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December 27, 2012

Dear SERTP Sponsors:

**Re: Concerns of Florida Public Service Commission Staff
on Attachment K Transmission Planning Process Draft**

The Florida Public Service Commission (FPSC) staff appreciates the opportunity to comment on the December 5, 2012, Southeastern Regional Transmission Planning (SERTP) draft Transmission Planning and Cost Allocation Requirements of Order No. 1000. We applaud the efforts of SERTP to comply with the Federal Energy Regulatory Commission's (FERC) Order No. 1000 which imposes additional requirements for transmission planning processes and cost allocation. We are concerned, however, that the provision requiring a 1.25 benefit-to-cost ratio for stakeholder transmission projects could act as a barrier to a fair and full consideration of transmission alternatives.

While staff recognizes that Florida is only one of a number of states with regulatory oversight in the expanded SERTP footprint, we do want to note Florida law. Section 403.537(c), Florida Statutes, states in part:

> In the determination of need, the commission shall take into account the need for electric system reliability and integrity, the need for abundant, low-cost electrical energy to assure the economic well-being of the residents of this state . . . .

The SERTP draft states the evaluation of proposals for selection in a regional plan for cost allocation purposes must have a regional benefit-to-cost ratio of at least 1.25. Although it is allowed by FERC Order 1000, we are concerned that this provision at issue is a detriment to the statutory criterion of providing "abundant, low-cost electrical energy to assure the economic well-being of the residents of this state." Staff's concern is that a project whose benefit-to-cost ratio is between 1.0 and 1.25, would be rejected under this SERTP provision.
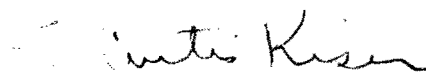
Section 403.537(1)(b), Florida Statutes, states that the FPSC is the sole determiner of need for a transmission line. The SERTP transmission planning process cannot be allowed to supersede or override the FPSC's role in implementing the Florida law by the use of a 1.25 benefit-to-cost ratio to exclude otherwise cost-effective proposed transmission alternatives. If the issue is the concern that alternative transmission providers may submit gaming/low balling estimates, the better approach may be to include additional due-diligence review of such estimates by the SERTP or an independent consultant (such as proposed by other Florida utilities) and/or inclusion of cost caps in payments made to the project developer in the cost allocation process in the event of cost overruns. Under the

proposed ratio, the transmission costs could be actually inflated by 25%. Thus, the company runs the risk of not getting a need determination or future cost recovery.

Further, the FPSC's ratemaking authority requires, in Section 366.03, Florida Statutes, that all rates and charges made by a utility must be fair and reasonable. Section 366.041, Florida Statutes, states that in fixing rates the commission must give consideration to "the cost of providing such service and the value of such service to the public." Thus, if the use of a benefit-cost ratio were allowed to bar consideration of non-utility projects that were less costly than the utility option by up to a 25% level, it would be difficult to justify cost recovery of higher cost utility-built transmission facilities under the statutes.

We note that this represents the comments of staff. This matter has not been brought before the full Commission. However, staff's position is consistent with long-standing FPSC policy to only approve cost recovery for prudently built and cost-effective transmission facilities.

Sincerely,

S. Curtis Kiser
General Counsel

SCK:tf
cc: Braulio Baez
       Charles Hill