STATE OF FLORIDA

COMMISSIONERS: LILA A. JABER, CHAIRMAN J. TERRY DEASON BRAULIO L. BAEZ MICHAEL A. PALECKI RUDOLPH "RUDY" BRADLEY



DIVISION OF EXTERNAL AFFAIRS CHARLES H. HILL DIRECTOR (850) 413-6800

Public Service Commission

June 24, 2002

VIA ELECTRONIC FILING

The Honorable Magalie R. Salas Federal Energy Regulatory Commission 888 First Street, NE Washington, DC 20426

RE: Docket No. RM01-10-000, Standards of Conduct for Transmission Providers

Amended Filing

Dear Ms. Salas:

Forwarded herewith are corrected comments of the Florida Public Service Commission (FPSC) on proposed rules in the above-captioned proceeding regarding Standards of Conduct for Transmission Providers. The corrections on page three and on the Attachment simply fortify the FPSC's position that utilities operating in bundled electric transmission states should be exempt from the Standards of Conduct rules.

Sincerely,

/s/

Cynthia B. Miller, Esquire Bureau of Intergovernmental Liaison

CBM:tf

PSC Website: http://www.floridapsc.com

Internet E-mail: contact@psc.state.fl.us

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Standards of Conduct for) Docket No. RM01-10-000 Transmission Providers)

FLORIDA PUBLIC SERVICE COMMISSION AMENDED COMMENTS

The Florida Public Service Commission (FPSC), in response to the opportunity extended for additional comments in this rulemaking docket, provides the following comments and attached recommended revisions to the Standards of Conduct proposed rules. At the May 21 staff workshop, the Federal Energy Regulatory Commission (FERC) staff urged that suggested revisions to the actual rules be provided.

The FPSC is concerned that the FERC staff does not plan to recommend any different treatment for utilities in states with bundled retail electric rates than for those utilities in states with unbundled retail electric rates. As FERC staff noted, at p. 12 of the staff paper, 36 commenters, including EEI, the National Association of State Utility Consumer Advocates, the National Association of Regulatory Utility Commissioners, many electric transmission companies and ten state agencies, opposed treating retail function employees as a marketing function. Staff also pointed out that commenters had stated that separation of employees engaged in the bundled sales function for retail native load from interstate transmission employees would cause expensive duplication of staff and facilities, without any competitive benefit. In addition, commenters stated there are no competitive concerns because retail service is state mandated.

The FERC staff responded to these points by saying, "[a] piecemeal rule that excludes transmission providers in states that have not enacted retail competition would be difficult to implement because many transmission providers and their retail merchants operate in multiple states." The FERC staff seemed to conclude that the "the benefit of eliminating the potential anti-

competitive effects of a transmission owner's native preference" outweighs the cost of separating

the retail sales function from the transmission function.

The FPSC is concerned. As we urged in our December 19, 2001, comments, we continue

to believe that the FERC should not extend the standards of conduct into a bundled electric retail

environment. In addition, the FERC rulemaking should expressly acknowledge the state

commission role regarding standards of conduct.

Separation Standard in a Bundled Retail Environment

We agree with the approach the FERC is taking to restrict preferential access to information

in the wholesale environment. However, it appears premature to have these standards applied in the

bundled retail environment. The cost impact on retail ratepayers is a major concern. For those

states like Florida that do not have unbundled electric retail transmission, the FERC should not

impose on transmission providers a requirement to separate employees managing bundled retail

sales from those employees managing the transmission necessary to provide that bundled service.

The regulation requiring functional separation would appear to unnecessarily increase the

costs of providing retail service. There could be additional transaction costs, additional delays, and

even the need for the companies to hire an increased number of employees to comply, without any

commensurate benefit to ratepayers. The employees might be performing redundant functions.

Bundled retail sales are not subject to competition, and the transmission used for bundled retail sales

is a necessary component of those sales and is not available for any other use. Thus, in a bundled

retail environment, there should be an express exemption from the requirement for employees

managing retail sales to operate independently of the transmission function. The cost impact on

retail ratepayers in those states which have not chosen retail access, is not warranted.

Florida Public Service Commission

Docket No. RM01-10-000

Page 3

Another potential cost impact relates to restoration efforts. Florida is routinely a victim of

hurricanes. We are concerned that restoration functions might not be as effective under this

separation of employees requirement.

We have developed amendatory language for consideration. The language, which is

attached, provides that utilities operating in bundled electric transmission states are exempt from the

standard of conduct rules in those states.

State Commission Independent Authority Over Standards of Conduct

We continue to be concerned that the FERC rulemaking has not acknowledged state

commissions' independent authority over standards of conduct. We suggest the attached simple

addition to the rules. We can understand that the FERC may be reluctant to endorse a patchwork

of conflicting rules across the states, and that such a patchwork could be difficult on the providers.

However, states have statutory authority which cannot be ignored, and have more knowledge of

local conditions which need to be considered. Numerous commenters have mentioned this separate

state authority.

In conclusion, the FPSC urges that the FERC adopt the attached revision to exempt utilities

operating in bundled states from the rules. In addition, the FERC should acknowledge separate state

commission authority to adopt more stringent standards of conduct so long as such standards are not

in conflict with the FERC rules.

Respectfully submitted,

/s/

Cynthia B. Miller, Esquire

Bureau of Intergovernmental Liaison

DATED: June 13, 2002

§ 358.1 Applicability.

- (a) This part applies to any interstate natural gas pipeline that transports gas for others pursuant to subpart A of part 157 or subparts B or G of part 284.
- (b) This part applies to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce, except that this part does not apply to an electric transmission provider that is a Commission-approved Regional Transmission Organization (RTO). If an electric transmission owner participates in a Commission-approved RTO and does not operate or control its transmission facilities, it may request an exemption from this part. If any public utility operates in a state that has not authorized retail electric unbundling, the public utility is exempt from this part.
- (c) Inasmuch as State commissions have a state statutory role over standards of conduct,

 State commission requirements may be more rigorous than the following rules, but shall not be in

 conflict with the Federal Energy Regulatory Commission rules.

UNITED STATES OF AMERICA FEDERAL ENERGY REGULATORY COMMISSION

Standards of Conduct for)	Docket No. RM01-10-000
Transmission Providers)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY I have this day served the foregoing document of the Florida Public Service Commission in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice.

/ s /

Cynthia B. Miller, Esquire Bureau of Intergovernmental Liaison

FLORIDA PUBLIC SERVICE COMMISSION 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 (850) 413-6082

DATED: June 24, 2002