillance review of the adequacy of the then current regional plan.

(b) What is the proper role of the FPSC in transmission siting?

Existing Situation: Under the Transmission Line Siting Act (TLSA), the FPSC holds hearings to certify the need for high voltage transmission lines and responds to complaints regarding the need for lower voltage transmission lines. However, the utilities are on their own to site the needed lines and obtain required permits.

Complaints: The existing siting process is very difficult and expensive. In Florida and nationwide recently there has been limited success in the siting of high voltage transmission lines.

Solutions: The siting difficulties would be significantly mitigated if the FPSC were to play a larger role in regional transmission planning that identifies needed expansion for the Peninsular Florida

grid. The FPSC has sufficient legislative mandate (Grid Bill, Power Plant Siting Act [PPSA] and TLSA) to plan, site and order construction of transmission facilities to ensure and maintain a reliable, cost effective and environmentally acceptable Peninsular Florida grid.

(c) What is the proper role of the FPSC in transmission reliability and operations?

Reliability, as defined by NERC, consists of adequacy (planning) and security (operations). The role of the FPSC in transmission adequacy was discussed above. Tampa Electric's following comments focus on the role of the FPSC in transmission security.

Existing Situation: Transmission security of the Peninsular Florida grid is accomplished through the FRCC Operating Committee in compliance with NERC operating policies. The FRCC process to ensure security is well established. A major feature of the FRCC protocols is the "Security Process" published October 30, 1996, by the FRCC. The Peninsular Florida grid security process consists of these major elements:

Security Coordination
Regional Security Plans
Florida Electrical Emergency Contingency Plan
Capacity Emergency Operations
Automatic Load Shedding
Reserve Capability
Transmission - Oscillations
Transmission - Resolving/Reporting Potential Transmission Problems
Florida/Southern Interface

Complaints: There are at least two issue areas regarding the role of the FPSC in transmission operations: (1) independence of system operators, and (2) FPSC involvement in the setting of reliability standards by NERC and FERC.

(1) With the advent of increased wholesale competition and the FERC open access code of conduct rules, concern has been raised by some parties in Florida and elsewhere over potential discrimination by the system operator in making operational decisions that could affect commercial operations.
(2) NERC is undergoing a transition to a self-regulating organization with FERC oversight. Reliability legislation has been developed to make this transition complete. New NERC standards (issued recently and filed with the FERC for approval) will change regional planning and operating practices. Until now, the FPSC has not involved itself in the development of these new NERC standards nor has it evaluated the standards to determine if they meet the needs of the Peninsular Florida grid.

The FRCC Security Process is specific and unique to Peninsular Florida to ensure operational security of the bulk transmission grid and consequently, continuity of service to the citizens and ratepayers of Florida. The Automatic Load Shedding program is a good example of a unique standard to Peninsular Florida that directly impacts retail customers. The utilities in Peninsular

Florida have developed a sophisticated and coordinated load shedding program that is designed to prevent a Peninsular Florida blackout.

Over half of Peninsular Florida's distribution load is placed on the underfrequency load shedding program to protect equipment from generator out of step conditions (instability) and to ensure timely restoration. Recovery from a blackout condition could take days and weeks. The load served from distribution feeders automatically trip, in stages, as frequency dips below 59.82. There are no "boundaries" on who solves this problem; all utilities share equitably in loss of load to enable timely restoration of service to the Peninsular Florida grid.

Solutions:

(1) Tampa Electric does not believe that the current FRCC Security Process results in discriminatory practices, although the potential exists for such discrimination. Tampa Electric does not support a "California" solution where a complete, duplicative infrastructure is being put in place to insure "independence". The California ISO was put in place to enable retail competition. This ISO does not own generation or transmission but is accountable for ensuring reliability. A very complex and costly infrastructure is being put in place to accommodate bidding, scheduling and the procurement of critical generation services for reliability (i.e. ancillary services). Recent estimates are that California has spent in excess of $500 million in creating its ISO and that the ISO's current annual operating expense is $120 million.

At the February 4th FPSC RTO Workshop there was a brief discussion of lower cost solutions. Tampa Electric supports continued discussion through this FPSC study task force to explore within the current FRCC Security Process how to better ensure non-discriminatory actions by system operators and the Security Coordinator. Tampa Electric believes that, when this inquiry is completed and corrective actions are taken, there should be no need to form an ISO in Peninsular Florida

(2) The FPSC should play a role in the development of FRCC reliability standards. FPSC input is necessary during FRCC standards development to ensure a state regulatory perspective prior to approval by the NERC Board and FERC. In addition, the FPSC should be protective of its jurisdiction under the Florida grid law should any federal reliability legislation be proposed.

The FPSC has clear authority over transmission reliability under the grid bill. The regional changes taking place under the new NERC standards are significant. These relate to security coordination, Available Transmission Capability (ATC), tagging, planning standards, Transmission Load Relief Procedures (TLR) and Interconnected Operations Services (i.e. Ancillary Services). The standards involve significant issues. An example is the recent FERC Order on the NERC TLR Policy. The filings required of FERC-jurisdictional Peninsular Florida utilities involve development of a regional congestion management methodology and procedures to ensure comparable curtailment of native retail and wholesale load.

(d) Do / should transmission providers plan their transmission additions based on their

own needs (for generation and load) or do / should they plan their transmission additions based on their own needs and the needs of the transmission dependent utilities?

Existing Situation: Transmission providers do plan their transmission additions based on both their own needs and the needs of Transmission Dependent Utilities (TDU's) but not necessarily in an optimal, regional manner. Currently, each individual transmission provider plans its own optimal local and bulk transmission system taking into account both retail and firm wholesale transactions (native load). These plans are provided individually to the FRCC Engineering Committee, which then aggregates the results and assesses the aggregation under NERC and FRCC planning standards to ensure transmission adequacy. Each provider then builds its own required expansion and deals with cost justification and recovery on its own.

Complaints: The current expansion of the bulk grid may not be optimal nor efficient for Florida as a whole because it results from an aggregated plan rather than a regionally developed plan. Consideration is not given to optimizing the individual plans from a regional perspective. It has been particularly difficult to determine which utility is responsible for expansion needed at utility borders. Providers are reluctant to expand and pay for new facilities unless the costs can be justified based solely on their own needs.

Solutions: The FPSC study task force should explore a regional planning process, which could yield the following; (1) local area planning efforts, led by each transmission provider conducted in an open process with all load-serving entities in each local area, and (2) the regional planning of the bulk transmission grid.

Both local area and bulk transmission planning should be an agreed upon regional process subject to regional organization review by the FPSC. There would need to be some mechanism to determine which provider must build regionally justified transmission as well as to ensure cost recovery. The FPSC should participate in the development and execution of such a regional planning process.

(e) What information should be shared regarding transmission planning and with whom should this information be shared?

Existing Situation: In order to plan the Peninsular Florida grid, models of the regional system are required. The FRCC builds such models by aggregating the plans of the individual utilities.

Complaints: In an increasingly competitive wholesale market, some utilities may be concerned about releasing commercially-sensitive information to the public which may, nevertheless, be needed for regional planning, and there is no accountability for changes in plans that may impact regional transmission needs.

Solutions: Ultimately, all Load-Serving Entities (LSE's) within Florida should be required to submit specific load forecasts and resource plans for a defined period of years. Approaches should be explored regarding deviation from submitted LSE forecasts of loads and resources

once the bulk grid has been planned based on the information previously provided. While plans do change, LSE's should have an incentive to submit their best estimate of future loads and resources. A regional process should create an incentive for timely declaration of forecasts to ensure transmission capacity.

The regional process should also require all LSE's, to submit wholesale and retail load forecasts, resources and associated requests for transmission service through an OASIS system

(f) What does optimization of transmission planning for Peninsular Florida entail? Is it needed?

See answer to (d) above.

(g) Should there be central dispatch of generation and transmission facilities in Peninsular Florida?

Existing Situation: There is no central dispatch. Each of 12 control areas in Peninsular Florida dispatch generation and control transmission facilities within their respective areas.

Complaints: Tampa Electric has not heard any complaints suggesting the need for a central dispatch or power pool solution for Peninsular Florida.

Solutions: The benefits of central dispatch for the Peninsular Florida grid are unknown, and a cost/benefit study would be necessary to quantify any savings. Years ago a central dispatch study was done by the FCG/FPSC that led to the establishment of the Energy Broker instead of a centrally dispatched system. Central dispatch at that time was not deemed as cost effective as the creation of the Energy Broker.

The Energy Broker and other market-based economy energy interchange transactions have served Peninsular Florida well in increasing the utilization of lower incremental cost generation. However, there may be some functions that could be performed more efficiently with centralization, such as administration of OASIS, ATC calculation and processing of open access requests. The FPSC study task force should address these functions.

(h) What are the appropriate boundaries for regional transmission planning?

Existing Situation: The FRCC creates models of the Peninsular Florida grid that can be used for regional planning. These models include grid facilities as well as facilities in the Southern Company system so as to study import and export capabilities.

Complaints: Tampa Electric agrees with the FPSC's position that the appropriate boundary for regional transmission planning is the Peninsular Florida grid.

Solutions: The Peninsular Florida grid has historically and appropriately been planned as a separate, unique region. It is now a separate reliability region under NERC. The FPSC study task

force should develop a planning process that focuses on Peninsular Florida as a separate region.

(i) Please comment on each of the following FERC ISO Principles:

Tampa Electric believes that resolution of each of the issues raised by the FERC ISO Principles set forth below do not require the formation of an ISO and that there are more cost-effective ways to improve the efficiencies and reliability of the Peninsular Florida grid.

Tampa Electric submits, however, that the Florida solution at a minimum must address these ISO Principles in order to meet FERC's threshold for positive consideration of regional transmission organizational (RTO) approaches that address Peninsular Florida's transmission matters. While these legitimate issues raise state and federal jurisdictional questions, it is clear to Tampa Electric that they must be addressed here and now if the FPSC is to have the opportunity to craft a Peninsular Florida solution without total preemption by FERC.

1. The ISO's governance should be structured in a fair and non-discriminatory manner.

Existing Situation: The existing regional organization is the FRCC, a NERC regional reliability council. The governance of the FRCC is weighted by load, transmission facility ownership and generation ownership. This governance has been appropriate for reliability functions to date.

Complaints: The governance of a reliability organization may not be appropriate for matters regarding fair access to the bulk grid. For example, the NERC governance is changing as NERC delves into access and "fairness" matters. There are perceptions that there may be fairness issues relating not only to short and long-term access, but also to security protocols.

Solutions: Any regional transmission organization must be sensitive to fairness issues. Accordingly, a different type of more inclusive governance than the FRCC version may be required.

2. An ISO and its employees should have no financial interest in the economic performance of any power market participant. An ISO should adopt and enforce strict conflict of interest standards.

Existing Situation: FRCC members each have a financial interest in the economic performance of their own merchant functions. The transmission providers with open access tariffs adhere to strict codes of conduct which separate their grid operations function from their wholesale merchant function.

Complaints: There are no complaints as to the current codes of conduct.

Solutions: The FERC codes of conduct set acceptable standards, but implementation and fairness issues have been raised. See comments elsewhere on access, security and governance issues.

3. An ISO should provide open access to the transmission system and all services under its control at non-pancaked rates pursuant to a single, unbundled, grid-wide tariff that applies to all eligible users in a non-discriminatory manner.

Existing Situation: Each FERC-jurisdictional transmission provider in Florida has its own open access tariff that provides open access to the grid facilities that it owns and/or operates. There is no Peninsular Florida grid-wide transmission tariff and rates are pancaked.

Complaints: FERC non-jurisdictional utilities are not required to file open access tariffs, and there is a "trust" concern on the part of some parties that the open access provisions of existing tariffs might not be fairly administered. Pancaked rates further contribute to the inefficiency of the Florida Peninsular wholesale market.

Solutions: The FPSC study task force should evaluate the need for a Peninsular Florida grid-wide transmission tariff for wholesale transactions and the desirability of a related centralized administrative function. There should also be addressed the issue of whether a centralized administrative function is an appropriate response to fairness concerns regarding open access. (Also see comments on pancaked rates issue II.c.)

4. An ISO should have the primary responsibility in ensuring short-term reliability of grid operations. Its role in this responsibility should be well defined and comply with applicable standards set by NERC and the regional reliability council.

Existing Situation: Under the FRCC, short-term reliability of the regional grid is the primary responsibility of the Operations Planning Coordinator and Security Coordinator. These roles are currently filled by Florida Power Corporation and Florida Power & Light Company, respectively.

Complaints: No complaints, except that some parties have raised a "trust" issue regarding fair implementation of security protocols.

Solutions: If added assurances are desired, the FPSC could actively participate in monitoring the operation of the Peninsular Florida grid.

5. An ISO should have control over the operation of interconnected transmission facilities within its region.

Existing Situation: There are currently 12 separate control areas in Peninsular Florida.

Complaints: No complaints,

Solutions: There is no need to eliminate or duplicate the functions of the existing control areas.

6. An ISO should identify constraints on the system and be able to take operational actions to relieve those constraints within the trading rules established by the governing body. These rules

should promote efficient trading.

Existing Situation: NERC and the FRCC are already working to resolve this issue through the recent FERC order on Transmission Loading Relief (TLR) procedures.

Complaints: Because of retail impacts from TLR, the FPSC should be more involved in this issue.

Solutions: The FPSC study task force should address this issue. Regional TLR, redispatch and congestion management procedures that promote efficient trading are necessary for the Peninsular Florida grid. It should be possible to establish and implement such procedures without the necessity of creating an entity with direct operating control.

7. The ISO should have appropriate incentives for efficient management and administration and should procure the services needed for such management and administration in an open competitive market.

No response is given because there is no need for a separate entity with separate incentives to perform all the functions that could be assigned to an ISO. As identified in other responses, there are more cost-effective ways to assure the efficient, fair and reliable functioning of the Peninsular Florida grid wholesale market.

8. An ISO's transmission and ancillary services pricing policies should promote the efficient use of and investment in generation, transmission, and consumption. An ISO or an RTG of which the ISO is a member should conduct such studies as may be necessary to identify operational problems and appropriate expansions.

Existing Situation: Each FERC jurisdictional utility offers open access under the FERC pro forma transmission tariff. There is no region-wide transmission pricing or planning, and rates are pancaked.

Complaints: The absence of region-wide pricing and planning and the existence of pancaked rates negatively affects the efficiency of the Peninsular Florida grid and wholesale market.

Solutions: Different transmission pricing approaches to eliminate pancaked rates should be explored. See other comments under pricing issue Category II.c. below. In addition, a regional planning process should be developed and implemented. See comments in Category I.a-h above.

9. An ISO should make transmission system information publicly available on a timely basis via an electronic information network consistent with the Commission's requirements.

Existing Situation: Currently, six utilities provide transmission access information on the Florida Open Access Same-Time Information System (FLOASIS). Another utility posts such information on an independent web page. Others post no information.

Complaints: The availability and accuracy of transmission system information is not completely

uniform within the Peninsular Florida region.

Solutions: There may be efficiencies to be gained with centralized administration of certain open access functions, such as operation of the FLOASIS, calculation of ATC and processing of requests. All peninsular Florida utilities should participate in any centralized approach.

10. An ISO should develop mechanisms to coordinate with neighboring control areas.

Existing Situation: Existing control areas and the FRCC already coordinate" with neighboring control areas and regional reliability councils. More specifically, the transmission interconnections between Peninsular Florida and the Southern Company (the only other neighboring control area with which Peninsular Florida is interconnected) are controlled to ensure reliability in both of the regions and the FRCC coordinates this effort.

Complaints: No complaints.

Solutions: There is no need to make any changes with respect to coordination with neighboring control areas.

Category II - Pricing Issues

(a) Do multiple transmission rates, terms and conditions create problems for transmission dependent utilities?

Existing Situation: Multiple transmission rates impact all wholesale market participants, including transmission dependent utilities, for interchange transactions. When utilities trade power, they use point-to-point transmission services, which often must be scheduled across multiple transmission owners' systems, such that multiple charges for transmission apply. (Also see comments under pancake rates issue c.)

Complaints: Paying multiple transmission rates within the Peninsular Florida grid results in economic inefficiency because economic transactions may not go forward due to multiple transmission charges.

Solutions: This issue creates problems for transmission dependent utilities and other market participants and needs to be addressed. See comments under pancake rates, issue c below.

(b) Is wholesale/retail transmission comparability a desirable goal? If so, how can it be achieved?

Existing Situation: Some retail ratepayers' energy is received as a result of transmission at wholesale across another utility's bulk grid using the FERC transmission tariff rates for ultimate

delivery by the retail ratepayer's utility. Other retail ratepayers are served directly by the "other utility" and that energy is considered retail by such utility with the transmission cost bundled within retail rates that are regulated by the FPSC.

Complaints: While both groups of retail ratepayers make use of the "other utility's" bulk transmission system, access to the grid is different for wholesale and retail purposes. In addition, there is a mix of regulation over transmission; some is subjected to regulation by FERC, some to the FPSC, some to neither.

Solutions: While the FERC has mandated that there should be wholesale/retail transmission comparability, and while this is a desirable goal, there are complex jurisdictional and implementation issues. This matter should be considered in the context of eliminating pancaked rates, which will at least mitigate discrepancies between wholesale and retail transmission service. See comments under pancake rates, issue c below.

(c) Does pancaking of transmission rates (defined as additive transmission wheeling rates from control area to control area) exist in Florida? Should pancaking be eliminated and, if so, how?

Existing Situation: Yes, it exists. There are two forms of rate pancaking in Florida. One form is for point-to-point services, where a power sale whose contract path traverses multiple control areas incurs a transmission charge to each owner, regardless of the distance traversed on any particular line, or whether any real power flows on the line at all. Another form of rate pancaking occurs for network service. Some utilities have non-contiguous systems such that their resources are not directly connected to their loads. These utilities have some local transmission systems that they own, but mostly they rely on the owners of the bulk grid to transmit their energy to their isolated, local distribution systems. These utilities pay the cost of their own transmission systems, plus a load ratio share of the cost of whatever bulk grid systems they use on a network basis. In addition, they pay any point-to-point charges incurred to transmit energy across any other utilities' transmission systems.

Complaints: Pancaked rates for point-to-point service are not economically efficient. Nor are additive rates involving combinations of point-to-point and network services. Lastly, rates for network service may not appropriately separate or credit local and bulk grid facilities. Transmission rate proceedings at FERC are very expensive and take many years (e.g. parties are still waiting for a FERC order regarding FPL's 1993 transmission rate filing). Although FERC sets protested rates for hearing "subject to refund," refund protection of a rate that remains in place for many years does not protect market structure or market transactions subject to such rates.

Solutions: Rate pancaking should be eliminated in Peninsular Florida if cost subsidy issues can be resolved. As a general matter, this elimination of pancaked rates should positively affect the efficiency of the wholesale generation market for the benefit of all retail ratepayers. The elimination of pancaked rates does not imply the establishment of a single postage stamp rate for the Peninsular Florida grid. There are other rate models which can be utilized which address both increased efficiency in the wholesale market while providing appropriate price signals for

siting new generation. The issues are complex and the study task force, under the leadership of the FPSC, should address potential economic solutions in working toward a comprehensive Peninsular Florida grid solution.

(d) Should a cost-benefit analysis be performed on any proposed changes to the current regime? If so, generally speaking, how would such an analysis be performed?

Existing Situation: Generally, cost-benefit analysis is used in evaluating any changes considered by the FPSC.

Complaints: No cost/benefit analyses have been done at a regional level of any proposed changes. Additionally, not all issues can be resolved through cost-benefit analyses. Some involve issues of discrimination, fairness, law, etc., that require solutions that may not be the most cost effective to companies or ratepayers.

Solutions: A cost-benefit analysis should be performed on any proposed changes, however, it should be recognized that such analyses are only one of the factors to be used to assess any need for change.

(e) Is transmission congestion pricing a problem in Florida? What is the appropriate methodology to be used to determine congestion pricing in Florida?

Existing Situation: Transmission congestion pricing is an issue which is currently being addressed by FERC and NERC. This issue is in the Transmission Loading Relief (TLR) dockets at FERC and in a NERC pilot study to be conducted this summer.

Complaints: No complaints, except that some parties have raised a "trust" issue regarding security protocol procedures.

Solutions: The FPSC study task force should include this issue in its scope of work. Regional TLR, redispatch and congestion management procedures that promote efficient trading are currently the subject of discussion at the FRCC, and the FPSC's active participation would be constructive and important.

Category III - Governance Issues

(a) Comment in general on the proper governance of any RTO or ISO that may be implemented in Florida? What governmental and private agencies should be involved and to what extent?

Existing Situation: The FRCC currently conducts activities relating to regional reliability. The governance of the FRCC is established and has so far served the parties well.

Complaints: The governance of a reliability organization may not be appropriate for matters

regarding fair access to the bulk grid. For example, the NERC governance is changing as NERC delves into access and "fairness" matters. There are perceptions on the part of some parties that there may be fairness issues relating not only to short and long-term access, but also to security protocols.

Solutions: Any regional transmission organization must be sensitive to fairness issues. Accordingly, a different type of more inclusive governance than the FRCC version may be required.

(b) What is the FPSC role in transmission dispute resolution?

Existing Situation: Alternative Dispute Resolution (ADR) procedures are included in open access tariffs. NERC and the FRCC also have ADR procedures for operational disputes. Transmission rate disputes are subject to FERC jurisdiction. Although disputes dealing with uneconomic duplication of facilities are decided by the FPSC, there is little attention to unfulfilled expansion needs.

Complaints: The areas where transmission disputes arise are: (1) operational disputes, (2) tariff/rate disputes, and (3) transmission expansion disputes.

(1) Operational: No serious complaints have arisen because the existing procedures have been sufficient in a regime where the rules have not been mandatory. Under this non-mandatory regime, the NERC and FRCC ADR procedures have been little used. In the future world of mandatory rules, the NERC and FRCC operating standards will be backed up with commensurate penalties to ensure compliance. National legislation is being proposed to facilitate this. This future mandatory regime will bring about an increased need for the use of effective ADR processes at the regional level.

(2) Tariffs/Rates: The FERC process for resolving tariff and rate filings is time-consuming and expensive. Pricing issues often are left unresolved after many years. Wholesale transmission rates will continue to be regulated and thus will be subject to rate proceedings.

(3) Transmission Expansion: In the past, the absence of regional planning has resulted in a failure to develop a consensus on what transmission expansion is necessary for wholesale market efficiency purposes, in contrast to reliability purposes.

Solutions: Proper regional planning will result in the identification of needed transmission expansion or other fixes necessary for economic or reliability purposes that will raise cost responsibility issues. FPSC involvement after ADR proceedings could be helpful in resolving these in a timely manner in furtherance of the Grid Law objectives. The FPSC study task force should include transmission expansion, (3) above, in its scope of work. In addition, the FPSC study task force should explore involvement by the FPSC after any unsuccessful ADR proceedings relating to operational matters, (1) above, and tariffs/rates, (2) above. For example, many of the disputes subject to FERC jurisdiction might be avoided or their resolution expedited if there was a "statewide settlement" on the application of transmission rates to all users.

(c) Does undue market power exist in Florida? What problems are caused by the fact that the security coordinator as currently structured is not fully independent from a Florida utility?

Existing Situation: Functional unbundling, properly administered under FERC Order 888 and 889, together with evolving rules under NERC's leadership relating to the security of the transmission system, should effectively mitigate market power concerns as these relate to the Security Coordinator.

Complaints: No complaints, except that some parties have raised a "trust" issue regarding the independence of the Security Coordinator.

Solutions: If added assurances are desired, the FPSC could increase their participation in monitoring the operation of the Peninsular Florida grid.

(d) Is functional unbundling working in Florida? Can it work in Florida?

Functional unbundling can work in Peninsular Florida with the implementation of a regional planning process, resolution of trust issues relating to open access and security, elimination of pancaked rates and increased FPSC participation in monitoring the operation of the Peninsular Florida grid.

EXHIBIT NO. _____
DOCKET NO. 010577-EI
TAMPA ELECTRIC COMPANY
(TLH-1)
DOCUMENT NO. 2

EXHIBITS TO THE TESTIMONY OF

THOMAS L. HERNANDEZ

DOCUMENT NO. 2

TAMPA ELECTRIC COMPANY'S

INITIAL COMMENTS ON PROPOSED RULEMAKING

IN FERC DOCKET NO. RM-99-2-000

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of	)	
	)	Docket No. RM99-2-000
Regional Transmission Organizations	)	

INITIAL COMMENTS OF TAMPA ELECTRIC COMPANY ON PROPOSED RULEMAKING

Tampa Electric Company ("Tampa Electric") hereby submits its initial comments on the "Notice of Proposed Rulemaking" that the Federal Energy Regulatory Commission ("Commission") issued in the above-captioned docket on May 13, 1999 ("RTO NOPR"). 1/ In accordance with the procedures prescribed in the RTO NOPR, Tampa Electric is also submitting with the original of these initial comments a diskette that contains the comments in electronic format.

Tampa Electric is a public utility organized under the laws of the State of Florida, with its principal place of business located at 702 North Franklin Street, Tampa, Florida 33602. Tampa Electric sells electric power at retail to approximately 500,000 customers in its service area in and around the City of Tampa. Tampa Electric also sells electric power at wholesale to customers in the region.

1/ IV FERC Stat. & Reg. ¶32,541.

Tampa Electric owns transmission facilities and provides transmission and ancillary services pursuant to an open access transmission tariff that is on file with the Commission. 2/ Tampa Electric is also reliant, directly or indirectly, on the services of other transmission providers within and beyond Peninsular Florida 3/ to effect many of its wholesale transactions. These comments are therefore provided from the perspective of both a provider and a user of transmission and ancillary services.

I

EXECUTIVE SUMMARY

In March, 1995, the Commission issued its "Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking" in the matter of *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services By Public Utilities; Recovery of Stranded Costs By Public Utilities and Transmitting Utilities*, Docket Nos. RM95-8-000 and RM94-7-001

2/ The tariff is designated as Tampa Electric's FERC Electric Tariff, First Revised Volume No. 4.

3/ For the purposes of these initial comments, "Peninsular Florida" means the whole of Florida east of the Gulf Power Company system in the Florida Panhandle, *i.e.*, roughly, east of the Apalachicola River.

("Open Access NOPR"). 4/ That proceeding culminated with issuance of a "Final Rule," Order No. 888, in April, 1996. 5/

One of the Commission's goals in that proceeding was to foster wholesale competition by requiring transmission providers to "functionally unbundle" their services and submit to the same rates and procedures as other users of their transmission systems. To that end, transmission providers were required to file open access transmission tariffs containing separately stated rates for transmission and ancillary services, to obtain such services under their own open access tariffs for all new wholesale transactions, and to rely on the same electronic information system as other customers to access such services. "Comparability" of service would thus be assured.

In its August, 1995 initial comments on the Open Access NOPR, Tampa Electric stated that "[i]mposition of the comparability standard without a precise focus on specific implementation measures for unbundling will not achieve the desired objective." At that time, Tampa Electric believed functional unbundling could work to achieve the Commission's goals, if properly implemented. Now, three years after the implementation of open access transmission and the functional unbundling requirement, the perception of undue discrimination in

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4/ FERC Stat. & Reg. (Proposed Regulations, 1988-1998) ¶32,514.

5/ FERC Stat. & Reg. (Reg. Preambles, 1991-1996) ¶31,036 (1996); *on reh'g*, Order No. 888-A, III FERC Stat. & Reg. ¶31,048 (1997); *on reh'g*, Order No. 888-B, 81 FERC ¶61,248 (1997); *on reh'g*, Order No. 888-C, 82 FERC ¶61,046 (1998).

wholesale transmission services remains among some stakeholders in the Peninsular Florida region.

In recognition of this continued perception, interested parties have begun a deliberative process to identify and resolve the issues under the leadership of the Florida Public Service Commission ("FPSC"). The FPSC has held several workshops in 1999 to study Florida-specific issues regarding the advisability of establishing some form of Regional Transmission Organization ("RTO") or Independent System Operator ("ISO") for the region.

The participants in the FPSC workshops have focused on efforts to reach consensus on solutions to the relevant issues that are appropriate to the circumstances of the Peninsular Florida region. There is already a general consensus that the appropriate regional boundaries should be coextensive with the regional reliability boundaries of the Florida Reliability Coordinating Council ("FRCC"). Peninsular Florida is a large and efficient marketplace of sufficient size to allow regional coordination to benefit all users of the grid. In addition, the region has a unique geographical configuration and electrical characteristics and is situated such that the reliability of the system is under the jurisdiction of a single state regulatory authority, the FPSC, which facilitates efficient planning and operation of the system. Other relevant issues under discussion in Florida include governance, pricing, planning, and operations.

Based on its reading of the RTO NOPR, Tampa Electric believes that it is in agreement with the Commission's ultimate goals in this proceeding, namely, to further encourage and promote efficient and competitive wholesale

electric markets. However, Tampa Electric believes that the Commission should defer to regional approaches that achieve regional market consensus, are endorsed by local state regulators, and that establish mechanisms to encourage further progress toward the desired goals. Within the Peninsular Florida region, the FPSC's leadership will be an important factor in the success of such efforts, and the Commission should not micro-manage the process even under circumstances where regional approaches do not initially meet its vision of an ideal RTO. The Commission should allow state regulators, such as the FPSC, to lead discussions on these issues in areas where they are willing to do so, and should be available to help such regulators, at their request.

The Commission should encourage regional discussions of transmission issues, including all of the RTO characteristics and functions described in the RTO NOPR. As long as all of the issues are considered, the Commission should defer to regional approaches that are endorsed by affected state regulators if they represent progress toward the Commission's goals. This policy would be consistent with the Commission's proposed "open architecture" approach, which recognizes the need for flexibility and constructive, evolutionary change.

Tampa Electric provides responses herein to many of the questions posed in the Commission's RTO NOPR, with a view, particularly, to defining what is currently needed within Peninsular Florida to resolve issues of trust and to improve the competitive wholesale market.

II

INITIAL COMMENTS

Below, Tampa Electric has set forth each of the Commission's specific requests for comments (with page citations to the mimeo version of the RTO NOPR), followed by Tampa Electric's corresponding comments. While section headings are used to group the requests by subject matter, the requests are numbered seriatim, 1 through 181, for ease of future reference.

A. Issues Concerning Discriminatory Conduct

1. Public comments are requested on the extent to which there remains undue discrimination in transmission services, and if it remains, in what forms. (pages 83-84)

Many market participants believe that there continues to be undue discrimination in the provision of wholesale transmission services within Peninsular Florida. Access to transmission services within this region is not as open as it could be to facilitate an efficient, robust wholesale market. Transmission users often must go to several individual transmission providers and Open Access Same-Time Information System ("OASIS") nodes, sign multiple agreements with various providers, and attempt to piece together and navigate through various partial paths to connect a power sale to a buyer. There is no central source of information to help a new market participant figure out how to do wholesale electric trading within the region. Also, many market participants perceive that firm transmission capacity is being unfairly withheld from the market.

2. **Comments are requested regarding what remedies should be imposed in an effort to eliminate any remaining discriminatory conduct. (page 84)**

The appropriate remedy is to encourage regional approaches that resolve the problems present within the regions. For the Peninsular Florida region, discussions on these issues are underway under the auspices of the FPSC.

3. **Should participation in RTOs be mandatory or are there other possible remedies? (page 84)**

While the FPSC should require all transmission owners and providers within Peninsular Florida to participate in regional discussions on transmission issues, other entities using wholesale transmission services within the region should be encouraged to participate as well. Participation by all transmission owners will be essential for a successful regional resolution. In any case, the Commission should give deference to a regional approach that has been endorsed by the FPSC.

4. **Could a performance-based rate system be designed to realign economic interests to remove the motive for discrimination? (page 84)**

It is possible, but there could still be incentives to discriminate under a performance-based rate system.

B. Issues Concerning RTO Benefits

5. **The Commission seeks comment on the effect of RTOs on electricity market performance, including any data or other information that shed light on quantifying the extent of those benefits. (page 101)**

No comment.

6. **The Commission seeks comment on what types of disputes or other matters would be appropriate for the Commission to defer to the decisions of the RTO. (page 102)**

Once a regional approach on transmission issues is established, the Commission should defer to decisions on matters that are placed under the management of the region, such as expansion planning and OASIS operations, as well as matters that are deemed to be subject to state jurisdiction, such as siting, permitting, need, etc.

7. **In granting deference to decisions that result from an acceptable ADR process, would there be a need to distinguish between RTOs that are ISOs and RTOs that are transcos? (page 102)**

No, so long as the ADR processes reflect regional solutions developed by market participants, with the active participation of the affected state regulatory authorities.

8. **The Commission could also consider adopting streamlined filing and approval procedures. The Commission could consider different filing requirements for established RTOs. For example, should the threshold be lowered for the types of changes to operations or**

practices that would not require a filing with the Commission? (pages 102-03)

Yes, the threshold should be lower for any region that resolves transmission issues with the endorsement of relevant state regulators. Initially, transmission providers were only required to file their pro forma open access tariffs with the Commission. Recently, the Commission has required more specific operating procedures (*e.g.*, curtailment practices) and other implementation practices (*e.g.*, OASIS practices) to be filed. If this trend continues, many detailed operating and planning procedures developed within the North American Electric Reliability Council ("NERC") and regional reliability councils may be required to be filed at the Commission, including updates of those procedures each time they are changed. Once resolution of transmission issues has been reached within a particular region, there should be less need for involvement in such matters by the Commission. For regions that successfully resolve transmission access issues, the Commission should require only that general transmission access procedures and practices be filed with it, and allow the detailed day-to-day procedures to be posted on the OASIS.

Should such a policy be applied equally for non-profit and for-profit RTOs? (page 103)

Yes, so long as the Commission defers, as appropriate, to regional solutions resulting from participation of the market participants and active involvement of state regulatory authorities.

9. **The Commission believes that the widespread formation of RTOs can provide substantial benefits. The Commission invites comment on the benefits of RTOs and the magnitude of these benefits. (page 103)**

In Peninsular Florida, settlement of transmission issues, whether this results in an RTO or some other arrangement, would likely result in increased wholesale trade within the region at lower transmission cost. As long as transmission owners can continue to recover their costs, there should be net benefits realized from such developments within the region. In addition, settlement and consensus on issues would lower litigation costs in Florida. The preparation of a cost-benefit analysis is under discussion within the region under the leadership of the FPSC.

C. <u>Issues Relating to State Commission Concerns</u>

10. **The Commission seeks comments regarding how an RTO would affect power costs. (page 109)**

Continued uncertainty in transmission markets will lead to reluctance on the part of existing market participants to actively engage in the market and can result in new entrants being reluctant to join in the market. Power cost savings within the Peninsular Florida region are likely if transmission issues are resolved. The desirability of doing such analyses is under discussion in the region under the direction of the FPSC.

11. **The Commission requests comments on the appropriate state role in RTO governance. For example, should state government officials participate as voting members of an RTO? (page 113)**

The FPSC could participate as a non-voting member of the governing board of any regional transmission entity that may evolve from discussions on transmission issues within the Peninsular Florida region. Such involvement is important to keep the FPSC fully informed of goals and strategies considered by the board, and of actions taken by the board, yet keep the relationship appropriately distant to allow the FPSC to continue its regulatory role with respect to issues within its jurisdiction.

12. **The Commission invites further comments from the state Commissions on all aspects of the proposed rule. (page 115)**

No comment.

D. **Issues Relating to Minimum Characteristics and Functions**

1. **General**

13. **There are four proposed minimum characteristics for an RTO:**

(1) independence from market participants;

(2) appropriate scope and regional configuration;

(3) possession of operational authority for all transmission facilities under the RTO's control; and

(4) exclusive authority to maintain short-term reliability.

In addition, the are seven proposed minimum functions that an RTO must perform. An RTO must:

(1) administer its own tariff and employ a transmission pricing system that will promote efficient use and expansion of transmission and generation facilities;

(2) create market mechanisms to manage transmission congestion;

(3) develop and implement procedures to address parallel path flow issues;

(4) serve as a supplier of last resort for all ancillary services required in Order No. 888 and subsequent orders;

(5) operate a single OASIS site for all transmission facilities under its control with responsibility for independently calculating TTC and ATC;

(6) monitor markets to identify design flaws and market power; and

(7) plan and coordinate necessary transmission additions and upgrades.

The Commission seeks comment on the following questions:

(1) whether the Commission's enumeration of minimum criteria omits a necessary minimum characteristic or function, or includes an unnecessary minimum characteristic or function;

(2) whether there is a need to distinguish between minimum characteristics and minimum functions (*i.e.*, adopt separate categories for the minimum requirements); and

(3) if so, whether any of the minimum characteristics should be re-characterized as minimum functions, and vice versa.

Comments on these questions should take into account the Commission's objective in this rulemaking of encouraging the formation of RTOs that promote competitive markets and non-discriminatory access to, and reliable operation of, the electric grid. (pages 116-17)

The distinctions drawn seem to be appropriate, but flexibility should be provided consistent with the Commission's "open architecture" policy.

14. **The Commission seeks comments on whether RTO status should be granted to entities that are not able to perform the three functions immediately (*i.e.*, establishing procedures for addressing parallel path flows with neighboring systems, managing congestion, and planning transmission expansion). (page 117)**

The Commission should defer to regional solutions that achieve consensus among market participants and the affected state regulatory authorities, even if the solutions do not include performance of all of the identified functions initially.

15. **The Commission also seeks comments on whether RTO status should be granted to entities that may not be able to perform on the first day of operation certain other (*i.e.*, any of the remaining four) of the minimum functions. (page 117)**

Yes. *See* comments under number 14 above.

16. **Should the Commission differentiate, for purposes of initial implementation, between any of the seven minimum functions? If**

so, has the Commission appropriately identified those minimum functions that are most likely to require additional time to perform? (page 117)

No. *See* comments under number 17 above.

17. **For five of the functions (tariff administration, congestion management, ancillary services, market monitoring and planning and expansion), the Commission proposes to establish standards for how the function is performed, but an RTO will have the option of demonstrating that an alternative proposal is consistent with or superior to the standards in the proposed rule. The Commission seeks comments on whether this flexibility -- *i.e.*, the option of demonstrating that an alternative proposal is consistent with or superior to the proposed rulemaking standards -- should apply to any or all of the minimum characteristics. (pages 117-18)**

The flexibility should apply to all of the minimum characteristics. The Commission should defer to a regional approach to establishing standards that has been endorsed by the relevant state regulators.

2. Characteristics

In this section, Tampa Electric introduces the specific requests for comments and Tampa Electric's responses thereto by citing the proposed characteristic at issue and its projected section number in the Commission's Regulations.

Characteristic 1: Independence. The RTO must be independent of market participants. (Proposed § 35.34(i)(1))

a. The RTO, its employees and any non-stakeholder directors must not have financial interests in any electricity market participants. (Proposed § 35.34(i)(1)(i))

18. **Does the Commission need to define the financial independence requirement in more specific terms or is it sufficient to enunciate the general principle and then apply it on a case-by-case basis? (page 121)**

The Commission should enunciate the general principle and evaluate individual regional approaches on a case-by-case basis.

19. **Should the definition of stakeholders or market participants be expanded to include entities that operate distribution-only facilities (*i.e.*, entities that perform the "wires" function at lower voltages) and transmission entities in neighboring regions? (page 121)**

This issue should be determined on a regional basis.

20. **Should this definition of stakeholders or market participants be broadened to include sellers and buyers of ancillary services? (page 121)**

This issue should be determined on a regional basis.

21. **Are there any circumstances in which the definition should be expanded to include entities that do not participate in power markets**

in the region but that provide transmission services to the RTO or buy transmission service from the RTO? (page 121)

This issue should be determined on a regional basis.

22. **Is more specificity needed relative to the requirement that RTOs have conflict of interest standards? (page 121)**

No.

23. **Are there lessons to be learned from the experience of ISOs with conflict of interest standards that can now be applied more generally to RTOs? (page 121)**

No comment.

b. An RTO must have a decision-making process that is independent of control by any market participant or class of participants. (Proposed § 35.34(i)(1)(ii))

24. **The Commission seeks comment on whether this kind of RTO (*i.e.*, non-stakeholder governing board and a prohibition on market participants having more than a de minimis -- one percent -- ownership interest in the RTO) should be deemed to satisfy automatically this element of the independence requirement. (page 122)**

Yes, this could satisfy the independence requirement for an RTO, but the standard should be more flexible and not require a non-stakeholder board.

25. **The Commission also requests comments on whether there should be a single standard for independent decision-making for all RTOs**

regardless of whether they are for-profit or non-profit entities. (page 122)

This issue should be determined on a regional basis.

26. **What, if any, additional requirements should apply to a governing board that is not a stakeholder board or to a governing board with both stakeholders and non-stakeholders? (page 123)**

Stakeholders should be grouped and represented as determined in regional approaches endorsed by state regulators.

27. **For either stakeholder or non-stakeholder boards, should an upper limit on the size of the board be imposed? (pages 123-24)**

No. The size of the board should be determined by the regional participants and the relevant state regulatory authorities. In addition, the "open architecture" policy proposed by the Commission will allow needed changes in governance as experience dictates.

28. **How should the Commission consider proposals for state regulatory or other governmental officials to select board members for either stakeholders or non-stakeholder boards? (page 124)**

For the Peninsular Florida regional resolution of transmission issues, the Commission should defer to any FPSC-sanctioned proposal for the involvement of state regulatory or other governmental personnel in the selection of board members for either stakeholder or non-stakeholder boards.

29. **How should the Commission view proposals for state government officials to serve as voting members of RTO boards? (page 124)**

See comments under number 28 above.

30. **The Commission seeks comment on whether one percent is an appropriate de minimis ownership interest and, if not, what would constitute appropriate de minimis ownership for purposes of establishing independence. (page 124)**

This issue should be determined on a regional basis.

31. **Are there conditions under which market participants should be allowed to have more than a de minimis ownership interest in an RTO? (page 124)**

This issue should be determined on a regional basis.

32. **Should the Commission have a different standard for passive interests? (page 124)**

This issue should be determined on a regional basis.

33. **How should the Commission treat preferred equity shares? (page 124)**

This issue should be determined on a regional basis.

34. **Commenters are asked to address whether the Commission's assessments of the effects of allowing market participants to have more than a de minimis ownership interest in RTOs are reasonable. (page 126)**

This issue should be determined on a regional basis.

35. **Is there relevant experience from other regulated industries? (page 126)**

No comment.

36. If the Commission were to allow market participants to have more than a de minimis ownership interest for a transition period, how long should the transition period be? (page 126)

There may be no need for a transition period. A regional solution may devise appropriate standards and safeguards that permit market participants to own transmission facilities.

37. Would any additional safeguards be required during such a transition period? (page 126)

See comments under number 36 above.

38. In general, which type of institution would better serve the goal of independence: a transco with de minimis ownership and a non-stakeholder board or an ISO with a non-stakeholder board? (page 126)

The relative effectiveness in serving the goal would depend on the overall structure of the institution and on the market in which it operates. The Commission's "open architecture" concept will allow entities to evolve as experience dictates.

c. The RTO must have exclusive and independent authority to file changes to its transmission tariff with the Commission under Section 205 of the Federal Power Act. (Proposed § 35.34(i)(1)(iii))

39. **Can an RTO be truly independent if it does not have the authority to file changes in its tariff without the approval of other entities such as transmission owners? (pages 127-28)**

No comment.

40. **Should the ISO's unilateral filing authority be limited to transmission rate design and terms and conditions that directly affect access but not to changes that would affect transmission owners' ability to collect their overall revenue requirements? (page 128)**

This possibility should be considered, as long as transmission owners can otherwise seek relief with respect to collecting their revenue requirements.

41. **In practice, is this a viable distinction? (page 128)**

It may be.

42. **If an RTO's filed rate schedule also includes market design rules, should the RTO have Section 205 filing authority to make changes in the rules? (page 128)**

The Commission's RTO principles should not be prescriptive on this issue. Regional approaches should include consideration of such matters.

Characteristic 2: Scope and Regional Configuration. The RTO must serve an appropriate region. The region must be of sufficient scope and configuration to permit the RTO to effectively perform its required functions and to support efficient and nondiscriminatory power markets. (Proposed § 35.34 (i) (2))

a. Factors Affecting The Appropriate Scope and Regional Configuration of an Acceptable Region.

i. Regional configuration factors.

ii. Factors for evaluating boundaries.

(a) Facilitate performing essential RTO functions and achieving RTO goals, as discussed elsewhere in this proposed rule.

(b) Recognize trading patterns.

(c) Not facilitate the exercise of market power.

(d) Encompass existing control areas.

(e) Encompass existing regional transmission entities.

(f) Encompass one contiguous geographic area.

(g) Encompass a highly interconnected portion of the grid.

(h) Take into account existing regional boundaries (*e.g.*, NERC regions) to the extent consistent with the Commission's goals for RTOs.

(i) Take into account international boundaries.

43. The Commission solicits comments on the technical limitations or cost limitations on how large an RTO can be if it is to have control area responsibilities. (page 132)

See comments under number 45 below.

44. The Commission solicits comments on how the number of transmission systems to be combined would affect the cost and time required to form an RTO. (page 132)

Discussions are underway in Peninsular Florida. The merits of cost/benefit analyses have been discussed under the leadership of the FPSC, but such analyses have not yet been performed. Time requirements may be more a function of regional experience than of the number of parties at the table.

45. Are there other factors that may limit the geographic scope of an RTO? (page 133)

Regional boundaries should be justified individually, on a case-by-case basis. The primary criteria for the determination of regional boundaries must include reliability considerations. The Commission must give particular weight to boundaries that utilize the existing reliability boundaries of the NERC regions. The electrical topology (*i.e.*, how the region is electrically designed to reflect geography and the historical development of an area) is critical to establishing initial regional boundaries. In the future, experience with new markets may dictate the development of different boundaries for reliability and market purposes. The drawing of new regional boundaries without allowing time for transition from existing boundaries can have serious negative implications for reliability as well as cost.

The following regional reliability considerations and criteria are necessary in determining the boundaries of an RTO. These considerations are essential elements that contribute to the electrical topology of a region.

1. Generation & Transmission (G&T) Adequacy/Reliability -- The ability of a region to plan, site, and install G&T capacity (*i.e.*, siting laws and an effective planning process) is fundamental to ensuring continued reliability. Boundaries 'should not be drawn that are different than present boundaries with the assumption that the necessary state and/or federal planning and siting legislation will later be enacted. Such legislative changes would have to be made before any new boundaries are created.

Reliability of the bulk power transmission system is a G&T issue and not just a transmission issue. The system is planned, designed, and operated as a single machine moving power in bulk from production to consumption. The Commission recognized this by including certain generation services (*i.e.*, ancillary services) as part of the pro forma transmission tariffs required under Commission Order No. 888. These services (*e.g.*, Operating Reserves, Regulation and Frequency Response, Reactive Supply and Voltage Control) are essentially "enabling services" without which a power system could not function. The Commission recognized that denial of these services is, in effect, denial of basic transmission service and, thus, made transmission providers include these services in their tariffs.

Regulatory jurisdiction is an important factor in assuring regional reliability. the FRCC is unique among regional reliability councils because all of the FRCC region is within the geographical purview of only one state regulatory body, the FPSC. There is no need for a joint regional/state regulatory board to address regional adequacy issues. The FPSC has a

significant legislative mandate to plan, site, and install G&T to ensure and maintain a reliable, cost-effective, and environmentally acceptable power system.

2. Location of Constraints -- A review of the Peninsular Florida region yields the following points:

- Geographically, it is a peninsula, *i.e.*, surrounded on three sides by water.

- The bulk transmission grid has regional interconnections only to the north, with the Southern subregion of the Southeastern Electric Reliability Council ("SERC"). Consequently, the Peninsular Florida regional grid does not experience any "through" or "parallel" flows from other electrical regions of the country with multiple inter-regional interfaces.

3. Unique Electrical Characteristics -- Peninsular Florida has unique electrical characteristics. One good example is the under-frequency load shedding program which is designed and operated to maintain FRCC regional reliability. Due to the peninsular nature of the electrical system, over half of the Peninsular Florida load is armed on the under-frequency program. In the event of separation of the peninsular system from the SERC region, the generation and load unbalance could be as much as 5000 MW (3600 MW import plus loss of a major plant in Florida). This would cause a very severe frequency decline and would cause a peninsular blackout unless the frequency decline could be arrested. Because of the steep decline in frequency, load has to be shed very quickly to allow generation to remain on line to begin restoration.

4. Size/Markets -- Although it might appear that, for competitive market purposes, the larger the size of the region the better, such is not the case. A viable market can develop only within a region that provides the infrastructure necessary to support reliability. Significantly, the problems faced in operating electric power systems are local and regional, not national; they are related to network security, with generation control being an important but relatively minor burden. Network security in Peninsular Florida and elsewhere requires very large amounts of real-time data on voltages, currents, real and reactive power, and the status of thousands of switches and circuit breakers. Using this data, extensive computations must be performed to verify accuracy and to display the network status to operators in a form that has meaning. With the advent of open access, the information and data requirements are increasing at an exponential rate.

In some respects, there is a parallel here with air traffic control centers. Could these centers be combined into one national center? Probably, but consider the amount of information that would have to be collected at one place, or the effect of communication failures. And even if it worked, the problems would remain local and regional and cannot be managed on a super-regional or national level.

Effective management requires that the appropriate boundaries be coextensive with the regional reliability boundaries, or FRCC's boundaries in Peninsular Florida. Peninsular Florida is a large and efficient marketplace. In terms of electrical demand, as the following table demonstrates, the FRCC ranks

in size with ERCOT, PJM, the US portion of NPCC, and the US portion of MAPP.

Region	1997 Peak Demand (MW)
FRCC	37,127
ERCOT	45,636
PJM	45,628
NPCC (US)	48,950
MAPP (US)	29,199

These data suggest that the Peninsular Florida region is of sufficient market size to allow benefits to all users of the grid.

46. What are the relative merits of internalizing constraints within a region versus having constraints act as natural boundaries between regions? (page 136)

Both internal and external constraints will need to be dealt with in regional approaches. The need to address constraints is only one of many issues to be considered in the determination of regional boundaries. The Commission should allow regions to present rationales for boundaries on a case-by-case basis. Generally speaking, of course, constraints may be resolved more effectively within regions where affected parties can agree upon the means of resolution.

47. **The Commission seeks comments on the appropriateness of these factors to determine an appropriate configuration for the regions in which RTOs would operate, and also asks if any additional factors may be appropriate. (page 137)**

Other factors that may be appropriate include (1) state regulatory relationships and authorities, (2) the "size" of the region, measured by the load served within the region, and (3) technical and operational considerations. *See* also the comments under number 45 above.

b. Potential Geographic Configurations.

48. **The Commission seeks comments on how well the regions served by existing institutions would satisfy the factors enunciated above, and specifically how well they would be able to satisfy the minimum RTO characteristics and functions outlined in this section, and the advantages and disadvantages of these three examples. (page 138)**

The existing institution for Peninsular Florida, the FRCC, which is one of the ten NERC reliability councils, would meet appropriate geographic configuration criteria for a transmission region. Rationales for regional boundaries will be case-specific.

49. **The Commission also welcomes presentation and evaluation of other methods to define appropriate regions. (page 138)**

No comment.

c. Control of Facilities within a Region.

50. The Commission solicits comments on how best to balance its goal of having RTOs in place that operate all transmission facilities within an appropriately sized and configured region against the reality that there may be difficulties in obtaining 100 percent participation in all regions in the near term. (page 139)

In Peninsular Florida, the FPSC has sufficient jurisdiction over transmission reliability to ensure the appropriate operation of transmission facilities within the region.

51. Should the Commission deny RTO status for any proposal that does not include all transmission facilities within an appropriate region? (page 139)

The Commission should defer to any regional resolution of transmission issues that is endorsed by the relevant state regulators, to the extent that the resolution makes progress toward the Commission's goals in this matter.

52. If the Commission does not deny RTO status for less than 100 percent participation, is there some guideline that it should use for determining when the proponents represent an appropriate "critical mass" for the region? (pages 139-40)

See comments under number 51 above.

53. Should the Commission require that the RTO at least negotiate certain agreements with any non-participants within its region to ensure maximum coordination? (page 140)

No. Non-participants may not be willing to negotiate agreements with participants, and it would be unfair to require this of participants. However, participants may need to address treatment of non-participants in various regional procedures documents.

54. If so, what should be the terms of such agreements? (page 140)

No agreements should be required.

55. Finally, the Commission seeks comment on the question of how much deference, if any, should be given to the proposed scope and regional configuration of a proposed RTO. (page 140)

The Commission should defer, as appropriate, to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

56. How readily, if at all, after balancing all appropriate factors, should the Commission be willing to substitute its vision of an appropriate RTO configuration for that of its proponents? (page 140)

The Commission should defer, as appropriate, to any regional approach on transmission issues that is endorsed by the relevant state regulators to the extent that the approach moves the region toward achievement of the Commission's goals.

57. To what extent should the Commission take into account the degree of support in assessing a proposed RTO configuration? (page 140)

The degree of support that is necessary to make a regional approach satisfactory should be a matter for the state regulatory authority to determine, in the first instance.

58. **Should approval or disapproval by affected state Commissions of the scope or configuration of a proposed RTO affect the level of deference the Commission should afford such a proposal? (page 140)**

Yes.

Characteristic 3: Operational Authority. The RTO must have operational responsibility for all transmission facilities under its control. (Proposed § 35.34(I) (3))

a. The Regional Transmission Organization may choose to directly operate facilities (direct control), delegate certain tasks to other entities (functional control) or use a combination of the two approaches. (Proposed § 35.43(i)(3)(i))

59. **What has been the experience of existing tight power pools with master-satellite and hierarchical forms of control? (page 143)**

No comment.

60. **Was there a need to modify these operational arrangements when the pool was replaced by an ISO? (page 143)**

No comment.

61. Outside of tight power pools, has the functional unbundling requirement in Order No. 888 led to any divisions of previously integrated internal operational systems? (page 143)

Yes. Various integrated systems, including software, hardware, and organizations, were revamped to accommodate the functional separation of the merchant function from the transmission service function to ensure the blocking of non-public reliability information from those performing the merchant function.

62. If so, have these new divisions of operational responsibilities created any reliability problems? (page 143)

No, although separation has resulted in higher costs and less efficient management and operations within the integrated utility, particularly for power purchases for native load.

b. The RTO must be the security coordinator for the transmission facilities that it controls. (Proposed § 35.34(i)(3)(ii))

No questions pertaining to this subpart.

Characteristic 4: Short-term Reliability. The RTO must have exclusive authority for maintaining the short-term reliability of the grid that it operates. (Proposed § 35.34 (i)(4))

a. The RTO must have exclusive authority for receiving, confirming and implementing all interchange schedules. (Proposed § 35.34 (i)(4)(i))

63. **In addition to the current code of conduct standards, are there any actions that the Commission should require to reduce the likelihood of this problem (*i.e.*, non-RTO control area operators who are also competitors in power markets may be "able to know their competitors' schedules or transactions" and such knowledge would give the control area operators an unfair competitive advantage) that do not require the consolidation of all existing control areas within the region? (page 147)**

This issue has already been resolved within the FRCC by requiring all entities that operate control areas within the region and that require access to commercially sensitive operating information to sign agreements that separate reliability personnel and the relevant information from wholesale merchant personnel. The Commission's future actions should allow the continued implementation of the FRCC's resolution of this matter.

64. **Is it feasible for a non-RTO control area operator, operating within an RTO region, to perform its functions without having access to commercially sensitive information involving its competitors? For example, could an RTO provide control area operators with information about scheduled net interchange between control areas without disclosing the individual transactions making up the new interchanges? (page 147)**

No. Current transmission scheduling, tagging, and reservation practices reveal transaction information to control area operators. Such information is

required to operate the system safely and reliably. It would not be feasible to shield commercially sensitive information from control area operators. Adding transaction information into a "net" number would not sufficiently shield relevant market information and would result in less reliable operation.

b. The RTO must have the right to order redispatch of any generator connected to transmission facilities it operates if necessary for reliable operation of these facilities. (Proposed § 35.34 (i)(4)(ii))

No questions pertaining to this subpart.

c. When the RTO operates transmission facilities owned by other entities, the RTO must have authority to approve and disapprove all requests for scheduled outages of transmission facilities to ensure that the outages can be accommodated within established reliability standards. (Proposed § 35.34 (i)(4)(iii))

65. Does this requirement cede too much or too little authority to the RTO? (page 150)

Any central operator of transmission facilities with responsibility for safety and reliability of the regional system would need to be the final authority for coordinating facility outages. The requirement should be stated in sufficiently general language to allow for regions to work out specific procedures, while requiring central operators to have the final authority.

66. **If the RTO requires a transmission owner to reschedule its planned maintenance, should the transmission owner be compensated for any costs created by the required rescheduling? (page 150)**

Such details should be worked out regionally.

67. **Would it be feasible to create a market mechanism to induce transmission owners to plan their maintenance so as to minimize reliability effects? (page 150)**

Such details should be worked out regionally.

68. **Should an RTO that is an ISO have any authority to require rescheduling of maintenance if it anticipates that the planned maintenance schedule will adversely affect power markets? (page 150)**

No comment.

69. **If the RTO is a transco, can it manipulate its transmission maintenance schedules in a manner that harms competition? (page 150)**

No comment.

70. **Should the RTO have some authority over generation maintenance schedules? If so, how much authority should it have? (page 150)**

Such details should be worked out regionally.

71. **Is it possible for a non-profit ISO to establish similar incentive schemes for the transmission owners whose facilities it operates? (page 151)**

No comment.

72. **Given that an RTO has responsibility for system reliability, what should be the extent of its liability for its actions? (pages 153-54)**

Liability for operating other entities' assets would be one of the most difficult aspects of regional operation of multiple owners' transmission facilities. Responsibilities would need to be very clearly defined. Line ratings, for example, are critical safety factors. An overheated transmission line could sag down into trees, streets, or pedestrian areas, resulting in destruction of property or possible loss of life. It is crucial that any entity responsible for operation of the system which also has financial incentives to maximize the use of the system be properly held responsible for unsafe operations. The appropriate allocation of liability should be governed by contractual arrangements among the RTO participants, within the limits of the law.

73. **Would this differ depending on whether the RTO owns the facilities? (page 154)**

This is largely a question of law, the answer to which could depend on the nature of contractual arrangements among owners and operators.

d. If the RTO operates under reliability standards established by another entity (*e.g.*, a regional reliability council), the RTO must report to the Commission if these standards hinder it from providing reliable, non-discriminatory and efficiently priced transmission service. (Proposed § 35.30 (i)(4)(iv))

No questions pertaining to this subpart.

3. Functions

In this Section, Tampa Electric introduces the specific requests for comments and Tampa Electric's responses thereto by citing the proposed function at issue and its projected section number in the Commission's Regulations.

Function 1: Tariff Administration and Design. The RTO must administer its own transmission tariff and employ a transmission pricing system that will promote efficient use and expansion of transmission and generation facilities. (Proposed § 35.30(j)(1))

74. The Commission invites commenters to address whether more specific guidance is required. (page 157)

Not at this time.

a. The Regional Transmission Organization must be the only provider of transmission service over the facilities under its control, and must be the sole administrator of its own Commission-approved open access transmission tariff. The RTO must have the sole authority to receive, evaluate, and approve or deny all requests for transmission service. The RTO must have the authority to review and approve requests for new interconnections. (Proposed § 35.30(j)(1)(i))

75. The Commission invites comments on how this standard can be made effective for RTOs that are ISOs. (page 159)

No comment.

76. **Are there lessons to be learned from the experience of qualifying facilities (QFS) under PURPA in getting interconnections to the grid that would be applicable to ISOs? (page 159)**

No comment.

77. **Should this standard be expanded to give the RTO the authority to review and approve all new interconnections (*e.g.*, to connect new generators, to improve reliability, to increase trading opportunities with neighboring regions) or all transmission investments above some threshold dollar amount? (pages 159-60)**

No comment.

b. **The RTO tariff must not result in transmission customers paying multiple access charges to recover capital costs over facilities that it controls (i.e., no pancaking of transmission access charges). (Proposed § 35.34(j)(1)(ii))**

78. **Would the requirement for a tariff with non-pancaked rates make the voluntary formation of RTOs more difficult because it might result in the potential for sudden and unacceptable transmission rate changes? (page 161)**

Changes to rates as well as changes in revenues are probably the most difficult region-specific issues. Regional discussions will have to include resolution of these matters, including a possible transition period. There are two issues of concern: (1) impact on rates and revenue collection resulting from transfer from state to federal jurisdiction for revenue requirement and earnings

oversight, and (2) the potential for cost responsibility shifting among native load customers of the affected entities. These impacts result from differences in return-on-equity and revenue requirement calculation methods used by federal versus state regulators, loss of point-to-point revenues, elimination of prior contractual arrangements, etc. These are matters that will require encouragement from state regulators to resolve, along with cooperation from the Commission.

79. Is the severity of any such problem related to the scope and regional configuration of the proposed RTO? (page 161)

Not necessarily, but the number of parties involved and their relationships, and the number of state regulatory jurisdictions involved can complicate the implementation of solutions. In Florida, the successful resolution of these difficult issues will best be realized by keeping the geographical scope within Peninsular Florida, where all of the affected parties have similar reliability interests under the leadership of a single state regulatory authority.

80. Does the use of so-called license plate design allow the RTO to meet this requirement without cost-shifting? (page 161)

Some form of license plate pricing may ease the initial impact of change. License plate pricing would ensure that most costs are paid by the same ratepayers, with the owners receiving approximately the same revenues, particularly where bundled retail rate-making continues, as in Peninsular Florida. Changes in point-to-point rates and revenues could be addressed in a comprehensive solution with some form of transition period.

81. Would the provision for a reasonable transition period help? (page 161)

Yes, and the duration of any such period is a region-specific issue.

82. Even if there is mutual waiving of access charges, are there other pricing impediments to inter-regional trade (*e.g.*, differences in scheduling and curtailment conventions between regions) that are likely to impede trade? (pages 161-62)

The Commission should focus on the initial development of regional transmission approaches at this time. Inter-regional pricing matters and other such issues should be dealt with after the initial round of regional approaches. Many relevant issues are currently evolving within NERC, and the Commission staff should participate in and monitor these developments.

Function 2: Congestion Management. The RTO must ensure the development and operation of market mechanisms to manage transmission congestion. (Proposed § 35.34(j)(2))

a. The market mechanisms must accommodate broad participation by all market participants, and must provide all transmission customers with efficient price signals regarding the consequences of their transmission usage decisions. The RTO must either operate such markets itself or ensure that the task is performed by another entity that is not affiliated with any market participant. (Proposed § 35.34(j)(2)(i))

83. The Commission invites comments on its requirement that RTOs must be responsible for managing congestion with a market mechanism. (page 165)

Solutions to congestion will be region-specific, except to the extent NERC operating policies evolve to encompass congestion management. The Commission should continue to participate in and monitor discussions of these issues within NERC, and not duplicate or foreclose their development and resolution. An appropriate Peninsular Florida regional solution to congestion could conceivably be quite different from a solution in a region where power can flow in and out from every direction.

84. Can decentralized markets for congestion management be made to work effectively and quickly? (page 165)

The Commission should not preclude this option. Regions may find ways to make this work through automation.

85. Can the RTO's role be limited to that of a facilitator that simply brings together market participants for the purpose of engaging in bilateral transactions to relieve congestion? (pages 165-66)

The Commission should not preclude this option. Regions may find ways to make this work through automation.

86. If not, will these markets require centralized operation by the RTO or some other independent entity? (page 166)

No comment.

87. **How can an RTO ensure that enough generators will participate in the congestion management market to make possible a least-cost dispatch? (page 166)**

A regional solution to congestion will need to be simple and fast to encourage participation.

88. **Are there any special considerations in evaluating market power in a congestion market operated or facilitated by an RTO? (page 166)**

No comment.

89. **The Commission seeks comment on whether such an additional implementation time period is warranted (the Commission proposes to allow up to one year after start-up for this function), and whether one year is an appropriate additional time period. (page 166)**

NERC and various regional entities are working on resolution of congestion management issues. The Commission should encourage such resolution, but be careful not to push for individual regional solutions that may ultimately conflict at the national level and at regional boundaries. However, regional discussions should consider, and potentially commit, as to whether the region intends to ultimately adopt the NERC process or some other congestion management process.

Function 3: Parallel Path Flow. The RTO must develop and implement procedures to address parallel path flow issues within its region and with other regions. The RTO must satisfy this requirement with respect to

coordination with other regions no later than three years after it commences initial operation. (Proposed § 35.34(j) (3))

90. **The Commission seeks comment on whether such an additional implementation time period is warranted, and whether three years is an appropriate additional time period. (page 169)**

The timing of resolution of parallel flow concerns is a region-specific issue. For Peninsular Florida, the focus should be solely upon internal parallel flow issues. Inter-regional parallel flow is not an issue. Therefore, the Commission should allow for regional differences and not set a definitive schedule for resolution of parallel flow issues. In addition, NERC continues to work toward a national resolution of this issue, and regional discussions should include consideration, and potentially commitment, as to whether the region intends to ultimately adopt the NERC process or some other congestion management process.

Function 4: Ancillary Service. An RTO must serve as the supplier of last resort of all ancillary services required by Order No, 888, Commission Stats. & Regs. 31,036 (Final Rule on Open Access and Stranded Costs), and subsequent orders. (Proposed § 35.34(j)(4))

a. All market participants must have the option of self-supplying or acquiring ancillary services from third parties subject to any general restrictions imposed by the Commission's ancillary services regulations in Order No. 888, Commission Stats & Regs. ¶ 31,036 (Final Rule on Open Access and

Stranded Costs), and subsequent orders. (Proposed § 35.34(j)(4)(i))

91. **The ancillary service policies in Order Nos. 888 and 889 were developed for transmission providers that were generally vertically integrated utilities. There was an expectation that they would be able to provide many of the generation based ancillary services from their own generating resources. An RTO by definition will not own any generating resources. Does this difference necessitate a different set of ancillary service requirements for RTOs? (page 171)**

The Commission should consider approaches to this matter on a case-by-case basis. The design of ancillary services is still evolving within NERC. Those services that involve energy will likely be further unbundled as these services evolve. For example, energy balancing requires management and scheduling services that only a control area can provide, yet the energy portion of the service could be provided by generators competitively. Until these matters are worked out nationally, they will need to be dealt with initially in regional discussions. Ancillary services that provide control area balancing and reserve services, as well as energy for transmission losses, must be dealt with differently in regions with multiple control areas than in regions with a single control area.

92. **Are there other ancillary services, in addition to scheduling, system control and dispatch, and reactive supply and voltage control from**

generation sources, for which the self-supply option should be eliminated? (page 171)

No comment.

93. Under what circumstances can the RTO's obligation as the ancillary services supplier of last resort be eliminated? (page 171)

There must always be a supplier or suppliers of last resort, but an RTO itself need not directly supply such services.

b. The RTO must have the authority to decide the minimum required amounts of each ancillary service and, if necessary, the locations at which these services must be provided. All ancillary service providers must be subject to direct or indirect operational control by the RTO. The RTO must promote the development of competitive markets for ancillary services whenever feasible. (Proposed § 35.34(j)(4)(ii))

94. The Commission requests commenters to address whether these are minimum requirements needed to ensure that the RTO can satisfy its obligation to maintain targeted levels of reliability. (page 172)

The Commission should consider approaches to this matter on a case-by-case basis. The issue of ancillary services is still evolving at NERC and will need to be dealt with in regional discussions. Ancillary services that provide control area balancing and reserve services, as well as energy for transmission losses, must be dealt with differently in regions with multiple control areas than in regions with a single control area.

95. Would it be feasible for the RTO to maintain reliability with less authority? (page 172)

The Commission should defer as appropriate to regional solutions that achieve consensus with market participants and the affected state regulatory authorities.

c. The RTO must ensure that its transmission customers have access to a real-time balancing market. The RTO must either develop and operate such markets itself or ensure that this task is performed by another entity that is not affiliated with any market participant. (Proposed § 35.34(j)(4)(iii))

96. The Commission invites comments on the use of market mechanisms to support overall system balancing and imbalances of individual transmission users. (page 177)

Balancing functions are control area functions. Regions where a regional transmission provider operates a single control area would offer such services in a different manner than regions where multiple control areas operate. Each control area must be separately "balanced." The Commission should not preclude either option at this time.

97. Is it feasible to rely on markets to support a function that is so time-sensitive? (page 177)

Yes. All aspects of electric system operations are time-sensitive. If there can be a market at all, it will need to be able to work instantaneously.

98. Can such markets be made to function efficiently if the RTO is not a control area operator? (page 177)

Yes. This option should not be precluded at this time.

99. For the imbalances of individual transmission customers, should a distinction be made between loads and generators? (page 177)

Yes. Loads and generators can impact the system differently. Generators must be able to meet their schedules or arrange for back up. Generators can impact a control area's ability to meet its performance criteria imposed by NERC, which ultimately could lead to system failure or financial penalties. Loads should also make arrangements for adequate power supply, but operators can protect the integrity of the system by shedding load at any time supply is interrupted.

100. Should customers have the option of paying for all imbalances in such a market or only imbalances within a specified band? (pages 177-78)

Individual transmission customers should not expect access to unlimited amounts of power at all times. Operation of control areas could not be managed reliably with such chaos. For example, if market prices suddenly rise and all generators simultaneously decided to oversell and under generate, the entire system could shut down. Likewise, if load-serving entities do not arrange for sufficient power supply, they must face the consequence (and cost) of curtailment. Inadvertent energy accounting between control areas serves to enhance reliability for all participants transacting within or between control

areas and should continue to be allowed within the operating standards of NERC.

Function 5: OASIS and TTC and ATC. **The RTO must be the single OASIS site administrator for all transmission facilities under its control and independently calculate TTC and ATC. (Proposed § 35.34(j)(5))**

No questions pertaining to this function.

Function 6: Marketing Monitoring. **The RTO must monitor markets for transmission services, ancillary services, and bulk power to identify design flaws and market power and propose appropriate remedial actions. (Proposed § 35.34(j)(6))**

a. **The RTO must monitor markets for transmission service and the behavior of transmission owners, if any, to determine if their actions hinder the RTO in providing reliable, efficient, and nondiscriminatory transmission service (Proposed § 35.34(j)(6)(i))**

b. **The RTO must monitor markets for ancillary services and bulk power. This obligation is limited to markets that the RTO operates. (Proposed § 35.34(j)(6)(ii))**

c. **The RTO must periodically assess how behavior in markets operated by others (*e.g.*, bilateral power sales markets and power markets operated by unaffiliated power exchanges) affects RTO operations and conversely how RTO operations**

affect the performance of power markets operated by others. (Proposed § 35.34(j)(6)(iii))

101. The proposed requirements are arguably based on the presumption that an RTO will be a non-profit, system operator that does not own any facilities. The requirements may not be appropriate for a for-profit transco that owns facilities that it operates. Therefore, a threshold question is: what should be the market monitoring role, if any, of an independent, for-profit transco? (page 182)

No comment.

102. Is it reasonable to expect that such an RTO could be objective in its assessments? (page 182)

No comment.

103. If the RTO is an ISO, do its monitoring activities need to be further insulated to ensure independence and objectivity? (page 182)

No comment.

104. For example, should monitoring be performed by one or more individuals or organizations that are funded by the RTO but that have the right to issue reports without the RTO's approval? (pages 182-83)

No comment.

105. Some argue that RTOs should not be charged with any monitoring responsibilities particularly with respect to market power abuses. They argue that the antitrust laws and the Commission offer

sufficient protection against competitive abuses. Others have argued that RTOs are somewhat akin to organized stock exchanges and the Commission should follow the SEC precedent of requiring extensive and sophisticated market monitoring by all of the organized exchanges. Are there features of electricity and transmission markets that argue for imposing similar market monitoring responsibilities on RTOs? (page 185)

No comment.

106. **Should the Commission rely on RTOs as the "first line of defense" for detecting both design flaws and market power abuses? (pages 185-86)**

No comment.

107. **If this were the Commission's approach, what would be an appropriate role for the Commission in market monitoring? (page 186)**

The Commission should carefully monitor the market initially to the extent called for by the level of disputes brought to its attention. The initial monitoring should be done through existing mechanisms, such as OASIS and other information already made available to the Commission. No additional reporting burdens should be imposed on market participants.

108. **If the RTO is operating one or more markets (*e.g.*, ancillary services), is it reasonable to expect that it can perform an objective self-assessment? (page 186)**

No comment.

109. **Is there a difference in the market monitoring that the Commission can expect from RTOs? For example, if the RTO proposes to take a market position in secondary transmission rights, is it plausible to expect that the RTO can perform an objective assessment of this market? (page 186)**

No comment.

110. **Since the success of retail competition will often depend critically on the actions of RTOs, what should be the role of state commissions in market monitoring? (page 186)**

The Commission should defer, as appropriate, to regional solutions that achieve consensus on this issue among market participants and the affected state regulatory authorities.

111. **The Commission welcomes estimates of the amount of money spent by ISOs to monitor markets and their assessments as to whether they will need to spend more or less money in the future. (page 187)**

No comment.

112. **For abuses that arise from market power, should the RTO's role be limited to detecting and describing the abuses? (page 187)**

No comment.

113. **In the case of localized market power (*e.g.*, generating units that must run for reliability reasons), should the RTO have the authority to take corrective actions? (page 187)**

The Commission should defer, as appropriate, to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

114. If the market power has structural causes, what role should the RTO have in developing structural solutions? (pages 187-88)

No comment.

115. Should RTOs that are ISOs be required to make regular assessments as to whether they have sufficient operational authority? (Page 188)

No comment.

116. The Commission seeks comment on whether RTOs should be allowed to impose penalties and sanctions. (page 188)

As the market evolves, and as NERC moves to a system of penalties and sanctions for operators, and as transmission tariffs include pricing that simulates penalties, care must be taken to ensure against overlapping penalties from multiple sources.

117. Should the penalties be limited to violations of RTO rules and procedures? (page 188)

This would depend on how those rules correspond to penalties already imposed by NERC or within open access tariffs.

118. Should the RTO be allowed to impose penalties for the exercise of market power? For example, should the RTO's penalty authority be limited to collecting liquidated damages? (page 188)

No. Only the Commission should make determinations regarding the abuse of market power. Any market participant, including an RTO, should be able to bring complaints to the Commission for such determination.

d. The RTO must provide reports on market power abuses and market design flaws to the Commission and affected regulatory authorities. The reports must contain specific recommendations about how observed market power abuses and market flaws can be corrected (Proposed § 35.34(j)(6)(iv))

119. Should this reporting requirement be limited to producing reports only when a specific problem is encountered? Or should RTO's be required to make periodic reports that assess the state of competition and transmission access even in the absence of specific problems? (page 188)

Reporting requirements should be kept to a minimum. The Commission should consider specific reporting approaches on a case-by-case basis.

Function 7: Planning and Expansion. The RTO must be responsible for planning necessary transmission additions and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and coordinate such efforts with the appropriate state authorities. (Proposed § 35.34(j)(7))

a. The RTO planning and expansion process must encourage market-driven operating and investment actions for

preventing and relieving congestion. (Proposed § 35.34(j)(7)(i))

b. The RTO's planning and expansion process must accommodate efforts by state regulatory Commissions to create multi-state agreements to review and approve new transmission facilities. The RTO's planning and expansion process must be coordinated with programs of existing Regional Transmission Groups (RTGs) where necessary. (Proposed § 35.34(j)(7)(ii))

c. If the Regional Transmission Organization is unable to satisfy this requirement when it commences operation, it must file a plan with the Commission with specified milestones that will ensure that it meets this requirement no later than three years after initial operation. (Proposed § 35.34(j)(7)(iii))

120. The Commission seeks comment on whether three years is an appropriate amount of time for implementation of this function. (page 193)

Regions should determine planning procedures at the outset, and the planning process should commence immediately. Given this premise, there is no need for a three-year implementation period.

E. Issues Concerning Open Architecture

121. The Commission is interested in receiving comments regarding an open architecture policy to ensure that initial RTOs can develop. What flexibility needs to be built into RTO contracts? (page 195)

Any regional transmission approach should include the ability for the parties, or the governing board of a regional transmission entity, to vote to propose changes at any time, subject to endorsement by relevant state regulators and the Commission's approval, as appropriate.

122. What regulatory flexibility is needed from the Commission as part of an open architecture policy? (page 195)

The Commission should defer to regional transmission approaches that are endorsed by relevant state regulators and that move in the direction desired by the Commission, even if the approach falls short of the Commission's desire for and vision of a "perfect RTO." Any movement should be viewed as positive. Some regions may move slower or to a lesser degree than others, due to the circumstances particular to the regions.

123. In which areas of RTO organization or operations is it especially important for the Commission to expect improvement? (page 195)

It is likely that initial regional transmission approaches will leave room for further improvement in many important areas, including organization and operations, as the industry evolves toward competitive markets. The Commission's proposal for an "open architecture" will facilitate this "growing up" process.

F. Issues Concerning Ratemaking

124. The Commission proposes to continue its flexibility in allowing the recovery of current sunk transmission costs as transition mechanisms to single rates if proposed by RTOs, including the license plate approach as well as others. The Commission requests comment regarding whether the license plate approach to fixed cost recovery is an appropriate long-term measure. (page 197)

The Commission's open architecture approach will allow pricing approaches to evolve such that it is not necessary for the Commission to determine at this time whether the license plate approach is appropriate for the long term.

125. The Commission intends to be flexible in reviewing congestion pricing innovations, and asks for comments as to what specific requirements, if any, may best suit its RTO goals. (page 198)

The flexibility the Commission proposes is appropriate for congestion pricing. Since resolution of this issue is evolving, the opportunity for experimentation should not be foreclosed.

126. The Commission seeks comments on applying PBR (performance-based rate-making) to RTOs. Should PBR be voluntary or applied to all RTOs? (page 199)

The Commission should defer, as appropriate, to regional solutions that achieve consensus among market participants and the affected state regulatory

authorities. Performance-based rate-making may make sense, but there needs to be a period of development before performance expectations can be established.

127. What degree of regulatory scrutiny would a PBR regime require? (page 199)

A PBR regime would require regulatory scrutiny similar to the current, traditional rate regime, but may require a different reporting and oversight process.

128. In addition, the Commission seeks comment on the specifics of how PBR would be applied effectively to an RTO. For productivity incentives, what productivity objectives should be adopted and how should productivity be measured? (page 199)

No comment.

129. How would a revenue cap or a price cap be set? (page 199)

No comment.

130. What intermediate adjustments to the cap should be allowed? (page 199)

No comment.

131. How often should base costs be examined? (page 199)

No comment.

132. Is it appropriate to allow a higher ROE as a means of sharing the benefits created by RTOs or should higher ROEs be limited only to increases in risk? (page 200)

No comment.

133. **Is the risk of transmission capital recovery increased or decreased by transferring transmission facilities to an RTO from a vertically integrated firm? (page 200)**

It depends on who has transferred the facilities and the structure of the RTO.

134. **Another incentive that could be considered would be to keep transmission rates at current levels and allow participating RTO transmission owners to keep the benefits from cost savings over time or to lower transmission rates partly while owners keep part of the benefits. Would such treatment encourage better performance? (page 201)**

No comment.

135. **Similarly, the recovery of capital start-up costs of RTO participation could be accelerated as well. Is it appropriate to allow such accelerated recovery as an incentive to transfer transmission facilities to an RTO or should capital recovery periods continue to be based on the useful life of transmission facilities? (page 201)**

No comment.

136. **Is industry restructuring and the potential introduction of distributed generation technology likely to affect the risk associated with transmission investment recovery periods? (page 201)**

No comment.

137. **The Commission seeks comments on whether to entertain case-by-case proposals of rate incentive treatments for RTO participants. Will transmission owners respond to incentives, and will incentives be sufficient to achieve our objective of RTO formation? (page 202)**

The Commission should defer to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

138. **Which incentives are most likely to be successful in so doing? (page 202)**

No comment.

139. **Are there specific forms of incentive pricing that are inappropriate and problematic? (page 202-03)**

No comment.

140. **Are safeguards needed if the Commission decides to allow incentive treatments? (page 203)**

No comment.

141. **In justifying a proposed rate treatment, should an RTO be required to demonstrate that its benefits are likely to outweigh the pecuniary "costs" of the proposal? (page 203)**

The Commission should defer to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

142. **Would certain incentive pricing encourage RTOs to favor capital-based resource decisions (at the expense of more efficient alternatives) or to favor transmission solutions over alternative ways of relieving particular transmission constraints? (page 203)**

No comment.

143. **The Commission also seeks comment on whether and how public power transmission owners that participate in RTOs could benefit from flexible rate making and incentive pricing treatments. (page 203)**

No comment.

G. Issues Concerning Public Power Participation

144. **The Commission requests comments that identify issues that public power entities and others face regarding RTO participation and that suggest ways the Commission might facilitate their resolution. (page 204)**

No comment.

145. **The Commission solicits comments on the extent to which IRS Code restrictions may limit the transfer of operational control or other forms of control, or ownership, of public power transmission facilities to a for-profit transco. (page 205)**

No comment.

146. **What impact would IRS Code restrictions have on public power participation in other forms of an RTO? (page 205)**

No comment.

147. **While IRS Code restrictions might prevent issue of additional tax-exempt bonds for transmission expansions made in accordance with RTO participation, are non-tax exempt forms of financing a viable option for public power participation in selected transmission additions? (page 205)**

No comment.

148. **In addition to private use restrictions, are there other restrictions on public power institutions that may limit their participation in RTOs? For example, to what extent would state or local charter limitations, prohibitions on participating in stock-owning entities, or the current policies of various local regulatory entities affect or impede full public power participation in RTOs? (page 205)**

No comment.

149. **Are there some forms of associate membership or participation in RTOs, or other special accommodations, that the Commission should consider to make it more feasible for public power entities to overcome obstacles to participation in RTOs? (pages 205-06)**

No comment.

150. **The Commission seeks comment on legal restrictions or other considerations regarding the PMAs that prevent their participation**

in RTOs. For example, Bonneville Power Administration and other entities in the Pacific Northwest may face unique circumstances that may affect RTO formation in that area. (page 206)

No comment.

151. **How can the Commission help overcome any such limiting factors to full RTO formation? (page 206)**

No comment.

H. Other Issues

152. **What is the appropriate treatment of existing transmission agreements when an RTO is formed? (page 206)**

The Commission should defer, as appropriate, to regional solutions that achieve consensus among market participants and the affected state regulatory authorities. There may be financial settlements among parties to move all uses of transmission to the purview of the regional approach.

153. **In the ISO filings that the Commission has acted on to date, it has evaluated various "transition plans" regarding existing contracts on a case-by-case basis. At this juncture, the Commission does not intend to resolve this issue generically but instead proposes to confine its policy to addressing this issue on an RTO-by-RTO basis. The Commission solicits comments on this approach. (page 207)**

Case-by-case resolution is appropriate, as long as the issue is dealt with at the outset.

154. **How critical is this concern to transmission owners' and others' decisions on whether to support RTO formation? (page 207)**

The issue of treatment of existing transmission arrangements is critical in Peninsular Florida because there are many long-term contracts in place, many of which contain provisions that are substantially different from open access pricing, terms and conditions under Order No. 888.

155. **Is the financial impact of giving up an advantageous transmission arrangement significant enough to act as a disincentive to RTO membership? (page 207)**

No comment.

156. **The Commission is also concerned about impediments to transactions between existing transmission entities, as well as any future RTOs. It therefore encourages existing transmission entities to consider ways to reduce any impediments to transactions among them and direct them to provide the Commission with a progress report by January 15, 2001. The Commission seeks comment on this issue. (page 209)**

No comment.

157. **The Commission invites the comments of Canadian and Mexican authorities on these and other issues. (page 210)**

No comment.

158. **To what extent should transmission owners who do not participate in their region's RTO share in those benefits? (page 210)**

The Commission should defer to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

159. Would it be appropriate to allow RTO members to provide transmission service at individual system rates to non-participating transmission owners located in the RTO region, thereby denying non-participants the benefits of non-pancaked transmission rates? (pages 210-11)

The Commission should defer to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

160. The Commission seeks comment on the treatment by an RTO of non-participating transmission owners in the RTO region. (page 211)

The Commission should defer to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

161. The Commission requests comments on whether it should provide for expedited or streamlined processing procedures for Section 203 transfers of jurisdictional facilities to RTOs that meet the characteristics and functions of the Final Rule, and for the related Section 205 transmission rates, terms, and conditions. (page 211)

All of the Commission's processing procedures should be as streamlined as possible.

162. The Commission also welcomes specific suggestions regarding how it can further expedite or streamline its procedures. (page 211)

The Commission should make information, clarification, and advice available directly to jurisdictional entities responsible for implementing the Commission's open access rules and policies, without having to engage in formal filings or running the risk of violating ex parte rules. This would likely lead to more uniform implementation of rules and reduced need for time-consuming proceedings. It would also be useful if the Commission would make available an on-line reference service that tracks, by issue, all current Commission guidance on specific implementation issues, and that is updated regularly. The Commission should make its open access regulations more "user friendly" by facilitating access to its interpretive glosses.

163. Given that a power exchange is useful, should it be part of an RTO or otherwise associated with an RTO? (page 214)

On this issue, the Commission should defer to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

164. If an area has more than one PX, should the PXs have equal standing before the RTO? (page 214)

No comment.

165. Is an organized PX necessary for successful retail competition? (page 214)

No comment.

166. If an RTO operates congestion markets and balancing markets, are there efficiencies to be gained by allowing or encouraging the RTO to operate day ahead or hour ahead energy markets? (page 214)

No comment.

167. Is it feasible for an RTO to operate a spot energy market without compromising its ability to provide non-discriminatory transmission service to all market participants? (page 214)

Yes. Such a market can be automated. The Energy Broker Network operating in Florida is an example of such a market. Next-hour bids are matched automatically (highest with lowest). Transmission operators "operate" the system, without involvement in the market itself.

168. If a PX is operated by a non-RTO entity, is there a need to require certain specified forms of coordination between the two organizations? (page 214)

The same coordination would be required between any marketer and the control area operators and transmission providers, regardless of whether these functions are performed within a single room or spread among separate entities. Transmission costs and reservations need to be taken into account in setting up market "deals," whether or not the deals are set up remotely.

I. Implementation

169. Would regional workshops advance RTO formation? (page 216)

Yes. Workshops are already underway in the Peninsular Florida region under the leadership of the FPSC.

170. Under whose auspices should regional workshops be held? (page 216)

For the Peninsular Florida region, ongoing regional workshops are and should be under the auspices of the FPSC. The Commission staff should make itself available to attend and participate if requested by the FPSC.

171. Would it be beneficial to have the Commission's Dispute Resolution Service staff facilitate discussions regarding RTO formation? (page 216)

For the Peninsular Florida region, the Commission should defer to the leadership of the FPSC and make assistance available as requested by the FPSC.

172. Should the Commission staff be made available to attend meeting convened by others? (page 216)

Yes. For the Peninsular Florida region, the Commission staff should be made available to attend such meetings upon the request of the FPSC.

173. If the Commission staff convenes workshops, in how many cities should meetings be convened and how should the cities be chosen? (page 216)

The Commission staff should convene workshops in regions where discussions are not progressing. The Peninsular Florida region discussions are currently progressing.

174. Would the three U.S. interconnections be appropriate starting points? (page 216)

No. *See* comments under number 173 above.

175. Would participation by the Commission staff aid or stifle negotiations on RTO development? (page 216)

The Commission should defer to the recommendations of state regulators on this matter.

176. The Commission seeks comment on whether the filing requirements discussed above are inconsistent with or otherwise would inhibit voluntary participation in RTOs. (page 219-20)

Since the filing requirements constitute "status reports" and do not require participation in an RTO, the requirements will not impact voluntary participation in RTOs.

177. The Commission also seeks comment on whether it needs to generically mandate RTO participation by all public utilities to remedy undue discrimination under sections 205 and 206 of the FPA. (page 220)

The Commission should continue to encourage regional discussions on transmission issues to promote progress toward the Commission's goals, but a federal mandate for such participation at this time would be premature.

178. The Commission also seeks comment on whether a performance-based system could be designed to realign economic interests to remove the motive for discrimination. (page 220)

The Commission should defer on this issue to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

179. **In considering what actions might be appropriate if a utility fails to voluntarily join an RTO, the Commission seeks comment on whether market-based rates for generation services could continue to be justified for a public utility that does not participate in an RTO, whether a merger involving a public utility that is not a member of an RTO would be consistent with the public interest, whether non-participants that own transmission facilities should be allowed to use the non-pancaked transmission rates of the RTO participants in that region, whether transmission services provided by a transmitting utility need to be under RTO control to satisfy the discrimination standards of sections 211 and 212 of the FPA, and whether a public utility's lack of participation would otherwise be in violation of the FPA. (page 220)**

The Commission should defer to regional solutions on these issues that achieve consensus among market participants and the affected state regulatory authorities. The Commission should continue to encourage the development of such solutions, but should not resort to tying this development to favorable or unfavorable determinations in other proceedings.

180. How should the Commission consider the efficiency, reliability, and discrimination implications of RTO non-participation? (page 220)

The Commission should defer on this issue to regional solutions that achieve consensus among market participants and the affected state regulatory authorities.

181. How should the Commission consider non-participation by utilities that constitute "holes" in an RTO region? (pages 220-21)

The Commission should defer to regional solutions that are based on a consensus among market participants and the affected state regulatory authorities.

III

CONCLUSION

Tampa Electric respectfully requests the Commission to consider these initial comments carefully in its deliberation on the proposals set forth in the RTO NOPR.

Respectfully submitted,

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Dated: August 23, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 23rd day of August, 1999.

Peter C. Lesch
Attorney for Tampa
Electric Company