

that the crediting of interconnection costs should account for the time value of money, noting that the interest issue then remained pending on rehearing in AEP.<sup>45</sup>

We instruct GridFlorida to revise its policy and credit on the basis of capacity rather than output. We do this because crediting on the basis of capacity seems more consistent with Applicants' contention that LSEs must ensure sufficient generation capacity is available (see the discussion of ICE). Furthermore, assuming that crediting on the basis of capacity decreases the length of time for full crediting to occur, we believe this helps solve the concern that FMPA has with respect to recovering its investment consistent with the time value of money.

## 2. Transmission Pricing

### a. GridFlorida Proposal

GridFlorida's transmission pricing proposal is set forth in its "Pricing Protocol."<sup>46</sup> Under GridFlorida's proposal, a zonal access (license plate) charge is initially established to recover the costs of "existing" transmission facilities. Each transmission owner (except for transmission dependent utilities) forms its own zone; the zonal rate is designed to recover the costs of facilities constructed by the transmission owner as of the date it joins the RTO. Transmission customers pay the zonal rate for zone in which deliveries (sinks) are made. The zonal rates will apply during GridFlorida's first five years of operations; they will be phased out at 20 percent each year during Years 6-10.

In addition to the zonal access charge, GridFlorida proposes to establish a system-wide charge. This charge is initially designed to recover the cost of "new" facilities. When the zonal charge is completely phased out, the system-wide rate will be the only rate charged. GridFlorida also proposes to establish a "through and out" rate for transmission service delivered to points outside of GridFlorida.

Sixty days prior to commencement of operations, GridFlorida will file proposed rates. The proposed rates will be "projected" rates, based on projected billing determinants. GridFlorida proposes to "true-up" the rates at the end of each year to reflect actual zonal and system billing determinants. In addition, GridFlorida notes that its rates will be based on each transmission owner's revenue requirements. The rates will be adjusted as new or revised revenue requirements are placed into effect.

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<sup>45</sup>Id.

<sup>46</sup>Initial Filing, Attachment D.

The zonal rate will be calculated by dividing the annual zonal transmission costs for the transmission rate zone by the average for the year of the monthly zonal peaks. The system-wide rate will be calculated by dividing the annual system transmission costs for the year by the monthly transmission system peaks. The through and out rate will be calculated by dividing the sum of the annual zonal transmission costs for all zones by the average for the year of the monthly transmission system peaks.

b. Intervenors' Comments

FMPA objects to the length of the transition period for GridFlorida's rate proposal. It contends that the central goal of Order 2000 goal of eliminating pancaking in order to permit efficient bulk power markets would not be achieved until 2012.

JEA contends that the proposed rate structure fails to adequately value and account for JEA's ratepayers' substantial investment in the transmission and transmission-related facilities at the Florida-Georgia interface. JEA's facilities have a significant amount of import capability that are used by other utilities (such as FP&L, Florida Power Corp., and TECO) to deliver power from generation resources located outside of Florida. Since the zonal rate proposal compensates transmission owners based on the location of the sink, JEA's ratepayers would not be compensated for the use of the Florida-Georgia interface facilities when power is transmitted through to another zone.

Due to the unique characteristics of the Florida marketplace, JEA recommends that the Commission direct GridFlorida to consider other rate structures. For example, transmission charges for an RTO operating in Florida could consist of a single license plate access fee based on the zone importing or hosting generation, not the zone hosting load. Alternatively, JEA recommends that a rate design that accounts for both the location of load and the location of generation may be appropriate for Florida. Finally, JEA recommends that if a generation based rate design is not adopted, an interface surcharge could be an equitable vehicle through which to accurately capture the value of the import capability of the Florida-Georgia Interface.

Orlando notes that under GridFlorida's proposal, Orlando and St. Cloud are separate transmission zones. Orlando contends that if Orlando and St. Cloud agree, they must be considered one rate zone.

Seminole states that the proposed formulas for calculating annual zonal transmission costs and annual system transmission costs, as reflected in Attachments H and I, OATT, respectively, to GridFlorida's proposed tariff, are "exceedingly cryptic." For example, it notes that the filing does not indicate whether the costs will be based on

historical, budgets, or projected costs. It further notes that it is unclear how billing determinants will be developed.

Seminole also objects to the revenue crediting feature contained in Attachment I. Under this provision, 75 percent of short-term and non-firm revenues received by GridFlorida for (1) service to network customers not physically connected to GridFlorida or (2) through-and-out service will be included for purposes of determining annual system transmission costs. Seminole states that the only way to view this provision is as a performance-based ratemaking (PBR) incentive. Seminole contends that the PBR incentive is premature and one-sided, and recommends that it be rejected.

c. GridFlorida's Answer

In response to Orlando's concern, GridFlorida states that it does not object to combining zones. In reply to Seminole's concerns about the formulas for calculating costs, GridFlorida notes that each participating transmission owner will be responsible for obtaining Commission approval of its transmission revenue requirement. Thus, each transmission owner, not GridFlorida, will determine whether to use historical or some other type of cost. With respect to Seminole's concerns about billing determinants, GridFlorida notes that the proposed tariff specifies that network customers will be billed based on coincident peak monthly demand while point-to-point customers will be billed based on reservations. Finally, GridFlorida explains that crediting 75 percent of short-term and non-firm transmission revenues will provide the appropriate incentive to GridFlorida to operate its transmission system in a manner that maximizes throughput.

d. Discussion

In Order No. 2000, the Commission stated:

We therefore believe that it is appropriate to allow RTOs to propose the use of license plate rates for a fixed term of the RTO's choosing. However, RTOs that propose the use of license plate rates must make clear how transmission expansion will be priced, that is, whether license plate rates or some other mechanism will be applied to the cost of new transmission facilities, and how such pricing affects incentives for efficient expansion. In addition, we will require that before the end of the fixed term, the RTO must complete an evaluation of fixed cost recovery

policies based on the factual situation of the particular RTO, and file with the Commission its recommendations on any changes that should be instituted.<sup>47</sup>

GridFlorida's proposal for retaining license plate rates for existing facilities for the first five years of operations and then phasing them out over the next five years is consistent with Order No. 2000 because GridFlorida established a fixed-term for the use of the licence plate rates. Further, GridFlorida's proposal to include the costs of all new transmission facilities in its system-wide rate complies with Order No. 2000's requirement to specify how new transmission facilities will be priced.

GridFlorida has not adequately explained its proposal to retain 25 percent of the short-term and non-firm revenues. Although GridFlorida states that it is retaining the revenues as an incentive for operating the transmission system in the most efficient manner to maximize throughput, it has provided no explanation of how its proposal will help the RTO to achieve this goal, especially since GridFlorida is required by Order No. 888 to provide short-term and non-firm transmission service when capacity is available and the customer is willing to pay the maximum rate. For example, it appears that GridFlorida would retain a portion of its revenues even if its throughput does not increase above historical levels. Therefore, in its compliance filing GridFlorida must fully explain how its proposal increases efficiency. Further, the compliance filing must satisfy the filing requirements of section 35.34(e) of the Commission's regulations.

### 3. Transmission Pricing for TDUs

#### a. GridFlorida Proposal

GridFlorida proposes to encourage participation in the RTO by transmission-dependent wholesale customers by providing them certainty that the costs of their facilities will be rolled into GridFlorida's rates through a crediting mechanism.<sup>48</sup> GridFlorida's proposed pricing protocol sets forth two crediting options for TDUs that

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<sup>47</sup>Order No. 2000 at 31,177.

<sup>48</sup>Initial Filing at 98.

elect to participate in the RTO: a "phase-in" option and an "integration standard" option.<sup>49</sup>

Under the phase-in option, the TDU will receive credits for its facilities without having to demonstrate that they meet the integration standard set forth in Order No. 888. Specifically, beginning in the first year of GridFlorida's operations, and continuing each year during the five-year phase-in period, 20 percent of the revenue requirement of the TDU's existing transmission facilities will be recovered through zonal charges from all load within the zone in which the TDU is located. The transmission facilities will be defined by "Operation and Planning Protocols;" the revenue requirement will be agreed to by settlement or filed with the FERC for approval. The TDU will continue to bear the portion of its revenue requirement not yet credited. TDUs that do not turn over ownership or operational control of their facilities will not be eligible for credits.<sup>50</sup>

Under the integration standard option, a TDU will receive full credit for all of its transmission facilities that meet the integration standard under Order No. 888. To meet this standard, a TDU must demonstrate that its facilities are not only integrated with the transmission provider's system, but also provide additional benefits to the transmission grid in terms of capability and reliability, and be relied upon for the coordinated operation of the grid.<sup>51</sup> A TDU electing this option must submit appropriate documentation to the FERC. The FERC, after appropriate procedures, will then determine whether all, some, or none of the TDU's facilities meet the test. Facilities that meet the test will receive full credit; those that do not receive no credit. However, until the FERC makes a determination, GridFlorida will not grant any credits.<sup>52</sup>

Applicants note that cost shifting is caused by rolling in (or crediting) facilities owned by TDUs.<sup>53</sup> Applicants further note that during stakeholder negotiations, certain TDUs expressed the view that an immediate crediting of all TDU facilities (without

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<sup>49</sup>See "200 Percent Charge" section under "RTO Characteristic No. 2: Scope" above for a discussion of GridFlorida's proposal addressing entities that do not elect to participate in the RTO.

<sup>50</sup>Initial Filing, Pricing Protocol, section III.E.1.

<sup>51</sup>Citing Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,271 (1997).

<sup>52</sup>Initial Filing, Pricing Protocol, section III.E.2.

<sup>53</sup>Initial Filing at 89.

regard to whether they meet the integration test) is required by the "comparability" standard. Applicants, citing Order No. 888, disagree with the TDUs' view. They state "a TDUs claim for credits turns on the service that its facilities provided, it does not turn on accounting or other definitions. Thus, the fact that a TDU owns facilities that are of comparable voltage to those owned by Applicants does not determine which group of customers must pay for them."<sup>54</sup>

Applicants further argue that "it is an historical fact that the transmission systems of FP&L and Florida Power Corp. have been planned and operated to provide firm transmission service to both the loads of the TDUs and the retail loads of FP&L and Florida Power Corp. The TDUs' transmission systems, by contrast, have not been planned and operated to provide firm transmission service to both their own loads and the loads of FP&L or Florida Power Corp. This is why it is fair, and comparable, to charge TDUs a portion of the revenue requirements of FP&L or Florida Power Corp. facilities that have been planned and operated to provided service to them, but not to require the customers of FP&L or Florida Power Corp. to bear the costs of TDU facilities that were not planned or operated for their benefit."<sup>55</sup>

Applicants note, that to the extent there is a disagreement with the TDUs over crediting, it is limited to a "timing" issue. Under the phase-in option, TDUs will receive full credits. Applicants state that the credits are phased-in on an accelerated schedule to avoid "abrupt" cost shifting.<sup>56</sup>

b. Intervenors' Comments

FMPA and Seminole raise numerous objections to GridFlorida's proposed treatment of TDU facilities. The five arguments described below are the major concerns raised. First, they note that TDUs will continue to pay "pancaked" rates for at least five years after GridFlorida is operational. Unlike other participants in the RTO, TDUs would be responsible for both their share of zone-wide and RTO-wide transmission costs plus costs associated with the facilities that they contribute to GridFlorida. The protestors contend that the proposed rate treatment for TDUs is discriminatory.

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<sup>54</sup>Id. at 101.

<sup>55</sup>Id. at 101-102.

<sup>56</sup>Id. at 102.

Secondly, upon joining GridFlorida, a TDU will immediately cede operational control of its facilities to the RTO, thereby enabling the RTO to provide transmission and ancillary services to itself and any eligible customer. Thus, the facilities will be an integral part of the integrated GridFlorida system. However, Applicants propose to delay compensating the TDU for the use of its facilities. The protestors claim that the lack of comparability is both discriminatory and anti-competitive.

The third major argument raised by the protestors deals with the treatment of facilities rated greater than or equal to 69kV.<sup>57</sup> For operational reasons, all of the facilities rated greater than or equal to 69kV are considered part of GridFlorida's operational area. However, for purposes of satisfying the "integration- standard" option, only Applicants' facilities rated greater than or equal to 69kV are "deemed" integrated with the GridFlorida system. Applicants did not apply any type of test (e.g., the seven-factor test or a line-by-line functional evaluation) for including their facilities in the GridFlorida RTO. TDUs, on the other hand, are required to show that their facilities rated greater than or equal to 69kV are not only integrated with GridFlorida's, but that they provide additional benefits. The protestors claim that the different standards are unjust, unreasonable, discriminatory and provide for confiscatory treatment of TDUs.

The fourth major argument raised by the protestors is that there is no dispute that the TDU facilities are "transmission" facilities. By proposing to phase-in the costs of the TDU facilities over five years, the protestors argue that Applicants have conceded that the facilities indeed serve grid transmission functions. This argument is further buttressed since Applicants propose that any upgrades, replacements or refurbishments of the TDU-owned facilities will be "new transmission investment" and the costs of such facilities will be recovered under the system-wide rate.

The last major argument, proffered by Seminole, is that the impact of including TDU transmission revenue requirements in the respective rate zones from day one of the Grid Florida operation would be negligible. Using 1998 data, Seminole calculated the rate impact of including the revenue requirement attributed to Seminole and FMPA (including the members of Seminole and FMPA). According to Seminole, the total impact of including both Seminole's and FMPA's transmission revenue requirements in

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<sup>57</sup>A related issue raised by Seminole is that its 230 kV transmission facilities are integrated with the proposed GridFlorida Transmission System. Seminole requests that the Commission find that the facilities are integrated with GridFlorida's system.

Florida Power Corp.'s and FP&L's rates would be a 0.3 percent increase in the rates for the FP&L and Florida Power Corp. residential customers.<sup>58</sup>

c. GridFlorida's Answer

GridFlorida filed a very detailed response to FMPA's and Seminole's protests on the issue of TDU pricing. The major points raised in its answer are discussed below.

GridFlorida states that FMPA and Seminole are the principal beneficiaries of Applicants' pricing proposal. It explains that FMPA and Seminole benefit from RTO participation by (1) having other customers pay for the cost of their transmission facilities that receive credits, and (2) by a gradual elimination of pancaked rates in current contracts. GridFlorida notes that these benefits are at the direct expense of Applicants, especially FP&L and Florida Power Corp. GridFlorida states that in Year 5, the benefit to FMPA and Seminole, as compared to the status quo, is approximately \$29 million per year.<sup>59</sup>

GridFlorida also explains that it is not proposing that the revenues of any of the non-TDUs be rolled into grid-wide rates, shifted among each other, or otherwise borne by anyone other than existing ratepayers. Rather, for the first five years of GridFlorida's operation, the costs will continue to be borne by the very same ratepayers that pay for them today. It is only the cost of the TDU's facilities which will be allocated in a manner that is beneficial to TDUs – at the expense of other ratepayers.

GridFlorida also quotes the Transmission Pricing Policy Statement:<sup>60</sup>

[The] implication of the fairness principle is that economic harm that could be created during a period of transition from one pricing approach to another should be mitigated to the extent practicable. Solutions to any transition problems arising from pricing reform should balance fairness considerations. . . against the potential efficiency improvements. . . . The major purpose of transmission pricing reform

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<sup>58</sup>Seminole Supplemental Protest at 50-51.

<sup>59</sup>Answer at 92.

<sup>60</sup>Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act, FERC Stats & Regs. ¶ 31,143-33 (1994).

should be to provide more efficient price signals, particularly for new transmission users, and not simply to reallocate sunk costs.

GridFlorida contends that there is no efficiency gain associated with "reallocating" TDUs' costs to FP&L's or PFC's customers. GridFlorida therefore contends that it is incumbent on FMPA and Seminole to (1) establish a "principled" basis for immediately shifting all of their sunk costs to other customers in Florida, and (2) establish that the "economic harm" from any such cost shift is "mitigated to the extent practicable."

GridFlorida notes that the integration standard, which was set forth in Order No. 888, was not rendered obsolete in Order No. 2000. With respect to Seminole's request that the Commission find its 230 kV transmission facilities meet the integration test, GridFlorida states that since Seminole has not committed to join GridFlorida, the request is meritless and must be denied.

GridFlorida states that no detailed response was required to Seminole's assertion that the costs shifts at issue are "negligible."<sup>61</sup>

#### d. Discussion

The Commission finds GridFlorida's proposal with respect to the treatment of TDUs reasonable. Under the phase-in option, TDUs will still be responsible for a portion of the revenue responsibility of their own transmission facilities. However, absent the formation of the RTO, the TDUs would be responsible for all of these costs. A five-year transition period is a reasonable method for mitigating the cost-shift impact, even if the impact is minimal.

The TDUs' argument that GridFlorida will have control over their facilities without compensation is unpersuasive. Under the phase-in option, the TDUs will be compensated for the use of their transmission facilities, starting at a 20 percent level during the first year, and increasing by 20 percent each year thereafter. The phased-in treatment of the costs of the TDU facilities is without respect to whether the facilities are integrated with the system. The certainty associated with the phase-in approach provides TDUs an option to integrate their revenue responsibility into the RTO without demonstrating that TDU facilities are integrated with the grid, as required by Order No. 888.<sup>62</sup>

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<sup>61</sup>Answer at 96, fn. 30.

<sup>62</sup>Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,271 (1997).

The protestors object to the different standards that apply to TDUs and the Applicants for facilities rated greater than or equal to 69 kV. Under the integration-standard option, TDUs must demonstrate that the facilities are integrated with the GridFlorida system, whereas Applicants do not. In general, Applicants' facilities were designed on an integrated basis to serve a large area, whereas the TDUs' facilities were designed to serve a discreet area. Thus, the different standard is not unreasonable. Moreover, a totally separate option is available to the TDUs, which allows them to avoid meeting the integration standard at all.

#### 4. Moratorium on Changes to Rate Structure

##### a. GridFlorida's Proposal

GridFlorida proposes to include as section 12C of its tariff a provision entitled "Moratorium on Changes to Rate Structure." Under this provision, the following provisions cannot be amended under section 205 or modified under section 206 of the FPA, except upon a finding by the Commission that such provisions are contrary to the public interest:

1. The list of transmission rate zones.
2. The methodology for crediting TDU facilities.
3. The methodology for phasing out zonal transmission charges (and phasing in single system charges).
4. The methodology for establishing a single system charge for new transmission investment.
5. The methodology for phasing out existing contracts that constitute rate pancakes.

There is no expiration date for the moratorium. Applicants state that the transmission owners that transfer ownership or control of their facilities to GridFlorida do so in large part in reliance on these aspects of the RTO filing. Applicants further state that amending these provisions would effectively ameliorate the benefit of the bargain relied on by those entities when they transferred their facilities to GridFlorida.

##### b. Intervenors' Comments

Intervenors object to the higher level of burden needed to make changes in the RTO structure, stating that the higher burden would make it difficult for GridFlorida or the Commission to make any changes in unanticipated structural flaws. Further, Reedy

Creek is concerned about "locking in" congestion management provisions, since the Commission will likely revisit all RTO congestion management systems after a few years. Similarly, FMPA is concerned about the moratorium given the lengthy transition from zonal to uniform rates.

c. Discussion

As noted above, we accept GridFlorida's proposed rate structure. In its proposal, GridFlorida included a moratorium on changes to its rate structure. The proposed moratorium goes beyond that contemplated in Order No. 2000.<sup>63</sup> We recognize that, in the transition to an RTO, transmission owners may propose a rate design that prevents cost shifting and assures revenue neutrality. Beyond that, however, in order to establish the transco as a viable, stand-alone entity, the RTO (as opposed to the passive owners) should be able to make changes in rate design on an ongoing basis once it begins operations. Accordingly, in the compliance filing, GridFlorida must delete the sweeping moratorium provision from the tariff. Although we are rejecting a moratorium on changes in rate design, Order No. 2000 permits a moratorium on actual rates or on rate of return. Should Applicants wish to develop a proposal to restrict such changes, they may do so.

5. Grid Management Charge

a. GridFlorida Proposal

GridFlorida proposes to include a Grid Management Charge (GMC) in Rate Schedule No. 10 of its tariff. The GMC is intended to recover all reasonably incurred costs necessary for GridFlorida to carry out its business that are not separately accounted for in the tariff. The GMC includes start-up and administrative costs as well as payments to the Market Monitor. GridFlorida proposes to amortize the start-up costs on a monthly basis for five years. GridFlorida has not proposed a specific formula for recovering the start-up costs, as it anticipates that other parties may want to participate in the development of the formula. GridFlorida states that it will file the formula prior to commencement of operations.<sup>64</sup>

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<sup>63</sup>Order No. 2000 at 31,075 and 31,196.

<sup>64</sup>In their December 15, 2000 filing, Applicants stated that they would be making a supplemental filing on the methodology for dealing with losses. On March 15, 2001, Applicants filed a motion for extension of time until May 15, 2001, to file that proposed  
(continued...)

b. Intervenors' Comments

Seminole and the Florida Commission object to GridFlorida's "blanket" request to recover start-up costs. Orlando and FMPA state that the level of start-up costs are "inappropriate or excessive." FMPA suggests that the five-year amortization period should be a minimum period, given the ten-year phase in of GridFlorida's rate structure. FMPA also requests (and GridFlorida agrees) that GridFlorida provide support for the amortization period.

c. Discussion

In Order No. 2000 the Commission stated that the reasonable costs of developing an RTO may be included in transmission rates.<sup>65</sup> The types of costs listed by GridFlorida are the types of costs the Commission expects an RTO to incur as start-up costs.

GridFlorida notes that it is working with the parties to develop a formula for calculating the GMC. We encourage the parties to work together on developing that formula. Further, GridFlorida must file the formula as part of its compliance filing. However, we are persuaded that the five-year period for amortization of start-up costs is reasonable.

GridFlorida must file to recover the start-up costs it has incurred in a separate filing, where the parties will have full opportunity to comment on the level of proposed costs.<sup>66</sup>

6. Comparable Transmission Charges for Self-Exports and Third-Party Wheeling

a. GridFlorida's Proposal

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<sup>64</sup>(...continued)  
methodology. The proposed methodology on losses should be filed as part of the compliance filing required by this order.

<sup>65</sup>Order No. 2000 at 31,196.

<sup>66</sup>Duke Energy Corp., et al., 94 FERC ¶ 61,080 (2001).

In Attachment T to its open-access transmission tariff, "Existing Transmission Agreements," GridFlorida sets forth the rules applicable to existing transmission agreements. Section 2.1 applies to all existing agreements governing the allocation of transmission capacity; section 2.2 applies to all existing agreements governing the interconnection of facilities; section 2.3 applies to the provision of transmission service. The first section applies to agreements between (1) a Participating Owner or a Divesting Owner and (2) another party or itself. Sections 2.2 and 2.3 apply to agreements between (1) a Participating Owner or Divesting Owner and (2) another party.

b. Intervenor Comments

FMPA objects to the omission of intra-corporate service agreements. FMPA states that with this definition, a former third-party transmission customer with network resources located in another zone would continue to pay a delivery charge for the sale of power off system. However, if the generation resource belonged to the same corporation as the surrounding transmission system, a comparable charge would not apply. FMPA objects to the discriminatory treatment of export-from-zone delivery charges.

c. Discussion

In its answer, GridFlorida stated that the proposal applies to all long-term agreements, including any point-to-point service agreement that Applicants have with "themselves" under their open-access transmission tariffs. However, the tariff language does not reflect this. Therefore, in its compliance filing, GridFlorida must submit revisions to Attachment T to reflect that intra-corporate dealings are treated in the same manner as other transactions.

The RTO must ensure the development and operation of market mechanisms to manage transmission congestion. The RTO must satisfy the market mechanism requirement no later than one year after it commences initial operation. However, it must have in place at the time of initial operation an effective protocol for managing congestion.

\_\_\_\_\_ 1. Overview

a. GridFlorida's Proposal

GridFlorida proposes to manage congestion through a flowgate approach with physical transmission rights (PTRs). GridFlorida will determine which of its transmission facilities are subject to "commercially significant congestion." Such facilities will be designated as "flowgates." GridFlorida will then require every schedule request that involves the use of a flowgate to be accompanied by PTRs.

One PTR provides the right to transmit one MW of electricity through a flowgate during the hour(s) covered by that PTR. PTRs will be based on actual flows of electricity, rather than on a contractual basis. GridFlorida will calculate Power Transfer Distribution Factors (PTDF) for all transactions in the GridFlorida region, and the PTDFs will be used to determine how much, if any, power from a particular transaction will use a particular flowgate. GridFlorida will operate a bulletin board system, where offers to buy and sell PTRs can be posted.

GridFlorida states that its proposal will permit the creation of fully tradeable rights for congested interfaces, encourage the development of a liquid secondary market, permit market participants to pay for redispatch to create additional capacity, limit transactions to the physical capabilities of the transmission system to reduce congestion costs, and account for existing uses of the transmission system.

Although GridFlorida states that Attachment P to its proposed tariff, "Congestion Management, Balancing Service, Operating Reserves, and Regulation," provides ample detail for the Commission to determine whether the PTR approach is reasonable and satisfies the goals of Order No. 2000,<sup>67</sup> it acknowledges that "significant technical analytical work" remains to be done on its congestion management proposal in order to provide "specific factual details," such as the location of flowgates and the number of PTRs. GridFlorida notes that Applicants and interested stakeholders have formed a "Flowgate Working Group." This group has been assigned the following tasks:

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<sup>67</sup> Answer at 53.

1. Develop the specific objective criteria by which "commercially significant" congestion is determined.
2. Determine the location of the initial GridFlorida flowgates, using the FRCC-defined flowgates as an analytical starting point.
3. Determine the location of the initial congestion zones and the criteria by which a congestion zone is defined.
4. Determine the number of PTRs that are available at each initially-defined flowgate.
5. Determine the initial allocation of PTRs to existing uses.

Applicants believe that the use of a stakeholders working group to perform these tasks should help to make the process as fair as possible. They also state that the criteria should be based on objective technical analysis, not negotiated solutions influenced by political consideration. Applicants state that the results of the Flowgate Working Group will be filed at the Commission for its review and approval.<sup>68</sup>

b. Intervenors' Comments

Intervenors generally support GridFlorida's flowgate system for congestion management. However, as noted by FMPA, GridFlorida's congestion management proposal is not ready for "prime time." Intervenors have raised a myriad of questions, ranging from how "commercially significant" will be defined, to how flowgates will be determined over time, to how non-flowgate congestion costs will be allocated, to whether GridFlorida will have sufficient incentives to resolve constraints.

Intervenors also are concerned that the process for determining the initial limits of the system, and any ongoing analyses of the limits of the system, be open to all interested stakeholders, including merchant generators.

FMPA and Seminole note that part of GridFlorida's congestion management proposal is the "Next-Day Buy Through Service," which was not discussed in Applicants' proposal. They state that the proposed service appears to facilitate stand-alone hourly service, which will largely be for exports to Georgia. They further contend that the service will reduce network customers' ability to use resources other than their designated network resources, thus increasing their congestion costs. FMPA requests that the proposal be rejected or modified to be consistent with the pro forma tariff. Seminole requests that the service not be approved until sufficient explanation of the intent and

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<sup>68</sup>Supplemental Filing at 28-29.

operation of the service has been submitted and all parties have had an opportunity to comment.

c. Applicants' Answer

Applicants contend that their proposal contains a full congestion management program, except for one category of detail -- the location of and criteria for establishing flowgates. They state that a determination by the Commission on their PTR approach will be invaluable in the development of GridFlorida. Further, such a determination will enable potential participants to evaluate the impact of their participation or non-participation.

GridFlorida explains that the Next-Day Buy Through Service is intended to facilitate access to the transmission system for non-flowgate facilities, thus allowing new competitors access to congested facilities, if they agree to pay the costs of relieving the congestion. GridFlorida also explains that network customers are entitled to receive the service, at no extra transmission access charge (although the customer would be responsible for redispatch costs). However, Applicants note that customers' rights to service could be spelled out more clearly in the tariff. Applicants further commit to revising the tariff language.

d. Discussion

The Commission generally finds GridFlorida's PTR proposal to be a reasonable method for addressing congestion management. However, the Commission is concerned about the lack of detail on the flowgate proposal, including the issues underlying the five tasks to be addressed by the Flowgate Working Group. In addition, since available transmission capacity and PTDFs can vary over time, the amount of capacity underlying the PTRs that are issued may differ from the amount of transmission capacity that is actually available at any particular moment. The current proposal does not explain how GridFlorida will ensure that all available transmission capacity in each hour will be offered to customers for service. Also, the current proposal does not explain what procedures will be put in place to ensure that congestion is managed efficiently on non-flowgate facilities in instances when commercially significant congestion arises on these facilities unexpectedly. Until the flowgate issues are addressed and resolved, GridFlorida will not have a viable congestion management program. Since Order No. 2000 requires RTOs to have in place effective protocols for managing congestion while preserving

reliability,<sup>69</sup> in its compliance filing, GridFlorida must either (1) file the results of the Flowgate Working Group (with appropriate tariff sheets) or (2) file an interim protocol for managing congestion.

The Commission is also concerned about the details of the Next-Day Buy Through Service. As Applicants themselves admit, certain issues should be spelled out more clearly in the tariff. However, because we believe the service will help new customers to get service and discourage hoarding of PTRs, the Commission will approve in concept the service at this time. However, the Commission encourages the parties to continue to explore refinements of the service as part of GridFlorida's congestion management program. The Commission further encourages GridFlorida to submit, as part of its compliance filing, additional explanation of the purpose and operations of the service, along with its revised tariff sheets.

## 2. Allocation of PTRs

### a. GridFlorida's Proposal

Initial Allocation. GridFlorida proposes to allocate PTRs to firm uses of the system in amounts necessary to preserve "existing uses."<sup>70</sup> Applicants contend that this allocation will preserve the rights of current users of the system. In addition, Applicants propose that in the future, network customers be allocated PTRs associated with load growth, just as they are entitled to transmission capacity for load growth under Order No. 888.

All PTRs not allocated to existing uses for that year will be distributed through an auction. In addition, to the extent that an existing customer wants to change its existing use, it will be required to obtain PTRs necessary for the new use. The PTRs can be obtained either at auction or on the secondary market.

GridFlorida proposes that existing users have an equal right to an allocation of PTRs. However, if all existing uses cannot be allocated PTRs across a flowgate, each existing use shall receive a pro rata allocation of the PTRs available across that flowgate.

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<sup>69</sup>Order No. 2000 at 31,128.

<sup>70</sup>Citing Pennsylvania-New Jersey-Maryland Interconnection, 92 FERC ¶ 61,282 at 61,956 (2000).

Reallocation of PTRs. At the end of each "Annual Regional Planning Cycle," GridFlorida proposes to re-allocate PTRs to those network customers that were allocated PTRs during the initial allocation. An additional amount of PTRs will be allocated to satisfy those network customers' load growth for the upcoming year identified in the Annual Regional Planning Process, to the extent that PTRs are available. In addition, GridFlorida plans to allocate PTRs to network customers who identified new or changed network resources, pursuant to section 30.2 of the OATT. Finally, to the extent that the Annual Regional Planning process demonstrates that a network customer requires fewer PTRs, the "excess" PTRs will be allocated for the next year through the auction process.

Direct Allocation of PTRs for Construction. If a customer requests GridFlorida to upgrade facilities at a flowgate for its own purposes, that customer shall not only pay for the upgrades, but also receive any PTRs associated with the upgrade.

b. Intervenor Comments

The Florida Commission supports "in concept" GridFlorida's proposed allocation of PTRs.

Reedy Creek states that Attachments P and T to the OATT are unclear as to what happens to the PTRs that are allocated to existing customers upon expiration of their existing transmission agreements. Reedy Creek suggests that allocated PTRs should revert to the LSEs requiring service over the congested flowgates that are allocated PTRs in the first instance.

On the other hand, Duke ENA objects to the proposed administrative allocation of PTRs, and suggests that an auction process be established for the initial allocation. In fact, Duke ENA offers alternative proposals for auctioning off PTRs. According to Duke ENA, its proposed auctions will force existing users to accurately assess the amount of PTRs required. Further, Duke ENA contends an auction will create transparency in the wholesale market by identifying bidders, bidders' requirements, and the market-clearing price for PTRs. Dynegy and Enron also prefer auctions, but suggest that the Commission require an expeditious transition from an administrative allocation of PTRs to the distribution of PTRs through an auction process.

Dynegy and Calpine object to the automatic allocation of PTRs to network customers for load growth, and propose that network customers obtain PTRs for load growth through an auction process. Enron contends that new entrants are denied access to PTRs, and thus denied access to firm transmission service. For example, Enron explains that the administrative allocation of PTRs to existing customers for "anticipated"

future needs will leave no PTRs available for those that wish to enter or expand their presence in the Florida market.

c. Discussion

GridFlorida's proposed allocation of PTRs preserves the rights of existing users. Further, GridFlorida's proposed allocation provides new entrants with several opportunities to obtain PTRs. For example, those PTRs not initially allocated to existing users will be sold at auction to the highest bidder. Further, a new entrant can obtain PTRs by requesting service under the OATT. If new facilities are required in order to provide that service, GridFlorida has an obligation to expand that capacity and assign the resulting PTRs to the new entrant. Finally, GridFlorida's proposed allocation methodology is consistent with that we approved in PJM.<sup>71</sup> Accordingly, GridFlorida's proposed allocation methodology is approved.

Reedy Creek suggests that the OATT is unclear as to what happens to PTRs upon the expiration of contracts. Attachment P to the OATT, section 3.3.3 provides for the auctioning of unassigned PTRs. This would include PTRs that become available when contracts expire. However, those PTRs can be reassigned to a LSE, if the LSE needs additional PTRs to satisfy load growth, as determined in the Annual Regional Planning Process, pursuant to the provisions of section 3.3.3.1.

3. Use-it-or-lose-it Provision

a. GridFlorida's Proposal

GridFlorida is proposing an incentive for parties to trade PTRs. Under the its "use-it-or-lose-it" provision, any PTRs that are not scheduled in the day-ahead scheduling process are put up for auction to third parties as recallable transmission rights (RTRs). The auction proceeds are put into the "pool" of auction proceeds that are credited against transmission rates. GridFlorida notes that this feature of its proposal not only prevents hoarding, since parties will lose PTRs (and the associated revenues) if they are not used, but it also encourages parties to sell PTRs in the secondary market (where the seller will retain the revenues).

GridFlorida notes that RTRs are subject to recall by the original PTR holder up until two hours prior to real time. GridFlorida states that the reason for the recall

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<sup>71</sup>See PJM Interconnection, L.L.C. 92 FERC ¶ 61,282 at 61,956.

provision is to increase the amount of RTRs that are made available. GridFlorida states that if a PTR holder knows that it will not be able to recall its PTRs, it may schedule more transactions in the day ahead process than it needs, and then release the unneeded PTRs when it would be too late for anyone else to use them. By contrast, GridFlorida argues, a PTR holder is more likely to release PTRs that it does not think it will need in the day ahead process, if it knows that it can recall those PTRs if circumstances change.

b. Intervenor Comments

Duke, Calpine, and Enron strongly object to the "recallability" provision of GridFlorida's proposed use-it-or-lose-it provision. They complain that it does not "foster wholesale market development," and that it "defeats liquidity in the secondary market." Enron suggests that if the recallability provision is retained, it should be no less than 16 hours.

Calpine notes that GridFlorida's proposed "solution" to increase the amount of PTRs available in the secondary market does not address the "real" problem. Calpine states the real problem is that holders of PTRs make fictitious PTR schedules for capacity they do not intend to utilize, such as "projected" native load service requirements, because PTR holders do not have any financial incentive to allow their PTRs to fall into the use-it-or-lose-it auction. Calpine further suggests that PTR holders may seek to eliminate their competitors' access to PTRs by fictitiously scheduling them, thereby ensuring that the PTRs will not become available until it is too late for the PTRs to be of use to others.

Calpine offers an alternative proposal to "incentivize" PTR holders to either use their PTRs, sell them, or submit them to the use-it-or-lose-it auction. Calpine proposes to penalize PTR holders for scheduling more PTRs than they actually utilize. This provides a direct financial disincentive to abuse of the scheduling process for PTRs. Calpine notes that the scheduling penalty could include a bandwidth range depending on time period or severity. For example, if the PTRs scheduled did not vary significantly from those actually utilized, there may be no penalty; however, once the difference exceeds a specified threshold, the greater the variation between scheduled and actual uses, the higher the level of penalty.

c. Discussion

While the Commission favors provisions which provide disincentives to hoard, Applicants have not explained how the two-hour recallability provision will operate. Accordingly, in their compliance filing, Applicants must further explain the operation of the recall provision, including whether allowing recall until two hours before real-time

(instead of some earlier deadline) will discourage an active market for these rights and whether the two-hour notice provides purchasers of RTRs adequate time to make alternative arrangements. Alternatively, if Applicants would like to propose another incentive to encourage parties not to hoard PTRs, they may do so.

### RTO Function No. 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.

#### 1. Applicants' Proposal

Applicants state that under their proposed flowgate congestion management system, a transaction within the FRCC cannot be scheduled unless the parallel flows resulting from the transaction can be accommodated. According to Applicants, parallel flows between the FRCC and other regions are not significant because of the limited capacity of inter-ties. If parallel flow problems arise in the future, GridFlorida is obligated to negotiate agreements with other RTOs or transmission owners to address such problems. OATT, Attachment O (Operating Protocol), section 1.G.

#### 2. Intervenor Comments

Morgan Stanley contends that Applicants' parallel path flow proposal does not effectively resolve operating concerns and that despite limited interconnections, parallel path flow concerns remain present. It argues that internalization of parallel path flows is necessary in order to provide equal opportunity for suppliers outside the RTO to compete with inside suppliers. Morgan Stanley believes that the transmission pricing plan must address the economic allocation of congestion costs in order to prevent an unfair burden from being placed on external market participants when internal flow issues create congestion.

#### 3. Discussion

The near total absence of comments regarding this facet of Applicants' proposal suggests that parallel path flows are not a significant concern in this region. As Applicants note, however, GridFlorida is required to meaningfully address such issues if they arise in the future both within Florida and in the context of interrelationships with other transmission owners or regional transmission groups outside Florida. In this regard,

the flowgate proposal is still under development and RTO developmental processes are underway in SERC which may heighten the significance of parallel path flow issues in all three regions. Therefore, consistent with Order No. 2000,<sup>72</sup> we direct GridFlorida to file parallel path flow procedures in its compliance filing so that it will have measures in place to address parallel path flow issues in its region on the date of initial operation. With respect to parallel path flows between regions, we direct GridFlorida to implement procedures no later than three years after GridFlorida commences operation.

We reject Morgan Stanley's suggestion that suppliers outside of Florida should receive different treatment than inside suppliers with respect to the impact of transactions on congestion costs. In any case, a future compliance will be necessary to provide more details of, and to fully implement, the congestion management plan and Morgan Stanley may raise issues regarding unfair or anticompetitive treatment at such time.

#### RTO Function No. 4: Ancillary Services

The RTO must serve as a provider of last resort of all ancillary services required by Order No. 888 and subsequent orders.

Applicants propose to establish markets for obtaining the following ancillary services: Regulation and Frequency Response Service (Regulation Service), Balancing Service, and Operating Reserves (Spinning Reserve Service and Supplemental Reserve Service). OATT, schedules 3, 4, 5 and 6 and Attachment P. A market is also proposed for LSEs to meet installed capacity and energy (ICE) requirements. OATT, Attachment W. Non-market mechanisms will be used to procure the following ancillary services: Scheduling, System Control and Dispatch Service (Scheduling Service), Reactive Supply and Voltage Control from Generation Sources Service (Reactive Supply), and Black Start Service. OATT, schedules 1, 2 and 11. We will analyze Applicants' proposal separately for market design issues associated with market-procured ancillary services, issues other than market design associated with ancillary services and the ICE market.

#### 1. Market-Procured Ancillary Services: Market Design Issues

##### a. Applicants' Proposal

Applicants propose that, except for amounts Scheduling Coordinators self-supply from their own generation or obtain through bilateral contracts, GridFlorida will procure

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<sup>72</sup>Order No. 2000 at 31,130.

regulation services, operating (spinning and supplemental) reserves, and balancing services through a market approach. Based on day-ahead schedules GridFlorida will determine the amounts of regulation service and operating reserves and allocate these amounts among the Scheduling Coordinators. It will then determine the amounts of these services to be procured in the markets by taking account of the amounts to be self-supplied by Scheduling Coordinators and allocates the incurred costs among the Scheduling Coordinators which do not self supply. Supplemental Filing at 31-32.

Scheduling Coordinators with resources may submit bids to provide regulation service and operating reserves, such as bids to include a capacity component and an energy component. The market-clearing price for each service will equal the highest priced capacity reservation bid accepted by GridFlorida. All Scheduling Coordinators whose bids are accepted are paid the market-clearing price. The energy price associated with the regulation and operating reserves services is determined in the balancing service market, as described below. *Id.* at 32.

Scheduling Coordinators are required to submit balanced schedules of resources and loads in the day-ahead scheduling process and to submit incremental and decremental energy bids ("incs" and "decs"). GridFlorida uses the incs and decs to establish a bid stack to provide energy balancing service which is used in real time to balance the grid, to provide congestion management through redispatch and to price the energy associated with operating reserves and regulation service. The incs and decs are used in real time to match generation and load intra-hour. GridFlorida selects the resource with the lowest incremental energy bid price when it is necessary to obtain more energy from resources. The market-clearing price for energy within a Congestion Zone will be equal to the highest bid price called on by GridFlorida to provide energy in that Congestion Zone and is paid to all Scheduling Coordinators supplying energy. Price will differ across Congestion Zones only when there is congestion. Transmission customers' charges for balancing service will be calculated based on ten-minute increments. *Id.* at 32-34.

Applicants recognize in the Initial Filing (at 58) that "the generation market may be sufficiently concentrated that certain mitigation measures may be necessary." Applicants state that such measures would be implemented as part of any market-based pricing arrangements, requiring the Commission's approval. They propose that suppliers that do not have market-based rate authority be required to bid into markets at cost-based rates, but still be entitled to receive the higher of their bid or the market-clearing price. Initial Filing at 71. Applicants also suggest that under certain circumstances, it might be necessary to assure that suppliers with market power do not withhold capacity from the market. Applicants contemplate that the Market Monitor could review the effectiveness of such measures. Initial Filing, Market Design Specification at 16.

Applicants have not included in the Supplemental Filing a request for market-based rate authority for any entity for any of the ancillary services markets. They recognize that before the Commission can permit any entity to charge market-based rates in these markets, additional information and analysis will have to be provided in the context of a market-based rate filing. However, Applicants reiterate that market participants with market power whose bids are capped at cost should receive the market-clearing price in order to send economically efficient price signals to the market. They believe that there is no reason to deny an entity with market power the market-clearing price as long as it is not able to set the market-clearing price above its cost-based cap. Supplemental Filing at 40.

b. Intervenor Comments

JEA and the Florida Industrial Cogeneration Association (FICA) assert that Applicants' proposed market design ignores that Applicants will continue to be the main suppliers of the capacity and energy used to supply ancillary services and that no evidence exists to demonstrate that these markets will be competitive. FMPA believes that the slicing and dicing of these new markets, further partitioned by flowgates, will simply make it easier to exercise local market power. It criticizes Applicants for attempting to substitute bid-based single price markets for cost-based generation pricing in markets that will remain oligopolistic. FMPA notes that the Commission has found that single price auctions which hold some generators to cost-based bids, but allow them to receive the market-clearing price, do not effectively constrain sellers in times of shortages. It fears that abuses could readily occur in the concentrated Florida market, given the present prohibition on merchant capacity and the lack of mandatory bidding in most of the proposed markets. FMPA also urges the Commission to reject market-based pricing until a complete market power analysis, not merely the hub and spoke analysis, is submitted.

Seminole joins in other intervenors' characterization of the lack of competitiveness of Florida markets and argues that, given Applicants' market power, the Commission cannot move to market-based rates without empirical proof of a dequate competition. It regards Applicants' proposal that sellers with market power bid at cost, but receive the market-clearing price, as effectively granting market-based rates. Seminole points out that this alleged mitigation also does not prevent such sellers from withholding capacity to increase the market-clearing price. It proposes several market rules as alternative mitigation. These include requiring market participants to offer generation inside the state first and constraining market participants with more than 20 percent of the market to recovering no more than the marginal cost of each of their units. Seminole proposes that the Market Monitor identify the presence of market power by use of the Lerner Index, the ratio of a seller's profit or price-cost margin to its bid price.

Enron argues that the requirement for Scheduling Coordinators to submit balanced day-ahead schedules of resources and loads will lead to over-dependence on forward markets and prevent the development of a liquid real time energy market. Enron believes that customers should be able to submit unbalanced schedules and "uncovered" schedules that require PTRs on flowgates for which the schedulers hold no PTRs. FICA asserts that it has not been shown that a balancing services market will be competitive and believes that Applicants should be directed to provide more information regarding the adequacy of competition in the proposed ancillary services markets, particularly the balancing market, as was required by the Commission in Alliance III (94 FERC at 61,315). It regards Applicants' proposed market mitigation of cost-based bid caps for sellers with market power as inadequate because sellers can still withhold capacity. FICA also criticizes the proposed balancing services market for not allowing for netting and trading of imbalances, the return of energy in-kind at like times or a tolerance band. It notes that Alliance III ordered the applicants to provide more support for a proposed settlement window of 5 to 15 minutes.

Seminole argues that the Commission should require GridFlorida to adopt measures to provide for consumer demand response to market price signals. In particular, it believes that GridFlorida should be directed to begin the process of developing the infrastructure and equipment to enable real-time metering and demand reductions by end-use customers.

c. Applicants' Answer

Applicants state that they developed their market design proposal in an attempt to comply with Order No. 2000's directive that the procurement of ancillary services be based on market forces to the extent possible. According to Applicants, their market design proposal was developed to work in a competitive market, although they recognized that the Florida market was highly concentrated and that the market power of some market participants might have to be mitigated before their proposal could be implemented. Applicants contend that their proposal complies with the requirements to establish a balancing energy market and provide for ancillary services under a market approach. Applicants' Answer at 79.

Applicants state that, at this point, they are asking for approval of a market design that has been proposed without regard to who is actually selling into the markets. They recognize that Commission approval may be contingent on subsequent submission of market power mitigation for entities with market power. Applicants note that they have not requested market-based rate authority to sell into any of the proposed markets. Although they believe that entities without market-based rate authority should be allowed

to submit cost-based bids and to receive the market-clearing price, they are not requesting approval at this time to make sales on such basis. Applicants state that they will make separate requests for authority to sell into GridFlorida markets in the future, except for TECO, which already has market-based rate authority. These filings are to be made prior to the time the GridFlorida markets are to begin operating so that the Commission will be able to consider any market power mitigation issues. Id. at 79-80.

Applicants consider the market power arguments of FMPA, Seminole and others to be premature, noting that Applicants are simply requesting approval for a market design proposed without regard to which entities are actually selling into those markets. They object, nonetheless, to Seminole's proposal which views any price above the marginal cost of a generator to reflect the exercise of market power. According to Applicants, a prohibition on sales outside Florida until all Florida demand is satisfied at marginal cost would eliminate any incentive to build new generation in Florida. Applicants believe that with sufficient safeguards, their proposal to establish competitive markets is preferable. Although Applicants do not propose such a step, they indicate that the Commission could simply continue with cost-based regulation if it does not conclude that market forces should set prices. Id. at 80-81.

In their response to Enron, Applicants state that they are not necessarily opposed as a theoretical matter to the implementation of a real time energy market that could be accessed through the submission of unbalanced schedules. However, they did not propose such a market because of practical concerns that unbalanced schedules will not work without either some form of forward market or a centralized unit commitment process, that GridFlorida be able to administer a market with balanced schedules before considering unbalanced schedules, and about the impact of market power in the region on the larger real-time energy market that would result from unbalanced schedules. They state that the decision to require balanced schedules is not necessarily meant to be permanent but would be an issue for further consideration in the report on market design that they would submit within 18 months of commencement of GridFlorida's operations, if not sooner. In response to FICA, citing Alliance III, Applicants state that a secondary imbalance market for trading and netting imbalances is not required when GridFlorida operations commence. Applicants also argue that its proposed settlement window of 10 minutes will eliminate uplift charges which would otherwise be incurred by all customers if average hourly clearing prices failed to cover the bid price of generators called on for only a part of the hour. Id. at 73-74.

d. Discussion

The Applicants are proposing that we approve their market design proposal in concept. However, at this time we do not have sufficient information about their proposal to do so. For example, we do not have information about the market shares of the various sellers of ancillary services, whether sellers will be required to bid into the ancillary services markets, whether sellers will have market-based rate authority and the location of congestion within peninsular Florida. Therefore, we will require GridFlorida to fully support its market design proposal in its compliance filing. Although we are not ruling on Applicants' market design proposal in this order (except for certain specific issues noted below), we direct Applicants to address and attempt to resolve to the extent possible in their compliance filing specific concerns raised by intervenors regarding both market design and non-market design issues relating to ancillary services. We believe that many of these concerns are of the nature or type that can be resolved either through further negotiation among the parties or with additional explanation by Applicants.

Regarding other market design issues, the Commission agrees with Applicants that while Enron's proposal to allow unbalanced schedules may have theoretical merit, practical concerns indicate that this proposal should not be implemented initially when GridFlorida becomes operational. However, we encourage Applicants and the parties to continue to consider the merits of the proposal, and how the proposal could be practically implemented, before the 18 month report where it would otherwise be addressed. We also agree with Applicants that while GridFlorida may ultimately decide to implement a secondary imbalance market, one is not required now.

With regard to Seminole's arguments concerning a demand response mechanism, the Commission agrees that the ability of demand to respond to price is an important element of market design. GridFlorida should consider this issue and develop a means to allow demand response to price. The compliance filing that GridFlorida is required by this order to make should report on GridFlorida's progress in addressing this issue and include a schedule for developing a demand response mechanism. GridFlorida need not have this mechanism in place on the date on which it commences operations, but should have it in place as soon as possible thereafter.

## 2. Ancillary Services: Issues other than Market Design

### a. Operating Reserves

FMPA and others maintain that the methodology for allocating operating reserves and other features of the proposed operating reserves service are not clear. FMPA is also concerned that Attachment P to the GridFlorida OATT does not accommodate FRCC's existing reserve sharing arrangement. In their answer, Applicants assert that they intend

to continue the operating reserve sharing practices that are in place today. However, Applicants recognize that various operating reserve procedures are not completely and clearly spelled out in Attachment P, and they agree to amend that attachment to clarify these procedures. Among these clarifications, Applicants also intend to clarify that a Scheduling Coordinator may amend its balanced schedule as soon as practicable in response to a loss of a unit, and consistent with reliability requirements, in the event of a forced outage to designate another resource to replace its lost unit. Applicants should provide the proposed clarifications in the compliance filing required by this order.

b. Multiple Control Areas

Applicants propose to allow multiple control areas. Not only will GridFlorida operate a control area but also any other existing control area operator that wants to continue to operate as such may do so. Seminole maintains that GridFlorida has not supported its proposed use of multiple control areas, and that its proposal in this regard leads to confusion concerning, *e.g.* what ancillary services may be self-supplied from what source in a particular area, and whether a scheduling coordinator in one control area will be prohibited from using its generation resources located in another control area. FMPA argues that under its proposal, GridFlorida does not meet its obligation to be the provider of last resort of regulation service since loads in the Florida Power Corp. control area are not eligible to purchase regulation from GridFlorida. Further, it is not clear that Florida Power Corp. would be obligated to provide them regulation service and, if so, on what terms.

Order No. 2000 (at 31,141) does not require the RTO to be the single control area operator. Applicants should clarify their ancillary services proposal concerning what rights market participants have under their proposal concerning control areas. In doing so, Applicants should address FMPA's argument that their control area proposal affects their ability to meet their obligation to be the provider of last resort of regulation service. Once these clarifications have been provided, the Commission can address any remaining disputes.

c. Self Supply

Applicants propose that Scheduling, Reactive Supply and Black Start services must be purchased from GridFlorida. Reedy Creek asserts that it historically has self-supplied these services even when procuring transmission services from neighboring utilities, and that GridFlorida has provided no reason to require a change to this practice. In their answer, Applicants cite Order No. 888 (at 31,711-12) for the proposition that black start service is a transmission service that cannot be self-supplied.

The Commission does not agree that Order No. 888 requires this result. Order No. 888 states (at 31,711) that:

We will not require a transmission provider to provide blackstart capability to transmission customers. Generators without black-start capability can instead purchase blackstart power from any power supplier connected to the grid at an appropriate power price, if such service is available after a contingency is corrected.

Accordingly, we will require Applicants to allow customers to self-supply their own black start service or explain why it is unreasonable to grant its customers this option.

With regard to Scheduling Service and Reactive Service, Applicants answer that Order No. 888 requires that these services are to be provided by the transmission provider when it is the control area operator. The Commission agrees with Applicants regarding Scheduling Service. However, with regard to Reactive Service, Applicants disregard that portion of Order No. 888-A (at 30,228) which explains that while customers cannot self-supply all of their reactive power, the pro forma tariff allows them to reduce their reactive power needs and self-supply some of it. In their compliance filing, Applicants must modify their proposal and the relevant tariff sheets accordingly.

With regard to Seminole's request that Applicants clarify that ancillary services may be self-supplied regardless of congestion zones, Applicants believe there must be deliverability requirements for ancillary services, and propose to define those requirements in a future filing. Applicants should do so in the compliance filing required here. In that filing, Applicants should also clarify whether a customer may self-supply using demand-side resources, as requested by Reedy Creek. We will defer ruling on these issues until the compliance filing.

d. Discriminatory Treatment of Generators

GridFlorida proposes that existing generators shall provide reactive power consistent with their power factor range capabilities, but that the Transmission Provider will define a single power factor requirement that all other generators must meet as part of their interconnection requirements. Calpine is concerned that Applicants' proposal is discriminatory against new generators and may give existing generators an unfair advantage in the provision of reactive service.

With regard to Reactive Supply, all generators will be required to provide reactive power as part of their interconnection agreements with GridFlorida. A generator will be compensated for its lost opportunity costs only to the extent it must reduce its real power output to provide or absorb reactive power in response to GridFlorida dispatch instructions outside of the reactive requirements included in the interconnection agreement.

In their answer, Applicants state that they intend to amend Schedule 2 of the OATT to clarify that the same reactive requirement would apply to all generating units interconnected in GridFlorida with the exception of existing generation units that do not currently have the capacity to satisfy that requirement. Applicants explain that this exception recognizes the fact that it is too costly to redesign or retrofit existing generation units to change their power factor capabilities, and that they will amend Schedule 2 of the OATT to clarify this approach. Applicants' response is reasonable and their proposed amendment of Schedule 2 in the compliance filing required by this order should resolve this issue.

e. Reactive Power Cost Allocation

Seminole objects to the allocation of reactive power costs to all MW of transmission service and maintains that additional costs should be allocated to loads being supplied by resources outside of GridFlorida. Citing Central Hudson Gas & Electric Corporation, et al.,<sup>73</sup> Applicants assert that the Commission has not made such a distinction previously. The Commission agrees that Applicants' approach is consistent with precedent, including Central Hudson, and accordingly finds that Applicants' proposed allocation of these costs is appropriate.

f. Black Start

FMPA, Seminole, and Reedy Creek request Applicants to clarify the mechanism for selecting, certifying, and paying black start units. FMPA also objects to the allocation of black start service costs to all transmission customers on a pro rata basis. Seminole is concerned about undue concentration of ownership of black start units.

In their answer, Applicants state that the amount and location of black start capability required will be determined by GridFlorida as part of its comprehensive system restoration plan, which will be governed by specific reliability and operating protocols

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<sup>73</sup>86 FERC ¶ 61,062 at 61,215 (1999).

developed to implement FRCC and NERC criteria. GridFlorida proposes to post these additional provisions on its website rather than file them with this Commission under section 205 of the FPA. The Commission agrees with Applicants that this process is reasonable.

As to Seminole's concern about concentration, Applicants state that to ensure reliability, it is reasonable to require existing owners of black start units to make their units available to GridFlorida, and that this does not limit GridFlorida's ability to procure additional black start capability from other potential suppliers. Citing New England Power Pool,<sup>74</sup> Applicants assert that the costs of black start service should be borne, as are other transmission related costs, by all transmission customers. The Commission agrees with Applicants' responses on these matters.

### 3. ICE Requirements

#### a. Applicants' Proposal

To implement the planning reserve requirements imposed by the Florida Commission and the FRCC in a manner that provides the benefits of price signals for investment in capacity, Applicants propose to impose an Installed Capacity and Energy (ICE) obligation on all LSEs within the GridFlorida control area. Each LSE would be required to have sufficient rights to call on capacity to produce energy to meet its ICE obligations over a rolling twelve-month period. LSEs would meet these obligations through rights to generation capacity they own or to which they have contract rights, by establishing qualified demand resources, or by entering into bilateral contract arrangements with suppliers. If an LSE does not have a sufficient amount of installed capability, GridFlorida would require the deficient LSE to purchase sufficient contract rights during a monthly deficiency auction.

Applicants recognize that many significant details of the proposal remain to be worked out. For example, the ICE proposal contemplates that GridFlorida will implement the planning reserve standard set by either the Florida Commission or the FRCC. Which entity will set the standard, and exactly what the standard will be has not been determined.

#### b. Intervenor Comments

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<sup>74</sup>92 FERC ¶ 61,020 at 61,041 (2000).

The Florida Commission supports in concept Applicants' ICE obligation proposal. However, FMPA argues that the proposed ICE obligations are unnecessary given the Florida Commission's effective enforcement of installed capacity requirements and, at a minimum, are premature. FMG and Reedy Creek make similar arguments. Intervenors, such as FMPA (which identifies 17 major unresolved issues), Duke ENA, and Dynegey, point to various provisions of the proposed obligations that are unclear. FMPA, Reedy Creek, and others maintain that the proposal is unnecessarily rigid concerning what supplies are eligible to fulfill the obligations. FMPA is also concerned that LSEs will as a practical matter be required to contract with FP&L or Florida Power Corp. to fulfill their obligations. It believes that various ICE provisions such as cost-based bidding (which will leave FP&L and Florida Power Corp. little incentive to make supplies available to meet ICE requirements), lack of mandatory bidding, and single price auctions will enable suppliers such as FP&L and Florida Power Corp. to exert market power to the detriment of other LSEs.

c. Applicants' Answer

Applicants concede that an additional filing concerning the ICE proposal is necessary and state that they plan to continue to work through the details with the stakeholders in a collaborative process. Nevertheless, in order to establish the validity of including an ICE mechanism in the GridFlorida market design and assist the stakeholder process in developing a final proposal, Applicants request that the Commission uphold the following four principles regarding ICE: that an ICE mechanism should be included in the GridFlorida market design; that it should contain both a capacity and an energy component; that it include deliverability requirements, and that it include some kind of enforcement mechanism for entities that fail to satisfy their obligations.

d. Discussion

The Commission affirms in concept Applicants' proposal to establish ICE requirements. The Florida Commission agrees with this proposal in concept. The Commission has approved similar proposals, and it should help ensure that adequate reserve margins exist to meet demand. However, as Applicants concede, many important provisions concerning this service need to be specified, and to develop them and address the issues that have been raised, much additional consultation and negotiation is necessary among Applicants, market participants, the Florida Commission and the FRCC. The Commission agrees that it is not necessary for these requirements to be effective when GridFlorida is scheduled to commence operations in December of this year. However, we encourage Applicants to have these requirements effective at that time or as soon after that as possible. Accordingly, the required consultations and negotiations should soon

take place and GridFlorida should then promptly file a revised and fully developed proposal concerning ICE requirements. The Commission will address any outstanding issues concerning these requirements as appropriate at that time. With regard to the four general principles set forth in Applicants' answer, while these principles appear reasonable at first glance, Applicants should clarify them further as requested by the parties before the Commission addresses them on the merits.

**RTO Function No. 5: OASIS, Total Transmission Capability (TTC) and Available Transmission Capability (ATC)**

**The RTO must be the single OASIS site administrator for all transmission facilities under its control and independently calculate TTC and ATC**

**1. Applicants' Proposal**

GridFlorida will have the sole authority to operate the OASIS for its transmission system and to determine TTCs and ATCs for its transmission facilities. It will also have authority to verify line ratings and other design criteria provided by participating transmission owners, on which TTCs and ATCs are based. GridFlorida's ATC determinations will be made in accordance with FRCC ATC Coordination Procedures and NERC standards. When a dispute arises, GridFlorida's determinations will be controlling until the dispute is resolved through GridFlorida's dispute resolution procedures. OATT, Attachment O (Operating Protocol), section II.

**2. Intervenor Comments**

Williams supports Applicants' proposal for satisfying RTO Function No. 5.

**3. Discussion**

The Commission approves Applicants' proposal as consistent with Order No. 2000.<sup>75</sup> GridFlorida's determinations regarding TTC and ATC are controlling while disputes are being resolved.

**RTO Function No. 6: Market Monitoring**

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<sup>75</sup>Order No. 2000 at 31,145.

To ensure that the RTO provides reliable, efficient and not unduly discriminatory transmission service, the RTO must provide market monitoring for markets it operates or administers to identify market design flaws, market power abuses, and opportunities for efficiency improvements, and propose appropriate actions.

### 1. Applicants' Proposal

Applicants propose that GridFlorida and GF Inc establish the Market Monitoring Corporation (MonitorCo), a separate non-profit corporation with a three member board of directors. GF Inc and the Advisory Committee each select a director and then jointly select the third director. MonitorCo's Board of Directors chooses a qualified individual to act as the Market Monitor, who then selects the necessary personnel of MonitorCo.

Pursuant to a Market Monitoring Tariff, the Market Monitor examines market structure and operation in the markets administered or served by GridFlorida to determine whether such markets are competitive, efficient, and comply with GridFlorida's transmission tariff and other GridFlorida agreements and protocols. The Market Monitor's duties and responsibilities primarily fall into three categories, (1) monitoring of markets, identification and correction of market power abuses and violations of market rules, (2) preparation of reports and recommendations and (3) information gathering. Among its monitoring and investigation activities, the Market Monitor examines compliance with market rules by Market Participants and GridFlorida, the competitive practices of individual Market Participants and GridFlorida, and market power and market power abuses; The Market Monitor may seek through informal negotiations with Grid Florida or market participants to remedy anticompetitive conduct which is economically significant, violations of market rules and market effects of a rule or procedure which allows Market Participants to impair efficiency. The Market Monitor also has the authority to issue a demand letter requesting a Market Participant or GridFlorida to discontinue specific actions which the Market Monitor believes to be anticompetitive and if unable to achieve adequate corrective action through informal means or demand letter, may file a complaint to the Commission. Apart from responding to specific actions by market participants or GridFlorida, the Market Monitor may evaluate a broad range of enforcement mechanisms to ensure compliance with market rules and prevent anticompetitive behavior, seek Commission approval for such mechanisms and impose approved mechanisms on a prospective basis. In regard to this last function, the Market Monitor may seek Commission authority to remedy past conduct that violated market rules that existed at the time of the conduct, but will not seek authority to remedy past conduct that occurred prior to the date that the Commission grants such authority.

In addition, the Market Monitor is required to submit regular reports to GridFlorida and the Advisory Committee on the state of the markets and may make recommendations to GridFlorida regarding changes to its tariff, agreements, protocols, policies and practices to correct identified problems. The Market Monitor has the independent authority to submit market performance reports and recommendations to the Commission and state regulatory agencies regarding GridFlorida's tariff, agreements and protocols and must file any reports requested by the Commission or the Florida Commission.

Further, the Market Monitor has the authority to seek the Commission's approval to acquire specific data from market participants and GridFlorida. Except for commercial information and business plans, GridFlorida is required to provide such data prior to the Commission's ruling on the Market Monitor's request. All confidential information provided is subject to appropriate confidentiality limitations.

Applicants note that they amended section 1.2 of the Market Monitoring Tariff in the Initial Filing to provide that the Market Monitor will fulfil its duties in accordance with policies adopted by the MonitorCo Board. That amendment eliminates the previous requirement that the Market Monitor obtain the MonitorCo Board's approval before taking action. Applicants state that they increased the Market Monitor's access to information in the Supplemental Filing (Market Monitoring Tariff, section 3.3.1) and believe they have satisfied stakeholder concerns in this regard. Applicants have also agreed to further clarify in section 3.1.1 that the Market Monitor will monitor as well as investigate and report on the activities of GridFlorida with respect to the markets served or administered by GridFlorida.

## 2. Intervenor Comments

The Florida Commission reiterates the concern expressed in its initial comments that the Market Monitor will not have enough authority to address market abuses. It believes that at a minimum the Market Monitor should report its activities to the Florida Commission, which should also have access to all RTO records. The Florida Commission suggests that it share the enforcement role with the Commission. Calpine recommends that the Market Monitor review control area policies and procedures and propose improvements. Duke ENA and Calpine both assert that the Market Monitor should be required to monitor actions taken in real-time by GridFlorida and to propose appropriate actions to be taken in real time by GridFlorida. They recommend that the Market Monitor be required to respond to inquiries and complaints from GridFlorida staff and government agency staff. They also urge that the "market rules" (Market Monitoring Tariff, section 3.1.2), with which Market Participants must comply, be set forth in at least

general form to ensure independence and objectivity and to avoid a post-decisional morass.

FICA faults the market monitoring proposal for limiting the Market Monitor's remedial powers. It also requests that Applicants be directed to explain the Market Monitor's role in ancillary services markets, as the Commission ordered in Alliance III, 94 FERC at 61,315. FMPA is similarly critical of the Market Monitor's limits on access to information and remedial powers, noting that the Market Monitor cannot seek monetary relief until it has applied for and received such authority from the Commission for future violations. However, FMPA believes that the Market Monitor will be able to shorten the period for disclosing sealed bids for completed auctions. Also, in view of other mitigating factors, including the growth potential built into the Market Monitor's powers and the possibility of a rule-making on market monitoring, FMPA does not seek to enhance the Market Monitor's role here.

Seminole supports the Market Monitoring Tariff in most respects but believes that its effectiveness can only be ensured by adoption of several market procedures. These procedures would provide that: (1) market information, including bids identified by bidder, is to be disclosed quickly; (2) the market monitoring staff share offices with GridFlorida staff and have equal and simultaneous access to all of GridFlorida's data and information through direct computer interconnection and complete access to all GridFlorida facilities and personnel in order to effectuate real-time market monitoring and mitigation; and (3) bids and prices would be subject to refund and seller conduct would be subject to antitrust enforcement. In regard to this last procedure, Seminole would add to the Market Monitor's remedial authority by allowing it to require the restitution of market overcharges imposed by the exercise of market power, specifically when a seller bids above its marginal cost and that bid sets the market-clearing price.

Williams contends that the Commission and the antitrust laws can sufficiently protect against market abuses, without the need for a market monitor. Assuming that a market monitor will be required, Williams is concerned that the Advisory Committee's selection of a MonitorCo Board director will be biased by virtue of the heavy presence of transmission owners. Also, Williams urges that any market monitoring reports be sent simultaneously to the GridFlorida board and the Commission and that identities of any market participants mentioned in such reports be kept confidential. Williams further objects to granting sanction, enforcement or punishment authority to the market monitor.

### 3. Discussion

The Commission will approve Applicants' proposed market monitoring plan, with modification as discussed below. Consistent with Order No. 2000, the Market Monitor has authority to investigate and identify market problems and abuses, and to propose solutions. The Market Monitor may also seek remedies for market problems from the Commission.

Generally, we view the powers given to GridFlorida's Market Monitor to be at least comparable with those in other market monitoring plans we have approved and are not persuaded that such powers need to be increased at this time. Sufficient provision is made for interaction between the Market Monitor and government agencies. However, we agree with Williams that market monitoring reports should be sent simultaneously to the GridFlorida Board and to the Commission. Seminole, Calpine and Duke ENA have not provided a compelling reason to require real-time monitoring of daily activities in the proposed GridFlorida markets at this time. In addition, we will deny Seminole's request that bid information be released to the public more quickly than six months. However, the Commission interprets section 3.3.1 of the Market Monitoring Tariff to provide the Market Monitor with sufficient authority for its monitoring and investigatory purposes to obtain bid information more quickly than six months, subject to the limitations therein and appropriate confidentiality limitations (section 3.3.2). The Market Monitor also has the authority to recommend to the Commission changes to GridFlorida's policies and practices to correct problems identified through the Market Monitor's monitoring (section 3.2.3).<sup>76</sup> Such changes would be subject to our approval. Regarding Seminole's request that the Market Monitor's remedial authority encompass restitution of market overcharges, nothing prevents the Market Monitor from applying to the Commission for such authority, except as it relates to conduct occurring prior to the granting of such authority by the Commission.

However, like some intervenors, we are concerned that the ability of GridFlorida and market participants to comply with market rules (section 3.1.2(b)), and the Market Monitor's investigation of compliance with "market rules", will be hindered unless such rules are set out in advance of GridFlorida's operation in at least general form. Therefore,

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<sup>76</sup>We note that section 2.1.1(l) of the GridFlorida LLC Information Policy (Information Policy) provides for notice on GridFlorida's website anytime that the Market Monitor has recommended an amendment to the Information Policy pursuant to section 2.1.3 of the Information Policy. Section 2.1.3 does not appear to exist. Applicants should clarify whether the reference should be to section 4.0, which addresses amendments to the Information Policy, or identify the section of the Information Policy to which section 2.1.1(l) is intended to refer.

we direct that Applicants provide an explanation and description of market rules in their compliance filing.

In Order No. 2000, the Commission did not prescribe a particular market monitoring plan, or the specific elements of such a plan, because market monitoring is evolving as trading markets are created. The Commission provided for a flexible approach and noted that different market monitoring plans may be appropriate for different RTOs.<sup>77</sup> In addition, the Commission stated that it would periodically assess the need for, and the degree of, market monitoring that should be done. In this proceeding, we accept GridFlorida's market monitoring plan with the understanding that the Commission will periodically assess the need for, and degree of market monitoring; and hereby reserves our authority to issue a supplemental order regarding market monitoring.

Several other specific concerns were raised with the By-Laws and Articles of Incorporation of MonitorCo. As written, Article II, sections 6 and 7 of the By-Laws would allow a director of MonitorCo to perform tasks for MonitorCo for compensation, provided there is disclosure and a majority of disinterested directors approve, even if the number of voting, disinterested directors constitutes less than a quorum. Duke ENA and Calpine criticize these provisions for lacking balance and accountability and assert that the disinterested directors should at least constitute a quorum. The Commission considers Applicants' proposal to provide an adequate check on conflicts of interest. No change in these provisions is directed.

Article II, section 8 of the By-Laws deals with director independence and authorizes the independence compliance auditor to report to the Commission any findings of violations without first obtaining the MonitorCo's Board approval. Article III, section 12 addresses officer independence in a similar way, except that the independence compliance auditor is obliged to report only to MonitorCo's Board. Duke ENA and Calpine argue that the independence compliance auditor should be required to report findings to the Commission to ensure notice to stakeholders of the potential director conflict. The Commission believes that the independence compliance auditor's responsibilities are circumscribed appropriately and that his judgment should be trusted. We direct no change in these provisions.

Article VIII of the By-Laws provides for the By-Laws to be amended upon unanimous vote of MonitorCo's Board, with notice of such amendment to be contained in the meeting notice, and for amendments to be consistent with Order No. 2000 and to be

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<sup>77</sup> Order No. 2000 at 31,155-56.

filed 30 days in advance of the effective date. Articles VII and VIII of the Articles of Incorporation addresses amendments to the Articles of Incorporation and By-Laws in the same fashion. Duke ENA and Calpine believe that advance notice of any amendment should be provided to the Advisory Committee to allow meaningful opportunity to investigate and to avoid the difficult tasks of addressing any concerns after the fact. The Commission disagrees that the Advisory Committee needs this authority and we will not order Applicants to revise these provisions.

Section III.B of the MonitorCo's Code of Conduct requires consultants and contractors of MonitorCo to disclose all financial interests in Market Participants and conflicts of interest which would conflict with MonitorCo's policy of conducting business in a non-discriminatory manner. It also provides that MonitorCo's discretion to create or continue business relationships with such entities will be exercised in accordance with guidelines and policies adopted by MonitorCo. Duke ENA and Calpine complain that no provision is made for review of the guidelines and policies and argues that the guidelines and policies should be determined in advance of approving GridFlorida.

The Commission has approved a very similar provision in the Midwest ISO's Code of Conduct. Midwest ISO I, 84 FERC at 62,152-53. Similar approval is reasonable here. No change is necessary in this provision.

Sections 6.1 and 6.2 of the Market Monitoring Tariff provide that MonitorCo's Board will submit a proposed budget to GF Inc, the Advisory Committee and the Florida Commission. MonitorCo's Board is to discuss proposed changes with these groups, but it is not required to make any changes to the budget. The budget is posted on GridFlorida's OASIS. MonitorCo's Board submits the proposed budget to the Commission for review and approval and has the approved budget posted on GridFlorida's OASIS. Calpine recommends that the comments of GF Inc, the Advisory Committee and the Florida Commission be posted on the OASIS so there is fair notice of the matters rejected by MonitorCo's Board. The Commission regards Calpine's proposal as reasonable and directs Applicants to amend these provisions accordingly.

#### RTO Function No. 7: Planning and Expansion

An RTO must be responsible for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service. If an RTO is unable to satisfy these requirements when it commences operation, it must file with the Commission a plan with specified milestones that will ensure that it meets these requirements no later than three years after initial operation.

### 1. GridFlorida Proposal

Attachment N (Planning Protocol) of GridFlorida's OATT sets out Applicants' planning and expansion proposal. The planning and expansion process is intended to apply to: all users of GridFlorida's facilities; planning for new inter-ties with transmission owners and control areas located outside of the FRCC; and the obligation to plan to meet all requested service involving flow gates. Applicants contemplate administering a separate local area planning process associated with network service for up to a three year transition period. Ultimately, GridFlorida will develop standards for the planning, design and construction of planned facilities, and will phase in these standards over a period of time not to exceed five years from the commencement of GridFlorida operations. GridFlorida's Advisory Committee will create a Transmission Planning Committee that will provide advice and input to GridFlorida. Finally, the Planning Protocol provides for specific roles for the FRCC and the Florida Commission.

### 2. Intervenors' Comments

The Florida Commission questions whether disputes arising with regard to the Final Transmission Expansion Plan can be delegated to a FERC-approved dispute resolution process, since Florida's statutes give extensive authority to the Florida Commission to ensure an adequate, reliable, and coordinated statewide electric grid. The Florida Commission has a statutory responsibility to take action to require appropriate remedies where there are inadequacies in GridFlorida's expansion plan.

The Florida Commission states that it is not clear that the RTO would qualify as an applicant under the Florida Transmission Siting Act or have the power of eminent domain. The Florida Commission questions the prudence of GridFlorida seeking FERC approval to be the primary organization responsible for transmission planning and expansion without express legal authority to carry out these charges.

FMPA questions whether GridFlorida will have the authority needed to develop the grid. It argues that eminent domain authority "...is critical to GridFlorida's core missions," and that "...this authority is no mere afterthought that can be replaced by deputizing existing transmission owners to condemn land on GridFlorida's behalf." FMPA suggests that Applicants do not make clear whether GridFlorida will have eminent domain authority. On the other hand, Reedy Creek voices concern that GridFlorida might use its power over transmission to try to commandeer the land-use power of local political bodies, such as municipal utilities.

FMG renews its earlier recommendation that transmission facility upgrade plans and study results should be made public by classifying such as "Open Public Information", subject to appropriate confidentiality considerations. FMG argues that the effect would be to permit such information to be readily examined by all transmission owners, and this information sharing should help smooth any coordination issues with non-Participating Owners.

Some intervenors raise concerns about the use of existing expansion plans. Calpine does not oppose the incorporation into the GridFlorida transmission expansion plan of the most recent ten-year plans of the Participating Owners and Divesting Owners, but suggests it is unclear whether the costs of these facilities will be borne generally by the system or by the entities that benefit from the transmission expansion. FMG objects to the language which it argues reserves to GridFlorida the right to cancel a facility that is in the ten year plan, if an alternative plan is found to be superior, as long as the transmission owner has not yet expended a material amount of funds or demonstrated that such funds would be expended during the first five years of the plan. FMG suggests that a planned cancellation by the RTO over the objection of the owner should be subject to dispute resolution procedures.

Calpine argues that it is unclear exactly how the Transmission Planning Committee will be formed and who will be provided an opportunity to participate in its deliberations. Calpine believes that Applicants must elaborate on this aspect of the proposal, and meaningful stakeholder representation on this Committee must be required.

Seminole is concerned about the three-year transition period during which Participating Owners and Divesting Owners will perform many of the primary planning and construction functions that should be performed by GridFlorida. Seminole argues that these functions should be performed by an independent entity, such as GridFlorida, that does not have a history of treating LSEs in a discriminatory fashion. Seminole is concerned about the possible five-year phase-in of standards to be developed by GridFlorida. Its concern is that allowing existing standards to remain in place for up to five years means that during this transition period, the same standards that lead to discriminatory service will be used. Seminole suggests that the Commission order GridFlorida to meet with interested stakeholders to develop the appropriate standards, so that when GridFlorida commences operations, it will have a definitive proposal before it, which it could then adopt within no more than six months. Seminole suggests that there is simply no excuse for delaying this critical task for up to five years, as it is of the utmost importance in preventing continued inferior service to LSEs.

### 3. Discussion

Applicants' proposal on planning and expansion is substantially in compliance with the requirements of Order No. 2000, although certain clarification and additional information should be provided by Applicants. With respect to the Florida Commission's concern that the provision for FERC-approved dispute resolution is inconsistent with its statutory responsibility to take action if there are inadequacies in GridFlorida's expansion plan, we do not believe that there is an inherent inconsistency. We expect that GridFlorida's expansion plan will include the construction necessary to meet the reliability requirements imposed on the Florida utilities by the Florida Commission and by the FRCC. If the Florida Commission believes that a specific plan does not, it should bring the matter to the Commission's attention. Until then, the Florida Commission's concern is premature.

As an RTO, GridFlorida would be responsible for expanding transmission facilities to meet the increased needs of its customers. The use of eminent domain may be necessary to fulfill this responsibility. With regard to the Florida Commission's concerns that GridFlorida may not qualify as an applicant under the Florida Transmission Siting Act or have the power of eminent domain, the Divesting owners and Participating Owners do qualify and have this power. Therefore, even if GridFlorida itself could not act, the participants would be able to carry out the necessary actions.

We generally concur with FMG's request to make information more available to the public, particularly non-Participating Owners. In general, an RTO's planning and expansion process must be transparent with respect to the RTO's final plans, so that all market participants will have confidence that the process is fair and efficient. We therefore instruct Applicants to revise their plan in the compliance filing.

With respect to Applicants' treatment of existing ten-year plans, we agree with FMG's concern when an RTO plans to cancel a project over the objection of the owner. Even in cases where the owner has not yet expended a material amount of funds, we believe that an owner whose project is canceled should be able to argue the case for continuing with the project. In concept, giving the owner access to dispute resolution service in such a case is reasonable.

We also agree with Calpine that it is unclear how the Transmission Planning Committee will be formed, and how representative it will be. In their Answer, Applicants note that "...the Applicants expect that the Advisory Committee will ensure that the Planning Committee will include representation by both transmission owners and users." (emphasis added). We believe that it is critical that all market participants have assurance that their interests will be represented on this important committee, and we therefore

instruct Applicants to provide more details on this issue in their compliance filing, including how it will ensure representation on the committee.

Seminole's concern about the three-year transition period is largely misplaced. We agree with Applicants that Order No. 2000 specifically allows for such a transition period, and reject as unnecessary Seminole's recommendation that planning be handled by an independent entity during the transition period. However, if during this transition period a transmission user believes that it has been harmed by actions taken by a Participating Owner that are inconsistent with GridFlorida's planning protocols, that customer may bring such concerns to the Commission for consideration on a case-by-case basis.

With respect to Seminole's concern that Applicants will take up to five years to put in place new planning standards, we agree that this is a critical step and that a five-year phase in is too long. We believe there is merit in Seminole's suggestion that GridFlorida work out appropriate standards in consultation with interested stakeholders prior to commencement of operations so that standards can be put in place more quickly than at the end of five years. We therefore instruct Applicants to propose a method for such collaboration on new standards in a report to be filed one year from the date of issuance of this order.

Finally, although not explicitly raised in intervenor comments, we believe that Applicants' planning protocols do not fully explain how GridFlorida will pursue infrastructure investment that will make generation markets more competitive. This includes strengthening the grid within peninsular Florida, but more importantly, evaluating and investing in expanded inter-tie capacity. We are concerned that the planning and expansion process have a broad focus, so that, e.g., significant investment opportunities to increase import capability into peninsular Florida not be missed. We therefore instruct Applicants to provide more detail on GridFlorida's long-range planning process, particularly how it will use this process to ensure that efficient investments are made to make generation markets more competitive, increase import capability, and improve reliability.

#### RTO Function No. 8: Interregional Coordination

The RTO must ensure the integration of reliability practices within an interconnection and market interface practices among regions.

##### 1. GridFlorida's Proposal

GridFlorida recognizes that it has not yet developed the standards and practices necessary to satisfy this requirement. It attributes this to the fact that there is no well developed entity in the southeast to coordinate with at this time. Section V of GridFlorida's Planning Protocol, however, includes a requirement for interregional planning. GridFlorida intends to develop the required integration practices itself or cooperate with an independent entity that covers a larger region up to and including the Eastern Interconnection. GridFlorida is prepared to meet with the representatives of the Southern Companies' RTO to discuss "seams," though it believes that there are no significant "seams" issues.

## 2. Intervenors' Comments

FMPA and Industrial Consumers argue that GridFlorida has not adequately addressed the "seams" issue. FMG states that Tallahassee is located on a seam between GridFlorida and Southern Companies' RTO and will endure rate pancaking problems. Similarly, the Florida Commission states that GridFlorida needs to address the treatment of "wheeling" transmission services provided by JEA and Tallahassee.

JEA comments that GridFlorida does not provide greater access to more suppliers of wholesale power and does not increase competition. As currently proposed, any power will have to be obtained from Applicants, or their affiliates, due to limits on import capability. GridFlorida, therefore, should facilitate access to new and additional power supplies outside the "island."

Industrial Consumers state that GridFlorida has a duty to coordinate with other regions. Further, the "seams" issue has been largely ignored by GridFlorida and the importance of this issue has been grossly underestimated by most RTOs, including GridFlorida. A commitment beyond "we need to talk" is necessary among RTOs to resolve critical "seams" issues, such as rate pancaking. Industrial Consumers urge the Commission to convene a technical conference to develop a specific template for seams resolution which RTOs would be required to meet or be compelled to show cause why they should not be merged.

## 3. GridFlorida's Answer

Applicants submits that since the December 15, 2000 Supplemental Filing, they have been actively involved with the Southern Companies' RTO to address interregional coordination issues. GridFlorida representatives met with Southern Companies on January 25, 2001 to address SERC/FRCC coordination and agreed on the following: that existing coordination agreements would continue; together they will review the NERC

Market Interface Committee RTO checklist for seams issues; they will review coordination contracts for necessary revisions; and they will review existing contracts and agreements for the Tie interface to identify transition issues. The parties also agreed to schedule additional meetings.

#### 4. Discussion

In Order No. 2000 (at 31-167-68), the Commission stated that

We expect the RTO to work closely with other regions to address inter-regional problems and problems at the 'seams' between RTOs. . . An RTO proposal must explain how the RTO will ensure the integration of reliability and market interface practices. . . Coordination of activities among regions is a significant element in maintaining a reliable bulk transmission system and for the development of competitive markets.

GridFlorida has not yet developed a mechanism that integrates the transmission activities of the region. We recognize that developing an interregional coordination arrangement is a complex and lengthy undertaking involving diverse groups and that GridFlorida has begun such efforts in its region. Although GridFlorida did report upon its ongoing coordination discussions, it did not provide a reporting schedule. On or before May 14, 2001, GridFlorida must provide an updated status report of its ongoing discussions (including a schedule of future meetings) and a schedule of future reports describing the progress of coordination efforts and discussions.

We decline at this time to convene a technical conference, as suggested by the Industrial Consumers. Applicants should be given a reasonable opportunity to first address seams issues through discussions with the market participants in Florida and the rest of the Southeast. We encourage Applicants and the other market participants to design solutions to fit their own reliability and coordination needs. The Commission is issuing concurrently with this order a notice of EPSC's December 15, 2000 filing in Docket No. RM99-2 which concerns this issue, and will consider comments filed by parties on that filing.

#### Miscellaneous Issue - Qualifying Facilities

Okeelanta asserts that the GridFlorida proposal is in conflict with the Public Utility Regulatory Policies Act (PURPA) in that it does not respect Qualifying Facilities' (QF) "put" rights since QFs would be required to submit balanced schedules. In addition,

