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Public Service Commission

April 25, 2007

VIA ELECTRONIC FILING

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Docket No. RM07-1-000, Standards of Conduct

Dear Ms. Bose:

Forwarded herewith are reply comments of the Florida Public Service Commission in the above rulemaking docket with regard to standards of conduct for transmission providers.

Mark Futrell at 850/413-6692 is the primary staff contact on these comments.

Sincerely,

/ s /

Cindy Miller
Senior Attorney

CBM:tf
cc: Chuck Gray, National Association of Regulatory Utility Commissioners

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Standards of Conduct for Transmission Providers	)))	**Docket No. RM07-1-000**

REPLY COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

The Florida Public Service Commission (FPSC) files these reply comments to express concern with certain aspects of the Notice of Proposed Rulemaking (NOPR) issued January 18, 2007. The FPSC's comments focus on those sections affecting Integrated Resource Planning (IRP). Specifically, we are concerned with FERC's proposal to limit the definition of IRP, in proposed § 358.3(l) and NOPR at PP 45, to that necessary for a public utility to meet only its future bundled retail load obligations. Florida law, dating back to the 1970s, requires public utilities to conduct planning exercises which determine the most cost-effective options to provide electrical service to retail and wholesale customers. The proposed rule would hinder the ability of Florida's public utilities to meet state planning requirements and would introduce inefficiencies in utility planning efforts. The FPSC urges the FERC to create an exception to the proposed rules on IRP for utilities in states that retain authority over vertically integrated electric utilities.

Background

The FPSC's jurisdiction and authority in the area of electric utility planning is well-founded in Florida Statutes, expressed in our agency's rules, and carried out through agency action. Florida Statutes provide:

> The commission shall further have jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities. **Section 366.05, Florida Statutes**
>
> The commission shall have the power to require reports from all electric utilities to assure the development of adequate and reliable energy grids. S**ection 366.05(7), Florida Statutes**
>
> …each electric utility shall submit to the Public Service Commission a 10-year site plan which shall estimate its power-generating needs and the general location of its proposed power plant sites. **Section 186.801(1), Florida Statutes**
>
> In its preliminary study of each 10-year site plan, the commission shall consider such plan as a planning document and shall review: (a) the need, including the need as determined by the commission, for electrical power in the area to be served. **Section 186.801(2), Florida Statutes**

The annual Ten-Year Site Plans include historical and forecasted data on load, generation, and transmission additions. The plans also include information on sites for future generation and transmission expansions. Plant and transmission additions are based upon meeting reliability criteria for both generation and transmission. Moreover, no distinction is made between reliably serving the needs of retail load and the contractual requirements of wholesale customers. The FPSC must make a finding that each plan is "suitable or unsuitable" as a planning document.

The Florida Reliability Coordinating Council (FRCC) conducts an annual transmission planning study to ensure that the reliability standards and criteria established by the North American Electric Reliability Corporation and the FRCC are met. The long-range transmission study is a single-contingency assessment of Peninsular Florida's transmission system to ensure that it experiences no equipment overloads, voltage violations, or instability at peak demand conditions following the loss of a single transmission line, generating unit, or transformer. The process begins with the consolidation of the long-term transmission plans of all Peninsular

Florida transmission owners. All transmission facilities 69 kV and above are included. The first five years of the study are a detailed evaluation and analysis of these independently developed transmission plans, while the second five years are a generalized, long-term evaluation due to the many uncertainties occurring in the latter years of the planning horizon. Finally, the FRCC performs sensitivity studies to test the robustness of Peninsular Florida's transmission system under various conditions including weather extremes, different load levels, and various generation dispatches.

The FRCC's process is open to all members, which include utility and non-utility participants in the Peninsular Florida region. Also, the FPSC staff actively participates in the FRCC's meetings on transmission planning. The FPSC continues to monitor coordinated planning efforts by Florida's utilities and, if necessary, will exercise its statutory authority to ensure the adequacy and reliability of Florida's transmission system.

While the Ten-Year Site Plans are the foundation planning documents, the implementation of the plans occur during the course of determining the need for any steam generating unit over 75 megawatts or any transmission line greater than 230 kV that crosses a county line. Section 403.519, Florida Statutes, and Section 403.537, Florida Statutes, require several findings on the part of the FPSC, including taking into account whether the proposed power plant "is the most cost-effective alternative available" and whether the proposed transmission line provides adequate reliability and adequate electric power.

The FPSC requires, under Rule 25-22.082, Florida Administrative Code, that utilities must conduct a generating capacity solicitation from third party providers prior to seeking an affirmative determination of need (except for nuclear generation). These proposals are evaluated, and if a purchase power agreement results, the FPSC may approve the agreement, and may permit recovery of the costs.

The Florida statutory provisions for planning and implementation date to the early 1970's and as such do not contain the moniker "integrated resource planning." The process, however, strives to find an optimized solution that integrates energy efficiency, load control, and generating plant and transmission additions into an integrated resource plan. Again, Florida statutes speak to the FPSC having "jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida . . . ." Consequently, the utilities in Florida plan the electric grid to serve both retail and wholesale customers.

All of these aforementioned proceedings are open to the public, and the FPSC encourages public participation. Any substantially affected party in docketed proceedings has full rights to discovery, and any party adversely affected by an FPSC decision has first level appellate rights to the Florida Supreme Court. On balance, the IRP process employed in Florida is inclusive, open, and subject to appellate review.

It is also worth noting that Florida's geography makes the integration of generation and transmission decisions even more critical. The peninsula has an effective transfer capability across the interface with the Southern Company of approximately 3,600 megawatts. Thus, while transfers in and out of the peninsula occur, typically there are not wheeling through transactions. Likewise, system support from outside sources is limited due to the geography of the peninsula. Thus, Florida is essentially self reliant on building generation and the associated transmission to meet reliability criteria, and to cost-effectively serve load. As a result of rapid urbanization of the state, siting and constructing transmission is a difficult and costly undertaking. It is generally accepted that building generation with a smaller site footprint, and typically fewer affected homeowners, is easier than constructing transmission which may involve land issues involving tens of thousands of customers. Thus, to the extent that generation can be substituted for

transmission, an IRP planning process that incorporates both retail and wholesale load ensures the appropriate balance between reliability, cost, and construction of needed infrastructure.

Areas of Concern

The FPSC has three areas of concern with the FERC proposal. First, the FERC's proposed definition of "Integrated Resource Planning" would be limited to planning that is designed to meet "future bundled retail load obligations." At paragraph 45 of the proposed rule, the FERC states that this limitation on utility planning employees "precludes them from working on a public utility's other load obligations, such as wholesale load obligations arising from contract." The FPSC is concerned that this proposal would limit the ability of Florida's utilities to meet Florida's statutory planning requirements. The proposed rule would bifurcate planning into retail and wholesale functions. Existing Florida statutes require coordinated planning to meet all utility obligations. The effect of the proposed rule on planning functions would call into question whether a utility could determine the most cost-effective means of ensuring reliable service to both retail and wholesale customers.

Second, we believe the proposals not only impede and limit the IRP process but create unnecessary and costly duplication of planning functions. The artificial creation of two classes of planning employees to achieve some kind of "firewall" between retail planners and wholesale planners creates a bureaucratic, expensive, and unworkable demarcation between functions. In a state where approximately nine percent of the net energy for load involves wholesale transactions, the proposed rule would be burdensome.

We agree with the Joint Comments of Progress Energy, Inc, Electricities of North Carolina, Inc. and North Carolina Electric Membership Corporation where they note that the separation of wholesale and retail planning processes:

> will prevent realization of the economies of scale that can be obtained by aggregating individual customers' needs for new generation. The cumulative generation needs for retail and long-term firm wholesale load, and the ability to serve them from the same basket of existing and potential units, would be ignored - to the detriment of both customer classes.

Thus, the bifurcated planning proposals defeat the objective of IRP to design and build an integrated and, hopefully, the most cost-effective electric grid.

Finally, the FPSC takes issue with the separation of competitive solicitation employees from traditional transmission planners. As noted above, Florida requires competitive solicitations for new generating resources (except for nuclear) prior to a utility applicant applying for a need determination from the FPSC. The utility must make the cost, performance, location and other parameters of its self-build option available to responders to the solicitation. In effect, the self-build option becomes the "price to beat" and all alternative providers have this full information. Since location and interconnection costs for alternative generation sources from bidders can have a dramatic impact on the overall cost of new generation, the ability of internal planners to evaluate alternative proposals against the self-build option should not be impaired. Toward this end, we support the comments of Florida Power and Light Company where they note the impact of the separation of these employees:

> It is the utility employees that will serve as Planning Employees and Competitive Solicitation Employees that perform the state-required IRP process and who are required to prepare the utility's ten-year site plan – which is prepared to plan for serving FPL's entire native load. Pursuant to Florida law, which requires that the FPSC provide for the reliability of the entire state grid, the Florida public utilities must have employees that plan for resources to serve its entire native load, not just bundled retail load. The Commission's proposed language would directly contradict the state's mandate to public utilities in Florida and place the utilities in an untenable position.

We also support the comments of Southern Company Services, Inc. on the IRP proposals, where they support the FERC's efforts to facilitate IRP and RFP processes, but caution that assistance should not be conditioned or limited in ways that infringe on state prerogatives:

> …to the extent such IRP and RFP activities (or either of them) do not take place in the context of vertically integrated operations, but instead reside within an energy/marketing affiliate, then further regulatory actions would seem to be appropriate.

We emphasize that our objections to the FERC proposal in no way should permit the sharing of information between the IRP and solicitation functions with the wholesale marketing affiliates of the integrated utility. This firewall is appropriate and necessary.

Conclusion

The FPSC urges the FERC to create an exception to the proposed rules on IRP for utilities in states that retain authority over vertically integrated electric utilities. In order for a utility and its ratepayers to fully benefit from IRP, all available generating and non-generating options, as well as the transmission infrastructure needed to deliver those resources, must be considered. A vertically integrated utility cannot determine the most cost-effective means of providing service if it cannot consider all generation and transmission options in an integrated process.

Respectfully Submitted,

/ s /

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DATED: April 25, 2007