

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of GridFlorida  
Regional Transmission  
Organization Proposal

---

Docket No. 020233-EI

Filed: May 13, 2004

**FIPUG's Response to Applicants' Draft Positions  
Market Design Issues**

The Florida Industrial Power Users Group (FIPUG) provides its responses to the Issues raised in Staff's memorandum of April 6, 2004, Market Design Issues, and comments on the Applicants' filing.

**Issue 1: Market design and congestion management**

The Applicants' numerous sub-issues, set out in their Issue Matrix, are illustrative of the many complex issues that must be addressed in attempting to arrive at a workable and appropriate market design. In devising the appropriate market design, the Commission must ensure that all market participants have equal access to the market, so that the market is not skewed to the benefit of those with market power. The ultimate goal of any market design should be to provide lower cost service to retail end users. The market design selected must protect retail consumers from the potential for market manipulation which will result in the assessment of unreasonable charges to end users.

It is currently unclear what pricing mechanism, if any, the Applicants propose. FIPUG supports the "get what you bid" approach previously approved by the Commission.<sup>1</sup> As the Commission noted, the "get what you bid" approach is preferable, at least at this point in time, to protect retail ratepayers.<sup>2</sup> The Commission said: "[W]e think that the "get what you bid" alternative is preferable for all transactions until the

---

<sup>1</sup> Order No. PSC-02-1199-PAA-EI.

<sup>2</sup> *Id.* at 69.

GridFlorida Companies can demonstrate that sufficient participants exist and that localized market power has been adequately addressed."<sup>3</sup> Nothing has changed since the Commission made these pronouncements.

FIPUG continues to be concerned with suggestions that a market clearing price should be used. Such a mechanism has the potential to harm retail consumers. It may permit purchasing utilities to flow through high price wholesale purchases to retail customers and provides no incentive for the construction of new capacity. Such perverse incentives are inconsistent the Commission's statutory mandates in section 366.04, Florida Statutes. As FIPUG has previously noted in this docket, until market power is eliminated and all bidders submit market-based bids, the Commission must protect retail customers from higher rates which have the potential to result from the market clearing mechanism.

In addition, FIPUG is opposed to locational marginal pricing (LMP) as it will lead to higher prices for consumers in areas where capacity is constrained. LMP will not be viable until there is a viable wholesale market, including independent power producers, and all participants have equal access to the transmission grid.

## **Issue 2: Market power monitoring and mitigation**

It is critical that strict market power monitoring and mitigation procedures be in place for GridFlorida. FIPUG recommends that the Florida Public Service Commission assume that role. The Commission has the authority to do so pursuant to the Grid Bill. As the Commission noted in Order No. PSC-02-1199-PAA-EI at 72: "... the Grid Bill, provides this Commission with jurisdiction over, among other things, the planning,

---

<sup>3</sup> Order No. PSC-02-1199-PAA-EI at 69.

development, and maintenance of a coordinated electric power grid throughout Florida." The role of market monitor enable the Commission to carry out its statutory obligations. To protect retail ratepayers and ensure an adequate transmission grid and power supply to end users, the Commission must be actively involved in market activities. It can best do this in the role of an independent market monitor.

As market monitor, the Commission must ensure that it has the authority and ability to act quickly to correct market abuses. Thus, it must do more than simply "monitor" and report. It must be able to take action to curb any abuses it uncovers.

### **Issue 3: Resource adequacy**

Pursuant to the Grid Bill, the Commission has clear jurisdiction to ensure that capacity and transmission resources are adequate to serve Floridians. The Commission should continue to exercise and enforce this authority.

### **Issue 4: Treatment of capacity benefit margin**

For the reasons discussed in Issue 3, the Commission has authority to establish and evaluate the capacity benefit margin. The Commission should not permit undue reliance of one utility on the resources of another.

### **Issue 5: Continued review of RTO costs and benefits**

At the prior workshop, Applicants presented a proposal by ICF to study the cost and benefits of a Florida RTO. Applicants volunteered to "fund" the study, but when pressed noted that such "funding" would be recovered from ratepayers through GridFlorida's start up costs. No cost for the study was provided but this is information which should be made available before the study goes forward.

Substantively, if the study proceeds, it is critical that appropriate assumptions, which reflect conditions in Florida, be used. As just one example, the ICF proposal notes: "All cases will assume rational and competitive markets."<sup>4</sup> This currently is not the case in Florida and will not be the case until there are major reforms and such reforms have had time to be reflected in the wholesale market (note the inability of independent power producers to build capacity in the state of Florida). Any study that "assumes" these conditions will be biased from the outset and of no value.

As FIPUG noted at the first workshop, it does not appear that any analysis is being done to assess the costs and benefits that the RTO will visit upon retail ratepayers, who will ultimately pay for the RTO's start up and operation, despite the fact that the ICF materials note that ICF will "conduct an independent analysis of the cost and benefits of forming an RTO on peninsular Florida."<sup>5</sup> In determining costs and benefits, the effect on retail ratepayers must be determined.

ICF should analyze the transmission revenues embedded in retail rates versus the new rates which should be defined as the sum of the zone rates. ICF must also analyze the RTO's O&M costs and any RTO start up costs related to the RTO's creation. ICF should include an analysis of how much retail rates will be reduced so that ratepayers do not pay for the same transmission facilities twice.<sup>6</sup> Only if this type of analysis is provided can costs and benefits truly be assessed. FIPUG urges that either the Staff or ICF conduct such an analysis before the RTO goes forward.

---

<sup>4</sup> March 18, 2004 ICF Proposal at 12.

<sup>5</sup> *Id.* at 9.

<sup>6</sup> ICF provided a "Project Description" on May 7, 2004. It does not appear that FIPUG's concerns are addressed.

**Issue 6: Review of current regulatory/legislative environment**

No comment at this time.

---

John W. McWhirter, Jr.  
McWhirter Reeves McGlothlin Davidson  
Decker Kaufman & Arnold, P.A.  
400 North Tampa Street, Suite 2450  
Tampa, Florida 33602  
(813) 224-0866  
jmcwhirter@mac-law.com

Vicki Gordon Kaufman  
McWhirter Reeves McGlothlin Davidson  
Decker Kaufman & Arnold, P.A.  
117 South Gadsden Street  
Tallahassee, Florida 32301  
(850) 222-2525  
vkaufman@mac-law.com

Attorneys for the Florida Industrial  
Power Users Group

## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing FIPUG's Response to Applicants' Draft Positions Market Design Issues has been furnished by electronic mail (\*) and U.S. Mail to the following this 13<sup>th</sup> day of May 2004:

(\*) Jennifer Brubaker  
Division of Legal Services  
Public Service Commission 2540  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Kenneth A. Hoffman  
Rutledge, Ecenia, Purnell & Hoffman,  
PA  
P.O. Box 551  
Tallahassee, FL 32302

Mark Sundback  
Kenneth Wiseman  
1701 Pennsylvania Ave., NW, Suite 300  
Washington, DC 20006

Thomas J. Maida  
N. Wes Strickland  
106 East College Avenue, Suite 900  
Tallahassee, FL 32301-7732

Thomas W. Kaslow  
The Pilot House, 2<sup>nd</sup> Floor  
Lewis Wharf  
Boston, MA 02110

Ron LaFace  
Seann M. Frazier  
Greenberg, Traurig Law Firm  
101 E. College Avenue  
Tallahassee, FL 32301

Lee E. Barrett  
Duke Energy North America  
5400 Westheimer Court  
Houston, TX 77056-5310

Leslie J. Paugh, P.A.  
P.O. Box 16069  
Tallahassee, FL 32317-6069

James Beasley  
Lee Willis  
Ausley Law Firm  
P.O. Box 391  
Tallahassee, FL 32301

Bill Bryant, Jr.  
Katz Kutter Law Firm  
106 E. College Avenue, 12<sup>th</sup> Floor  
Tallahassee, FL 32301

David L. Cruthirds  
Dynergy, Inc.  
1000 Louisiana Street, Suite 5800  
Houston, TX 77002-5050

Robert S. Wright  
Landers Law Firm  
310 W. College Avenue  
Tallahassee, FL 32301

Frederick M. Bryant  
Florida Municipal Power Agency  
2061-2 Delta Way  
Tallahassee, FL 32303

James Fama  
LeBoeuf Law Firm  
1875 Connecticut Avenue, NW, Suite  
1200  
Washington, DC 20009

Daniel E. Frank  
Sutherland Asbill & Brennan LLP  
1275 Pennsylvania Avenue, NW  
Washington, DC 20004-2415

Thomas A. Cloud  
Gray, Harris & Robinson, P.A.  
301 East Pine Street, Suite 1400  
Post Office Box 3068  
Orlando, Florida 32801

Charles J. Beck  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

Jon C. Moyle, Jr.  
Moyle Law Firm  
The Perkins House  
118 North Gadsden Street  
Tallahassee, FL 32301

Timothy Woodbury  
Seminole Electric Cooperative, Inc.  
16313 N. Dale Mabry Highway  
Tampa, FL 33688-2000

Russell S. Kent  
Sutherland Asbill & Brennan LLP  
2282 Killearn Center Blvd  
Tallahassee, FL 32308-3561

Michael Twomey  
PO Box 5256  
Tallahassee, FL 32314-5256

Melissa Lavinson  
PG&E Energy Group Company  
7500 Old Georgetown Road  
Bethesda, MD 20814

Publix Super Markets, Inc.  
John Attaway  
P.O. Box 32015  
Lakeland, FL 33802-2018

Spiegel & McDiarmid  
Cynthia Bogoraid  
David Pomper  
J. Schwarz  
1350 New York Ave, NW, Suite 1100  
Washington, DC 20005

Lee Schmulde  
Walt Disney World Co  
1375 Lake Buena Drive  
Fourth Floor North  
Lake Buena Vista, FL 32820

Suzanne Brownless  
Suzanne Brownless, P.A.  
1975 Burford Boulevard  
Tallahassee, Florida 32308

City of Tallahassee  
Pete Koikos  
100 W. Virginia Street, Fifth Floor  
Tallahassee, FL 32301

Dick Basford & Associates, Inc.  
5616 Ft. Sumter Road  
Jacksonville, FL 32210

Douglas F. John  
Matthew T. Rick  
John & Hengerer  
1200 17th Street, NW, Suite 600  
Washington, DC 20036  
Gainesville Regional Utilities  
City of Gainesville

Ed Regan  
P.O. Box 147117, Station A136  
Gainesville, FL 32614-7117

JEA  
P. G. Para  
21 West Church Street  
Jacksonville, FL 32202-3139

Mr. Robert Miller  
Kissimmee Utility Authority  
1701 West Carroll Street  
Kissimmee, Florida 32746

Paul Elwing  
Lakeland Electric  
501 E. Lemon Street  
Lakeland, Florida 33801-5079

Michael Wedner  
117 West Duval Street  
Suite 480  
Jacksonville, Florida 32202

Reedy Creek Improvement District  
Post Office Box 10170  
Lake Buena Vista, Florida 32830

Michael Briggs  
Reliant Energy Power Generation, Inc.  
801 Pennsylvania Avenue, Suite 520  
Washington, DC 20004

William T. Miller  
C/o Miller Law Firm  
Seminole Member Systems  
1140 19<sup>th</sup> Street, NW, Suite 700  
Washington, DC 20036

---

Vicki Gordon Kaufman